



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

West Central Regional Office

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STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION A SPECIAL ORDER BY CONSENT

General Shale Brick, Incorporated - Roanoke Plant
Registration Number: 20447

SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code § 10.1-1307.D, 10.1-1309, and 10.1-1184, and § 10.1-1316.C, between the State Air Pollution Control Board and General Shale Brick, Incorporated - Roanoke Plant for the purpose of resolving alleged violations of the August 1, 2007 Title V Air Permit.

SECTION B: Definitions

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

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia as described in Code §§ 10.1-1301 and 10.1-1184.
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.
5. "Order" means this document, also known as a Consent Order.
6. "General Shale" means "General Shale Brick, Incorporated - Roanoke Plant" the corporation certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.
7. "Facility" means the "General Shale Brick, Incorporated - Roanoke Plant" located in Blue Ridge, Virginia.

8. "WCRO" means the West Central Regional Office of DEQ, located in Roanoke, Virginia.
9. "Permit" means the "Title V" which became effective July 9, 2007.
10. "O&M" means operations and maintenance.

SECTION C: Findings of Fact and Conclusions of Law

1. General Shale owns and operates a brick manufacturing plant located at 770 Webster Road in Blue Ridge, Virginia. The plant is a registered source with the registration number of 20447. The plant is subject to an August 1, 2007, Title V permit as well as The Virginia Regulations for the Control and Abatement of Air Pollution and the Federal Clean Air Act.
2. On September 26, 2007, DEQ received a stack test report from General Shale which indicated the facility had not met the permitted reduction efficiency requirements during an August 22, 2007 stack test. The stack test report indicated that dry limestone adsorber on Plant 36 achieved 22% reduction efficiency of hydrogen chloride emissions. The August 1, 2007, Title V permit, Condition IV.A.16 requires a reduction efficiency of hydrogen chloride emissions of 30%.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code §10.1-1307.D, 10.1-1184 and §10.1-1316.C, orders General Shale, and General Shale agrees, to perform the actions described in this section of this Order.

1. General Shale shall not restart Plant 35, without advanced written notification to DEQ of at least 30 days.
2. Within 180 days of restarting Plant 35, General Shale shall perform stack testing on the Plant 35 dry limestone adsorber for hydrogen chloride and hydrogen fluoride measuring both inlet and outlet concentrations of each pollutant to determine the removal efficiencies and total controlled emissions of hydrogen chloride and hydrogen fluoride and provide the results to DEQ within 45 days of completing the stack testing.
3. Within 180 days of the date this order is executed, General Shale shall perform stack testing on the Plant 36 dry limestone adsorber for hydrogen chloride and hydrogen fluoride measuring both inlet and outlet concentrations of each pollutant to determine the removal efficiencies and total controlled emissions of hydrogen chloride and hydrogen fluoride and provide the results to DEQ within 45 days of completing the stack testing..
4. Within 60 days of submitting the stack testing results in either/or Condition 2 and/or 3 of Section D of this Consent Order, General Shale shall submit the appropriate new and/or revised permit applications to WCRO Air Permitting staff.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of General Shale, for good cause shown by General Shale, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses those conditions specifically identified herein. 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 as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, General Shale admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. General Shale 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. General Shale declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 9-6.14:1 et seq., and the 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 enforce this Order.
6. Failure by General Shale 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. General Shale 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 occurrence. General Shale shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. General Shale shall notify the WCRO/DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that

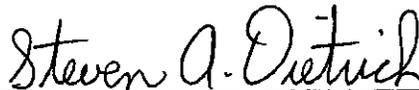
may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

- 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 WCRO Regional Director within 24 hours 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, their 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 General Shale. Notwithstanding the foregoing, General Shale agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to General Shale. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve General Shale from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
12. By its signature below, General Shale voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of JANUARY 22, ²⁰⁰⁸~~2007~~.



Steven A. Dietrich, WCRO Regional Director
Department of Environmental Quality

General Shale Brick, Incorporated - Roanoke Plant voluntarily agrees to the issuance of this Order.

By: Martha West
Martha West,
Environmental Engineer

Date: 1/17/2008

State Tennessee
~~Commonwealth of Virginia~~
County of Washington

The foregoing document was signed and acknowledged before me this 17th day of
January, ²⁰⁰⁸~~2007~~, by Martha West, who is
Martha West

Environmental Engineer of General Shale Brick, Incorporated - Roanoke Plant, on behalf of the Corporation.

Brenda H. Leonard
Notary Public

My commission expires: July 28, 2008

