



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

NORTHERN REGIONAL OFFICE

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Douglas W. Domenech
Secretary of Natural Resources

David K. Paylor
Director

**STATE AIR POLLUTION CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
FEDERAL HOME LOAN MORTGAGE CORPORATION
FOR
FREDDIE MAC – HERNDON DATA CENTER
Registration No. 73105
And
FREDDIE MAC – TYSONS CORNER FACILITY
Registration No. 74017**

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 Federal Home Loan Mortgage Corporation regarding the Freddie Mac – Herndon Data Center and Freddie Mac - Tysons Corner Facility, 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. “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. "FCE" means a full compliance evaluation by DEQ staff.
5. "Freddie Mac" means the Federal Home Loan Mortgage Corporation, a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Freddie Mac is a "person" within the meaning of Va. Code § 10.1-1300.
6. "Gensets" means emergency diesel driven engine-generator sets.
7. "Herndon Facility" means the Freddie Mac- Herndon Data Center, located at 544 Herndon Parkway, Herndon, Virginia, which is located in Fairfax County, Virginia. The Facility consists of four (4) Caterpillar 3516B, diesel driven engine-generator sets with turbocharger and aftercooler, each unit with a rated capacity of 2000kW.
8. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.
9. "NRO" means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.
10. "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.
11. "Permit" means a minor New Source Review permit, Registration No.: 73105, to modify and operate, a corporate data center located in Herndon, Virginia, consisting of four (4) Caterpillar 3516B, diesel driven engine-generator sets with turbocharger and aftercooler, each unit with a rated capacity of 2000kW, issued under the Virginia Air Pollution Control Law and the Regulations to Freddie Mac on July 26, 2007.
12. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" mean 9 VAC 5 chapters 10 through 80.
13. "Tysons Facility" means the Freddie Mac – Tysons Corner Facility, located at 8000 Jones Branch Drive and 1551 Park Run Drive, McLean, located in the Fairfax County, Virginia. The Facility consists of one (1) Caterpillar 3516B, diesel driven engine-generator set, with a rated capacity of 2000kW, and three (3) Onan diesel driven engine-generator sets, each unit with a rated capacity of 2000kW.
14. "Va. Code" means the Code of Virginia (1950), as amended.
15. "VAC" means the Virginia Administrative Code.
16. "VEE" means Visible Emissions Evaluation.
17. "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 Fact and Conclusions of Law

1. Freddie Mac owns and operates the Herndon Facility in Herndon, Virginia and the Tysons Facility located in McLean, Virginia.
2. The Herndon Facility is the subject of the Permit issued under the Virginia Air Pollution Control Law and the Regulations to Freddie Mac on July 26, 2007.
3. On June 29, 2012 and July 3, 2012, Department staff conducted a FCE of the Herndon Facility for compliance with the requirements of the Virginia Air Pollution Control Law, the Permit, and the Regulations.
4. Based on the evaluation and follow-up information, Department staff made the following observation:
 - a) Freddie Mac was unable to provide records to indicate that VEE testing of the four installed Gensets had been conducted.
5. Permit Condition 11 requires that “A Visible Emission Evaluations (VEE) in accordance with 40 CFR Part 60, Appendix A, Method 9, shall be conducted by the permittee on two of the engine-generator sets during the first load bank test following the permit issue date. The following year, a VEE shall be conducted on the remaining two engine-generator sets during the annual load bank test.”
6. On July 16, 2012, based on the evaluation and follow-up information, the Department issued a Notice of Violation to Freddie Mac for the violations described in paragraphs C(4) and C(5), above for the Herndon Facility.
7. During the June 29, 2012, FCE of the Herndon Facility, Freddie Mac reported the construction and operation of four (4) Gensets, rated at 2000 kW at the Tysons Facility. Based on the evaluation and follow-up information, DEQ staff made the following observation:
 - a) DEQ has not issued an air permit to Freddie Mac for the construction and operation of these Gensets.
8. 9 VAC 5-80-1120(A) requires that “[n]o 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.”
9. 9 VAC 5-80-1210(D) requires that “[a]ny owner who constructs or operates a new or modified source not in accordance with the terms and conditions of any permit to construct or operate, or any owner of a new or modified source subject to this article who commences construction or operation without receiving a permit hereunder, shall be

subject to appropriate enforcement action including, but not limited to, any specified in this section.”

10. 9 VAC 5-50-50(A) requires that any owner of a new or modified source subject to the provisions of this chapter shall provide written notifications to the board of the following:
 1. The date of commencement of construction, reconstruction or modification of a new or modified source postmarked no later than 30 days after such date.
 2. The anticipated date of initial startup of a new or modified source postmarked not more than 60 days nor less than 30 days prior to such date.
 3. The actual date of initial startup of a new or modified source postmarked within 15 days after such date.
11. On July 25, 2012, based on the evaluation and follow-up information of Tysons Facility files, the Department issued a Notice of Violation to Freddie Mac for the violations described in paragraphs C(7) through C(10), above for the Tysons Facility.
12. On July 26, 2012, Freddie Mac submitted to DEQ an incomplete Form 7 air permit application for the Tysons Facility.
13. On August 7, 2012, representatives of Freddie Mac met with the Department to discuss the NOV's.
14. At the meeting, Freddie Mac submitted to DEQ a proposed VEE testing protocol for the four gensets located at the Herndon Facility. The VEE testing protocol was approved by DEQ and testing was conducted on August 21, 2012 and August 23, 2012.
15. On August 13, 2012, DEQ received a revised complete Form 7 air permit application for the Tysons Facility.
16. On September 6, 2012 and September 12, 2012, Freddie Mac submitted to DEQ a VEE testing report. The report was approved by DEQ on October 16, 2012.
17. Based on the results of the June 29, 2012, and July 3, 2012 evaluations, the August 7, 2012, meeting, and the documentation submitted on July 26, 2012, and August 7, 2012, the Board concludes that Freddie Mac has violated Permit Condition 11 and 9 VAC 5-80-1120(A), 9 VAC 5-50-50(A) and as described in paragraphs C(4), C(5), C(7) - C(10) above.
18. Freddie Mac has submitted documentation that verifies that the violations described in paragraphs C(4), C(5), C(7) - C(10), above, have been corrected.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 10.1-1309 and -1316, the Board orders Freddie Mac, and Freddie Mac agrees to pay a civil charge of \$55,802.00

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

Freddie Mac 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).

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Freddie Mac for good cause shown by Freddie Mac, 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, Freddie Mac admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Freddie Mac 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. Freddie Mac 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 Freddie Mac 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. Freddie Mac 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. Freddie Mac shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Freddie Mac 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 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 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 Freddie Mac. Nevertheless, Freddie Mac 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 Freddie Mac has completed all of the requirements of the Order;

- b. Freddie Mac 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 Freddie Mac .

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

And it is so ORDERED this 31st day of October, 2012.



Thomas A. Faha, NRO Regional Director
Department of Environmental Quality

Freddie Mac voluntarily agrees to the issuance of this Order.

Date: 10/24/12 By: John R. Becker, Director Facilities, Business Continuity
(Person) (Title)
Freddie Mac

Commonwealth of Virginia
City/County of FAIRFAY

The foregoing document was signed and acknowledged before me this 24 day of
OCTOBER, 2012, by JOHN R. BECKER who is
DIRECTOR, FACILITIES of Freddie Mac, on behalf of the Corporation.
BUSINESS CONTINUITY

Robyn M. Johnson
Notary Public
292793
Registration No.

My commission expires: 3.31.2016
Notary seal:

