



# *COMMONWEALTH of VIRGINIA*

## *DEPARTMENT OF ENVIRONMENTAL QUALITY*

NORTHERN REGIONAL OFFICE

13901 Crown Court, Woodbridge, Virginia 22193

(703) 583-3800 Fax (703) 583-3821

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

Molly Joseph Ward  
Secretary of Natural Resources

David K. Paylor  
Director

Thomas A. Faha  
Regional Director

### **STATE WATER CONTROL BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO ALLIED AVIATION FUELING OF NATIONAL AIRPORT, INC.**

#### **SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code § 62.1-44.34:20, between the State Water Control Board and Allied Aviation Fueling of National Airport, Inc. for the purpose of resolving certain violations of the State Water Control Law and the applicable regulations.

#### **SECTION B: Definitions**

Unless the context indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Aboveground storage tank" or "AST" means any one or combination of tanks, including pipes, used to contain an accumulation of oil at atmospheric pressure, and the volume of which, including the volume of the pipes, is more than ninety percent above the surface of the ground. This term does not include line pipe and breakout tanks of an interstate pipeline regulated under the Hazardous Liquid Pipeline Safety Act of 1979 or the Natural Gas Pipeline Safety Act of 1968, as amended.
2. "Allied" means Allied Aviation Fueling of National Airport, Inc. a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Allied is a "person" within the meaning of Va. Code § 62.1-44.3.

3. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
4. "Containment and cleanup" means abatement, containment, removal and disposal of oil and, to the extent possible, the restoration of the environment to its existing state prior to an oil discharge.
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. "Discharge" means any spilling, leaking, pumping, pouring, emitting, emptying or dumping.
8. "Location" means the facility, land, road, storm drain(s) or state water(s) where the oil discharge occurred, located at the Ronald Reagan Washington National Airport Fuel Farm facility located at the southern portion of the Airport near the intersection of West Post Office Road and Thomas Road in Arlington, Virginia.
9. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
10. "NRO" means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.
11. "Oil" means oil of any kind and in any form, including, but not limited to, petroleum and petroleum by-products, fuel oil, lubricating oils, sludge, oil refuse, oil mixed with other wastes, crude oils and all other liquid hydrocarbons regardless of specific gravity. *See* Va. Code §62.1-44.34:14.
12. "Operator" means any person who owns, operates, charters, rents or otherwise exercises control over or responsibility for a facility or a vehicle or vessel.
13. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the State Water Control Law.
14. "Person" means any firm, corporation, association or partnership, one or more individuals, or any governmental unit or agency thereof.
15. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code. Article 11 (Va. Code §§ 62.1-44.34:14 through 62.1-44.34:23) of the State Water Control Law addresses discharge of oil into waters.

16. "State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands. Va. Code § 62.1-44.3.
17. "Va. Code" means the Code of Virginia (1950), as amended.
18. "VAC" means the Virginia Administrative Code.
19. "Vehicle" means any motor vehicle, rolling stock or other artificial contrivance for transport whether self-propelled or otherwise, except vessels.
20. "Warning Letter" or "WL" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.

### **SECTION C: Findings of Fact and Conclusions of Law**

1. Allied operates the Ronald Reagan Washington National Airport fuel farm facility comprised of six ASTs containing a total of 3,427,335 gallons of jet fuel, which are filled by a pipeline operated by Plantation Pipeline Company.
2. On October 29, 2015, DEQ received notification of a discharge of oil, in the form of aviation fuel at the fuel farm facility.
3. The notification indicated that on October 29, 2015, approximately 13,620 gallons of aviation fuel was discharged onto the ground as the result of a discharge valve on a pressurized filter vessel pipe not being fully closed. The aviation fuel was discharged to state land, and entered a storm drain system leading the Potomac River, causing a film, oil, or sheen upon or discoloration of the surface of the water.
4. Allied's emergency response contractor, together with airport, local, state and federal authorities responded to the release. Allied Aviation estimates that approximately 11,899 gallons of fuel has been recovered. The recovered fuel and water was containerized onsite pending analysis for reclamation and or disposal. Approximately 1,721 gallons remain in the environment.
5. Va. Code § 62.1-44.34:18 prohibits the discharge of oil into or upon state waters, lands, or storm drain systems that violate applicable water quality standards or cause a film or sheen upon or discoloration of the surface of the water.
6. An Initial Abatement Report was submitted on behalf of Allied to DEQ on December 4, 2015.
7. On December 8, 2015, DEQ issued Notice of Violation No. 2015-12-N-001 to Allied for the discharge of oil to state land and storm drain system.

8. On January 21, 2016, Department staff met with representatives of Allied to discuss the discharge, emergency response, containment and clean-up, and future actions.
9. On September 8, 2016, DEQ received documentation from Allied to support a revision to the total volume of the discharge of aviation fuel that occurred. The September 8, 2016 response noted that 4,075 gallons of the 13,620 gallons were recovered from the Product Reclaim Tank which is part of the Facility's secondary containment. Therefore a total of 9,545 gallons of aviation fuel was discharged.
10. Based on the notification received by DEQ on October 29, 2015, the information contained in the Initial Abatement Report and Site Characterization Report, and documentation submitted to DEQ on September 8, 2016 by Allied, the State Water Control Board concludes that Allied has violated Va. Code § 62.1-44.34:18, which prohibits the discharge of oil into or upon state waters, lands, or storm drain systems, as described in paragraphs C(1) through C(7), above.
11. In order for Allied to complete its return to compliance, DEQ staff and representatives of Allied have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

#### **SECTION D: Agreement and Order**

Accordingly, by virtue of the authority granted it in Va. Code § 62.1-44.34:20, the Board orders Allied, and Allied agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of \$81,113.41 within 30 days of the effective date of the Order in settlement of the violations cited in this Order; and
3. Reimburse DEQ \$2,413.08 for investigative costs within 30 days of the effective date of the 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

Allied 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 Petroleum Storage Tank Fund (VPSTF). If the

Department has to refer collection of moneys due under this Order to the Department of Law, Allied 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 Allied for good cause shown by Allied, 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, Allied admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Allied 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. Allied declares it has received fair and due process under the Administrative Process Act and the State Water 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 Allied 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. Allied 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. Allied shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Allied 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 Allied. Nevertheless, Allied 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 Allied has completed all of the requirements of the Order;
  - b. Allied 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 Allied.

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

And it is so ORDERED this 12<sup>th</sup> day of December, 2016.

  
Thomas A. Faha, Regional Director  
Department of Environmental Quality

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Allied Aviation Fueling of National Airport, Inc. voluntarily agrees to the issuance of this Order.

Date: Sept 23, 2016 By: James R. Buchanan GM/DEA  
(Person) (Title)  
[Allied Aviation Fueling of National Airport, Inc.]

Commonwealth of Virginia  
City/County of Alexandria

The foregoing document was signed and acknowledged before me this 23 day of  
September, 2016, by BUCHANAN JAMES L who is  
General manager of Allied Aviation Fueling of National Airport, Inc. on  
behalf of the corporation.

Ulugbek  
Notary Public

7621780  
Registration No.

My commission expires: 08/31/2018

Notary seal:





## **APPENDIX A SCHEDULE OF COMPLIANCE**

Allied Aviation Fueling of National Airport, Inc. shall:

1. Comply with the Corrective Action Plan (CAP) dated March 10, 2016, and the CAP Approval letter dated May 12, 2016, until DEQ determines that the CAP has been completed.
2. Submit a report to DEQ for review within 30 days of the execution of this Order that identifies the changes/improvements that Allied has implemented to ensure that future prohibited discharges do not occur.

### **DEQ Contact**

Unless otherwise specified in this Order, Allied Aviation shall submit all requirements of Appendix A of this Order to:

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