



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

VALLEY REGIONAL OFFICE

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David K. Paylor
Director

Amy Thatcher Owens
Regional Director

Molly Joseph Ward
Secretary of Natural Resources

**STATE AIR POLLUTION CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
ROCKINGHAM COUNTY
FOR
ROCKINGHAM COUNTY LANDFILL
Registration No. 81569**

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 Rockingham County, regarding Rockingham County Landfill, for the purpose of resolving certain violations of the Virginia Air Pollution Control Law and the applicable Title V Federal Operating Permit.

SECTION B: Definitions

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

1. "ACC" means Annual Compliance Certification.
2. "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.
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 Rockingham County Landfill facility, located at 2400 Grassy Creek Rd in Rockingham County, Virginia.
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 Title V permit to operate a landfill which was issued under the Virginia Air Pollution Control Law and the Regulations to Rockingham County on June 29, 2012.
10. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" mean 9 VAC 5 chapters 10 through 80.
11. "SAMR" means Semiannual monitoring report.
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.
15. "VRO" means the Valley Regional Office of DEQ, located in Harrisonburg, Virginia.

SECTION C: Findings of Fact and Conclusions of Law

1. Rockingham County owns and operates the Facility in Rockingham County, Virginia. The Facility is a solid waste management facility. The Facility is the subject of the Permit which allows the operation of a solid waste management facility.
2. On November 27, 2013, DEQ staff conducted a PCE of documents received on November 26, 2013 and made the following observations:
 - a. SAMR due September 1, 2012 was received by DEQ on November 26, 2013.
 - b. SAMR due March 1, 2013 was received by DEQ on November 26, 2013.
 - c. SAMR due September 1, 2013 was received by DEQ on November 26, 2013.
 - d. ACC report for due March 1, 2013 was received by DEQ on November 26, 2013.
3. Condition VIII.C.3 of the Facility's permit requires that "the permittee shall submit the results of monitoring contained in any applicable requirement to DEQ no later than March 1 and September 1 of each calendar year. This report must be signed by a responsible official, consistent with 9 VAC 5-80-80 G, and shall include"

4. Condition VIII.D of the Facility's permit requires that "Exclusive of any reporting required to assure compliance with the terms and conditions of this permit or as part of a schedule of compliance contained in this permit, the permittee shall submit to EPA and DEQ no later than March 1 each calendar year a certification of compliance with all terms and conditions of this permit including emission limitation standards or work practices. The compliance certification shall comply with such additional requirements that may be specified pursuant to §114(a)(3) and §504(b) of the federal Clean Air Act. This certification shall be signed by a responsible official, consistent with 9 VAC 5-80-80 G, and shall include"
5. On December 9, 2013, based on the evaluation and follow-up information, the Department issued Notice of Violation No. AVRO8836 to Rockingham County for the violations described in paragraphs C(2) through C(4), above.
6. On December 17, DEQ staff met with Rockingham County staff to discuss the NOV. County staff asserted that they had no recollection of receiving the Title V permit, even though DEQ was able to produce a copy of the certified mail receipt showing that the permit had been delivered. County staff stated that the permit was never forwarded to landfill staff for implementation. They also said that they applied for the permit in 2008 and the lengthy permitting process diminished their level of expectation of receiving the finalized permit. It was only after the County's consultant, SCS Engineers noticed the Title V Permit on DEQ's webpage that the oversight was discovered. County staff immediately contacted DEQ about the discovery of the late reports and submitted all of the reports promptly. All actual permit-required monitoring was completed on time as specified in the Permit. No emissions exceedances were identified.
7. Based on the results of the November 27, 2013 PCE and the December 17, 2013 meeting, the Board concludes that Rockingham County has violated Permit conditions VIII.C.3 and VIII.D as described in paragraphs C(2) through C(4), above.
8. The PCE conducted by DEQ staff on November 27, 2013 verified that the violations described in paragraphs C(2) through C(4), above, have 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 Rockingham County and Rockingham County agrees to:

Pay a civil charge of **\$2,259.00** 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

Rockingham County shall include its Federal Employer Identification Number (FEIN) 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, Rockingham County 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 Rockingham County for good cause shown by Rockingham County, 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, Rockingham County admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Rockingham County 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. Rockingham County 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 Rockingham County 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. Rockingham County 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. Rockingham County shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Rockingham County 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.

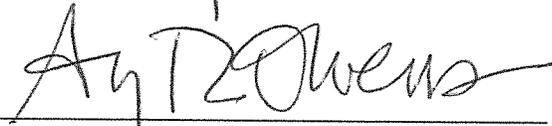
9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Rockingham County. Nevertheless, Rockingham County agrees to be bound by any compliance 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 Rockingham County has completed all of the requirements of the Order;
 - b. Rockingham County 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 Rockingham County.

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

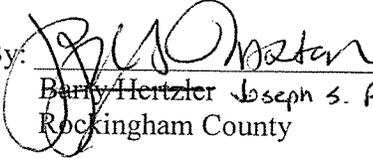
12. Any plans, reports, schedules or specifications attached hereto or submitted by Rockingham County and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of Rockingham County 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 Rockingham County to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Rockingham County.
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, Rockingham County voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 18th day of February, 2014.



Amy T. Owens, Regional Director
Department of Environmental Quality

Rockingham County voluntarily agrees to the issuance of this Order.

Date: 2-14-14 By: , County Administrator
Director of Public Works
Barry Hertzler Joseph S. Paxton Title
Rockingham County

Commonwealth of Virginia
City/County of Harrisonburg

The foregoing document was signed and acknowledged before me this 14th day of February, 2014, by Joseph S. Paxton who is County Administrator of Rockingham County, on behalf of Rockingham County.


Notary Public

167794

Registration No.

My commission expires: 10/31/2015

Notary seal:

