



# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF ENVIRONMENTAL QUALITY

### Blue Ridge Regional Office

[www.deq.virginia.gov](http://www.deq.virginia.gov)

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## STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ALLIANT TECHSYSTEMS OPERATIONS LLC FOR NEW RIVER ENERGETICS Registration No. 21258

### **SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1309 and -1316, between the State Air Pollution Control Board and the Alliant Techsystems Operations LLC regarding the New River Energetics facility near Radford, Virginia, for the purpose of resolving certain violations of the Virginia Air Pollution Control Law and the applicable permit and regulations.

### **SECTION B: Definitions**

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

1. "ATK" means Alliant Techsystems Operations LLC, a limited liability company authorized to do business in Virginia and its members, affiliates, partners, and subsidiaries. ATK is a "person" within the meaning of Va. Code § 10.1-1300.
2. "Board" means the State Air Pollution Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1301.
3. "BRRO-R" means the Blue Ridge Regional Office of DEQ, located in Roanoke, Virginia.
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 "Plant" or means the New River Energetics facility, located at State Route 114 near Radford, Virginia.
7. "Permit" means Stationary Source Permit to Construct and Operate No. 21258, which was issued under the Virginia Air Pollution Control Law and the Regulations to ATK for a multibase propellant line at NRE on July 2, 2012.
8. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.
9. "NRE" means New River Energetics, a commercial propellant manufacturing facility located as a tenant facility within the Radford Army Ammunition Plant.
10. "NSR Permit" means a permit issued under the new source review program, as further defined at 9 VAC 5-80-5(C).
11. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the Virginia Air Pollution Control Law.
12. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" mean 9 VAC 5 chapters 10 through 80.
13. "Title V Permit" means a permit based on the requirements of Title V of the Federal Clean Air Act and issued under Chapter 80, Article 1 of the Virginia Regulations for the Control and Abatement of Air Pollution.
14. "Va. Code" means the Code of Virginia (1950), as amended.
15. "VAC" means the Virginia Administrative Code.
16. "Virginia Air Pollution Control Law" means Chapter 13 (§ 10.1-1300 *et seq.*) of Title 10.1 of the Va. Code.
17. "VOC" means volatile organic compound, which is any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions, as further defined at 9 VAC 5-10-12.

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

1. ATK operates NRE, a propellant manufacturing facility at State Route 114 near Radford, Virginia. NRE is a commercial operation located as a tenant facility within the Radford Army Ammunition Plant but is not at this time considered a part of that stationary source.

2. The Permit limits annual VOC emissions by NRE from the multibase propellant line to 59.4 tons per year.
3. On January 28, 2014, DEQ received by e-mail and reviewed ATK's Annual Update for Calendar Year 2013 and their 2013 Emission Statement ("2013 Emission Statement"). ATK's 2013 Emission Statement indicated that NRE's annual VOC emissions from the operation of the multibase propellant line for the calendar year 2013 were 91.03 tons.
4. On January 30, 2014, the Department issued Notice of Violation No. AWCRO#8858 to ATK for the violation described in paragraph C(3) above.
5. 9 VAC 5-50-260 states that no owner or other person shall cause or permit to be discharged into the atmosphere from any affected facility any emissions in excess of the limits specified in the applicable permit for that facility.
6. Condition 10 of the Permit limits VOC emissions from the Facility to 59.4 tons per year.
7. On February 24, 2014, Department staff met with representatives of ATK to discuss the violations.
8. On March 3, 2014, ATK submitted a written response to the NOV. The response indicated that NRE discovered the exceedance of the VOC limit through a mass balance study. NRE attributed this unexpected result to the cumulative effect over time of changes in raw materials and product types and specifications. ATK's response also indicated that ATK intends to apply for modification to the Permit and to apply for a Title V Permit.
9. Based on documentation submitted by ATK and the February 24, 2014 meeting, the Board concludes that ATK has violated Permit condition 10 and 9 VAC 5-50-260 as described in paragraphs C(2) through C(3), above.
10. In order for ATK to return to compliance, DEQ staff and representatives of ATK have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

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

Accordingly, by virtue of the authority granted it in Va. Code §§ 10.1-1309 and -1316, the Board orders ATK, and ATK agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of \$14,812.00 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

ATK shall include its Federal Employer Identification Number (FEIN) (27-4026908) 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, ATK 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 ATK for good cause shown by ATK, 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, ATK admits the jurisdictional allegations, and agree not to contest, but neither admits nor deny the findings of fact, and conclusions of law in this Order.
4. ATK 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. ATK declares it has received fair and due process under the Administrative Process Act and the Virginia 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 modify, rewrite, amend, or enforce this Order.
6. Failure by ATK 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. ATK does not waive any rights or objections it may have in any enforcement action by other federal, state, or local authorities arising out of the same or similar facts to those recited in this Order.

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. ATK 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 unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on their part. ATK shall demonstrate that such circumstances were beyond their control and not due to a lack of good faith or diligence on their part. ATK 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 ATK 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.

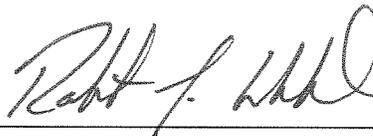
9. This Order is binding on ATK hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and ATK.
11. This Order shall continue in effect until:
  - a. The Director or his designee terminates the Order after ATK has completed all of the requirements of the Order;

- b. ATK 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 ATK.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve ATK 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 ATK 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 ATK 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 ATK to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of ATK.
- 14. This Order constitutes the entire agreement and understanding of ATK 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 ATK other than those expressed in this Order.
- 15. By its signature below, ATK voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 18<sup>th</sup> day of March, 2014.



Robert J. Weld, Regional Director  
Department of Environmental Quality

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Alliant Techsystems Operations LLC voluntarily agrees to the issuance of this Order.

Date: 17 MAR 2014 By: MM Miano, OPERATIONS MANAGER  
(Person) (Title)

Commonwealth of Virginia

City/County of Floyd

The foregoing document was signed and acknowledged before me this 17 day of March, 2014, by Michael A. Miano who is Operations Manager, on behalf of the company.

Ashley B. Akers  
Notary Public

7527951  
Registration No.

My commission expires: 06/30/2016

Notary seal:



## **APPENDIX A SCHEDULE OF COMPLIANCE**

1. Within 90 days of the execution of this Order, ATK shall submit a NSR permit application for the Facility. ATK shall respond to any deficiencies in the permit application within fourteen days of receipt of notice of such deficiencies from the Department.
2. Within 150 days of the execution of this Order, ATK shall submit a Title V permit application for the Facility. ATK shall respond to any deficiencies in the permit application within fourteen days of receipt of notice of such deficiencies from the Department.
3. Unless otherwise specified in this Order, ATK shall submit all requirements of Appendix A of this Order to:

Robert Steele  
Enforcement Specialist Sr.  
VA DEQ- BRRO  
3019 Peters Creek Road  
Roanoke, VA 24019

Phone: (540) 562-6777  
Fax: (540) 562-6725  
Email: Robert.Steele@deq.virginia.gov