

**STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION
ORDER BY CONSENT
ISSUED TO
CONCRETE PRECAST SYSTEMS, INC.**

Registration number 61345

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §10.1-1307, §10.1-1316, and §10.1-1319 between the State Air Pollution Control Board and Concrete Precast Systems, Inc., for the purpose of resolving certain violations of environmental law and 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. “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.
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. “Fabric filter” means air pollution control equipment or device for controlling emissions of particulate matter. The device typically consists of multiple filter elements, or bags, enclosed in a compartment, or housing.
6. “Order” means this document, also known as a Consent Order.

7. "Concrete Precast Systems" means Concrete Precast Systems, Inc., certified to do business in Virginia, and its affiliates, partners, subsidiaries, and parents.
8. "TRO" means the Tidewater Regional Office of DEQ, 5636 Southern Blvd, Virginia Beach, VA, 23462.
9. "Permit" means the Stationary Source Permit To Construct and Operate air permit, issued to Concrete Placement Systems by the Board on November 30, 1998. Concrete Placement Systems subsequently changed its name to Concrete Precast Systems, Inc. per notification to DEQ on October 26, 2000.
10. "Regulations" means Virginia Regulations for the Control and Abatement of Air Pollution (9 VAC 5-80-10 et seq.).

SECTION C: Findings of Fact and Conclusions of Law

1. Concrete Precast Systems owns and operates a precast concrete manufacturing facility located at 1316 Yacht Dr, Chesapeake, VA, 23320 (herein referred to as the Facility).
2. The Permit includes fabric filters as listed equipment for the control of particulate matter (dust) from the operation of the cement silos and cement handling equipment (permit condition #2).
3. On August 13, 2003, TRO staff, during an inspection at the facility, observed a heavy plume of dust with visible emissions in the 100% opacity range bypassing the fabric filter by escaping through the pop-off valve.
4. 9 VAC 5-50-80 of the Regulations states "...no owner or other person shall cause or permit to be discharged into the atmosphere from any affected facility any visible emissions which exhibit greater than 20% opacity, except for one six-minute period in any one hour or not more than 30% opacity.
5. 9 VAC 5-50-260(A) of the Regulations states "No owner or other person shall cause or permit to be discharged into the atmosphere from any affected facility any emissions in excess of that resultant from using best available control technology, as reflected in any condition that may be placed upon the permit approval for the facility."
6. Permit condition #7 states "Visible emissions from any fabric filter, vent or exhaust duct shall not exceed 5% opacity..."
7. During the August 13, 2003 inspection by TRO staff, it was observed that the Facility yard was dry, and covered with fine dust. There was no evidence of use or application of water or other dust control measures.

8. 9 VAC 5-40-90 of the Regulations “Standard for fugitive dust/emissions” states “During the construction, modification or operation phase of a stationary source or any other building, structure, facility or installation, no owner or other person shall cause or permit any materials or property to be handled, transported, stored, used, constructed, altered, repaired or demolished without taking reasonable precautions to prevent particulate matter from becoming airborne. Such reasonable precautions may include, but are not limited to, the following: ...Application of asphalt, water or suitable chemicals on dirt roads, materials stockpiles and other surfaces which may create airborne dust, the paving of roadways and the maintaining of them in a clean condition...”
9. Concrete Precast Systems operated a cement silo without using the fabric filter particulate matter control device resulting in visible emissions, in violation 9 VAC 5-50-80 and 9 VAC 5-50-260(A).
10. Concrete Precast Systems operated without control of fugitive dust on the facility yard and traffic areas in violation of 9 VAC 5-40-90.
11. A Notice of Violation (NOV) was issued to Concrete Precast Systems on August 19, 2003. The NOV advised Concrete Precast Systems of the noted observations during the August 13, 2003 inspection and applicable Permit and regulatory requirements as listed above: 9 VAC 5-50-80 and 9 VAC 5-20-260(A), apparently not maintaining and operating air pollution control equipment in a manner consistent with good air pollution control practice of minimizing emissions; and 9 VAC 5-40-90, apparent uncontrolled fugitive emissions from the facility yard and traffic areas.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code §10.1-1316.C, orders Concrete Precast Systems, Inc., and Concrete Precast Systems, Inc. agrees, to pay a civil charge of \$10,800.00 in accordance with the following schedule:

- a. By August 16, 2004, Concrete Precast Systems, Inc. shall submit a check to the Department in the amount of \$3,600.00.
- b. Following the initial payment of \$3,600.00 as described in the above paragraph a., Concrete Precast Systems, Inc. shall submit a minimum of \$3,600.00 to the Department on or before the 16th of the month for the following two months.
- c. If the Department fails to receive a payment pursuant to the schedule described in the above paragraphs a. and b., the payment shall be deemed late. If any payment is late, the Department reserves the right to demand in writing full payment of the balance owed by Concrete Precast Systems, Inc., under this Order. Concrete Precast Systems, Inc. shall pay such balance within fifteen days of receipt of a demand letter from the Department. Any allowance by the Department of a late payment by

Concrete Precast Systems, Inc., shall not serve as a waiver of the Department's reserved right to accelerate a payment of the balance.

- d. Payment shall be by check, certified check, money order, or cashier's check payable to the "Treasurer of Virginia," shall indicate Concrete Precast Systems, Inc.'s Federal Identification Number, and shall be sent to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Concrete Precast Systems, Inc., for good cause shown by Concrete Precast Systems, Inc., 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 Concrete Precast Systems, Inc. by DEQ on August 19, 2003. 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, Concrete Precast Systems, Inc. admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Concrete Precast Systems, Inc. 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. Concrete Precast Systems, Inc. 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 Concrete Precast Systems, Inc. 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. Concrete Precast Systems, Inc. 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. Concrete Precast Systems, Inc. shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Concrete Precast Systems, Inc. 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 Concrete Precast Systems, Inc. Notwithstanding the foregoing, Concrete Precast Systems, Inc. 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. Concrete Precast 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 this designee approves the termination of the Order; or
 - b. The Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Concrete Precast Systems, Inc. Termination of this Order, or any obligation imposed in this Order, shall

not operate to relieve Concrete Precast Systems, Inc. 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, Concrete Precast Systems, Inc. voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of July 1, 2004.

Francis L. Daniel
Francis L. Daniel, Regional Director
for Robert G. Burnley, Director
Department of Environmental Quality

Concrete Precast Systems, Inc. voluntarily agrees to the issuance of this Order.

By: [Signature]

Date: 7-1-2004

Commonwealth of Virginia

City/County of Chesapeake

The foregoing document was signed and acknowledged before me this 1st day of July, 2004, by PAUL O'CONNOR, who is
(name)

Assistant of Concrete Precast Systems, Inc., on behalf of Concrete Precast Systems,
(title)

Inc.

Linda S. Person
Notary Public

My commission expires: 12/31/2005

