COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
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VIRGINIA WASTE MANAGEMENT BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO ALSTOM POWER INC. EPA ID No. VAR000518886

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1455, between the Virginia Waste Management Board, and Alstom Power Inc., regarding the Willis Road North Chesterfield Facility, for the purpose of resolving certain violations of the Virginia Waste Management Act and the applicable regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Alstom" means Alstom Power Inc., a corporation authorized to do business in Virginia and its affiliates, partners and subsidiaries. Alstom is a "person" within the meaning of Va. Code § 10.1-1400.

2. "Board" means the Virginia Waste Management Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1401.

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" or "Site" means the Alstom Facility located at 1801 Willis Road in Chesterfield County, Virginia.

7. "Generator" means person who is a hazardous waste generator, as defined by 40 CFR § 260.10.

8. "Hazardous Waste" means any solid waste meeting the definition and criteria provided in 40 CFR § 261.3.

9. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1455.

10. "Order" means this document, also known as a "Consent Order" or "Order by Consent."

11. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.

12. "Regulations" or "VHWMR" means the Virginia Hazardous Waste Management Regulations, 9 VAC 20-60-12 *et seq.* Sections 20-60-14, -124, -260 through -266, -268, -270, -273, and -279 of the VHWMR incorporate by reference corresponding parts and sections of the federal Code of Federal Regulations (CFR), with the effected date as stated in 9 VAC 20-60-18, and with independent requirements, changes, and exceptions as noted. In this Order, when reference is made to a part or section of the CFR, unless otherwise specified, it means that part or section of the CFR as incorporated by the corresponding section of the VHWMR. Citations to independent Virginia requirements are made directly to the VHWMR.

13. "Solid Waste" means any discarded material meeting the definition provided in 40 CFR § 261.2.

14. "SQG" means a small quantity generator, a hazardous waste generator that generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month and meets other restrictions. *See* 40 CFR § 262.34(d)-(f).

15. "Va. Code" means the Code of Virginia (1950), as amended.

16. "VAC" means the Virginia Administrative Code.

17. "Virginia Waste Management Act" means Chapter 14 (§ 10.1-1400 *et seq.*) of Title 10.1 of the Va. Code. Article 4 (Va. Code §§ 10.1-1426 through 10.1-1429) of the Virginia Waste Management Act addresses Hazardous Waste Management.

SECTION C: Findings of Fact and Conclusions of Law

1. Alstom owns and operates the Facility in Chesterfield County, Virginia. The Facility is a distribution center that stores and transports equipment and supplies for power generating companies. Operations at the Facility are subject to the Virginia Waste Management Act and the Regulations.

2. Alstom submitted a RCRA Subtitle C Site Identification Form May 24, 2010, that gave notice of regulated waste activity at the Facility as a SQG of hazardous waste. Alstom was issued EPA ID No. VAR000518886 for the Facility. The Facility is also a small quantity handler of Universal Waste.

3. Alstom generates a number of solid waste types that are hazardous at this Facility including: waste, flammable liquids (D001), waste, organic peroxide (D001, D003), corrosive and flammable amines (D002, D001), waste, paint-related waste, flammable liquids (D001), corrosive liquid amines (D002), waste, self-reactive liquid (D003), flammable, corrosive liquids (D001, D002, D007), paint waste (D001, D003), waste, amines, flammable (D001, D002), and assorted wastes noted on manifests (D005, D0035). The codes in parenthesis are the hazardous listed wastes codes as described in 40 CFR § 261 Subpart C&D. This hazardous waste is accumulated in containers at the Facility after its generation.

4. On May 16, 2013, Department staff inspected the Facility for compliance with the requirements of the Virginia Waste Management Act and the Regulations. Based on the inspection and follow-up information, Department staff made the following observations:

    a. DEQ staff observed a steel flammable cabinet which contained hazardous waste. According to Facility personnel, the cabinet is used to store hazardous waste generated by the Facility. During the inspection, records of weekly inspections of the hazardous waste storage cabinet were not available. DEQ staff asked Alstom if weekly inspections of the hazardous storage cabinet were being conducted by the Facility. Alstom responded that weekly inspections of the hazardous waste storage cabinet were not being conducted.

    b. Based on review of available records at the time of the inspection, the Facility failed to make an arrangement with the local hospitals to familiarize them with the properties of hazardous waste handled at the Facility and the types of injuries or illnesses which could result from fires, explosions, or releases at the Facility.

    c. DEQ observed and documented several boxes of Universal Waste Lamps that did not have the words, "Universal Waste, Lamps" written clearly on them indicating the contents. In addition, the Facility did not have a system of tracking the accumulation start date of the Lamps.

d. DEQ staff reviewed hazardous waste manifests and hazardous waste container management area log documentation which indicated that a hazardous waste was generated in quantities greater than 220 pounds and less than 2,200 pounds in December 2010. In addition, documentation reviewed indicated that 9 containers of hazardous waste generated on December 22, 2010, were not shipped off-site until November 1, 2011. As a small quantity generator of hazardous waste for the month of December 2010, all hazardous waste generated during this month was required to be shipped off-site within 270 days (as the designated Facility, Chemtron, is located in Avon, Ohio, approximately 489 miles, or greater than 200 miles from the generator Facility location). The time period between December 22, 2010 and November 1, 2011 is 326 days.

e. At the time of the inspection, an updated map of the location of the emergency response equipment including fire extinguishers and spill control material was not available to be posted by the Facility phone.

f. Review of DEQ records indicated that Alstom failed to notify DEQ of the exact locations of the hazardous waste accumulation areas.

5. 40 CFR § 265.174, as required by 40 CFR § 262.34(d), states that at least weekly, the owner or operator must inspect areas where containers are stored… [and must] look for leaking containers and for deterioration of containers caused by corrosion or other factors.

6. 40 CFR § 265.37(a)(4), as required by 40 CFR §262.34(d)(4) states: " The owner or operator must attempt to make the following arrangements, as appropriate for the type of waste handled at his Facility and the potential need for the services of these organizations… Arrangements to familiarize local hospitals with the properties of hazardous waste handled at the Facility and the types of injuries or illnesses which could result from fires, explosions, or releases at the Facility."

7. 40 CFR § 273.14(e) states: "A small quantity handler of universal waste must label or mark the universal waste to identify the type of universal waste as specified below"…"(e) Each lamp or a container or package in which such lamps are contained must be labeled or marked clearly with one of the following phrases: "Universal Waste---Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)."

8. 40 CFR § 273.15 (c) A small quantity handler of universal waste who accumulates universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.

9. 40 CFR § 262.34(e) states: " A generator who generates greater than 100 kilograms but less than 1,000 kilograms of hazardous waste in a calendar month and who must transport his waste or offer his waste for transportation over a distance of 200, miles or more for

off-site treatment, storage, or disposal may accumulate hazardous waste on-site for 270 days or less without a permit or without having interim status provided that he complies with the requirements of paragraph (d) of this section."

10. 40 CFR § 262.34(d)(5)(ii)(B) states: " The generator must post the following information next to the telephone:"..."(B) Location of fire extinguishers and spill control material, and if present, fire alarm."

11. 9 VAC 20-60-262(B)(4) states, "In the case of a new generator who creates such accumulation areas after March 1, 1988, he shall notify the department at the time the generator files the Notification of Hazardous Waste Activity that he intends to accumulate hazardous waste in accordance with 40 CFR 262.34. This notification shall specify the exact location of the accumulation area at the site.

12. On June 22, 2013, based on the inspection and follow-up information, the Department issued Notice of Violation No. 2013-06-PRO-601 to Alstom for the violations described in paragraphs C (4) through C (11), above.

13. On July 10, 2013, Department staff met with representatives of Alstom to discuss the violations and the corrective actions taken by Alstom to return to compliance.

    a. With regard to Section C(4)(a) above, Alstom amended and immediately implemented their current General Planned Inspection (GPI) that addresses inspections of hazardous goods for flammable aerosols and liquids. A new work instruction form and checklist for weekly inspections was developed and implemented.

    b. With regard to Section C(4)(b) above, Alstom contacted Chippenham Hospital on July 8, 2013, regarding the Hospital's procedures for a hazardous materials chemical emergency plan in the event of injuries to personnel. On July 17, 2013, Alstom provided the Hospital with copies of Material Safety Data Sheets (MSDS) for the 42 items stored at the Facility.

    c. With regard to Section C(4)(c) above, Alstom procured universal waste stickers and appropriate handling containers for the proper safeguarding of universal wastes. Alstom provided the Department with photographic documentation of the universal waste storage area in full compliance on July 22, 2013.

    d. With regard to Section C(4)(d) above, Alstom reviewed their records and confirmed that the hazardous waste identified as 10.5 gallons of paint/flammable liquid and 8 oz. peroxide, generated on December 22, 2010, was removed from the Facility on January 18, 2011. Alstom has also taken steps prevent reoccurrence mistakes that led to the accumulation time exceedance.

e. With regard to Section C(4)(e) above, Alstom has updated its existing site plan with the identification of portable fire extinguishers and spill kits. The site plan is now posted by the hazardous waste storage area and the Facility telephone. The updated map was presented to local authorities for reference.

f. With regard to Section C(4)(f) above, Alstom has prepared a site map with the identification of the hazardous waste accumulation area and submitted it to the Department on July 22, 2013.

14. Based on the results of May 16, 2013, inspection, the July 10, 2013, meeting, and the documentation submitted on July 22, 2013, the Board concludes that Alstom has violated 40 CFR § 265.174, 40 CFR § 265.37(a)(4), 40 CFR §273.14(e), 40 CFR 273.15, 40 CFR § 262.34(e), 40 CFR § 262.34(d)(5)(ii)(B), and 9 VAC 20-60-262(B)(4) as described in paragraphs C (4) through C (11), above.

15. Alstom has submitted documentation that verifies that the violations described in paragraphs C (4) through C (11), above, have been corrected, as described in C (13) above.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code § 10.1-1455, the Board orders Alstom, and Alstom agrees to pay a civil charge of $9,000 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," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Alstom 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, Alstom 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 Alstom for good cause shown by Alstom, 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, Alstom admits the jurisdictional allegations, , and agrees not to contest, but neither admits nor denies, the findings of fact, and conclusions of law contained herein.

4. Alstom 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. Alstom declares it has received fair and due process under the Administrative Process Act and the Virginia Waste Management Act 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 Alstom 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. Alstom 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 occurrence. Alstom shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Alstom 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 Alstom 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, their 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 Alstom.

11. This Order shall continue in effect until:

a. The Director or his designee terminates the Order after Alstom has completed all of the requirements of the Order;

b. Alstom 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 Alstom.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Alstom 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 Alstom 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 Alstom 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 Alstom to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Alstom.

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, Alstom voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 24th day of FEBRUARY, 2014.

Michael P. Murphy, Regional Director
Department of Environmental Quality

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Alstom Power Inc. voluntarily agrees to the issuance of this Order.

Date: 01/13/14 By: Paul D. Elkovich, VP Gas Turbine Execution Center

Paul D. Elkovich
Alstom Power Inc.

VP Gas Turbine
Execution Center

Commonwealth of Virginia
City/County of Chesterfield

The foregoing document was signed and acknowledged before me this 13th day of January, 2014, by Paul D. Elkovich who is VP Gas Turbine Execution Center of Alstom Power Inc., on behalf of the corporation.

Kellee H. Lapallo
Notary Public

184896
Registration No.

My commission expires: May 31, 2014

Notary seal:

KELLEE H. LAPALLO
NOTARY PUBLIC
MY COMMISSION NUMBER 184896
COMMONWEALTH OF VIRGINIA