Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

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STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO SOUTHWEST COMPRESSOR AND PUMPING PACKAGES, INC.

Registration No. 11140

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 Southwest Compressor and Pumping Packages, Inc., for the purpose of resolving certain violations of the Virginia Air Pollution Control Law and the applicable permits and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meanings 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 Southwest Compressor and Pumping Packages, Inc., a miscellaneous metal parts and products coating facility located at 521 Claypool Hill Mall Road, Cedar Bluff, Tazewell County, Virginia.

5. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.

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. "PCE" means partial compliance evaluation by DEQ staff.

8. "Permit" means a New Source Review Permit to operate a miscellaneous metal parts and products coating facility which was issued under the Air Pollution Control Law and the Regulations effective December 2, 2013.

9. "Regulations" or "Regulations for the Control and Abatement of Air Pollution", means 9 VAC 5 chapters 10 through 80.

10. "Southwest Compressor and Pumping Packages, Inc." means Southwest Compressor and Pumping Packages, Inc., a corporation authorized to do business in Virginia and its affiliates, partners, subsidiaries, and parents. Southwest Compressor and Pumping Packages, Inc. is a 'person' within the meaning of Va. Code § 10.1-1300.

11. "SWRO" means the Southwest Regional Office of DEQ, located in Abingdon, Virginia.

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 Facts and Conclusions of Law

1. Southwest Compressor and Pumping Packages, Inc. owns and operates the Facility in Tazewell County, Virginia.

2. On November 6, 2019, DEQ staff conducted a PCE of the Facility. During the PCE, DEQ staff noted the use of non-equivalent coatings in the spraying operation.

3. Condition No. 4 of the Permit states, "The hourly and annual consumption of the following coatings materials, or their equivalents,…A change in type or formulation of the coating materials listed above may require a change in the permit."

4. 9 VAC 5-80-1180 states. "…D. Minor NSR permits will contain, but need not be limited to, any of the following elements as necessary to ensure that the permits are enforceable as a practical matter:

   1. Emission standards.

   2. Conditions necessary to enforce emission standards. Conditions may include but not be limited to, any of the following:..

   b. Limits on production rates with time frames as appropriate to support the emission standards. …

   d. Limits on the minimum required capture, removal and overall control efficiency for any air pollution control equipment…"

5. On December 11, 2019, based on the November 6, 2019 PCE, the Department issued a Notice of Violation No. ASWRO001377 to Southwest Compressor and Pumping Packages, Inc. for the alleged violation described in paragraph C(2) above.

6. On December 20, 2019, the Department received a telephone response to the NOV from the Facility.

7. On January 28, 2020, the Department met with representatives of the Facility regarding the December 11, 2019 NOV.

8. Based on the results of the November 6, 2019 PCE, the December 20, 2019 response and the January 28, 2020 meeting, the Board concludes that Southwest Compressor and Pumping Packages, Inc. has violated has violated Condition 4 of the Permit and 9 VAC 5-80-1180 as described in paragraph C(2) through C(4).

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 10.1-1309 and -1316, the Board orders Southwest Compressor and Pumping Packages, Inc. and Southwest Compressor and Pumping Packages, Inc. agrees to:

1. Perform the action described in Appendix A of this Order, and

2. Pay a civil charge of $2,148 within 30 days of the effective date of the Order in settlement of the violation cited in this Order.

Each payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia", delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Southwest Compressor and Pumping Packages, 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, Southwest Compressor and Pumping Packages, 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 the Order with the consent of Southwest Compressor and Pumping Packages, Inc. for good cause shown by Southwest Compressor and Pumping Packages, 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 only those violations specifically identified in Section C of this Order and NOV No.ASWRO001377 dated December 11, 2019. This Order shall not preclude the Board or 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, Southwest Compressor and Pumping Packages, Inc. admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.

4. Southwest Compressor and Pumping Packages, 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. Southwest Compressor and Pumping Packages, 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 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 or Director to modify, rewrite, amend, or enforce this Order.

6. Failure by Southwest Compressor and Pumping Packages, 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. Southwest Compressor and Pumping Packages, 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. Southwest Compressor and Pumping Packages, Inc. shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Southwest Compressor and Pumping Packages, Inc. shall notify 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 this Order. Such notice shall set forth:

   a. the reasons for the delay or noncompliance;

   b. the projected duration of 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 listed above, which the parties intend to assert will result in the impossibility of compliance, shall constitute waiver of any claim of inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their 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 Southwest Compressor and Pumping Packages, Inc.. Nevertheless, Southwest Compressor and Pumping Packages, 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 Southwest Compressor and Pumping Packages, Inc. has completed all of the requirements of the Order.

    b. Southwest Compressor and Pumping Packages, 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 Southwest Compressor and Pumping Packages, Inc..

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

And it is ORDERED this 5th day of March, 2020

Jeffrey L. Hurst - Regional Director
Department of Environmental Quality

Southwest Compressor and Pumping Packages, Inc. voluntarily agrees to the issuance of this Order.

Date: 2/27/20 By: _____

Brody Kimbrell, Administration Manager
Southwest Compressor and Pumping Packages, Inc.

State of Virginia

City/County of Tazewell

The foregoing document was signed and acknowledged before me this 27th day of February, 2020 by Brody Kimbrell who is Admin Manager of Southwest Compressor and Pumping Packages, Inc., on behalf of the company.

Rita Renee Keene
Notary Public

7753516
Registration No.

My commission expires: 2/28/22

Notary Seal: RITA RENEE KEENE NOTARY PUBLIC REG. # 7753516 MY COMMISSION EXPIRES 2/28/22 COMMONWEALTH OF VIRGINIA

APPENDIX A
SCHEDULE OF COMPLIANCE

1. **Southwest Compressor and Pumping Packages, Inc.:**

Shall submit an application for permit modification application within 30 days of the execution of this Order to include the non-equivalent coatings.

2. **Certification of Documents and Reports**

In accordance with 9 VAC 5-20-230(A), in all documents or reports, including, without limitation, the SEP Completion Report, submitted to DEQ pursuant to this Consent Order, Southwest Compressor and Pumping Packages, 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, Southwest Compressor and Pumping Packages, Inc. shall submit all requirements of Appendix A of this Order to:

Crystal C. Bazyk
Enforcement and Air Compliance/Monitoring Manager
VA DEQ – SWRO
355-A Deadmore Street
Abingdon, VA 24210
(276) 676-4829
crystal.bazyk@deq.virginia.gov