



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

PIEDMONT REGIONAL OFFICE

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AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION ORDER BY CONSENT ISSUED TO S. B. COX READY MIX, INC. Registration Numbers 51256, 51258 & 52197

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §10.1-1309 and §10.1-1316, between the Air Pollution Control Board and S. B. Cox Ready Mix, Inc. for the purpose of resolving certain alleged violations of environmental law and/or regulations.

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. "Air Pollution Control Law" means Va. Code § 10.1-1300 *et seq.*
3. "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.
4. "S. B. Cox" means S. B. Cox Ready Mix, Inc., a corporation certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.
5. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.

6. "Director" means the Director of the Department of Environmental Quality.
7. "Order" means this document, also known as a Consent Order.
8. "Permit" means the Stationary Source Permit to Construct and Operate, Registration No. 51258 issued to S.B. Cox for the Powhatan Facility on June 19, 1997 and the Stationary Source Permit to Construct and Operate, Registration No. 51256 issued to the S. B. Cox for the Goochland Facility on June 20, 1997.
9. "Powhatan Facility" means the S. B. Cox facility (Registration Number 51258), located 1918A Anderson Highway in Powhatan County, Virginia.
10. "New Powhatan Facility" means the S. B. Cox facility (Registration Number 52197), located at 1918A Anderson Highway in Powhatan County, Virginia.
11. "Goochland Facility" means the S. B. Cox facility (Registration Number 51256), located at 12554 W. Broad St. in Goochland County, Virginia.
12. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
13. "Regulations" means the Commonwealth of Virginia State Air Control Board Regulations for the Control and Abatement of Air Pollution.

SECTION C: Findings of Fact and Conclusions of Law

1. S. B. Cox owns and operates ready mix concrete facilities. This Order addresses three of these facilities. Two facilities are currently located at 1918A Anderson Hwy. in Powhatan County, Virginia ("Powhatan Facility" and "New Powhatan Facility") and one facility is located on Route 250, 0.9 miles west of the North Gayton Road intersection in Goochland County, Virginia ("Goochland Facility"). The Powhatan Facility and Goochland Facility are true minor stationary sources and are the subject of the New Source Review (NSR) Permits issued to S. B. Cox on June 19, 1997, and June 20, 1997 respectively. Virginia Code § 10.1-1322 of the State Air Pollution Control Law and 9 VAC 5-50-1210.H of the Virginia Regulations for the Control and Abatement of Air Pollution ("Regulations") require the facilities to abide by the conditions of the issued Permit. The New Powhatan Facility is currently operating without a permit. The board anticipates issuing a NSR permit to S. B. Cox for this Facility in September 2007.
2. Due to noncompliance with the Permit, the Powhatan Facility was issued a Consent Order on February 22, 2006. The Order required that the Powhatan Facility: 1) develop and keep on site a written procedure for reporting malfunctions as required under 9 VAC 5-20-180 of the State Air Pollution Control Board Regulations for the Control and Abatement of Air Pollution and submit the procedure to the Department within 45 days of the effective date of the Order; 2) provide training to Facility personnel on the

- operation and maintenance of the air pollution control equipment and submit a record of the date of training and individuals in attendance to the Department within 45 days from the effective date of the Order; and 3) develop and implement a comprehensive Operation and Maintenance plan for the pollution control equipment and submit to the Department within 45 days from the effective of the Order.
3. A review of Department records indicates the Powhatan Facility did not comply with the above described corrective actions required by the Consent Order.
 4. On August 28, 2006 DEQ staff conducted an inspection of the Goochland Facility and noted or observed the following:
 - a. Failure to conduct the Visible Emissions Evaluations (VEE) in accordance with 40 CFR, Part 60, Appendix A, Method 9, on each silo fabric filter vent within 60 days of achieving maximum operation, but no later than 180 days after initial start up, as required by Condition 7 of the Permit.
 - b. Observed visual emissions during the loading of 2 cement trucks and the opacity appeared to be over 20% in noncompliance with Condition 10 of the Permit.
 - c. Failure to submit notifications of construction and start-up dates of the Goochland Facility as required by Condition 11 of the Permit.
 - d. The throughput records submitted after the August 28, 2006 inspection were inconsistent with the 2004 and 2005 annual emission update reports, indicating noncompliance with Condition 12 of the Permit.
 - e. No maintenance records were kept on the baghouse and no spare filters were on site for the baghouse system, as required by Condition 16 of the Permit.
 - f. The Facility failed to maintain a copy of the Permit on site, as required by Condition 20 of the Permit.
 5. In September 2006, a Warning Letter (WL) was issued to S. B. Cox requesting the above described deficiencies be addressed for the Goochland Facility. The Department received a partial response to the WL from S. B. Cox on September 25, 2006.
 6. On February 6, 2007, Notice of Violation ("NOV") Number 07-02-PRO-401 was issued to S. B. Cox for the above described violations for both the Powhatan Facility and Goochland Facility.
 7. On March 5, 2007, a meeting was held between DEQ staff and a S. B. Cox representative. At the meeting, S.B. Cox submitted some of the requested information and agreed to submit further information by April 2, 2007. By April 2, 2007, DEQ received and approved the O&M Manual, certification of operator training on malfunction procedures, and the resubmittal of the 2004 and 2005 annual update reports. S. B. Cox also provided a schematic of the central dust collection system, and information on the installation date of the new dust collection system for the Goochland Facility.

8. On June 19, 2007 and June 21, 2007, DEQ staff conducted follow-up inspections of the Powhatan Facility. During the inspections, staff observed the following:
 - a. Particulate emissions were not being controlled during truck mixing loadout. The fabric filter (baghouse) and associated monitoring device was not working; the fabric filter was not collecting all emissions from truck mixing load out, not sucking emissions, not piped accordingly, and the shroud was not operated properly, as required by Condition 3 of the Permit
 - b. Visible emissions from the baghouse vent could not be determined due to the malfunction of the unit, but excess emissions were noted coming from the exhaust duct entering the baghouse during plant operation. Excess emissions were also evident during operation associated with truck loading. Condition 9 of the Permit prohibits excess emissions.
 - c. Malfunction of the control equipment was noted on the June 19, 2007 inspection. The follow-up letter required by Condition 15 of the Permit was not received from the source.
 - d. No formal maintenance schedule was developed and implemented and no spare parts were on site as required by Condition 16 of the Permit.
 - e. No Permit was on site as required by Condition 20 of the Permit.

9. During the June 19, 2007 site inspection, DEQ staff also observed that S. B. Cox had constructed prior to receiving a permit, a new stationary source located approximately ½ mile from the Powhatan Facility at 1918A Anderson Hwy. This New Powhatan Facility is subject to permitting requirements under Article 6 of the Virginia Administrative Code, Chapter 80 for New and Modified Stationary Sources. Regulation 9 VAC 5-80-1120 states that no owner or person shall begin construction, reconstruction or modification of any stationary source without first obtaining from the board a permit to construct and operate or to modify and operate the source. S. B. Cox has submitted a permit application for the New Powhatan Facility and it was deemed complete on August 29, 2007. The Facility reported startup of operation on July 18, 2007.

SECTION D: Agreement and Order

1. Accordingly, the Board, by virtue of the authority granted it in Va. Code §10.1-1316(C), orders S. B. Cox, and S. B. Cox voluntarily agrees, to perform the actions described in Appendix A of this Order. In addition, the Board orders S. B. Cox, and S. B. Cox voluntarily agrees, to pay a civil charge of **\$34,000** 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

Payment shall include the Federal Tax Identification Number for the Facility.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of S. B. Cox, for good cause shown by S. B. Cox, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves the violations specifically identified herein, including those matters addressed in the Notice of Violation issued to S. B. Cox by DEQ on February 6, 2007. 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, S. B. Cox admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. S. B. Cox 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. S. B. Cox 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 S. B. Cox 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. S. B. Cox 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. S. B. Cox shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. S. B. Cox shall notify the DEQ Regional

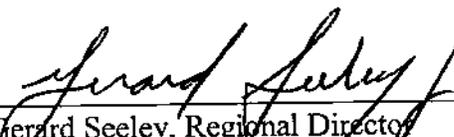
Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

- 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 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 S. B. Cox. Notwithstanding the foregoing, S. B. Cox 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 S. B. Cox. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve S. B. Cox from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
12. This Order supersedes and cancels the Consent Order issued by the Air Pollution Control Board for the Powhatan Facility on February 22, 2006.
13. By its signature below, S. B. Cox voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of December 27, 2007.



Gerard Seeley, Regional Director
Department of Environmental Quality

S. B. Cox voluntarily agrees to the issuance of this Order.

By: Morgan S. Nelson

Date: 12-21-2007

Commonwealth of Virginia

City/County of Grochland

The foregoing document was signed and acknowledged before me this 21st day of December, 2007, by Morgan S. Nelson, who is
(name)

President of S. B. Cox, Inc., on behalf of the Corporation.
(title)

Rebecca C. Meade
Notary Public

My commission expires: 12/31/2007

APPENDIX A

To bring the **Goochland Facility** into compliance, S.B. Cox shall:

1. **Within 30 days of issuance of this Order**, conduct a VEE of the flyash silo in accordance with Condition 7 of the Permit and 40 CFR, Part 60, Appendix A, Method 9. Submit 30 days prior to testing, the stack test protocol form for review and approval. Include the test date so that DEQ staff can attend.
2. **Immediately** implement the DEQ approved maintenance schedule dated April 1, 2007.

To bring the **Powhatan Facility** into compliance, S.B. Cox shall:

3. **Immediately** implement the DEQ approved maintenance schedule dated April 1, 2007.
4. **Within 30 days of issuance of this Order, or if relocated, before startup**, repair or replace the fabric filter(s) to control the particulate emission from the loading of cement and fly ash to storage silos, from the loading of the cement/flyash weigh batcher, and from the loading of the mixing trucks through the loading boot in accordance with Condition 3 of the Permit.
5. **Within 30 days of issuance of this Order, or if relocated, before startup**, repair or replace the pressure differential gauge. Develop a maintenance record to document the annual calibration of the pressure differential gauge.
6. **Within 45 days of issuance of this Order, or if relocated, before startup**, perform a Visible Emission Evaluation (VEE) in accordance with 40 CFR, Part 60, Appendix A, Method 9 at the cement and fly ash silo, during silo loading, at the weigh batcher during operation, at the truck mixing load out during loading, and fabric filter exhaust, to demonstrate compliance with the particulate emission limit specified in Condition 8 of the Permit.
7. **Pursuant to this Order, submit all documentation, except for the payment of the civil charge, as required by Appendix A to:**

**Cynthia Akers
Department of Environmental Quality
Piedmont Regional Office
4949-A Cox Road
Glen Allen, Virginia 23060**