



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

NORTHERN REGIONAL OFFICE
13901 Crown Court, Woodbridge, Virginia 22193
(703) 583-3800 Fax (703) 583-3821
www.deq.virginia.gov

L. Preston Bryant, Jr
Secretary of Natural Resources

David K. Paylor
Director

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

Rowe Materials, LLC
Registration Nos. 40831 & 41051

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1307.D and 10.1-1316.C between the State Air Pollution Control Board (SAPCB) and Rowe Materials, LLC, for the purpose of resolving certain violations of Virginia Air Pollution Control Law and the Regulations for the Control and Abatement of Air Pollution.

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 collegial body of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1301 and 10.1-1184.
2. "Rowe" means Rowe Materials, LLC a Virginia Corporation, certified to business in 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.

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5. "Orange Plant" means the Rowe Materials, LLC Facility located at 8353 Burr Hill Road in Rhoadesville, Virginia (Orange County).
6. "Spotsylvania Plant" means the Rowe Materials, LLC Facility located at 8520 Indian Hills Court in Fredericksburg, Virginia (Spotsylvania County).
7. "NRO" means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.
8. "Order" means this document, also known as a Consent Order.
9. "Spotsylvania Permit" refers to the minor New Source Review ("mNSR") Permit, registration number 40831 issued on August 13, 2004.
10. "Orange Permit" refers to the minor New Source Review ("mNSR") Permit, registration number 41051 issued on February 16, 2007.
11. "Regulations" mean the Regulations for the Control and Abatement of Air Pollution, located in the Virginia Administrative Code ("VAC"), 9 VAC 5-10-10 *et seq.*
12. "VAC" means the Virginia Administrative Code.
13. "VEE" means a Visible Emissions Evaluation, as determined by EPA Method 9 (reference 40 CFR 60, Appendix A).
14. "Virginia Air Pollution Control Law" means the laws located in the Virginia Code ("Va. Code") (1950), as amended, Va. Code § 10.1-1300 *et seq.*

SECTION C: Findings of Fact and Conclusions of Law

Spotsylvania Plant:

1. Rowe owns and operates a Truck-mix Concrete Batch facility located in Spotsylvania County, Virginia. The operations at the Spotsylvania Plant are subject to 9 VAC 5-50-10, 40 C.F.R. Part 60, and the Spotsylvania Permit.
2. Most recently, Rowe and the Board entered into a Consent Order on November 28, 2006, to resolve emissions, operational and record-keeping violations under the Permit.
3. The November 28, 2006 Consent Order was terminated on March 8, 2007.

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4. DEQ staff conducted an inspection of the Spotsylvania Plant on May 29, 2008. During the inspection, DEQ staff observed violations of the mNSR permit.
5. As result of the inspection by DEQ, a Notice of Violation (NOV) was issued to Rowe on June 25, 2008, which cited the following violations:
 - a. Excessive fugitive were observed from the truck load-out area and an abnormally high pressure drop was observed across the baghouse by the monitoring device (magnahelic gauge). The observed failure to undertake the required actions to minimize fugitive emissions violated 9 VAC 5-50-20 (E) which requires that the operation of the plant's air pollution control equipment, at all times, including startup, shutdown, soot blowing and malfunction be consistent with air pollution control practices for minimizing emissions.
 - b. Rowe failed to provide records to DEQ demonstrating that written operating procedures for plant equipment are maintained on-site, as required under Condition #19(c) of the Spotsylvania Permit.
 - c. Rowe failed to provide records to DEQ demonstrating the plant operators had been trained in the proper operation of all plant equipment, as required under Condition #19(d) of the Spotsylvania Permit.

Orange Plant :

6. Rowe owns and operates a Truck-mix Concrete Batch facility located in Orange County, Virginia. The operations at the Orange Plant are subject to 9 VAC 5-50-10, 40 C.F.R. Part 60, and the Orange Permit.
7. DEQ staff conducted a review of the Orange Plant's files on July 22, 2008. During the review, DEQ staff discovered a violation of the mNSR permit.
8. As result of the file review by DEQ, a Notice of Violation (NOV) was issued to Rowe on August 8, 2008, which cited the following violation:
 - a. Rowe failed to conduct a visible emissions evaluation (VEE) on the plant's fabric filter exhausts within 60 days after achieving maximum production rate at which the facility will be operating but in no event later than 180 days after start-up of the permitted facility as required under Condition #12 of the Orange Permit.
9. On September 29, 2008, Rowe personnel met with DEQ to discuss the August 8, 2008 NOV.
10. As detailed in the findings of fact above, DEQ concludes that Rowe is in violation of the Spotsylvania and Orange Permits, 9 VAC 5-50-10 and 9 VAC 5-50-20 (E).

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SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §10.1-1316(C), the Board orders Rowe Materials, LLC, and Rowe Materials, LLC voluntarily agrees, to perform the actions described in Appendix A of this Order.

In addition, the Board orders Rowe Materials, LLC, and Rowe Materials, LLC voluntarily agrees to pay a civil charge of \$20,241 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 payable to the "Treasurer of Virginia" delivered to:

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

Either on a transmittal letter or as a notation on the check, Rowe Materials, LLC shall indicate that this payment is submitted pursuant to this Order and shall include the Federal Identification Number for Rowe Materials, LLC.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Rowe Materials, LLC, for good cause shown by Rowe Materials, LLC, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violation issued to Rowe Material, LCC on June 25, 2008 and August 8, 2008. 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 facilities 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, whether or not arising out of the same or similar facts, for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order only, Rowe Materials, LLC admits to 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. Rowe Materials, LLC consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.

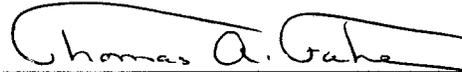
5. Rowe Materials, LLC declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the State Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and 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 Rowe Materials, LLC 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. Rowe Materials, LLC 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. Rowe Materials, LLC shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Rowe Materials, LLC shall notify the DEQ-NRO 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 Regional Director within 24 hours of learning of any condition above, which Rowe Materials, LLC intends to assert will result or has resulted in the impossibility of compliance, shall constitute a waiver of any claim of inability to comply with a requirement of this Order.

10. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.

11. This Order shall become effective upon execution by both the Director or his designee and Rowe Materials, LLC. Notwithstanding the foregoing, Rowe Materials, LLC agrees to be bound by any compliance date that precedes the effective date of this Order.
12. 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 Rowe Materials, LLC or until Rowe Materials, LLC 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. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Rowe Materials, LLC from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
13. By its signature below, Rowe Materials, LLC voluntarily agrees to the issuance of this Order. 
14. The undersigned representative of Rowe Materials, LLC 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 Rowe Materials, LLC to this document. Any documents submitted pursuant to this Order shall also be submitted by a responsible official of Rowe Materials, LLC

And it is so ORDERED this 22nd day of June, 2009.



Thomas A. Faha, NRO Regional Director
Department of Environmental Quality

Rowe Materials, LLC voluntarily agrees to the issuance of this Order.

By: William F. Childs
Title: President and CEO of CHANEY BROTHERS, INC & CHANEY ENTERPRISES, L.P.
Date: 6/17/09 BSHP, MEMBER

Commonwealth of ~~Virginia~~ ^{Maryland}
City/County of Charles

The foregoing document was signed and acknowledged before me this 17 day of June, 2009, by William F Childs, who is (name)

PRESIDENT OF CHANEY BROTHERS, INC, & P.O.F CHANEY ENTERPRISES L.P. & BSHP, MEMBER (title) of Rowe Materials, LLC, on behalf of Rowe Materials, LLC.

Patricia A. Swann
Notary Public

Patricia A. Swann
NOTARY PUBLIC
Registration No. _____
My Commission Expires 1/1/2011

My commission expires: _____

Notary seal:

APPENDIX A

Rowe Materials, LLC shall:

1. Conduct a visible emissions evaluation (VEE) on the bag house exhaust at the Orange County Plant, no later than July 15, 2009. The protocol submitted and approved by the DEQ on August 8, 2008, shall be followed during the VEE except that the Department authorizes the VEE to be reduced from three one-hour evaluations to a single one-hour evaluation providing no visible emissions are observed during the one hour evaluation that exceed the permitted visible emissions limit (5%) found in Condition 10 of the Orange Permit.
 2. Submit the emissions test result to DEQ for review and approval, no later than 45 days from the VEE.
 3. Maintain at each plant, a binder containing copies of all records required under the Orange and Spotsylvania permits. These records shall be maintained on-site, along with a copy of the respective mNSR Permit, and be made available for inspection by the Department of Environmental Quality (DEQ) and shall be current for the most recent five years.
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Documents to be submitted to the Department, other than the civil charge payment described in Section D of this Order, shall be sent to:

NRO Air Compliance Manager
Department of Environmental Quality
13901 Crown Court
Woodbridge, VA 22193