



# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF ENVIRONMENTAL QUALITY

### Blue Ridge Regional Office

[www.deq.virginia.gov](http://www.deq.virginia.gov)

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## STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO ROCKYDALE QUARRIES CORPORATION FOR THE ROCKYDALE PLANT Registration No. 20456

### SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1309 and -1316, between the State Air Pollution Control Board and Rockydale Quarries Corporation, regarding the Rockydale Plant in Roanoke, Virginia, for the purpose of resolving certain violations of the Virginia Air Pollution Control Law and the applicable permit(s) and regulations.

### SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the State Air Pollution Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1301.
2. "BRRO" means the Blue Ridge Regional Office of DEQ, located in Roanoke, Virginia.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.

5. "Facility" means the Rockydale Quarries – Rockydale Plant, located at 4754 Old Rocky Mount Road, Roanoke, Virginia, which is owned and operated by Rockydale.
6. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.
7. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the Virginia Air Pollution Control Law.
8. "PCE" means a partial compliance evaluation by DEQ staff.
9. "Permit" means a New Source Review permit to operate a stationary source of air pollution, which was issued under the Virginia Air Pollution Control Law and the Regulations to Rockydale on September 14, 2014.
10. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" mean 9 VAC 5 chapters 10 through 80.
11. "Rockydale" means Rockydale Quarries Corporation, a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Rockydale is a "person" within the meaning of Va. Code § 10.1-1300.
12. "Va. Code" means the Code of Virginia (1950), as amended.
13. "VAC" means the Virginia Administrative Code.
14. "Virginia Air Pollution Control Law" means Chapter 13 (§ 10.1-1300 *et seq.*) of Title 10.1 of the Va. Code.

### **SECTION C: Findings of Fact and Conclusions of Law**

1. Rockydale owns and operates the Facility, a pulverized limestone and construction aggregate production facility in Roanoke, Virginia.
2. The Permit authorizes Rockydale to operate a stationary source of air pollution. The Permit contains conditions and enumerates limitations on the air emissions from the Facility.
3. On January 15, 2015, Department staff conducted a PCE of the Facility for compliance with the requirements of the Virginia Air Pollution Control Law, the Permit, and the Regulations. Based on the evaluation and follow-up information, Department staff made the following observations: because a water line supplying the wet suppression system for dust emissions had frozen, that system was not running while the Facility was in operation.

4. Condition 2 of the Permit requires wet suppression for dust emissions control.
5. 9 VAC 5-80-260(A)(1) states that "Pursuant to §10.1-1322 of the Code of Virginia, failure to comply with any condition of a permit shall be considered a violation of the Virginia Air Pollution Control Law."
6. Va. Code §10.1-1322 states that "Failure to comply with any condition of a permit shall be considered a violation of the chapter and investigations and enforcement actions may be pursued in the same manner as is done with regulations and orders of the Board under the provisions of this chapter."
7. On January 20, 2014, Rockydale reported by phone to DEQ that the wet suppression equipment had been repaired and was back in operation.
8. On January 23, 2015, based on the PCE, the Department issued NOV No. AWCO000072 to Rockydale for the violation described in paragraph C(3), above.
9. On February 5, 2015, Department staff met with representatives of Rockydale to discuss the violation.
10. Based on the results of the January 15, 2015 PCE and the February 5, 2015 meeting, the Board concludes that Rockydale has violated Permit condition 2, 9 VAC 5-80-260(A)(1), and Va. Code §10.1-1322 as described in paragraph C(3) above.
11. Rockydale has submitted documentation that verifies that the violation described in paragraphs C(3), above, has been corrected.

**SECTION D: Agreement and Order**

Accordingly, by virtue of the authority granted it in Va. Code §§ 10.1-1309 and -1316, the Board orders Rockydale, and Rockydale agrees to pay a civil charge of \$9,750.00 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 1104  
Richmond, Virginia 23218

Rockydale shall include its Federal Employer Identification Number (FEIN) 54-0362190 with the civil charge payment and shall indicate that the payment is being made in accordance

with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, Rockydale shall be liable for attorneys' fees of 30% of the amount outstanding.

**SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend this Order with the consent of Rockydale for good cause shown by Rockydale, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Rockydale admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Rockydale consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Rockydale declares it has received fair and due process under the Administrative Process Act and the Virginia Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Rockydale to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Rockydale shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not

due to a lack of good faith or diligence on its part. Rockydale shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Rockydale shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

- a. the reasons for the delay or noncompliance;
- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

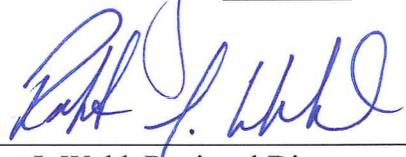
Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Rockydale. Nevertheless, Rockydale agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
  - a. The Director or his designee terminates the Order after Rockydale has completed all of the requirements of the Order;
  - b. Rockydale petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
  - c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Rockydale.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Rockydale from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by Rockydale and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of Rockydale certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Dominion to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Rockydale.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, Rockydale voluntarily agrees to the issuance of this Order.

And it is so ORDERED this <sup>11th</sup> ~~5th~~ day of February 2015.

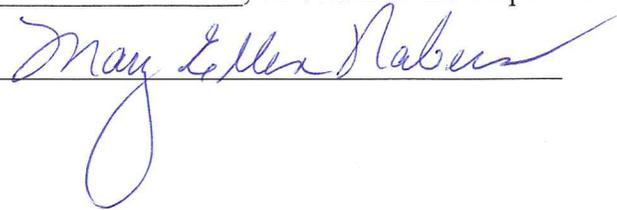
  
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Robert J. Weld, Regional Director  
Department of Environmental Quality

Rockydale Quarries Corporation voluntarily agrees to the issuance of this Order.

Date: 2-05-2015 By: David D. Willis  
Rockydale Quarries Corporation

Commonwealth of Virginia  
City/County of Roanoke

The foregoing document was signed and acknowledged before me this 5th day of February, by David D. Willis, who is Vice President, on behalf of the corporation.

  
\_\_\_\_\_  
Notary Public

Notary Public

227270

Registration No.

My commission expires: March 31, 2018

Notary seal:

