AVRO48223

COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
VALLEY REGIONAL OFFICE
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Regional Director

STATE AIR POLLUTION CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
MOHAWK INDUSTRIES, INC.
FOR
LEE CARPETS DIVISION
Registration No. 80269

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 Mohawk Industries, Inc., regarding Lee Carpets Division, 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. "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 Mohawk Industries, Lees Carpets Division, located at 404 Anderson Street, Glasgow, in Rockbridge County, Virginia.

5. "Mohawk" or "Mohawk Industries, Inc." means Mohawk Industries, Inc., a corporation authorized to do business in Virginia, and its affiliates, partners, and subsidiaries. Mohawk Industries, Inc., is a "person" within the meaning of Va. Code § 10.1-1300.

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

7. "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.

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

9. "Permit" means a Title V federal operating permit to operate a nylon carpet manufacturing facility, which was issued under the Virginia Air Pollution Control Law and the Regulations to Mohawk Industries, Inc., on December 20, 2010.

10. "VRO" means the Valley Regional Office of DEQ, located in Harrisonburg, Virginia.

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

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. Mohawk owns and operates the Facility in Rockbridge County, Virginia. The Facility is subject to the Permit which allows for the modification and operation of a nylon carpet manufacturing plant, including the operation of calcium carbonate storage silos.

2. On October 3, 2011, DEQ staff conducted a PCE of the Facility for compliance with the requirements of the Virginia Air Pollution Control Law and the Regulations. The PCE included review of a permit deviation report received by DEQ on September 30, 2011. Based on the evaluation, DEQ staff made the following observations:

    a. Throughput of the calcium storage silos (PVCS-C1 and -C2) was 125.8 tons per day (tpd) on August 17, 2011, 150.6 tpd on September 1, 2011, and 126.0 tpd on September 15, 2011.

3. Condition VI.A.3.b(1) of the Permit states, "The Calcium Carbonate Storage Silo (PVCS-C1) and the filler silo (PVCS-C2) shall process no more than 120.0 tons per day, calculated daily. (9 VAC 5-80-110)"

4. On October 5, 2011, based on the evaluation, the Department issued Notice of Violation No. AVRO817[1] to Mohawk for the violation described in paragraphs C(2) and C(3), above.

5. Based on the results of the October 3, 2011 evaluation and the documentation submitted on October 11, 2011, the Board concludes that Mohawk violated Permit condition VI.A.3.b(1) as described in paragraphs C(3) above.

6. On October 11, 2011, Mohawk submitted a written response to the NOV, which included a corrective action plan, including process changes, designed to prevent future exceedences of this throughput limit. This plan was deemed adequate by DEQ staff, and has been implemented by Mohawk.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 10.1-1309 and -1316, the Board orders Mohawk and Mohawk agrees to pay a civil charge of $2,626.00 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

Mohawk, Inc. shall include its Federal Employer Identification Number (58-1516994) 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 Mohawk for good cause shown by Mohawk 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, Mohawk admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.

4. Mohawk 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. Mohawk 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 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 Mohawk 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. Mohawk 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. Mohawk shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Mohawk 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 Mohawk intends 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 Mohawk. Nevertheless, Mohawk 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. Mohawk 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 Mohawk.

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

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, Mohawk voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 12th day of December, 2011.

Amy T Owens

Amy Thatcher Owens, Regional Director
Department of Environmental Quality

Mohawk, Industries Inc., voluntarily agrees to the issuance of this Order.

Date: 12/7/2011 By: Dennis Dikison, Engineering Manager
(Person) (Title)
Mohawk Industries, Inc.

Commonwealth of Virginia
City/County of Rockbridge

The foregoing document was signed and acknowledged before me this 7 day of December, 2011, by Dennis Dikison who is Engineering Manager of Mohawk Industries, Inc., on behalf of the corporation.

Notary Public

237226
Registration No.

My commission expires: May 31, 2014

Notary seal:

5-31-14
MOB