



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

NORTHERN REGIONAL OFFICE

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L. Preston Bryant, Jr.
Secretary of Natural Resources

David K. Paylor
Director

STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION ORDER BY CONSENT ISSUED TO

Amazon.com VADATA Inc.
Registration No. 73355

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 Amazon.com VADATA Inc., regarding the Loudoun Exchange Center, 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. “Amazon” means Amazon.com VADATA Inc. a Virginia Corporation, certified to business in Virginia and its affiliates, partners, subsidiaries, and parents.
2. “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.
3. “CFR” means the Code of Federal Regulations, as incorporated into the Regulations.
4. “Data Centers” means highly specialized, secure facilities that provide space and equipment to tenants to house, power, and cool the computer servers that support

their business practices. Diesel engine-generator units provide emergency power to the equipment when electricity from the main power grid is unavailable.

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. “Facility” means the Amazon.com VADATA Inc. – Loudoun Exchange Center, located at 43831 Devin Shafron Drive Ashburn in Loudoun County, Virginia.
8. “Amazon.com” or “Amazon” means Amazon.com VADATA Inc., a corporation authorized to do business in Virginia and its affiliates, partners, subsidiaries, and parents. Amazon is a “person” within the meaning of Va. Code § 10.1-1300.
9. “NOx” means Nitrogen Oxides.
10. “NRO” means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.
11. “Order” means this document, also known as a Consent Order.
12. “Permit” means the minor New Source Review (“NSR”) Permit registration number 73355, which was issued in the name of the Board to Amazon.com VADATA Inc. on May 17, 2006.
13. “Regulations” or “Regulations for the Control and Abatement of Air Pollution” means 9 VAC 5 Chapters 10 through 80.
14. “Va. Code” means the Code of Virginia (1950), as amended.
15. “VAC” means the Virginia Administrative Code.
16. “VEE” means a Visible Emissions Evaluation, as determined by EPA Method 9 (reference 40 CFR 60, Appendix A).
17. “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. The Facility is a Data Center located in Ashburn, VA, and is owned and operated by Amazon.com VADATA, Inc. (Amazon). Amazon is subject to 9 VAC 5-80-

800, 40 C.F.R. Part 60, and the NSR Permit issued on May 17, 2006 (Permit), registration number 73355. The facility is permitted to construct and operate twelve diesel engine-driven emergency generators (EDGs) manufactured by Caterpillar, each nominally rated at 1825 kW electrical outputs. Amazon has only installed six of the EDG's and operated five

2. DEQ staff conducted an inspection of the Facility on October 23, 2008. During the inspection, DEQ staff observed and noted violations of the Permit.
3. As a result of the October 23, 2008 inspection by DEQ, a Notice of Violation (NOV) was issued to Amazon on October 29, 2008, citing the following:
 - i. Failure to conduct initial performance test as required under Condition # 9 of the Permit, 9 VAC 5-50-30 and 9 VAC 5-80-1200.
 - ii. Failure to conduct Visible Emission Evaluations (VEE) as required under Condition # 10 of the Permit, 9 VAC 5-50-30 and 9 VAC 5-80-1200.
 - iii. Failure to provide written notification to DEQ of the actual date of construction, anticipated start-up date, actual start-up date, and anticipated date of the performance tests, as required under Condition # 12 of the Permit and 9 VAC 5-50-50.
4. On November 12, 2008, Amazon staff met with DEQ to discuss the October 29, 2008 NOV.
5. On November 19, 2008, Amazon submitted written notification to DEQ of the actual date of construction, actual start-up date, and anticipated date of the performance tests.
6. On November 19, 2008, Amazon submitted a test protocol for an initial performance test and a VEE to DEQ.
7. On November 19, 2008, the test protocol was approved by DEQ Compliance Staff.
8. On January 7-10, 2009, Amazon conducted the initial performance test and a VEE at the Facility.
9. On March 25, 2009, Amazon submitted a test report to DEQ.
10. As detailed in the findings of fact above, DEQ concludes that Amazon has violated specific conditions in their Permit, as well as 9 VAC 5-50-30, 9 VAC 5-50-50 and 9 VAC 5-80-1200 of the SAPCB Regulations.

SECTION D: Agreement and Order

Accordingly, the Board by virtue of the authority granted it in Va. Code §§ 10.1-1309 and 1316, orders Amazon.com VADATA Inc., and Amazon.com VADATA Inc. agrees to pay a civil charge of \$3,496.00 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

Amazon.com VADATA Inc. shall include its Federal Identification Number 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).

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Amazon.com VADATA Inc. for good cause shown by Amazon.com VADATA Inc., or on its own motion pursuant to the Administrative Process Act 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, Amazon.com VADATA Inc. admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein
4. Amazon.com VADATA 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. Amazon.com VADATA Inc. declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, 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 Amazon.com VADATA 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. Amazon.com VADATA 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 occurrence. Amazon.com VADATA Inc. shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Amazon.com VADATA 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, 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 Amazon.com VADATA Inc.. Nevertheless, Amazon.com VADATA 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) Amazon.com VADATA 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
 - (b) the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Amazon.com VADATA Inc..

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

And it is so ORDERED this 11th day of June, 2009.


Thomas A. Faha, NRO Regional Director
Department of Environmental Quality

Amazon.com VADATA Inc. voluntarily agrees to the issuance of this Order.

By: Oswaldo Morales
Title: Director, Engineering
Date: May 22 / 2009

Commonwealth of Virginia
City/County of Loudoun

The foregoing document was signed and acknowledged before me this 22nd day of May, 2009, by Oswaldo Morales, who is
(name)

Director of Amazon.com VADATA Inc., on behalf of the corporation.
(title)

Nancy J. Odom
Notary Public

297360
Registration No.

My commission expires: 31st March 2012

Notary seal:

