



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

TIDEWATER REGIONAL OFFICE

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**STATE AIR POLLUTION CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
RIVERSIDE HOSPITAL, INC.
FOR
RIVERSIDE REGIONAL MEDICAL CENTER**

Registration No. 60436

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 Riverside Hospital, Inc., regarding Riverside Regional Medical Center, for the purpose of resolving certain violations of the Virginia Air Pollution Control Law, 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. "Facility" means Riverside Regional Medical Center, located at 500 J Clyde Morris Boulevard in Newport News, 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 a partial compliance evaluation by DEQ staff.
8. "Permit" means a State Operating Permit to operate a healthcare facility, which was issued under the Virginia Air Pollution Control Law and the Regulations to Riverside Regional Medical Center on May 20, 2008.
9. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" means 9 VAC 5 Chapters 10 through 80.
10. "Riverside" means Riverside Hospital, Inc. d/b/a Riverside Regional Medical Center, a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Riverside is a "person" within the meaning of Va. Code § 10.1-1300.
11. "TRO" means the Tidewater Regional Office of DEQ, located in Virginia Beach, 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 Fact and Conclusions of Law

1. Riverside owns and operates the Facility in Newport News, Virginia which is a 510-bed medical facility. The Facility is subject to the Permit which includes four natural gas/distillate oil-fired boilers, five emergency generators, an emergency fire pump, an underground storage tank and a laboratory exhaust hood.
2. On August 25, 2011, Riverside notified DEQ that it had constructed the new Cleaver Brooks boiler and the new Caterpillar generators on March 15, 2010.
3. On September 8, 2011, Department staff conducted a PCE of the Facility record for compliance with the requirements of the Virginia Air Pollution Control Law,

the Permit, and the Regulations. Based on the evaluation and follow-up information, Department staff made the following observations:

One new Cleaver Brooks boiler and three new Caterpillar generators had been installed without a Permit.

4. 9 VAC 5-80-1120(A) states that, "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."
5. 9 VAC 5-80-1210 (D) states that, "Any owner who constructs or operates a new or modified source not in accordance with the terms and conditions of any permit to construct or operate, or any owner of a new or modified source subject to this article who commences construction or operation without receiving a permit hereunder, shall be subject to appropriate enforcement action including, but not limited to, any specified in this section."
6. 9 VAC 5-50-50 (A) requires that, any owner of a new or modified source subject to the provisions of this chapter shall provide written notifications to the board for the date of commencement of construction, initial startup, and actual date of startup for a new or modified source no later than 30 days after such date.
7. On September 12, 2011, based on the evaluation and follow-up information, the DEQ issued a NOV to Riverside for the violations described in paragraphs C(2) through C(6), above.
8. On September 29, 2011, Department staff met with representatives of Riverside to discuss the violations.
9. Based on the results of the September 8, 2011 evaluation, the September 29, 2011 meeting and documentation submitted on August 25, 2011, the Board concludes that Riverside has violated 9 VAC 5-80-1120(A) and 9 VAC 5-50-50(A) of the Regulations as described in paragraph C(4) and C(6), above.
10. DEQ amended the Permit on June 1, 2011, to include the new Cleaver Brooks boiler and three new Caterpillar generators and therefore the violations described in paragraphs C(2) through C (6), above, have been corrected.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it pursuant to Va. Code §§ 10.1-1309 and 1316, the Board orders Riverside and Riverside agrees to pay a civil charge of \$4,131.00 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

Riverside 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).

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Riverside good cause shown by Riverside, 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 the purposes of this Order and subsequent actions with respect to this Order, Riverside admits the jurisdictional allegations, and agrees not to contest, but neither admits nor denies the findings of fact and conclusions of law in this Order.
4. For purposes of this Order and subsequent actions with respect to this Order only, Riverside admits to the jurisdictional allegations, and agrees not to contest, but does not admit, the findings of fact and conclusions of law in this Order.
5. Riverside consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
6. Riverside declares it has received fair and due process under the Administrative Process Act, Va. Code 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.

7. Failure by Riverside 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. Riverside does not waive any rights or objections it may have in any enforcement action by other federal, state, or local authorities arising out of the same or similar facts to those recited in this Order.
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. Riverside 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. Riverside shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Riverside 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 within 24 hours and in writing within three business days, of learning of any condition above, which Riverside intends 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 Riverside. Nevertheless, Riverside 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 Riverside has completed all of the requirements of the Order;
- (b) Riverside 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 Riverside.

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

And it is so ORDERED this 17 day of November, 2011.


Regional Director
Department of Environmental Quality

Riverside Hospital, Inc. voluntarily agrees to the issuance of this Order.

Date: 11/1/11 By: Alvin R. Vecchio, Vice President
(Person) (Title)
Riverside Hospital, Inc.

Commonwealth of Virginia

City/County of Newport News

The foregoing document was signed and acknowledged before me this 1st day of November, 20 11, by Diana L. Vecchio, who is Vice President of Riverside Hospital, Inc. on behalf of the corporation.

Cynthia Leigh Jarnecke
Notary Public

321655
Registration No.

My commission expires: May 31, 2012
Notary Seal:

