



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
TIDEWATER REGIONAL OFFICE
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STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO

**Hampton Roads Sanitation District
FOR
Hampton Roads Sanitation District's
Atlantic and Army Base Wastewater Treatment Plant Facilities
Registration No. 60959 (Atlantic WWTP)
Registration No. 60349 (Army Base WWTP)**



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 Hampton Roads Sanitation District, regarding its Atlantic and Army Base Wastewater Treatment Plant facilities, for the purpose of resolving certain violations of the Virginia Air Pollution Control Law, and the applicable State Operating Permit and Title V Federal Operating 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. "Army Base WWTP" means the HRSD Army Base waste water treatment plant and SSI located at 401 Lagoon Road in Norfolk, Virginia.
2. "Atlantic WWTP" means the HRSD Atlantic waste water treatment plant located at 645 Firefall Drive in Virginia Beach, Virginia.
3. "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.
4. "CHP" means combined heat power engine, or digester gas generator, which generates electricity and heat.

5. “Department” or “DEQ” means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
6. “Director” means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
7. “HRSD” means Hampton Roads Sanitation District, an authority created pursuant to the Virginia Water and Waste Authorities Act, Va. Code § 15.2-5100 et seq. HRSD is a “person” within the meaning of Va. Code § 10.1-1300.
8. “Notice of Violation” or “NOV” means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.
9. “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.
10. “PM” means particular matter.
11. “Regulations” or “Regulations for the Control and Abatement of Air Pollution” mean 9 VAC 5 chapters 10 through 80.
12. “SOP Permit” means the State Operating Permit to treat sewage and wastewater, which was issued under the Virginia Air Pollution Control Law and the Regulations to HRSD for its Atlantic WWTP facility on January 23, 2015 and expires on December 15, 2020.
13. “SSI” means sewage sludge incinerator.
14. “TRO” means the Tidewater Regional Office of DEQ, located in Virginia Beach, Virginia.
15. “TV Permit” means the Title V permit to treat sewage and wastewater and incinerate sludge in a SSI, which was issued (renewed) under the Virginia Air Pollution Control Law and the Regulations to HRSD for its Army Base facility on December 16, 2015, amended on June 10, 2016, and expires on December 15, 2020.
16. “Va. Code” means the Code of Virginia (1950), as amended.
17. “VAC” means the Virginia Administrative Code.
18. “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. HRSD owns and operates the Atlantic WWTP located in Virginia Beach, Virginia. The Atlantic WWTP is the subject of the SOP Permit, which authorizes HRSD to treat sewage and wastewater. The treatment process involves digester gas generators, in which bacteria digest sewage and hydrogen sulfide (H₂S) gas is generated in the process.
2. On June 28, 2016, HRSD emailed to DEQ a report for its Atlantic WWTP indicating H₂S gas emissions ranging from 125 to 250 ppm [vd] from CHP Generator No. 1 (digester gas generator Unit Ref. No. DG1) for a period of 22 hours during April 28-29, 2016; thus, sulfur dioxide (SO₂) emissions were calculated to range from 0.241 and 0.483 lb/hr for that period.
3. The report indicating excess H₂S emissions (H₂S report) for a period of 22 hours during April 28-29, 2016 was not submitted until June 28, 2016.
4. Condition 3 of the SOP Permit states that SO₂ emissions from the digester gas generators shall be controlled by the use of digester gas that has been pre-treated by a biogas cleaning and conditioning system to reduce the H₂S concentration to 50 ppm [vd] or less.
5. Condition 12 of the SOP Permit provides that emissions from the operation of the digester gas generators shall not exceed 0.1 lbs/hr for SO₂.
6. Condition 25 of the SOP Permit requires that the Permittee provide notification within four daytime business hours after discovery, and a written statement giving all pertinent facts, including the estimated duration of the breakdown, within two weeks of discovery of the malfunction.
7. 9 VAC 5-170-160(A) provides that 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.
8. Va. Code § 10.1-1322(A) provides that permits may be issued, amended, revoked, or terminated and reissued by the Department and may be enforced under the provisions of this chapter in the same manner as regulations and orders.
9. On September 28, 2016, based on the report provided to DEQ on June 28, 2016 and follow-up information, the Department issued to HRSD for the Atlantic WWTP NOV No. ATRO000517 for the violations described in paragraphs C(2) through C(8), above.
10. Based on the results of the H₂S report that HRSD submitted to DEQ for the Atlantic WWTP on June 28, 2016, the Board concludes that HRSD has violated Permit Condition

3, 12, and 25 of the SOP Permit, 9 VAC 5-170-160(A), and Va. Code § 10.1-1322(A), as described in paragraphs C(2) through C(8), above.

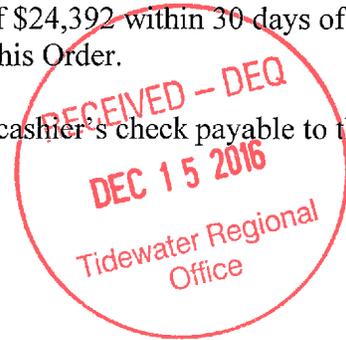
11. HRSD owns and operates the Army Base facility located in Norfolk, Virginia. The Army Base WWTP is the subject of the TV Permit, which authorizes HRSD to treat sewage and wastewater and incinerate sludge in a SSI.
12. On August 7, 2016, DEQ received a report for the stack test conducted on June 8, 2016 at the Army Base WWTP for the SSI Unit I-1.
13. Based on the August 7, 2016 stack test report, Department staff observed that the June 8, 2016 stack test results were 84 mg/dscm [vd] for PM emissions.
14. Condition III.A.2 of the TV Permit limits PM emissions to 80 mg/dscm [vd].
15. On August 19, 2016, based on the report submitted to DEQ for the SSI Unit I-1 stack test conducted on June 8, 2016, the Department issued to HRSD for the Army Base WWTP NOV No. ATRO000484 for the violations described in paragraphs C(12) through C(14), above.
16. Based on the results of the report that HRSD submitted to DEQ for the Army Base WWTP for the stack test conducted on June 8, 2016, the Board concludes that HRSD has violated Condition III.A.2 of the TV Permit, as described in paragraphs C(12) through C(14), above.
17. On September 30, 2016, DEQ received a report for the stack test (retest) conducted on July 14, 2016 at Army Base WWTP for the SSI Unit I-1. Based on the September 30, 2016 stack test report, Department staff observed that the July 14, 2016 stack test (retest) results were 45.6 mg/dscm [vd] for PM emissions.
18. HRSD has submitted the documentation of the September 30, 2016 stack test report of the July 8, 2016 retest of SSI Unit I-1 that verifies the Army Base WWTP stack test violation described in paragraphs C(13) and C(16), above, have been corrected.
19. On October 19, 2016, HRSD submitted a written response to the Atlantic WWTP NOV indicating that it had taken corrective action by shutting down the CHP engines and not restarting the engine until the new H₂S scrubber media was installed.
20. HRSD has submitted documentation on October 19, 2016 that verifies that the Atlantic WWTP H₂S violations described in paragraphs C(2) and C(11), 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 HRSD, and HRSD agrees to pay a civil charge of \$24,392 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



HRSD shall include its Federal Employer Identification Number (FEIN) 10-546001749-001 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, HRSD 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 HRSD for good cause shown by HRSD, 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 and in HRSD Atlantic NOV No. ATRO000517 dated September 28, 2016 and HRSD Army Base NOV No. ATRO000484 dated August 19, 2016. 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, HRSD admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. HRSD 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. HRSD 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 HRSD 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. HRSD 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. HRSD shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. HRSD 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 HRSD. Nevertheless, HRSD 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 HRSD has completed all of the requirements of the Order;
 - b. HRSD 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 HRSD.

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

And it is so ORDERED this 15 day of December, 2016.

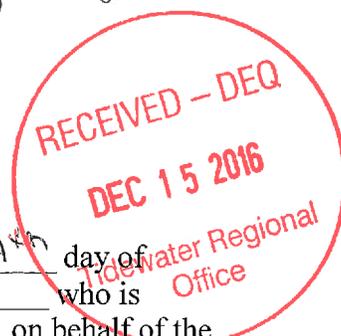
Marie D. Bell
Regional Director
Department of Environmental Quality

Hampton Roads Sanitation District voluntarily agrees to the issuance of this Order.

Date: 12/14/16 By: *EMBM*, General Manager
(Person) (Title)
Hampton Roads Sanitation District

Commonwealth of Virginia
(City/County of Virginia Beach)

The foregoing document was signed and acknowledged before me this 14th day of December, 2016, by Edward G. Nardin who is General Manager of Hampton Roads Sanitation District, on behalf of the public service authority.



Jennifer Lynn Cascio
Notary Public

361710
Registration No.

My commission expires: 8/31/2018

Notary seal:

