



# COMMONWEALTH of VIRGINIA

Matthew J. Strickler  
Secretary of Natural Resources

DEPARTMENT OF ENVIRONMENTAL QUALITY  
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David K. Paylor  
Director

Robert J. Weld  
Regional Director

## STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION - CONSENT SPECIAL ORDER ISSUED TO ROANOKE CEMENT COMPANY, LLC Registration No. 20232

### **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 Roanoke Cement Company, LLC, for the purpose of resolving certain violations of the Virginia Air Pollution Control Law and the applicable permits 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. "BRRO" means the Blue Ridge Regional Office of DEQ, located in Salem, Virginia.
3. "CFR" means the Code of Federal Regulations, as incorporated into the Regulations.
4. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
5. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
6. "Facility" means Roanoke Cement Company, LLC, Registration No. 20232, located at 6071 Catawba Road, Troutville, Virginia.

7. “NESHAP” means National Emissions Standards for Hazardous Air Pollutants.
8. “Notice of Violation” or “NOV” means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.
9. “Order” means this document, also known as an “Order by Consent” or “Consent Order”, a type of Special Order under the Virginia Air Pollution Control Law.
10. “PCE” means a Partial Compliance Evaluation performed by DEQ staff.
11. “PSD Permit” means the Prevention of Significant Deterioration Permit, Registration No. 20232, which was issued under the Virginia Air Pollution Control Law and Regulations to Roanoke Cement Company, LLC on February 11, 2015.
12. “Regulations” or “Regulations for the Control and Abatement of Air Pollution” mean 9 VAC 5 chapters 10 through 80.
13. “Roanoke Cement” means Roanoke Cement Company, LLC, a limited liability company authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Roanoke Cement is a “person” within the meaning of Va. Code § 10.1-1300.
14. “TV Permit” means the Title V Permit, Registration No. 20232, which was issued under the Virginia Air Pollution Control Law and Regulations to Roanoke Cement Company, LLC on December 1, 2003 and modified on March 26, 2008. “Va. Code” means the Code of Virginia (1950), as amended.
15. “VAC” means the Virginia Administrative Code.
16. “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. Roanoke Cement owns and operates the Facility, which is located at 6071 Catawba Road in Troutville, Virginia.
2. The Facility manufactures cements using a dry process kiln, raw mills and alkali bypass as part of the process.
3. The Facility is subject to 40 CFR, Part 63, Subpart LLL - National Emissions Standards for Hazardous Air Pollutants from the Portland Cement Manufacturing Industry.

4. The Department issued the modified Title V Permit to Roanoke Cement on March 26, 2008; which allows operations and emissions in strict accordance with its terms.
5. On June 26, 2019, the Department received a Title V Prompt Deviation Report (“PDR”) from the Facility, which described that a Subpart LLL established operating parameter limit, (baghouse inlet temperature limit) had been exceeded for a period of eight hours and fifty-five minutes. The established operating parameter limit exceedance occurred on June 16–17, 2019. The average temperature reported was 250.3°F. The temperature established during stack testing in June, 2018, with both Raw Mills ON was 246.2°F. The Facility stated that this temperature exceedance was not the result of equipment failure or malfunction.
6. On June 28, 2019, DEQ staff conducted a PCE of the June 26, 2019, Title V Prompt Deviation Report.
7. Condition VI.A.1. of the Title V permit requires compliance with NESHAP standards for Source Categories; Portland Cement Manufacturing Industry (40 CFR Part 63, Subpart LLL).
8. Condition 39 of the PSD Permit requires that the owner or operator of a kiln subject to a D/F emissions limitation under §63.1343 must operate the kiln such that the temperature of the gas at the inlet to the kiln PM control device (PMCD) and alkali bypass PMCD, if applicable, does not exceed the applicable temperature limit specified in paragraph (b) of this section.
9. 9 VAC 5-50-260 states, *inter alia*, No owner or other person shall cause or permit to be discharged into the atmosphere from any affected facility any emissions in excess of emissions limitations representing best available control technology, as reflected in any term or condition that may be placed upon the minor NSR permit approval for the facility.
10. 9 VAC 5-60-70 requires compliance with designated emission standards incorporating 40 CFR Part 63, Subpart LLL, Portland Cement Manufacturing (kilns; in-line kilns/raw mills; clinker coolers; raw mills; finish mills; raw material dryers; raw material, clinker, or finished product storage bins; conveying system transfer points; bagging systems; bulk loading or unloading systems).
11. 9 VAC 5-80-110 requires that the permit shall specify and reference applicable emission limitations and standards, including those operational requirements and limitations that assure compliance with all applicable requirements at the time of permit issuance.
12. 9 VAC 5-170-160(A) states that the 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. Except as otherwise specified, nothing in this chapter shall be understood to limit the power of the

board in this regard. If the owner or other person fails to adhere to the conditions, the board may automatically cancel the permit or approvals.

13. Based on the June 26, 2019 PDR, and a review of the additional documentation submitted by the Facility, the Department issued NOV number ABRRO001259 to Roanoke Cement on July 29, 2019 for the violation described in paragraphs C.(5.), above.
14. On August 2, 2019, Facility personnel responded to the NOV as requested by phone and requested a meeting to discuss the NOV.
15. On August 15, 2019, DEQ conducted an enforcement meeting with a Facility representative and DEQ compliance and enforcement staff. Mr. Lance Clark, Alternative Fuels and Raw Materials Manager for Roanoke Cement, explained that the process event consisted a materials spillage at the feed end of the kiln. Facility personnel took action to protect worker health and safety. Due to recent process control equipment changes, operators did not receive an alarm of the event. Mr. Clark submitted a revised PDR stating that the event was the result of a malfunction.
16. Based on the results of the PCE conducted by Department staff on June 28, 2019, the meeting held at BRRO on August 15, 2019, and a review of the additional documentation submitted by Roanoke Cement to the Department, the Board concludes that the NOV issued to the Facility on July 29, 2019 addresses the violation that occurred on June 16-17, 2019 at the Facility, and that Roanoke Cement has violated Conditions VI.A.1. of the Title V Permit; Condition 39 of the PSD Permit; 9 VAC 5-50-260, 9 VAC 5-60-70, 9 VAC 5-80-110, 9 VAC 5-170-160(A), as described, above.
17. Roanoke Cement has submitted documentation that verifies that the conditions that led to the violation described in paragraph C.(5.), above, have been corrected.

#### **SECTION D: Agreement and Order**

By virtue of the authority granted it pursuant to Va. Code §§ 10.1-1309 and -1316, the Board orders Roanoke Cement Company, LLC, and Roanoke Cement Company, LLC agrees to pay a civil charge of \$3,640.00 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 1104  
Richmond, Virginia 23218

Roanoke Cement Company, LLC 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 Roanoke Cement Company, LLC for good cause shown by Roanoke Cement Company, LLC 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, Roanoke Cement Company, LLC 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. Roanoke Cement Company, LLC 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, LLC declares that they have received fair and due process under the Administrative Process Act and the Virginia Air Pollution Control Law and they waive 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 Roanoke Cement Company, LLC 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, LLC 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. Roanoke Cement Company, LLC shall demonstrate that such circumstances were beyond their control and not due to a lack of good faith or diligence on their part. Roanoke Cement Company, LLC 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.

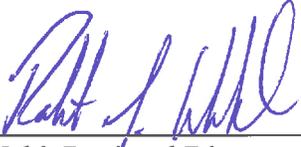
Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which Roanoke Cement Company, LLC intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto 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 Roanoke Cement Company, LLC.
11. This Order shall continue in effect until:
  - a. The Director or his designee terminates the Order after Roanoke Cement Company, LLC has completed all of the requirements of the Order;
  - b. Roanoke Cement Company, LLC 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 Roanoke Cement Company, LLC.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Roanoke Cement Company, LLC 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 Roanoke Cement Company, LLC 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 Roanoke Cement Company, LLC 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 Roanoke Cement Company, LLC to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Roanoke Cement Company, LLC.
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 their signature below, Roanoke Cement Company, LLC voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 4<sup>th</sup> day of March, 2020.

  
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Robert J. Weld, Regional Director  
Department of Environmental Quality

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

Date: 3/2/20 By: Lance Clark, Plant Manager  
(Name) (Title)

Commonwealth of Virginia

City/County of Botetourt

The foregoing document was signed and acknowledged before me this 2nd day of March, 2020, by Lance Clark who is Plant Manager of Roanoke Cement Company, LLC, on behalf of Roanoke Cement Company, LLC.

Suzanne E. Aears  
Notary Public

7530328  
Registration No.

My commission expires: 8.31.2020

Notary seal:

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