



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
TIDEWATER REGIONAL OFFICE
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Molly Joseph Ward
Secretary of Natural Resources

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Director

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Regional Director

**STATE AIR POLLUTION CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
Royal Pest Solutions, Inc.
FOR
Royal Pest Solutions, Inc.
Registration No. 61715**

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 Royal Pest Solutions, Inc., regarding the Royal Pest Solutions, Inc. facility, 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. "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 Royal Pest Solutions, Inc. facility, located at 1500 Steel Street in Chesapeake, Virginia.
5. "FCE" means a full compliance evaluation by DEQ staff.

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. "Permit" means a Minor New Source Review air permit to operate a quarantine and commodity fumigations facility, which DEQ issued to RPS under the Virginia Air Pollution Control Law and the Regulations on August 10, 2016.
9. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" mean 9 VAC 5 chapters 10 through 80.
10. "RPS" means Royal Pest Solutions, Inc., a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. RPS is a "person" within the meaning of Va. Code § 10.1-1300.
11. "TRO" means DEQ's 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. RPS owns and operates the Facility located in Chesapeake, Virginia. At the Facility, untreated logs are delivered in dry shipping containers to be treated with the fumigant methyl bromide, which is a volatile organic compound (VOC).
2. The Facility is the subject of the Permit, which requires RPS to limit VOC emissions from log fumigation activities.
3. On April 12, 2017, Department staff conducted an FCE at the Facility for compliance with the requirements of the Virginia Air Pollution Control Law, the Permit, and the Regulations. Based on the evaluation and follow-up information, Department staff made the following observations:
 - a. The "12-month rolling total" table of fumigant provided to DEQ did not include a September 2016 total. Based on notifications received by DEQ, start-up of the fumigation operation was on September 7, 2016.
 - b. RPS did not provide records of the scheduled or unscheduled maintenance.

- c. RPS failed to meet any of the three available minimum requirements provided in the Permit (the Permit requires that RPS meet one of the three requirements): (1) RPS was not maintaining a 300-foot exclusion zone from areas regularly occupied by the public; (2) RPS was not employing a capture and control system for the fumigant; or (3) RPS was not using monitoring equipment or methods to prevent exceedances of standards for fumigant ambient concentrations.
 - d. Signs notifying the public of fumigation operations were not visible at all property lines closest to the public right-of-ways. There were no signs along the west or south public hauling roads or the waterfront right-of-ways.
 - e. RPS did not have records of emissions data and operating parameters to demonstrate compliance with the Permit, as specified in Permit Condition 17c.
4. Condition 4 of the Permit states that the fumigation process shall use no more than 9.9 tons per year of VOC calculated monthly as the sum of each consecutive 12-month period. Compliance for the consecutive 12-month period shall be demonstrated monthly by adding the total from the most recently completed calendar month to the individual monthly totals for the preceding 11 months.
5. Condition 6 of the Permit requires that the Permittee maintain records of emissions data and operating parameters as necessary to demonstrate compliance with this permit. These records shall include the scheduled and unscheduled maintenance and operator training, as required by Condition 11.
6. Condition 11 of the Permit requires that the Permittee develop a schedule and records of all scheduled and non-scheduled maintenance with respect to air pollution control equipment and process equipment that affect such emissions.
7. Condition 17 of the Permit requires that the Permittee meet a minimum of one of the following: (a) maintain a distance of at least 300 feet from either the fence line or the property line; (b) perform fumigations in a sealed building or container and employ a capture and control system for the fumigant emissions; or (c) monitor the fence or property line during fumigation and aeration operations so fumigant concentrations do not exceed the exposure limits.
8. Condition 18 of the Permit requires that the Permittee post signs notifying the public of fumigation operations prior to the fumigation operations.
9. Condition 19 of the Permit states that the Permittee shall maintain records of emissions data and operating parameters as necessary to demonstrate compliance with this permit, including records to verify compliance with the requirements specified in Condition 17.

10. 9VAC51-70-160(A) states that the Board may impose conditions on permits and other approvals that may be necessary to carry out the policy of the Virginia Air Pollution Control Law.
11. Va. Code § 10.1-1308.01(A)(5) requires that the Permittee conduct fumigation activities that meet one of the abovementioned requirements.
12. Va. Code § 10.1-1308.01(C) requires that the Permittee post visible and legible signs at the facility fence or property line closest to any public right-of-way. The signs shall remain in place until completion of the aeration process and shall conform to the format for placards mandated by the federally approved fumigant label.
13. Va. Code § 10.1-1322(A) states that the Department may issue, amend, revoke, or terminate and reissue permits, and failure to comply with any condition of a permit is considered a violation of the Virginia Air Pollution Control Law.
14. On May 22, 2017, based on the evaluation and follow-up information, the Department issued to RPS Notice of Violation No. ATRO000648-001 for the violations described in paragraphs C(3) through C(13), above.
15. On May 25, 2017, RPS responded to the NOV. By letter dated June 2, 2017, RPS submitted a written response to the NOV. RPS maintained that it had started monthly emissions reports beginning in June, began maintenance and training records, posted safety signs, and implemented emission controls.
16. On June 14, 2017, Department staff met with representatives of RPS to discuss the violations, including RPS's written response.
17. Based on the results of the April 12, 2017 inspection, the Board concludes that RPS has violation Permit Conditions 4, 6, 11, 17, 18, and 19, 9VAC51-70-160(A), and Va. Code §§ 10.1-1308.01(A)(5), 10.1-1308.01(C), and 10.1-1322(A), as described in paragraphs C(3) through C(13), above.
18. Based on the June 14, 2017 meeting and follow-up documentation, DEQ verifies that the violations described in paragraphs C(3) through C(13) have been corrected.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it pursuant to Va. Code §§ 10.1-1309 and -1316, the Board orders RPS, and RPS agrees to:

1. Pay a civil charge of \$33,634.00 in settlement of the violations cited in this Order. The civil charge shall be paid in accordance with the following schedule:

<u>Payment Due Date</u>	<u>Payment Amount</u>
August 31, 2017	\$11,634
September 29, 2017	\$11,000
October 31, 2017	\$11,000

2. If the Department fails to receive a civil charge payment pursuant to the schedule described in the above paragraphs D.2, the payment shall be deemed late. If any payment is late, the Department shall have the right to demand in writing full payment of the entire remaining balance under this Order by ASCO. ASCO shall pay the entire remaining balance within 15 days of receipt of the demand letter from the Department. Any acceptance by the Department of a late payment or a payment of less than the entire remaining balance shall not serve as a waiver of the Department's right to accelerate payment of the balance under this Order.
3. 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

4. RPS 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). If the Department has to refer collection of moneys due under this Order to the Department of Law, RPS 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 RPS for good cause shown by RPS, 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. ATR17-0518 dated May 22, 2017. 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, RPS admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.

4. RPS 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. RPS 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 RPS 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. RPS 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. RPS shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. RPS 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 RPS. Nevertheless, RPS 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 RPS has completed all of the requirements of the Order;
- b. RPS 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 RPS.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve RPS from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

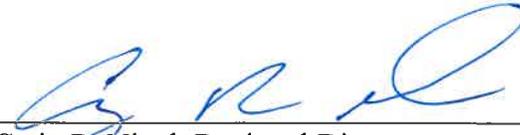
12. Any plans, reports, schedules or specifications attached hereto or submitted by RPS and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.

13. The undersigned representative of RPS 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 RPS to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of RPS.

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.

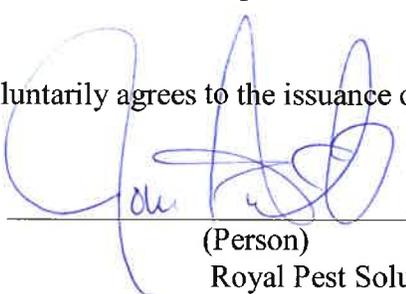
15. By its signature below, RPS voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 24th day of July, 2017.



Craig R. Nicol, Regional Director
Department of Environmental Quality

Royal Pest Solutions, Inc. voluntarily agrees to the issuance of this Order.

Date: 7-24-2017 By: ; V.P.

(Person) (Title)
Royal Pest Solutions, Inc.

Commonwealth of Virginia
City/County of Virginia Beach

The foregoing document was signed and acknowledged before me this 24th day of July, 2017, by John Anziet RPS V.P. who is _____ of Royal Pest Solutions, Inc., on behalf of the corporation.



Notary Public

Registration No. _____

My commission expires: 7-31-2017

Notary seal:

