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Division of Air Quality  
601 57<sup>th</sup> Street SE  
Charleston, WV 25304  
Phone: 304 926 0475

Harold Ward, Cabinet Secretary  
[www.dep.wv.gov](http://www.dep.wv.gov)

**CONSENT ORDER  
ISSUED UNDER THE AIR POLLUTION CONTROL ACT  
WEST VIRGINIA CODE, CHAPTER 22, ARTICLE 5, SECTION 4**

TO: REO Processing, Inc.  
Gregg G. Frazier, President  
1 Solution Way  
Waynesboro, Virginia 22980

DATE: November 13, 2023  
ORDER #: CO-R13-E-2023-11  
FACILITY ID: 011-00243

**INTRODUCTION**

This Consent Order is issued by the Director of the Division of Air Quality (hereinafter “Director”), under the authority of West Virginia Code, Chapter 22, Article 5, Section 1 et seq. to REO Processing, Inc. (“REO” or “Company”).

**FINDINGS OF FACT**

1. REO Processing, Inc. operates a warehouse and re-packaging plant (“Facility”) at 20 26<sup>th</sup> Street, Huntington, West Virginia. The Facility stores, re-packages, and loads activated carbon by emptying super-sacks to trailers.
2. The Facility is subject to West Virginia Legislative Rule 45CSR17 (“Rule 17”), “To Prevent and Control Particulate Matter Air Pollution from Materials Handling, Preparation, Storage and Other Sources of Fugitive Particulate Matter.”
3. On May 23, 2023, the Company submitted an after-the-fact permit application pursuant to West Virginia Legislative Rule 45CSR13, “Permits for Construction, Modification, Relocation and Operation of Stationary Sources of Air Pollutants, Notification Requirements, Administrative Updates, Temporary Permits, General Permits, Permission to Commence Construction, and Procedures for Evaluation”, to permit existing loading equipment at the Facility. As of the effective date of this Order, the permit application has not been approved by the DAQ.

4. On September 14, 2023, personnel from the West Virginia Division of Air Quality (“DAQ”) conducted an inspection of the Facility. The inspection was performed in response to citizen complaints alleging black particulate matter (“PM”) being generated at the Facility was migrating offsite and coating their residential properties.
5. Based on findings during the inspection, DAQ personnel determined that black PM residues generated at the Facility were migrating offsite.
6. On September 18, 2023, the DAQ issued a Notice of Violation (“NOV”) to the Company for non-compliance with West Virginia Code §§ 22-5-3 and West Virginia Legislative Rule 45CSR17, subsection 3.1, which states: “No person shall cause, suffer, allow or permit fugitive particulate matter to be discharged beyond the boundary lines of the property on which the discharge originates or at any public or residential location, which causes or contributes to statutory pollution”.
7. The Company’s required written response to the NOV was received by the DAQ on September 26, 2023.

### **ORDER FOR COMPLIANCE**

Now, therefore, in accordance with Chapter 22, Article 5, Section 1 et seq. of the West Virginia Code, it is hereby agreed between the parties, and ORDERED by the Director:

8. Within thirty (30) days of the effective date of this Order, the Company shall submit a stand-alone comprehensive dust control plan (“Dust Control Plan”) to the DAQ for review and approval. At a minimum, the Dust Control Plan will:
  - i. Fugitive Dust Emission Sources - Identify all sources of fugitive dust and describe the measures and practices employed to control fugitive emissions at each source.
  - ii. Facility Layout – Provide a drawing showing the location of each potential source of fugitive dust at the Facility. Include site boundaries, linear dimensions, and site entrance/exit locations.
  - iii. Operation and Maintenance Procedures - Include operation and maintenance procedures used to verify the working condition of any control measures. The Dust Control Plan will also specify the frequency of such procedures and set forth minimum record-keeping requirements.
  - iv. Training – List training content and procedures for all personnel responsible for initial and ongoing implementation of the Dust Control Plan.
  - v. Recordkeeping - Identify the names and titles of each person responsible for implementation of the Dust Control Plan. Records will include documentation of all monitoring, inspections, maintenance and completed work practices (including the name of the person conducting the activity), weather conditions, time of observation, area or operation observed, and corrective actions taken.

- vi. Reporting Requirements – Deviations from the Dust Control Plan and/or corrective actions required to address known episodes of fugitive dust emissions beyond the Facility perimeter are to be reported in writing to the DAQ Director within ten (10) days of occurrence.
9. Upon written (including email) notification of a deficiency (“NOD”) in the Dust Control Plan, the Company shall address items listed in the NOD within ten (10) days of receipt.
10. Within thirty (30) days after DAQ approval, the Company shall submit a revised permit application incorporating the Dust Control Plan by reference.
11. If the Company fails to complete any of the requirements contained in this Order to the satisfaction of the Director or within the time limits set forth herein, the Company agrees to pay a stipulated penalty of one thousand dollars (\$1,000) to the Air Pollution Education and Environment Fund for each day that the action remains incomplete. The Director shall first notify the Company in writing that the Facility is in violation of the terms and conditions of the Order, and the stipulated penalty shall then become due and payable within fifteen (15) days. All payments shall be made by check payable to the Air Pollution Education and Environment Fund and shall be sent to the Division of Air Quality, Attention: Laura M. Crowder, Director, 601 57th Street, SE, Charleston, WV 25304. Payments made pursuant to this paragraph are not tax-deductible expenditures for purposes of State or federal law.

#### **OTHER PROVISIONS**

12. The Company hereby waives its right to appeal this Order under the provisions of Chapter 22, Article 5, Section 1 of the Code of West Virginia. Under this Order, the Company agrees to take all actions required by the terms and conditions of this Order and consents to and will not contest the Director’s jurisdiction regarding this Order. However, the Company does not admit to any factual and legal determinations made by the Director and reserves all rights and defenses available regarding liability or responsibility in any proceedings, administrative or civil, to enforce this Order.
13. The Director reserves the right to take further action if compliance with the terms and conditions of this Order does not adequately address the violations noted herein and reserves all rights and defenses which he or she may have pursuant to any legal authority, as well as the right to raise, as a basis for supporting such legal authority or defenses, facts other than those contained in the Findings of Fact.
14. If any event occurs which causes delay in the achievement of the requirements of this Order, the Company shall have the burden of proving that the delay was caused by circumstances beyond its reasonable control which could not have been overcome by due diligence (i.e., force majeure). Force majeure shall not include delays caused or contributed to by the lack of sufficient funding. Within three (3) working days after the Company becomes aware of such a delay, notification shall be provided to the Director and shall, within ten (10) working days of initial notification, submit a detailed written explanation of the anticipated length and cause of the delay, the measures taken and/or to be taken to prevent or minimize the delay, and a timetable by which the Company intends to implement these measures. If the Director agrees that the delay has been or will be caused by circumstances beyond the reasonable control of the Company (i.e., force majeure), the time for performance hereunder shall be extended for a period of time equal to the delay resulting from such circumstances. A force majeure amendment granted by the Director shall be considered a binding extension of this Order and of the requirements herein. The determination

of the Director shall be final and not subject to appeal.

15. Compliance with the terms and conditions of this Order shall not in any way be construed as relieving the Company of the obligation to comply with any applicable law, permit, other order, or any other requirement otherwise applicable. Violations of the terms and conditions of this Order may subject the Company to additional penalties and injunctive relief in accordance with the applicable law.
16. The provisions of this Order are severable and should a court or board of competent jurisdiction declare any provisions to be invalid or unenforceable, all other provisions shall remain in full force and effect.
17. This Order is binding on the Company, its successors, and assigns.
18. This Order shall become effective immediately upon signing by both parties.
19. This Order shall terminate upon completion of all requirements in the ORDER FOR COMPLIANCE section and issuance of a Rule 13 permit incorporating an approved Dust Control Plan.



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Gregg G. Frazier, President  
REO Processing, Inc

11/13/2023

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Date

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Laura M. Crowder  
Director

11/13/2023

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Date