



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

SOUTHWEST REGIONAL OFFICE

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STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION – ORDER BY CONSENT ISSUED TO APPALACHIAN POWER COMPANY FOR CLINCH RIVER PLANT

Registration No. 10236

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 Appalachian Power Company, regarding Appalachian Power Company, for the purpose of resolving certain violations of the Virginia Air Pollution Control Law and the applicable permits and regulations.

SECTION B: Definitions

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

1. “Appalachian Power Company” means Appalachian Power Company, a company authorized to do business in Virginia and its affiliates, partners and subsidiaries. Appalachian Power Company 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. “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, as described in Va. Code § 10.1 - 1185.

5. "Facility" means the Appalachian Power Company – Clinch River Plant located at 3464 Power Plant Rd, Russell County, Virginia.
6. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.
7. "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.
8. "PCE" means a partial compliance evaluation by DEQ staff.
9. "Permit" means a minor New Source Review Permit to modify and operate a electric power generating facility which was issued under the Air Pollution Control Law and the Regulations to Appalachian Power Company, effective January 13, 2015, amended August 3, 2016.
10. "PM-10" means particulate matter 10 micrometers or less in diameter.
11. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" means 9 VAC 5 chapters 10 through 80.
12. "SWRO" means the Southwest Regional Office of DEQ, located in Abingdon, Virginia.
13. "Va. Code" means the Code of Virginia (1950), as amended.
14. "VAC" means the Virginia Administrative Code.
15. "Virginia Air Pollution Control Law" means Chapter 13 (§ 10.1-1300 *et seq.*) of Title 10.1 of the Va. Code.

SECTION C: Findings of Facts and Conclusions of Law

Appalachian Power Company owns and operates the Facility in Russell County, Virginia. The Facility is the subject of the Permit which allows the company to operate the electric power generating facility.

1. On August 24, 2016, DEQ staff conducted a PCE for review of the performance test results from initial testing of the exhaust stack for Units 1 and 2 conducted at the Facility on June 16, 2016. Review of the submitted report demonstrated the test results for PM-10 emissions were 46.75 lbs/hr Unit 1 and 49.21 lbs/hr Unit 2.

2. Condition No. 10 of the Permit states, "Emissions from the combustion of natural gas in the Unit 1, Unit 2, and auxiliary boilers (Reference Nos. CR1, CR2, and CR4) shall not exceed the limits specified below:...

PM-10/PM-2.5 (Units 1 and 2 (CR1 and CR2)) (per unit) 27.99 lb/hr..."

3. 9 VAC 5-50-260 requires that, "A. No owner or other person shall cause or permit to be discharged into the atmosphere from any affected facility any emissions in excess of emissions limitations representing best available control technology, as reflected in any term or condition that may be placed upon the minor permit approval for the facility..."
4. 9 VAC 5-80-1180 requires that, "...C. Minor NSR permits may contain emissions standards as necessary to implement the provisions of this article and 9VAC5-50-260."
5. Va. Code § 10.1-1322(A) gives the Department the authority to issue, amend, revoke or terminate and reissue permits, and failure to comply with any condition of a permit is considered a violation of the Air Pollution Control Laws.
6. On September 28, 2016, DEQ staff conducted a PCE for review of the performance test results from the second testing for PM-10 emissions conducted at the Facility on July 20, 2016. Review of the submitted report demonstrated the test results for PM-10 emissions were 57.67 lbs/hr Unit 1 and 60.39 lbs/hr Unit 2.
7. On September 29, 2016, DEQ staff conducted a PCE for review of the performance test results from the third testing for PM-10 emissions conducted at the Facility on July 28, 2016. Review of the submitted report demonstrated the test results for PM-10 emissions were 55.91 lbs/hr Unit 1 and 56.10 lbs/hr Unit 2.
8. On October 6, 2016, DEQ staff conducted a PCE for review of the performance test results from the fourth testing for PM-10 emissions conducted on Unit #2 at the Facility on August 11, 2016 and on Unit #1 at the Facility on August 25, 2016. Review of the submitted reports demonstrated the test results for PM-10 emissions were 18.033 lbs/hr Unit #1 and 5.228 lbs/hr Unit #2 using EPA Method 201A / 202 in order to more accurately quantify PM10.
9. On October 12, 2016, based on the results of the August 24, 2016 PCE, the September 28, 2016 PCE, and the September 29, 2016 PCE, the Department issued a Notice of Violation No. ASWRO000521 to Appalachian Power Company – Clinch River Plant for the violations described in paragraph C(1), C(6) and C(7), above.
10. On October 17, 2016, DEQ received a written response to the NOV from the Facility. The Facility requested a meeting with DEQ to discuss the NOV.

11. On October 31, 2016, DEQ met with representatives of the Facility to discuss the violations.
12. On November 7, 2016, DEQ received correspondence from the Facility documenting the specifications of the testing, testing results and Facility maintenance between testing dates. The information submitted included particle size analysis data, and chemical composition of the materials captured during testing. These analyses demonstrated that a significant portion of the materials captured during the June 16, July 20, and July 28, 2016 tests was either greater than 10 microns in size and/or was not produced as a result of combustion of natural gas.
13. After receipt of the results of the June 16, 2016 initial test for PM-10 emissions, Appalachian Power Company paced the units out of service, and operated the units only for purposes of retesting until the units returned to compliance on August 11 and August 25, 2016.
14. Based on the results of the August 24, 2016 PCE, the September 28, 2016 PCE, the September 29, 2016 PCE, the October 31, 2016 meeting and the November 7, 2016 report, the Board concludes that Appalachian Power Company has violated Condition 10 of the Permit, 9 VAC 5-50-260 and 9 VAC 5-80-1180 as described in paragraphs C(1), C(6) and C(7), above.

SECTION D: Agreement and Order

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

1. Perform the action described in Appendix A of this Order, and
2. Pay a civil charge of \$17,500 within 30 days of the effective date of the Order in settlement of the violation 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

Appalachian Power Company 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, Appalachian Power Company shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Appalachian Power Company for good cause shown by Appalachian Power Company, 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 only those violations specifically identified in Section C of this Order and NOV No. ASWRO000521 dated October 12, 2016. This Order shall not preclude the Board or 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. Appalachian Power Company neither admits nor denies the factual findings or conclusions of law contained herein, but solely for purposes of this proceeding, and to resolve this matter without the need for a hearing, APCO consents to the jurisdiction of DEQ and the Board.
4. Appalachian Power Company 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. Appalachian Power Company 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 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 or Director to modify, rewrite, amend, or enforce this Order.
6. Failure by Appalachian Power Company 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. Appalachian Power Company 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 its part. Appalachian Power Company shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Appalachian Power Company shall notify 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 this Order. Such notice shall set forth:

- a. the reasons for the delay or noncompliance;
- b. the projected duration of 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 listed above, which the parties intends to assert will result in the impossibility of compliance, shall constitute waiver of any claim of 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 Appalachian Power Company. Nevertheless, Appalachian Power Company agrees to be bound by any compliance date, which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - a. The Director or his designee terminates the Order after Appalachian Power Company has completed all of the requirements of the Order.
 - b. Appalachian Power Company 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 Appalachian Power Company.

Termination of this Order, or of any obligation imposed in this Order, shall not operate to relieve Appalachian Power Company 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 Appalachian Power Company 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 Appalachian Power Company 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 Appalachian Power Company to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Appalachian Power Company.
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, Appalachian Power Company voluntarily agrees to the issuance of this Order.

And it is ORDERED this 17th day of January, 2017



Jeffrey L. Hurst - Regional Director
Department of Environmental Quality

Appalachian Power Company voluntarily agrees to the issuance of this Order.

Date: 1/12/17 By: *Ricky L. Chafin*
Ricky L. Chafin, Plant Manager
Appalachian Power Company

Commonwealth of Virginia

City/County of Russell

The foregoing document was signed and acknowledged before me this 12TH day of
JANUARY, 2017, by RICKY L. CHAFIN who is
PLANT MANAGER of Appalachian Power Company, on behalf of
the corporation.

Ricky Gerald Holmes
Notary Public
7670349
Registration No.
12/31/2020
My commission expires:

Notary Seal:



APPENDIX A SCHEDULE OF COMPLIANCE

1. Appalachian Power Company:

Shall conduct performance testing to verify compliance with the PM10 emission limit required by the most current effective permits. Testing must be completed within 365 days of the effective date of this Order. A protocol shall be submitted 30 days prior to performance testing. A copy of all test results shall be submitted to DEQ within 45 days of test completion.

2. Certification of Documents and Reports

In accordance with 9 VAC 5-20-230(A), in all documents or reports, submitted to DEQ pursuant to this Consent Order, Appalachian Power Company, shall by its officers, sign and certify under penalty of law that the information contained in such document or report is true, accurate, and not misleading by signing the following statement:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering and evaluating the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

3. DEQ Contact

Unless otherwise specified in this Order, Appalachian Power Company shall submit all requirements of Appendix A of this Order to:

Crystal C. Bazyk
Enforcement and Air Compliance/Monitoring Manager
VA DEQ – SWRO
355-A Deadmore Street
Abingdon, VA 24210
(276) 676-4829
crystal.bazyk@deq.virginia.gov