



COMMONWEALTH of VIRGINIA

Molly Joseph Ward
Secretary of Natural Resources

DEPARTMENT OF ENVIRONMENTAL QUALITY

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STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION – ORDER BY CONSENT ISSUED TO ELECTRO-MECHANICAL CORPORATION D/B/A FEDERAL PACIFIC TRANSFORMER COMPANY

Registration No. 11058

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 Electro-Mechanical Corporation d/b/a, Federal Pacific Transformer Company, regarding Federal Pacific Transformer 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. "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.
2. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
3. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1 - 1185.
4. "Facility" means the Federal Pacific Transformer Corporation facility located at 601 Old Airport Rd, Bristol Industrial Park, in Bristol City, Virginia.
5. "FCE" means a full compliance evaluation by DEQ staff.

6. "Federal Pacific Transformer Company" means Electro-Mechanical Corporation d/b/a Federal Pacific Transformer Company, a company authorized to do business in Virginia and its affiliates, partners and subsidiaries. Electro-Mechanical Corporation is a "person" within the meaning of Va. Code § 10.1-1300.
7. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.
8. "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.
9. "Permit" means a minor New Source Review Permit to modify and operate a dry-type transformer manufacturing facility which was issued under the Air Pollution Control Law and the Regulations to Electro-Mechanical Corporation d/b/a, Federal Pacific Transformer Company, effective February 14, 2002 (as amended September 17, 2007, March 13, 2009, March 29, 2012, and June 8, 2012).
10. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" means 9 VAC 5 chapters 10 through 80.
11. "SWRO" means the Southwest Regional Office of DEQ, located in Abingdon, Virginia.
12. "Va. Code" means the Code of Virginia (1950), as amended.
13. "VAC" means the Virginia Administrative Code.
14. "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

Federal Pacific Transformer Company owns and operates the Facility in Bristol City, Virginia. The Facility is the subject of the Permit which allows the company to operate the dry-type transformer manufacturing facility.

1. On June 24, 2014, DEQ staff conducted a FCE during which a facility records review demonstrated the Facility had consumed 570 gallons of PED 923-50 Hermetic Epoxy during the 12-month time period extending from May 2013 to April 2014.

2. Condition No. 7 of the Permit states, "The facility shall consume no more than the following quantities of materials or their equivalent:...

<u>Dip Tank</u>	<u>Gal/hr</u>	<u>Gal/yr...</u>
PED 923-50 Hermetic Epoxy	1.20	500...

Annual consumption limits shall be calculated monthly as the sum of each consecutive 12-month period."

3. 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. The following criteria apply in establishing emission standards to the extent necessary to assure that emissions levels are enforceable as a practical matter: ...3. The standard may prescribe, as an alternative to or a supplement to a limit prescribed under subdivision 1 of this subsection, equipment, work practice, fuels specification, process materials, maintenance, or operational standards, or any combination of them..."
4. 9 VAC 5-170-160(A) - (Conditions on Approvals) of the Commonwealth of Virginia State Air Pollution Control Board Regulations for the Control and Abatement of Air Pollution states in part: "The board may impose conditions upon permits and other approvals which may be necessary to carry out the policy of the Virginia Air Pollution Control Law, and which are consistent with the regulations of the board. Except as otherwise specified, nothing in this chapter shall be understood to limit the power of the board in this regard. If the owner or other person fails to adhere to the conditions, the board may automatically cancel the permit or approvals. This section shall apply, but not be limited, to approval of variances, approval of control programs, and granting of permits."
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 Law.
6. On June 30, 2014, the Facility submitted an application for a permit amendment to increase the throughput of PED 923-50 Epoxy.
7. On August 8, 2014, based on the results of the June 24, 2014 FCE, the Department issued a Notice of Violation No. ASWRO9003 to Federal Pacific Transformer Company for the violations described in paragraph C(1) and C(2), above.
8. On August 13, 2014, DEQ received an electronic response to the NOV from the Facility. The Facility requested a meeting with DEQ to discuss the NOV.

9. On August 19, 2014, DEQ issued a significant amendment to the Permit for an increase in the throughput of PED 923-50 Epoxy to 750 gallons.
10. On August 19, 2014, DEQ met with representatives of the Facility to discuss the violation.
11. Based on the results of the June 24, 2014 FCE, the August 13, 2014 response to the NOV, and the August 19, 2014 meeting, the Board concludes that Federal Pacific Transformer Company has violated Condition 7 of the Permit and 9 VAC 5-80-1180 as described in paragraphs C(2) and C(3), 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 Federal Pacific Transformer Company and Federal Pacific Transformer Company agrees to:

1. Perform the action described in Appendix A of this Order, and
2. Pay a civil charge of \$875 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", delivered to:

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

Federal Pacific Transformer Company shall include its Federal 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, Federal Pacific Transformer 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 Federal Pacific Transformer Company for good cause shown by Federal Pacific Transformer 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. ASWRO9003 dated August 8, 2014. 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. For purposes of this Order and subsequent actions with respect to this Order only, Federal Pacific Transformer Company admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Federal Pacific Transformer 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. Federal Pacific Transformer 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 Federal Pacific Transformer 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. Federal Pacific Transformer 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. Federal Pacific Transformer Company shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Federal Pacific Transformer 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 Federal Pacific Transformer Company. Nevertheless, Federal Pacific Transformer 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 Federal Pacific Transformer Company has completed all of the requirements of the Order.
 - b. Federal Pacific Transformer 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 Federal Pacific Transformer Company.

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

And it is ORDERED this 20th day of October, 2014



Allen J. Newman, P.E. Regional Director
Department of Environmental Quality

Electro-Mechanical Corporation d/b/a, Federal Pacific Transformer Company voluntarily agrees to the issuance of this Order.

Date: 10/14/14 By: Randy Grimes
Randy Grimes, Director, EHS/Security
Electro-Mechanical Corporation d/b/a
Federal Pacific Transformer Company

Commonwealth of Virginia

City/County of Washington

The foregoing document was signed and acknowledged before me this 14 day of OCTOBER, 2014, by RANDY GRIMES who is DIRECTOR, EHS/SECURITY of Electro-Mechanical Corporation d/b/a Federal Pacific Transformer Company, on behalf of the corporation.

Amanda R. Stutzer
Notary Public

7522856
Registration No.

August 31, 2016
My commission expires:

Notary Seal:



APPENDIX A SCHEDULE OF COMPLIANCE

1. Federal Pacific Transformer Company:

Shall submit a Compliance Plan within 30 days of the execution of this Order. This plan shall include detailed information concerning the tracking spreadsheet for material usage and the notification criteria employed by the system to indicate usage of materials is approaching a preset limit that is approaching but not above the permit limitations.

2. Certification of Documents and Reports

In accordance with 9 VAC 5-20-230(A), in all documents or reports, including, without limitation, the SEP Completion Report, submitted to DEQ pursuant to this Consent Order, Federal Pacific Transformer 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, Federal Pacific Transformer 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
(276) 676-4899
crystal.bazyk@deq.virginia.gov