



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

W. Tayloe Murphy, Jr.
Secretary of Natural Resources

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Robert G. Burnley
Director

Steven A. Dietrich
Regional Director

STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION A SPECIAL ORDER BY CONSENT ISSUED TO ROANOKE CEMENT COMPANY

SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code § 10.1-1307.D, 10.1-1309, and 10.1-1184, and § 10.1-1316.C, between the State Air Pollution Control Board and Roanoke Cement Company, for the purpose of resolving certain violations of State Air Pollution Control Laws 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 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. "Order" means this document, also known as a Consent Order.
6. "Roanoke Cement Company" means the corporation certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.

An Agency of the Natural Resources Secretariat

7. "Facility" means the structure at 6071 Catawba Road, Troutville Virginia located in Botetourt County, Virginia.
8. "WCRO" means the West Central Regional Office of DEQ, located in Roanoke, Virginia.
9. "Permit" means the Title V Permit, dated December 1, 2003, and which expires December 31, 2008.
10. "O&M" means operations and maintenance.

SECTION C: Findings of Fact and Conclusions of Law

1. Roanoke Cement Company owns and operates a facility in Botetourt County, Virginia. This facility is the subject of the Permit.
2. On December 27, 2004, staff conducted a complaint investigation of the Roanoke Cement Company facility. During this visit, staff observed excessive fugitive emissions stemming from the facility's haul roads. Roanoke Cement staff indicated during the site visit that due to the colder temperatures, applying water to the haul roads provided an unsafe environment for equipment. Furthermore, due to the Holidays, calcium chloride had not been applied. At the time of the site visit, DEQ staff was informed that the nozzles on the water truck were frozen and that the water truck was inoperable.
3. During the site visit, DEQ staff also observed fugitive dust emissions from a drill rig baghouse. The drill rig was in operation, however, the baghouse was not fully operational at the time. The source contact indicated that the appropriate employee would be contacted to correct the situation. DEQ staff informed the facility that a recent complaint was the basis for the site inspection and that fugitive dust was the cause.
4. On December 28, 2004 DEQ staff conducted a follow-up site inspection at the Roanoke Cement facility. During this inspection, DEQ staff observed fugitive dust stemming from the facility haul roads.
5. DEQ has noted violations of the Air Pollution Control Law and Regulations. These violations were cited in the Notice of Violation issued by DEQ on January 18, 2005.

The observations above are cited under the following regulations and the applicable Permit Conditions:

1. Condition XX.I., of the December 1, 2003 Title V Permit, and Sections 9 VAC 5-40-90 and 9 VAC 5-50-90 of the State Air Pollution Board Regulations state that

no owner or operator shall cause or permit any materials or property to be handled, transported, stored, or used without taking reasonable precautions to prevent the material from becoming airborne.

2. Section 9 VAC 5-50-20 E of the State Air Pollution Control Board Regulations, states an owner or operator, shall at all times, to the extent practicable, maintain and operate any affected facility, including associated air pollution control equipment or monitoring equipment, in a manner consistent with good air pollution control practice of minimizing emissions.

SECTION D: Agreement and Order

Accordingly the Board, by virtue of the authority granted it pursuant to Va. Code §10.1-1307.D, 10.1-1184, and §10.1-1316.C, orders Roanoke Cement Company, and Roanoke Cement Company agrees, to perform the actions described in Appendix A of this Order.

1. In addition, the Board orders Roanoke Cement Company, and Roanoke Cement Company voluntarily agrees to pay a civil charge of **\$525.00** 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", delivered to:

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

The payment shall include Roanoke Cement Company's Federal ID number and shall state that it is being tendered in payment of the civil charges assessed under this Order.

2. Roanoke Cement Company shall implement the Supplemental Environmental Project (SEP) as identified in Appendix A of this Order within 18 months of the effective date of the Order. The cost to Roanoke Cement Company shall be a minimum of **\$1,575.00**. Upon completion of the SEP pursuant to Virginia Code 10.1-1186.2 and as described in Appendix A, Roanoke Cement Company shall within 30 days, provide a completion report including the actual SEP costs to DEQ.
3. In the event that the SEP is not performed as described in Appendix A, upon notification by the Department, Roanoke Cement Company shall pay the amount specified in Paragraph 2 above, as appropriate, within 30 days of such notification.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Roanoke Cement Company, for good cause shown by Roanoke Cement Company, 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 Roanoke Cement Company by DEQ on January 18, 2005. 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. By entering into this Order, Roanoke Cement Company neither admits nor denies the factual findings or conclusions of law contained herein. For purposes of this Order and subsequent actions with respect to this Order, Roanoke Cement Company agrees not to challenge the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Roanoke Cement Company 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. Roanoke Cement Company declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 9-6.14:1 *et seq.*, and the 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 Roanoke Cement Company 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. Roanoke Cement Company 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. Roanoke Cement Company shall show that such circumstances were beyond its

control and not due to a lack of good faith or diligence on its part. Roanoke Cement Company 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 Roanoke Cement Company. Notwithstanding the foregoing, Roanoke Cement Company 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 Roanoke Cement Company. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Roanoke Cement Company 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, Roanoke Cement Company voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 2nd day of MARCH, 2005.

Steven A. Dietrich
FOR Robert G. Burnley, Director
Department of Environmental Quality

Roanoke Cement Company voluntarily agrees to the issuance of this Order.

By: GEORGE PANAZOPOULOS

Date: FEB/22/05

Commonwealth of Virginia

City/County of Botetourt

The foregoing document was signed and acknowledged before me this 22nd day of February, 2005 by George Panazopoulos, who is
(name)

Fleet Manager of Roanoke Cement Company, on behalf of the Corporation.
(title)

Lisa C. Garnett
Notary Public

My commission expires: August 31 2005



APPENDIX A

In order to settle the SEP, Roanoke Cement Company shall:

- A. Within **18 months** from the effective date of the order, submit to the DEQ accurate, up to date documentation demonstrating that the following project has been completed:

Purchase of a larger road sweeper than the facility currently owns. The sweeper would be for the Roanoke Cement Company Botetourt County, Virginia facility and would be used to supplement the sweeper unit that is currently in use.

B. **SEP Completion Report**

Roanoke Cement Company shall submit a SEP Completion Report to the Department within **30 days** of the completion of the SEP. The SEP Completion Report shall contain the following information:

1. A detailed description of the SEP as implemented;
 2. A description of any operating problems encountered and the solutions thereto;
 3. Itemized costs, documented by copies of purchase orders and receipts or canceled checks ;
 4. Certification that the SEP has been fully implemented pursuant to the provisions of this Consent Order; and,
 5. A description of the environmental and public health benefits resulting from implementation of the SEP (with a quantification of the benefits and pollutant reductions, if feasible).
- C. Roanoke Cement Company shall submit all notices and reports required by this Consent Order to Steve A. Dietrich, Department of Environmental Quality, 3019 Peters Creek Road, Roanoke, VA 24019 by first class mail.
- D. Roanoke Cement Company shall maintain legible copies of documentation of the underlying research and data for any and all documents or reports submitted to the Department pursuant to this Consent Order, and shall provide the documentation of any such underlying research and data to the Department within seven days of a request for such information.
- E. In all documents or reports, including, without limitation, the SEP Completion Report, submitted to DEQ pursuant to this Consent Order, Roanoke Cement Company, shall by its officers, sign and certify under penalty of law that the information contained in such document or report is true, accurate, and not misleading by signing the following statement:

"I certify under penalty of law and I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment."