

COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

SOUTH CENTRAL REGIONAL OFFICE

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Regional Director

STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION ORDER BY CONSENT ISSUED TO CENTRA HEALTH, LYNCHBURG GENERAL HOSPITAL, REGISTRATION NUMBER 30441

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §1300 *et seq.* and 10.1-1185 between the State Air Pollution Control Board and Centra Health for the purpose of resolving certain violations of Condition 1 of Centra Health, Lynchburg General Hospital State Operating Permit dated August 20, 2002 and 9 VAC 5-80-1120 (A).

SECTION B: Definitions

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

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia described in § 10.1-1301 and § 10.1-1184.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.

5. “Order” means this document, also known as a Consent Order.
6. “Facility” or “Source” means the Centra Health medical facility, Lynchburg General Hospital located on 1901 Tate Springs Lynchburg, Virginia.
7. “SCRO” means the South Central Regional Office located in Lynchburg, Virginia.
8. “Regulations” means the State Air Pollution Control Board Regulations for the Control and Abatement of Air Pollution, which have been incorporated into Title 9 of the Virginia Administrative Code (VAC).

SECTION C: Findings of Fact and Conclusions of Law

1. Centra Health is a not-for-profit health care system. Lynchburg General Hospital is a Centra Health medical facility.
2. The Lynchburg General Hospital has the potential to emit greater than 100 tons per year of sulfur dioxide. The facility obtained a State Operating Permit that entailed a limit on the amount of approved fuel oil which could be consumed by the source to keep the facility below the Title V threshold.
3. The facility has three boilers; one Cleaver Brooks CB-600LE natural gas and distillate oil-fired boiler (B-1) rated at 25.1 million Btus per hour, one Cleaver Brooks CB-500LE natural gas and distillate oil-fired boiler (B-2) rated at 20.9 million Btus per hour, and one Cleaver Brooks CB-200 natural gas and distillate oil-fired boiler (B-3) rated at 8.4 million Btus per hour.
4. B-1 and B-2 are subject to Standard of Performance for Stationary Sources Subpart Dc – Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units (NSPS Dc) because they were constructed after June 9, 1989 and have a maximum design heat input capacity less than 100 million Btus per hour but greater than 10 million Btus per hour.
5. DEQ received an air application to modify a stationary source from Centra Health on January 17, 2006. Centra Health submitted the application to request a permit to operate two new boilers and relocate an existing boiler. All of the proposed boilers were planned to be housed in a new central powerhouse.

6. On January 26, 2006, DEQ air inspectors, Blake Apo and James Puckett conducted an on-site inspection at Lynchburg General Hospital with Mr. David Van Donsel (Operations Manager of Plant Engineering). During the inspection, DEQ staff made observations implying commencement of construction for the central powerhouse. Four foundation walls were erect.
7. On February 7, 2006, DEQ South Central Regional Office (SCRO) staff met with Centra Health representatives to discuss the current construction schedule, permit application process, and alleged violation. In attendance were Tom Henderson (SCRO Regional Director), Dave Miles (SCRO Deputy Regional Director), Craig Nicol (SCRO Air Compliance Manager), Blake Apo (SCRO Environmental Specialist), and Allen Armistead (SCRO Permit Engineer), Joe Archambeault – Centra Health Director of Plant engineering), David Van Donsel (Centra Health Operations Manager of Plant Engineering), and Todd Martin (Centra Health Construction Manager). As a result of the meeting all parties agreed that a Notice of Alleged Violation will be issued followed by a Consent Order.
8. Regulation 9 VAC 5-80-1120 (A) states:

No owner or other person shall begin actual construction, reconstruction or modification of any stationary source without first obtaining from the board a permit to construct and operate or to modify and operate the source.
9. Condition 1 of the Centra Health State Operating Permit dated August 20, 2002 states:

Except as specified in this permit, the permitted facility is to be operated as represented in the permit application dated April 24, 2002. Any changes in the permit application specifications or any existing facilities which alter the impact of the facility on air quality may require a permit. Failure to obtain such a permit prior to construction may result in enforcement action.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code §10.1-1307 (D), 10.1-1309, 10.1-1184, and 10.1-1316 (C), orders Centra Health and Centra Health agrees that:

1. Centra Health shall pay a civil charge of \$6,433.00 for the violations described in Section C of this order.
2. Centra Health shall make a payment of \$6,433.00 of this civil charge 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 payable to the "Treasurer of Virginia," delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

3. Centra Health shall include its registration number for Lynchburg General Hospital given by the DEQ with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order.
4. Centra Health shall submit an environmental management plan that details the necessary steps needed to comply with all applicable Regulations and permit conditions before any modification or construction of a stationary source can commence. Centra Health shall adhere to the environmental management plan upon any plans of modification or construction to a stationary source. Centra Health has 60 days to submit the environmental plan to the DEQ for approval.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this agreement with the consent of Centra Health for good cause shown by Centra Health on its own motion after notice and an opportunity to be heard.

2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violation issued to Centra Health by DEQ on February 15, 2006. 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 as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, Central Health admits the jurisdictional allegations, factual findings and conclusions of law contained herein.
4. Centra Health 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. Centra Health declares it has received fair and due process under the Administrative Process Act, Va. Code § 2.2 4000 *et seq.*, and the State 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 enforce this Order.
6. Centra Health 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. Centra Health 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, war, strike, or such other occurrence Centra Health shall show that such

circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Centra Health shall notify the DEQ Regional Director in writing 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:

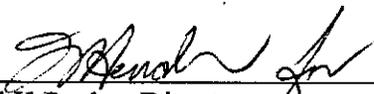
- a. the reasons for the delay or noncompliance;
- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours 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 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 Centra Health. Notwithstanding the foregoing, Centra Health agrees to be bound by any compliance date which precedes the effective date of the Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Centra Health. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Centra Health from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. By its signature below, Centra Health voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of March 3rd, 2006.


David K Paylor, Director
Department of Environmental Quality

Centra Health voluntarily agrees to the issuance of this Order.

By: 

Date: 2.21.06

Commonwealth of Virginia City/County of Lynchburg

The foregoing instrument was acknowledged before me this 21st day of

February, 2006, by Ronald J. Halonky, Jr.
(name)

who is Senior Vice President of Centra Health on behalf of the not-
for-profit health care system.


Notary Public

My commission expires September 30, 2009.