



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

VALLEY REGIONAL OFFICE

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Molly Joseph Ward
Secretary of Natural Resources

David K. Paylor
Director

Amy Thatcher Owens
Regional Director

STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO

O-N MINERALS (CHEMSTONE) COMPANY

FOR

O-N MINERALS (CHEMSTONE) COMPANY - CLEARBROOK

Registration No. 80900

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 O-N Minerals (Chemstone) Company, for the purpose of resolving certain violations of the Virginia Air Pollution Control Law, the Permit and applicable 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. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
3. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
4. "Facility" means the O-N Minerals (Chemstone) Company - Clearbrook stone processing facility located at 508 Quarry Lane, Clear Brook, Frederick County, Virginia.

5. "FCE" means Full Compliance Evaluation by DEQ staff.
6. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.
7. "NSR" means the New Source Review permits which were issued under the Virginia Air Pollution Control Law and the Regulations to O-N Minerals on July 31, 2006, April 29, 2011, June 24, 2014 and June 27, 2014.
8. "O-N Minerals" means O-N Minerals (Chemstone) Company, a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. O-N Minerals is a "person" within the meaning of Va. Code § 10.1-1300.
9. "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.
10. "Permit" means the NSR permit dated June 24, 2014.
11. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" means 9 VAC 5 Chapters 10 through 80.
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. O-N Minerals Chemstone Company (O-N Minerals) owns and operates a stone processing facility located at 508 Quarry Lane in Frederick County, VA. The facility is subject to NSR permits dated July 31, 2006, April 29, 2011, June 24, 2014 and June 27, 2014.
2. On October 9, 2014, DEQ staff conducted an FCE of the Facility and observed that the ash content for the 10/06/2014 fuel oil sample was 0.76%.
3. Condition 12 of the Permit states: "Fuel Specifications - The fuel shall meet the specifications below...
RECYCLED FUEL OIL which meets the following specifications...
Maximum ash content per shipment: 0.7% ..."
4. Condition 16 of the Permit states: "EMISSIONS LIMITATIONS, Emission Limits - Until commencing the use of reduced-sulfur fuel, emissions from the operation of the

rotary stone dryer (FG-RD-1) shall not exceed the limits specified below:

Particulate Matter
0.022 gr/dscf (only filterable portion)
4.5 tons/yr (only filterable portion)

PM-10
0.022 gr/dscf (only filterable portion)
3.0 tons/yr (including condensable)

PM-2.5
0.022 gr/dscf (only filterable portion)
1.9 tons/yr (including condensable) ...

These emissions are derived from the estimated overall emission contribution from operating limits. Exceedance of the operating limits shall be considered credible evidence of the exceedance of emission limits. Compliance with these emission limits may be determined as stated in Conditions 3, 8, 10, 11, and 12.”

5. On October 30, 2014, DEQ issued Notice of Violation (NOV) No. AVRO9076 to O-N Minerals for accepting the shipment of fuel with an ash content of 0.76%.
6. On November 5, 2014, O-N Minerals responded to the NOV by telephone and email. They stated that the person who accepted the fuel shipment had mistakenly compared the fuel specification to one for another facility. That person now has the correct specification sheet. The vendor was also contacted and reminded of the maximum ash content.
7. On November 6, 2014, O-N Minerals submitted additional information including fuel throughputs and baghouse stack testing results that indicate that emissions limits were not exceeded.
8. Based on the results of October 9, 2014 FCE, the Board concludes that O-N Minerals has violated Permit condition 12 as described in paragraph C(2) through C(3) above.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 10.1-1309 and -1316, the Board orders O-N Minerals, and O-N Minerals agrees to:

1. Pay a civil charge of **\$2,275.00** 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

O-N Minerals shall include its Federal Employer Identification Number (54-1284052) 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).

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of O-N Minerals for good cause shown by O-N Minerals, 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, O-N Minerals admits the jurisdictional allegations, and agrees not to contest, but neither admits nor denies, the findings of fact and conclusions of law in this Order.
4. O-N Minerals consents to venue in the Circuit Court of the City of Richmond, Virginia for any civil action taken to enforce the terms of this Order.
5. O-N Minerals 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 O-N Minerals 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.

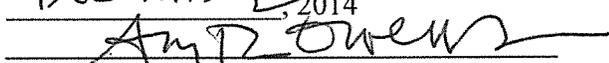
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. O-N Minerals shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. O-N Minerals shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. O-N Minerals 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 O-N Minerals intends 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 O-N Minerals. Nevertheless, O-N Minerals 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 O-N Minerals has completed all of the requirements of the Order;
 - b. O-N Minerals 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 O-N Minerals.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve O-N Minerals 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 O-N Minerals 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 O-N Minerals 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 O-N Minerals to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of O-N Minerals.
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, O-N Minerals (Chemstone) Company voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 2nd day of December, 2014

Amy T. Owens, Regional Director
Department of Environmental Quality

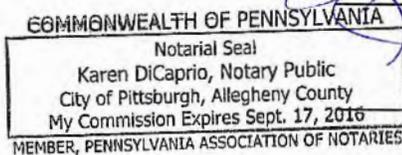
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O-N Minerals (Chemstone) Company voluntarily agrees to the issuance of this Order.

Date: November 24, 2014 By: K. Whyte, VP General Counsel
Kevin Whyte Title
O-N Minerals (Chemstone) Company

Commonwealth of ~~Virginia~~ Pennsylvania
City/County of Allegheny

The foregoing document was signed and acknowledged before me this 24th day of November, 2014, by Kevin J. Whyte who is VP & General Counsel of O-N Minerals (Chemstone) Company, on behalf of O-N Minerals (Chemstone) Company.



[Signature]
Notary Public

Registration No.

My commission expires: 9-17-2016

Notary seal: