



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

NORTHERN REGIONAL OFFICE

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Regional Director

**STATE AIR POLLUTION CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
NAVY FEDERAL CREDIT UNION
FOR
NAVY FEDERAL CREDIT UNION ADMINISTRATIVE FACILITY
REGISTRATION NO. 73776**

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 Navy Federal Credit Union regarding the Navy Federal Credit Union Administrative 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. "Facility" means the Navy Federal Credit Union Administrative Facility, located at 820 Follin Lane SE in Vienna, Virginia which is located in Fairfax County, Virginia.
5. "FCE" means a full compliance evaluation by DEQ staff.

6. "NFCU" means Navy Federal Credit Union, a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Navy Federal Credit Union 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. "NRO" means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.
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. "Permit" means a minor New Source Review air permit, Registration Number 73776, to operate two diesel engine-generator sets, each rated at 1500 kw, at the Navy Federal Credit Union Administrative Facility, which was issued under the Virginia Air Pollution Control Law and the Regulations to Navy Federal Credit Union on October 10, 2012.
11. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" mean 9 VAC 5 chapters 10 through 80.
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 Fact and Conclusions of Law

1. NFCU owns and operates the Facility in Vienna, Virginia. The Facility is the subject of the Permit which allows the Facility to operate pursuant to its terms.
2. On January 10, 2017, DEQ conducted a FCE of the Facility. During the FCE, DEQ made the following observations:
 - a. NFCU failed to conduct the required initial stack test for two gensets installed on June 1, 2013 (DG5-DG6).

Condition 22 of the Permit states, "Testing Verification Meeting - The permittee shall arrange to meet with the Regional Air Compliance Manager of the DEQ's NRO to discuss the stack testing in accordance with Condition 23. The meeting shall take place prior to the submittal of the final stack test protocol and is required in order for the protocol to be accepted."

Condition No. 23 of the Permit requires stack testing of either DG5 or DG6 to demonstrate compliance with the short-term NOx emission limit of Permit Condition No. 16.

- b. NFCU failed to submit to DEQ notification regarding installation, start-up and stack testing for DG5-DG6.

Condition 28 of the Permit states that the Permittee shall provide written notification to the Regional Air Compliance Manager of the DEQ's NRO of the following:

- (i) actual date on which construction of each engine-generator set (commenced within thirty days after such date).
- (ii) anticipated start-up date of each engine-generator set, (Ref # DG5 and DG6), postmarked not more than sixty days nor less than thirty days prior to such date.
- (iii) actual start-up date of each engine-generator set (Ref. # DG5 and DG6) within fifteen days after such date.
- (iv) anticipated date of performance tests of the engine-generator set (Ref. # DG5 or DG6) postmarked at least thirty days prior to such date.

- c. NFCU failed to conduct stack testing of either DG5 or DG6 demonstrating compliance with the short-term NOx emission limits.

Condition 16 of the Permit states that "Emission Limits: Engine-generator set - Hourly emissions from the operation of each engine-generator set (Ref. #'s DG5 and DG6) shall not exceed the limits specified below:

Nitrogen Oxides (as NO ₂)	29.18 lbs/hr
Carbon Monoxide (CO)	3.98 lbs/hr
Volatile Organic Compounds (VOC)	0.78 lbs/hr
Sulfur Dioxide (SO ₂)	0.03 lbs/hr
Particulate Matter (PM ₁₀)	0.37 lbs/hr

The hourly emissions are derived from manufacturer's data at maximum design capacity of the diesel engines. Compliance with the hourly NOx emission limit may be based on testing, if required by DEQ.

- d. NFCU failed to conduct stack testing of either DG5 or DG6 demonstrating compliance with the facility-wide NOx annual emission limit.

Condition 18 of the Permit states that "Annual Engine-Generator Emission Limits - Total combined annual emissions from operation of the engine-generator sets (DG1-DG6) ... shall not exceed the limits specified below:

Nitrogen Oxides (as NO ₂)	64.34 tons/yr
Carbon Monoxide (CO)	24.46 tons/yr
Volatile Organic Compounds (VOC)	2.52 tons/yr

Sulfur Dioxide (SO ₂)	2.12 tons/yr
PM-10	1.62 tons/yr

These emissions are derived from the estimated overall emission contribution from operating limits. Exceedance of the operating limits may be considered credible evidence of the exceedance of emission limits.”

3. On January 26, 2017, based on the FCE, the Department issued Notice of Violation No. ANRO000578 to NFCU for the violations described in paragraph C(2) above.
4. On January 26, 2017, NFCU responded to the NOV stating that the required stack testing will be conducted as soon as possible.
5. On February 13, 2017, DEQ received the required NOx stack testing protocol for one of two installed gensets (DG5, DG6). DEQ reviewed and approved the stack testing protocol on February 28, 2017, for testing scheduled for March 23, 2017.
6. On March 23, 2017, NFCU conducted a NOx stack test for one of two installed gensets (DG5, DG6). The stack testing report was submitted to DEQ on April 10, 2017, and approved on April 17, 2017.
7. Based on the results of the FCE conducted on January 10, 2017, the Board concludes that NFCU has violated Permit Conditions 16, 18, 22, 23, and 28, as described in paragraph C(2) above.
8. NFCU has submitted documentation that verifies that the violations described in paragraph C(2) 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 NFCU, and NFCU agrees to pay a civil charge of \$7,426.55 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

NFCU 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, NFCU 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 NFCU for good cause shown by NFCU, 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, NFCU admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. NFCU 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. NFCU 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 NFCU 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. NFCU 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. NFCU shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. NFCU 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 NFCU. Nevertheless, NFCU 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 NFCU has completed all of the requirements of the Order;
 - b. NFCU 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 NFCU.

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

And it is so ORDERED this 25th day of April, 2017.



Thomas A. Faha, Regional Director
Department of Environmental Quality

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Navy Federal Credit Union voluntarily agrees to the issuance of this Order.

Date: 24 April 2017 By: G. E. Gilbert, SVP Administrative Services
(Person) (Title)
Navy Federal Credit Union

Commonwealth of Virginia
City/County of Fairfax

The foregoing document was signed and acknowledged before me this _____ day of
April 24, 2017, by George Eichert who is
authorized representative of Navy Federal Credit Union, on behalf of the corporation.

[Signature]

Notary Public
7637141

Registration No.

My commission expires: NOV 30 2019

Notary seal:

