



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

VALLEY REGIONAL OFFICE

P.O. Box 3000, Harrisonburg, Virginia 22801

(540) 574-7800 Fax (540) 574-7878

located at 4411 Early Road, Harrisonburg, VA

www.deq.virginia.gov

Matthew J. Strickler
Secretary of Natural Resources

David K. Paylor
Director

Amy Thatcher Owens
Regional Director

**STATE AIR POLLUTION CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
O-N MINERALS (CHEMSTONE) COMPANY
FOR
O-N MINERALS (CHEMSTONE) COMPANY
WINCHESTER LIME PLANT
Registration No. 80504**

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 O-N Minerals (Chemstone) Company, for the purpose of resolving certain violations of the Virginia Air Pollution Control Law, the Permit and applicable regulations.

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 citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1301.
2. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
3. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
4. "Facility" means the O-N Minerals (Chemstone) Company – Winchester Lime Plant facility located at 508 Quarry Lane, Clear Brook, Frederick County, Virginia, that

processes limestone, and manufactures lime and crushed and broken limestone.

5. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.
6. "Permit" means the Prevention of Significant Deterioration (PSD) Permit which was issued under the Virginia Air Pollution Control Law and the Regulations to O-N Minerals on April 22, 2014.
7. "O-N Minerals" means O-N Minerals (Chemstone) Company, a corporation authorized to do business in Virginia, and its affiliates, partners, and subsidiaries. O-N Minerals (Chemstone) Company is a "person" within the meaning of Va. Code § 10.1-1300.
8. "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.
9. "PCE" means Partial Compliance Evaluation by DEQ staff.
10. "PM" means particulate matter.
11. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" means 9 VAC 5 chapters 10 through 80.
12. "Title V Permit" means the Title V Operating Permit, which was issued under the Virginia Air Pollution Control Law and the Regulations to O-N Minerals on June 9, 2008.
13. "Va. Code" means the Code of Virginia (1950), as amended.
14. "VAC" means the Virginia Administrative Code.
15. "Virginia Air Pollution Control Law" means Chapter 13 (§ 10.1-1300 *et seq.*) of Title 10.1 of the Va. Code.

SECTION C: Findings of Fact and Conclusions of Law

1. O-N Minerals is the owner and operator of a manufacturing plant for lime and crushed and broken limestone located in Clear Brook, Virginia.
2. The Facility is subject to a Prevention of Significant Deterioration Permit issued on April 22, 2014 and a Federal Operating (Title V) Permit issued on June 9, 2008.
3. On January 4, 2017, DEQ staff received two stack test reports for particulate emissions testing from dust collectors at the Facility. The first report was for testing conducted on September 15, 2016. That report indicated that PM-10 emissions from DC-555 were 0.30 gr/dscf and that PM-2.5 emissions from DC-555 were 0.029 gr/dscf. The second report,

for testing conducted on October 31, 2016, indicated that tested emissions from DC-555 were 0.0009 gr/dscf PM-10 and 0.0009 gr/dscf PM-2.5.

4. Permit Condition 76 states that: "Initial performance tests shall be conducted for PM-2.5 from the fabric filter baghouses referenced in Condition 70 to determine compliance with the emission limit for PM-2.5 specified in Condition 72. The tests shall be performed within 60 days after achieving the maximum production rate at which the facility will be operated but in no event later than 180 days after start-up of the permitted facility. Tests shall be conducted and reported and data reduced as set forth in 9 VAC 5-50-30. The details of the tests are to be arranged with DEQ. The permittee shall submit a test protocol at least 60 days prior to testing. One copy of the test results shall be submitted to DEQ within 60 days after test completion and shall conform to the test report format enclosed with this permit..."
5. 9 VAC 5-50-30 states that: "Performance tests for new or modified sources shall be conducted and reported and data shall be reduced as set forth in this chapter and the test methods and procedures contained in each applicable subpart listed in 9 VAC 5-50-410."
6. 9 VAC 5-80-1675 states that: "Testing required by this section shall be conducted within 60 days by the owner after achieving the maximum production rate at which the new or modified source will be operated, but not later than 180 days after initial startup of the source; and 60 days thereafter the board shall be provided by the owner with two or, upon request, more copies of a written report of the results of the tests."
7. Permit Condition 72 states that: "Particulate emissions from each of the fabric filter baghouses listed in Condition 70 shall not exceed 0.010 gr/dscf (filterable) for PM/PM-10, and 0.004 gr/dscf (filterable) for PM-2.5."
8. 9 VAC 5-50-280 states that: "For major stationary sources located in prevention of significant deterioration areas, 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."
9. 9 VAC 5-80-1705 states that: "A major stationary source or major modification shall meet each applicable emissions limitation under the implementation plan and each applicable emissions standard and standard of performance under 40 CFR Parts 60, 61 and 63."
10. On February 16, 2017, based on the January 31, 2017 PCE, the Department issued NOV No. AVRO000590-001 to O-N Minerals for the violations described in paragraphs C(3) through C(9) above.
11. On April 4, 2017, DEQ staff met with Facility representatives to discuss the NOV. The stack test failure was reported to be caused by failure of a dust collector filter bag.

12. On March 30, 2017 and April 4, 2017, DEQ staff conducted an FCE at the Facility and observed that the reported 12-month throughput of limestone for the Aggregate and Precalcination Limestone Handling Equipment (APLHE) for the month of January 2017 was 975,855 tons per year. In addition, staff observed that Subpart 5A semi-annual compliance reports for Kiln #1 and Kiln #2, due September 1, 2016 and March 1, 2017, had not been received by DEQ.
13. Permit Condition 42 states that “the annual throughput of limestone for the Aggregate and Precalcination Limestone Handling Equipment, as described in Condition 1, shall not exceed 950,000 tons per year, calculated monthly as the sum of each consecutive 12 month period.”
14. Permit Condition 109 states that “the permittee must submit the compliance report for the emission units subject to Subpart AAAAA (as identified in Condition 1) according to the requirements listed below: Each compliance report must cover the semi-annual reporting period from January 1 through June 30 or the semi-annual reporting period from July 1 through December 31. b. Each compliance report must be postmarked or delivered no later than March 1 or September 1, whichever date is the first date following the end of the semi-annual reporting period.”
15. On May 31, 2017, based on the March 30, 2017 and April 4, 2017 FCE, the Department issued NOV No. AVRO000590-002 to O-N Minerals for the violations described in paragraph C(12) –C(14) above.
16. On June 8, 2017, O-N Minerals submitted a response to DEQ that indicated that O-N implemented new procedures to ensure that throughput limits were not exceeded. O-N stated they believed that the Title V semiannual monitoring reports met the requirements for Subpart AAAAA reporting. They have edited their semiannual monitoring report to specifically include compliance with Subpart AAAAA. O-N reported that there had been no deviations from Subpart AAAAA requirements. In July 2017, O-N Minerals reported to DEQ that the Facility would not be back in compliance with the rolling 12-month total for throughput for the APLHE until October 2017.
17. On November 1, 2017, DEQ requested an update on the rolling 12 month total throughput exceedances for the APLHE from O-N Minerals. On November 14, 2017, O-N Minerals submitted documentation that the Facility returned to compliance beginning November 2017.
18. On November 22, 2017, DEQ received an application for a PSD minor amendment to renumber equipment, remove unused equipment, and increase the throughput for the Aggregate and Precalcination Limestone Handling Equipment.
19. On November 30, 2017, DEQ met with O-N Mineral representatives to discuss actions taken at the Facility since the NOV issued May 31, 2017, including operational changes and status of the PSD permit application. O-N Minerals stated in the meeting that the current throughput in the PSD Permit was based on estimated yields as provided by the

manufacturer. Once operations started at the Facility, O-N Minerals observed that the aggregate yields were much higher, resulting in the need for a higher throughput to meet the standard of product needed to feed Kilns. In September 2017, O-N Minerals started using a portable, permitted screen/crushing unit in an effort to reduce throughput on the Aggregate and Precalcination Limestone Handling Equipment. O-N Minerals provided documentation that indicated the throughput was back in compliance as of November 2017. Additionally, O-N Minerals hired a consultant to review the processing of the raw limestone, in order to limit breaking in order to preserve larger limestone pieces, and reduce aggregate

20. Based on the results of the January 31, 2017 PCE, the March 30, 2017 and April 4, 2017 FCEs, the April 4, 2017 and November 30, 2017 meetings, and the documentation submitted by O-N Minerals to DEQ on November 14, 2017, the Board concludes that O-N Minerals has violated PSD Permit conditions 42, 72, 76 and 109 as described in paragraphs C(3) through C(9) and C(12) through C(21) above.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 10.1-1309 and -1316, the Board orders O-N Minerals, and O-N Minerals agrees to:

Pay a civil charge of **\$168,699.50** 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

O-N Minerals 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).

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of O-N Minerals for good cause shown by O-N Minerals, 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, O-N Minerals admits 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. O-N Minerals consents to venue in the Circuit Court of the City of Richmond, Virginia for any civil action taken to enforce the terms of this Order.
5. O-N Minerals 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 O-N Minerals 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. O-N Minerals 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. O-N Minerals shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. O-N Minerals 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 O-N Minerals intends 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 O-N Minerals. Nevertheless, O-N Minerals 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 O-N Minerals has completed all of the requirements of the Order;
 - b. O-N Minerals 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 O-N Minerals.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve O-N Minerals 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 O-N Minerals 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 O-N Minerals 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 O-N Minerals to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of O-N Minerals.
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, O-N Minerals (Chemstone) Company voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 20th day of April, 2018.



Amy T. Owens, Regional Director
Department of Environmental Quality

O-N Minerals (Chemstone) Company voluntarily agrees to the issuance of this Order.

Date: 4-27-2018 By: [Signature], Sr. VP Legal
Title

O-N Minerals (Chemstone) Company

~~Pennsylvania~~
Commonwealth of ~~Virginia~~

City/County of Allegheny

The foregoing document was signed and acknowledged before me this 27th day of

APRIL, 2018, by KEVIN J. WHYTE who is

SR VP LEGAL of O-N Minerals (Chemstone) Company, on behalf of O-N
Minerals (Chemstone) Company.

[Signature]
Notary Public
1300809
Registration No.

My commission expires: 9/14/2020

Notary seal:

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
Lara Heather Sees, Notary Public
City of Pittsburgh, Allegheny County
My Commission Expires Sept. 14, 2020
MEMBER, PENNSYLVANIA ASSOCIATION OF NOTARIES