



# COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY  
TIDEWATER REGIONAL OFFICE

5636 Southern Boulevard, Virginia Beach, Virginia 23462  
(757) 518-2000 Fax (757) 518-2103  
www.deq.virginia.gov

L. Preston Bryant, Jr.  
Secretary of Natural Resources



David K. Paylor  
Director

Francis L. Daniel  
Regional Director

## STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION ORDER BY CONSENT ISSUED TO LOCKHEED MARTIN CORPORATION PROPERTIES, INC.

Registration number 61518

### SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §10.1-1307.D, §10.1-1309, §10.1-1316.C, and §10.1-1184 between the State Air Pollution Control Board and Lockheed Martin Corporation Properties, Inc., for the purpose of resolving certain violations of environmental law and regulations.

### SECTION B: Definitions

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

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1301 and 10.1-1184.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Diesel" means capable of being fueled by distillate oil, liquid fuel which meets American Society for Testing Materials (ASTM) specification for numbers 1 and 2 fuel oil.
6. "Distillate oil" means liquid fuel which meets the American Society for Testing Materials (ASTM) specification for numbers 1 and 2 fuel oil.

7. "Order" means this document, also known as a Consent Order.
8. "TRO" means the Tidewater Regional Office of DEQ, located in Virginia Beach, Virginia.
9. "Lockheed" means Lockheed Martin Corporation Properties, Inc., certified to do business in Virginia, and its affiliates, partners, subsidiaries, and parents.
10. "CFR" means Code of Federal Regulations.
11. "NSPS" means Standards of Performance for New Stationary Sources as promulgated in 40 CFR Part 60.
12. "Regulations" means Virginia Regulations for the Control and Abatement of Air Pollution (9 VAC 5-80-10 et seq.).

### **SECTION C: Findings of Fact and Conclusions of Law**

1. Lockheed Martin Corporation Properties, Inc. owns the demonstration and research facility ("the facility") located at 8000 Harbour View Boulevard, Suffolk.
2. On December 7, 2006 an air permit application dated December 5, 2006 was received for a 2,937 horsepower ("HP") diesel engine powered emergency 2,190 kilowatt ("kW") electrical generator at the facility.
3. TRO air compliance staff inspected the facility on January 11, 2007 and found that a diesel powered electrical generator matching the description in the December 5, 2006 air permit application (2,937HP diesel engine powered emergency electrical 2,190kW generator), date of manufacture July 2006, had apparently been installed in Fall 2006.
4. A review of DEQ files indicated that an air permit had not previously been issued for the 2,937HP diesel engine powered emergency electrical 2,190kW generator found at the facility.
5. 9 VAC 5-80-1120(A)(Article 6) of the Regulations states: "No owner or other person shall begin actual construction, reconstruction, or modification of any stationary source without first obtaining from the board a permit to construct and operate or to modify and operate the source."
6. 9 VAC 5-80-1110 (C)(Article 6) of the Regulations states: "'Begin actual construction' means initiation of permanent physical on-site construction of an emissions unit. This includes, but is not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures."

7. 9 VAC 5-80-1110(C)(Article 6) of the Regulations states: "Stationary source' means any building, structure, facility or installation, which emits any regulated air pollutant."
8. According to 9 VAC 5-80-1320(B)(2)(b) (Article 6) of the Regulations, the 2,937HP diesel engine powered emergency electrical 2,190kW generator installed at the facility is not exempt from air permit requirements. Diesel engines of less than 1,675HP powering electrical generators of less than 1,125 kilowatts are exempt from the regulations.
9. Lockheed violated the Regulations by constructing the 2,937HP diesel engine powered emergency electrical 2,190kW generator without an air permit.
10. DEQ issued a Notice of Violation to Lockheed on February 9, 2007 informing of the above facts and applicable regulatory and statutory citations.
11. On January 29, 2007 DEQ issued a New Source Review air permit to Lockheed for the 2,937HP diesel engine powered emergency electrical 2,190kW generator.

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

Accordingly, the Board, by virtue of the authority granted it in Va. Code §10.1-1316.C, orders Lockheed, and Lockheed voluntarily agrees, to pay a civil charge of \$3,900.00 within 30 days of the effective date of this Order in settlement of the violations cited in this Order. Payment shall be made by check payable to the "Treasurer of Virginia," shall indicate Lockheed's Federal Identification Number, and shall be sent to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 10150  
Richmond, Virginia 23240

#### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend the Order with the consent of Lockheed, for good cause shown by Lockheed, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violation issued to Lockheed by DEQ on February 9, 2007. 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 as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.

3. For purposes of this Order and subsequent actions with respect to this Order, Lockheed admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Lockheed 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. Lockheed declares it has received fair and due process under the Administrative Process Act, Va. Code §§2.2-4000 *et seq.*, and the State Air Pollution Control Law 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 enforce this Order.
6. Failure by Lockheed 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. Lockheed 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. Lockheed shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Lockheed shall notify the DEQ Regional Director in writing 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 within 24 hours of learning of any condition above, which the parties intend 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 Lockheed. Notwithstanding the foregoing, Lockheed agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Lockheed. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Lockheed from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
12. By its signature below, Lockheed voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of June 26, 2007.

Francis L. Daniel  
Francis L. Daniel, Regional Director  
for David K. Paylor, Director  
Department of Environmental Quality

Lockheed voluntarily agrees to the issuance of this Order

By: [Signature]

Date: 25 JUN 07

Commonwealth of Virginia

City/County of Fairfax

The foregoing document was signed and acknowledged before me this 25<sup>th</sup> day of

June, 2007, by David M. Miska, who is

ESH Team Lead (name)  
of Lockheed, on behalf of the Lockheed.

(title)

[Signature]  
Notary Public

My commission expires: July 31 2008

