



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

TIDEWATER REGIONAL OFFICE

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Matthew J. Strickler
Secretary of Natural Resources

David K. Paylor
Director

Craig R. Nicol
Regional Director

STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION - ORDER BY CONSENT

ISSUED TO

Commercial Ready Mix Products, Inc.

FOR

Commercial Ready Mix Chesapeake Plant

Registration No. 60145

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 Commercial Ready Mix Products, Inc., regarding Commercial Ready Mix Chesapeake Plant, for the purpose of resolving certain violations of the Virginia Air Pollution Control Law and the applicable permit and 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. "Commercial Ready Mix" means Chesapeake Ready Mix Products, Inc., a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Commercial Ready Mix is a "person" within the meaning of Va. Code § 10.1-1300.
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, as described in Va. Code § 10.1-1185.

5. "Facility" means the Commercial Ready Mix truck mix concrete batch plant, located at 1888 South Military Highway in Chesapeake, Virginia.
6. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.
7. "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.
8. "PCE" means partial compliance evaluation.
9. "Permit" means an Article 6 minor New Source Review permit to construct and operate a truck mix concrete batch plant, which was issued under the Virginia Air Pollution Control Law and the Regulations to Commercial Ready Mix on September 5, 2006.
10. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" mean 9 VAC 5 chapters 10 through 80.
11. "TRO" means the DEQ Tidewater Regional Office located in Virginia Beach, Virginia.
12. "Va. Code" means the Code of Virginia (1950), as amended.
13. "VAC" means the Virginia Administrative Code.
14. "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. Commercial Ready Mix owns and operates the Facility in Chesapeake, Virginia. The Facility is a truck mix concrete batch plant. The Facility is the subject of the Permit, which allows Commercial Ready Mix to operate a concrete batch plant.
2. On May 9, 2018, Department staff conducted a PCE of the 2017 Annual Update Report ("Report") submitted by the Facility for compliance with the requirements of the Virginia Air Pollution Control Law, the Permit, and the Regulations. Based on the evaluation, Department staff made the following observations:
 - a. The Report listed an annual production of concrete of 168,690 tons for the year 2017.
 - b. Based on the Report of 168,690 tons for the calendar year 2017, Commercial Ready Mix emitted 0.57 tons per year of particulate matter ("PM") for the year 2017.
3. Condition 7 of the Permit states that the production of concrete shall not exceed 150,000 tons per year, calculated monthly as the sum of each consecutive 12-month period.

4. Condition 8 of the Permit states that the emissions from operation of the truck mix concrete batch plant shall not exceed 0.5 tons per year of particulate matter.
5. 9 VAC 5-170-160(A) states that the State Air Pollution Control Board may impose conditions upon permits and other approvals which may be necessary to carry out the policy of the Virginia Air Pollution Control Law, and which are consistent with the regulations of the board.
6. Va. Code § 10.1-1322(A) states that permits may be issued, amended, revoked or terminated and reissued by the Department, and the failure to comply with any condition of a permit shall be considered a violation of the Virginia Air Pollution Control Law.
7. On June 25, 2018, based on the Report and PCE, the Department issued Notice of Violation No. ATRO000950 to Commercial Ready Mix for the violations described in paragraphs C(2) through C(6), above.
8. On June 27, 2018, Commercial Ready Mix responded to the NOV.
9. Based on the results of the May 9, 2018 PCE, the Board concludes that Commercial Ready Mix has violated Permit Conditions 7 and 8, 9 VAC 5-170-160(A), and Va. Code § 10.1-1322(A), as described in paragraphs C(2) through C(6), above.
10. On July 26, 2018, Commercial Ready Mix submitted an application to modify its Permit to allow for a higher throughput and emissions limit to address the violations described in paragraphs C(2) and C(6), 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 Commercial Ready Mix, and Commercial Ready Mix agrees to pay a civil charge of \$3,644 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

Commercial Ready Mix shall include its Federal Employer Identification Number _____ 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). If the Department has to refer collection of moneys due under this Order to the Department of Law, Commercial Ready Mix shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Commercial Ready Mix for good cause shown by Commercial Ready Mix, 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 and in NOV No. ATRO000950 dated June 25, 2018. 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, Commercial Ready Mix admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Commercial Ready Mix 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. Commercial Ready Mix 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 Commercial Ready Mix 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. Commercial Ready Mix 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 unforeseeable circumstances beyond its

control and not due to a lack of good faith or diligence on its part. Commercial Ready Mix shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Commercial Ready Mix 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 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.

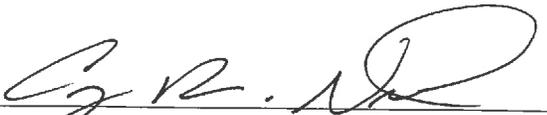
9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Commercial Ready Mix. Nevertheless, Commercial Ready Mix agrees to be bound by any 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 Commercial Ready Mix has completed all of the requirements of the Order;
 - b. Commercial Ready Mix 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 Commercial Ready Mix.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Commercial Ready Mix 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 Commercial Ready Mix 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 Commercial Ready Mix certifies that he or she is a responsible official [or officer] authorized to enter into the terms and conditions of this Order and to execute and legally bind Commercial Ready Mix to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Commercial Ready Mix.
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, Commercial Ready Mix voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 31 day of AUGUST, 2018.



Craig R. Nicol, Regional Director
Department of Environmental Quality

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Commercial Ready Mix Products, Inc. voluntarily agrees to the issuance of this Order.

Date: Aug 28 2018 By: Charles R. Harvell, Gen. mgr.
(Person) (Title)
Commercial Ready Mix Products, Inc.

Commonwealth of Virginia
City/County of Hertford

The foregoing document was signed and acknowledged before me this 28th day of August, 2018, by Charles R. Harvell who is Gen. mgr. of Commercial Ready Mix Products, Inc., on behalf of the corporation.

[Signature]
Notary Public

200914100035
Registration No.

My commission expires: 5/04/2019

