

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION
895 Aerovista Lane, Suite 101
San Luis Obispo, California 93401**

COMPLAINT NO. R3-2004-0056

**MANDATORY PENALTY
RMC PACIFIC MATERIALS
DAVENPORT CEMENT PLANT
SANTA CRUZ COUNTY**

This complaint is to assess one mandatory minimum penalty pursuant to Water Code sections 13385(h) and (i) and is issued to the RMC Pacific Materials, Davenport Cement Plant (Discharger) based on a finding of violations of Waste Discharge Requirements Order No. 00-19 (NPDES No. CA0048682).

The California Regional Water Quality Control Board, Central Coast Region (Regional Board) finds the following:

1. On May 30, 2000, the Regional Water Quality Control Board, Central Coast Region (Regional Board), adopted *Waste Discharge Requirements Order No. 00-19, NPDES Permit No. CA0048682, for RMC Pacific Materials, Davenport Cement Plant, Santa Cruz County* (Order No. 00-19).
2. California Water Code section 13385(h)(1) requires the Regional Board to assess a mandatory penalty of three thousand dollars (\$3,000) for each serious violation.
3. California Water Code section 13385(h)(2) provides a serious violation occurs if the discharge exceeds the effluent limitations for a Group II pollutant, as specified in Appendix A to section 123.45 of Title 40 Code of Federal Regulations, by 20 percent or more or for a Group I pollutant, as specified in Appendix A to section 123.45 of Title 40 Code of Federal Regulations, by 40 percent or more.
4. Total Suspended Solids is a Group I pollutant.
5. Order No. 00-19 includes in part the following:

Effluent Limitation B.1 :

| Constituent | Units | Monthly (30-day) average | Weekly (7-day) average | Daily Maximum |
|------------------------|-------|--------------------------|------------------------|---------------|
| Total Suspended Solids | mg/L | - | - | 50 |

6. **Serious Thresholds** – Effluent containing constituent concentrations that are greater than or equal to the following values (limit + 40% for Group I pollutants, limit + 20% for Group II pollutants) are serious violations:

| Constituent | Units | Monthly (30-day) average | Weekly (7-day) average | Daily Maximum |
|------------------------------|-------|--------------------------|------------------------|---------------|
| Total Suspended Solids (TSS) | mg/L | - | - | 70 |

7. According to monitoring reports submitted by the Discharger, the Discharger committed the following violation of Order No. 00-19:

| Violation Date | Constituent | Permitted Limit | Reported Value | Violation Type |
|----------------|-------------|-----------------|----------------|----------------|
| 4/9/2003 | TSS | 50 | 369 | Serious |

8. According to Finding No. 7, the Discharger committed one serious violation on April 9, 2003. The amount of the mandatory penalty for the violation is three thousand dollars (\$3,000).

RMC PACIFIC MATERIALS, DAVENPORT CEMENT PLANT, IS HEREBY GIVEN NOTICE THAT:

1. The Executive Officer of the Regional Board proposes that the Discharger be assessed a mandatory penalty in the amount of three thousand dollars (\$3,000).
2. The Regional Board shall hold a public hearing on May 14, 2004, unless the Discharger agrees to waive its right to a public hearing by filling out, signing, and submitting the enclosed "Waiver of Hearing." If the Discharger chooses not to waive its right to a public hearing, the Regional Board may proceed with the scheduled public hearing and consider testimony received from interested persons during the public hearing and decide whether to accept the amount of mandatory penalty proposed by the Executive Officer or increase the liability. The Regional Board may also decide to continue the matter to a future hearing or refer it to the State Attorney General. The public hearing is scheduled at the regularly scheduled Regional Board meeting on May 14, 2004, at Regional Board Conference Room, 895 Aerovista Place, Suite 101, San Luis Obispo, California. The meeting is scheduled to begin at 8:30 a.m.; however, no specific time has been set for consideration of this item.

If you have comments or questions regarding this matter, please direct them to **Michael Higgins** at (805) 542-4649, or Regional Board Counsel, Lori Okun, at (916) 341-5165.

Madley E. Hoegman
 RW Roger W. Briggs
 Executive Officer
 3/23/04
 Date