

# *COMMONWEALTH of VIRGINIA*

*DEPARTMENT OF ENVIRONMENTAL QUALITY*

NORTHERN REGIONAL OFFICE

13901 Crown Court, Woodbridge, Virginia 22193

(703) 583-3800

[www.deq.virginia.gov](http://www.deq.virginia.gov)

Matthew J. Strickler  
Secretary of Natural Resources

David K. Paylor  
Director

Thomas A. Faha  
Regional Director

**STATE AIR POLLUTION CONTROL BOARD  
ENFORCEMENT ACTION - ORDER BY CONSENT  
ISSUED TO  
RAGINGWIRE DATA CENTERS, INC.  
FOR  
THE RAGINGWIRE VA2 and VA3 DATA CENTERS  
Registration Nos. 74094 and 74120**

**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 RagingWire Data Centers, Inc., regarding the RagingWire VA2 and VA3 Data Centers 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. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.

5. “NRO” means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.
6. “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.
7. “RagingWire” means RagingWire Data Centers, Inc., a corporation authorized to do business in Virginia and its members, affiliates, partners, and subsidiaries. RagingWire is a “person” within the meaning of Va. Code § 10.1-1300.
8. “Regulations” or “Regulations for the Control and Abatement of Air Pollution” mean 9 VAC 5 chapters 10 through 80.
9. “Va. Code” means the Code of Virginia (1950), as amended.
10. “VAC” means the Virginia Administrative Code.
11. “VA2” means the RagingWire Data Center located at 44610 Guilford Drive in Ashburn, Virginia (Reg. No. 74094).
12. “VA3” means the RagingWire Data Center located at 44245 Gigabit Plaza in Ashburn, Virginia (Reg. No. 74120).
13. “VA2 Permit” means a Minor New Source Review Permit to construct and operate diesel engine driven emergency generators issued under the Virginia Air Pollution Control Law and the Regulations to RagingWire Data Centers, Inc. on January 13, 2016.
14. “VA3 Permit” means a Minor New Source Review Permit to construct and operate diesel engine driven emergency generators issued under the Virginia Air Pollution Control Law and the Regulations to RagingWire Data Centers, Inc. on June 1, 2017.
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 Fact and Conclusions of Law**

1. RagingWire owns VA2 and VA3. VA2 and VA3 are data centers. VA2 and VA3 are the subject of their respective Permits which allow RagingWire to operate diesel engine driven emergency generators at VA2 and VA3.
2. On January 9, 2018, Department staff reviewed a submission of initial notifications for the VA2. Based on this information, DEQ staff noted the following:
  - a. DEQ received Initial Notifications of Installation and Start-up on January 8, 2018. The notifications included the following information: i. Name and address of the permittee; ii. The address of the affected source; iii. Engine information, including

make, model, engine family, serial number, year, maximum engine power and engine displacement; iv. The actual start-up date(s) of the engine generator sets. Engine generators 21M, 22M, and 23M were installed on August 26, 2015 and began operation on December 3, December 1, and December 15, 2015, respectively; engine generators 21U, 22U, and 23U, were installed on September 25, 2015 and began operation on November 23, December 2, and November 30, 2015, respectively; and 24U was installed on September 28, 2015 and began operation on December 4, 2015. These installation dates precede the permit issuance date of January 13, 2016.

3. Permit Condition 16 of the VA2 Permit (Initial Notifications) states the permittee shall furnish written notification to the Regional Air Compliance Manager of the DEQ's NRO of a. The actual date(s) on which construction of the engine-generator sets (Ref. Nos. 21M through 23M, 21U through 24U, 24M, and 25U through 29U) commenced within 30 days after such date(s). Along with this notification, the information below shall be included: i. Name and address of the permittee; ii. The address of the affected source; iii. Engine information, including make, model, engine family, serial number, year, maximum engine power and engine displacement; b. The actual start-up date(s) of the engine generator sets (Ref Nos. 21M through 23M, 21U through 24U, 24M and 25U through 29U) within 15 days after such date(s). The actual start-up date for each engine generator set shall be the date on which each engine completes manufacturer's trials, but shall be no later than thirty days after the initial start-up for manufacturer's trials. c. The anticipated date(s) of the performance tests and visible emissions evaluations of the engine generator sets (Ref Nos. 21M through 23M, 21U through 24U, 24M, and 25U through 29U) postmarked at least 30 days prior to such date(s).
4. 9 VAC 5-80-1120A states that no owner or other person shall begin actual construction of, or operate, any new stationary source or any project subject to this article without first obtaining from the board a permit under the provisions of this article. The owner may not construct or operate the stationary source or project contrary to the terms and conditions of the permit.
5. On January 18, 2018, based on the observations noted above, the Department issued Notice of Violation No. ANRO000772 to RagingWire for the violations described in paragraphs C(2) through C(4) above.
6. On February 7, 2018, DEQ staff reviewed a report for a stack test that took place at VA3 on January 11, 2018. The following emissions were measured and reported for the January 11, 2018 testing event:

Unit 307A  
NOx: 23.885 lbs/hr  
CO: 0.639 lbs/hr

Unit 308A  
NOx: 23.548 lbs/hr  
CO: 0.588 lbs/hr

The CO emissions reported for the January 11, 2018 testing event exceed the 0.43 lb/hr limit in the June 1, 2017, Permit.

7. Condition 11 of the VA3 Permit states “Emission Limits- Emissions from the operation of the emergency diesel engine gen-sets shall not exceed the limits specified below:

Pollutant-Each Unit (301A/B-312A/B, 313A) – All 25 Units Combined

Nitrogen Oxides (NO<sub>x</sub> as NO<sub>2</sub>) 28.77lb/hr 80.93tpy  
Carbon Monoxide (CO) 0.43lb/hr- 1.22tpy  
Volatile Organic Compounds (VOCs) 0.35lb/hr 0.98tpy  
Particulate Matter (PM<sub>10</sub>) 0.97lb/hr 2.73tpy  
Particulate Matter (PM<sub>2.5</sub>) 0.97lb/hr 2.73tpy”

8. Based on the emissions data measured and reported for the January 11, 2018 testing event, DEQ issued Notice of Violation No. ANRO000779 to RagingWire on February 8, 2018 for the violations described in paragraphs C(6) and C(7) above.
9. Based on the results of the January 9, 2018, review of initial notifications, and the results of the January 11, 2018 stack test, the Board concludes that RagingWire has violated VA2 Permit Condition 16 and 9 VAC 5-80-1120A at VA2 and VA3 Permit Condition 11 as described in paragraphs C(1) through C(8), above.
10. A permit to resolve the aforementioned violations at VA2 was issued to RagingWire on January 13, 2016.
11. RagingWire submitted a permit amendment to DEQ dated February 13, 2018, requesting a revision to CO emission limit in the VA3 Permit. This amendment request noted that incorrect CO emissions data was provided to RagingWire by Kohler, the engine manufacturer for use in the original air permitting action, and requested that emission limits be revised using the correct emissions data. This request and subsequent permit amendment will address the CO exceedances at VA3.

**SECTION D: Agreement and Order**

Accordingly, by virtue of the authority granted it in Va. Code §§ 10.1-1309 and -1316, the Board orders RagingWire Data Centers, Inc., and RagingWire Data Centers, Inc. agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of \$22,763.57 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

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

- b. RagingWire Data Centers, Inc. 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 RagingWire Data Centers, Inc..

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

And it is so ORDERED this 30<sup>th</sup> day of August, 2018.

  
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F.S. Thomas A. Faha, Regional Director  
Department of Environmental Quality

Ragingwire Data Centers, Inc. voluntarily agrees to the issuance of this Order.

Date: 8/24/2018 By: Phillip M. Sosa VP OF DATA CENTER OPERATIONS  
(Person) (Title)  
[Ragingwire Data Centers, Inc.]

Commonwealth of Virginia  
City/County of LOUDOUN

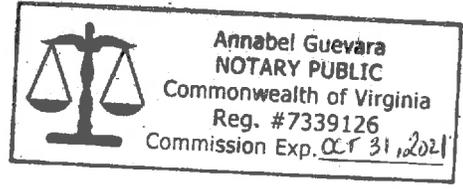
The foregoing document was signed and acknowledged before me this 24<sup>th</sup> day of AUGUST, 2018, by PHILLIP SANDINO who is VP OF DATA CENTER OPERATIONS of Ragingwire Data Centers, Inc., on behalf of the corporation.

Annabel Guevara  
Notary Public

7339126  
Registration No.

My commission expires: OCT. 31, 2021

Notary seal:



## **APPENDIX A SCHEDULE OF COMPLIANCE**

RagingWire Data Centers, Inc. shall:

1. Respond to any requests for additional information regarding the Permit amendment request submitted to DEQ on February 13, 2018, within the time frame specified by DEQ in permitting correspondence.

### **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, RagingWire Data Centers, Inc. 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 RagingWire Data Centers, Inc. shall submit all requirements of Appendix A of this Order to:

Virginia Department of Environmental Quality  
Northern Regional Office  
Attention Enforcement  
13901 Crown Court  
Woodbridge, VA 22193