

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

**ORDER NO. R3-2003-0056**

**MANDATORY PENALTY  
IN THE MATTER OF  
RMC PACIFIC MATERIALS  
DAVENPORT CEMENT PLANT  
SANTA CRUZ COUNTY**

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

1. On May 19, 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 the RMC Pacific Materials Davenport Cement Plant* (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 that 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. California Water Code section 13385(l) states that "(1) In lieu of assessing penalties pursuant to subdivision (h) or (i), the...regional board, with the concurrence of the discharger, may direct a portion of the penalty amount to be expended on a supplemental environmental project in accordance with the enforcement policy of the state board. If the penalty amount exceeds fifteen thousand dollars (\$15,000), the portion of the penalty amount that may be directed to be expended on a supplemental environmental project may not exceed fifteen thousand dollars (\$15,000) plus 50 percent of the penalty amount that exceeds fifteen thousand dollars (\$15,000).
5. Total Suspended Solids is a Group I Pollutant.
6. Order No. 00-19 includes in part the following:

Effluent Limitation B.1:

Constituent	Units	Monthly (30-Day) Average	Daily Maximum
Total Suspended Solids	mg/L	-	50

7. **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	Maximum At Any Time
Total Suspended Solids	mg/L		70 mg/L

8. According to monitoring reports submitted by the Discharger, the Discharger committed the following violation of Order No. 00-19 on April 9, 2003:

#	Violation Date	Constituent	Permitted Limit	Reported Value	Violation Type
1	4/9/3	Total Suspended Solids	50 mg/L daily maximum	369 mg/L	Serious

9. According to Finding No. 8, the Discharger committed one serious violations on April 9, 2003. The amount of the mandatory penalty for the serious violation is three thousand dollars (\$3,000).
10. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code section 21000, et seq.), in accordance with Section 15321, Chapter 3, Title 14, California Code of Regulations.

**IT IS HEREBY ORDERED**, pursuant to California Water Code Section 13385, that RMC Pacific Materials Davenport Cement Plant is assessed a mandatory penalty in the amount of three thousand dollars (\$3,000).

**By June 14, 2004**, RMC Pacific Materials Davenport Cement Plant shall submit payment to:

SWCRB Accounting  
Enforcement Division  
Post Office Box 100  
Sacramento, CA 95812-0100.

Any person affected by this action of the Regional Board may petition the State Water Resources Control Board to review the action in accordance with California Water Code Section 13320, and Title 23, California Code of Regulations, Section 2050. The State Water Resources Control Board, Office of Chief Counsel, P.O. Box 100, Sacramento, CA 95812, must receive the petition by June 11, 2004. Copies of the law and regulations applicable to filing petitions will be provided upon request

**I, Roger W. Briggs**, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Central Coast Region, on May 14, 2004.

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Roger W. Briggs      Executive Officer