

September 20, 2002

**STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION  
ORDER BY CONSENT  
ISSUED TO  
Brick and Tile Corporation of Lawrenceville  
Registration No. 30872**

**SECTION A: Purpose**

This is a Consent Special Order by consent issued under the Authority of Va. Code ' 10.1-1309 and 10.1-1316, between the State Air Pollution Control Board and Brick and Tile Corporation of Lawrenceville, for the purpose of resolving certain alleged violations of environmental laws and regulations and to provide for the payment of civil charges.

**SECTION B: Definitions**

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

1. AVa. Code@ means the Code of Virginia (1950), as amended.
2. ABoard@ means the State Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia as described in Va. Code ' ' 10.1-1301 and 10.1-1184.
2. ADepartment@ means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code ' 10.1-1183.
4. ADirector@ means the Director of the Department of Environmental Quality.
5. AOrder@ means this document, also known as a consent order.

6. "Regulations" mean the State Air Pollution Control Board Regulations for the Control and Abatement of Air Pollution.
7. "Lawrenceville Brick" means Brick and Tile Corporation of Lawrenceville a brick and structural clay products manufacturing facility located at 16024 Governor Harrison Parkway, Lawrenceville, VA.
8. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
9. "Permit" means the Virginia Stationary Source Operating Permit issued to Brick and Tile Corporation of Lawrenceville on October 16, 1998.
10. "Significant ambient air concentration" means the concentration of a toxic pollutant in the ambient air that if exceeded may have the potential to injure human health.
11. "Toxic pollutant" means any air pollutant for which no ambient air quality standard has been established. Particulate matter and volatile organic compounds are not toxic pollutants as generic classes of substances but individual substances within these classes may be toxic pollutants because of their toxic properties or because a TLV® has been established.
12. "Threshold limit value (TLV)" means the maximum air borne concentration of a substance to which the American Conference of Governmental Industrial Hygienists (ACGIH) believes that nearly all workers may be repeatedly exposed day after day without adverse effects and which is published in the ACGIH Handbook. The TLV® is divided into three categories: TLV – Time-Weighted Average® (TLV-TWA®), TLV-Short-Term Exposure Limit® (TLV-STEL), and TLV-Ceiling® (TLV-C®).
13. "TLV-C®" means the concentration that should not be exceeded during any part of the working exposure.

### **SECTION C: Findings of Facts and Conclusions of Law**

1. Lawrenceville Brick operates a brick and structural clay manufacturing facility located at 16024 Governor Harrison Parkway, Lawrenceville, Virginia.
2. On April 15, 2002, PRO received a copy of the June 20, 2000 test performed by Air-Tech Environmental at the request of Lawrenceville Brick. The purpose of the test was to gain emissions data to support permitting activities. The test analysis was submitted to Lawrenceville Brick by Air-Tech environmental on July 18, 2000.

3. Lawrenceville Brick fired 104,213 tons of brick in 2001 and 104,993 tons of brick in 2000. Based on these totals, the Facility emitted 28.8 tons of Hydrogen Fluoride (“HF”) in 2001 and 29.0 tons of HF in 2000. Condition C.4. of Lawrenceville Brick ‘s permit limits the emission of HF to 26.7 tons per year.
4. Based on the above production totals, the Lawrenceville Brick emitted 68.9 tons of Particulate Matter (“PM”) in 2001 and 69.4 tons in 2000. Condition C.4. of Lawrenceville Brick ‘s permit limits emission of PM to 62.4 tons per year.
5. Data provided by the facility, in the July 18, 2000 test report, indicates the HF concentration of the facility with the original stack height of 48 feet, was 96.43 µg/m<sup>3</sup> at 105 meters, at the time of the test. Paragraph 1 of 9 VAC 5-50-190, Significant ambient air concentration (SAAC) guidelines, establishes the significant ambient air concentration for pollutants with a TLV-C®, as any one-hour concentration of a toxic pollutant in excess of 1/40 of the TLV-C®.” HF is a toxic pollutant with a TLV-C® therefore, the maximum one-hour concentration allowable is 65 µg/m<sup>3</sup> at 105 meters.
6. On March 14, 2002, Lawrenceville Brick submitted a letter requesting an amendment to their permit. The proposed amendment included increases in the pound per hour and tons per year limits for HF. Additionally, Lawrenceville Brick proposed to increase their stack height from 48 feet to 68 feet.
7. In the course of evaluating the proposed permit amendments above, DEQ modeled the proposed increases with the new stack height of 68 feet. The results of this model indicated that there would be no adverse ambient impact on the HF SAAC.
8. On August 12, 2002, the Department issued a Notice of Violation to Lawrenceville Brick for allegedly failing to meet the requirements of their permit and 9 VAC 5-50-190.
9. On September 6, 2002, Lawrenceville Brick’s revised air permit was issued.

#### **SECTION D: Agreement and Order**

1. Accordingly, the State Air Pollution Control Board, by virtue of the authority granted it in Va. Code ' 10.1-1316 C, orders Lawrenceville Brick, and Lawrenceville Brick agrees, to pay a civil charge of \$13,922.00 in settlement of the violations cited in this Order. Payment must indicate that the civil charge is pursuant to the Lawrenceville Brick Order. Payment shall be by check, certified check, money order, or cashier’s check payable to ATreasurer of the Commonwealth of Virginia and sent to:

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

Lawrenceville Brick shall include its Federal Tax Identification Number on the check.

2. Lawrenceville Brick shall re-evaluate the Title V Annual Certifications and the Annual Emission Statements for the years 2000 and 2001. If modifications are required, Lawrenceville Brick shall resubmit these documents within 60 days from the execution date of this Order.

#### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend the Order with the consent of Lawrenceville Brick, for good cause shown by Lawrenceville Brick, or on its own motion after notice and opportunity to be heard.
2. This Order addresses only those alleged violations specifically identified herein, including those matters addressed in the Notice of Violation issued to Lawrenceville Brick by the DEQ on August 12, 2002. 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 as may be authorized by law; and/or (3) taking subsequent action to enforce the terms of this Order. Nothing herein shall affect appropriate enforcement actions by other federal, state, or local regulatory authority, whether or not arising out of the same or similar facts.
3. For the purposes of this Order and subsequent actions with respect to this Order, Lawrenceville Brick admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Lawrenceville Brick 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. Lawrenceville Brick declares it has received fair and due process under the Administrative Process Act, Code ' ' 9-6.14:1 *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 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. Failure by Lawrenceville Brick 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. Lawrenceville Brick 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 act of God, war, strike, or such other occurrence. Lawrenceville Brick must show that such circumstances resulting in noncompliance were beyond its control and not due to a lack of good faith or diligence on its part. Lawrenceville Brick 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 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 within 24 business hours 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 Lawrenceville Brick. Notwithstanding the foregoing, Lawrenceville Brick agrees to be bound by any compliance date which precedes the effective date of this 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 Lawrenceville Brick. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Lawrenceville Brick from its obligation to comply with any statute, regulation, permit condition, other order, certificate, standard, or requirement otherwise applicable.
12. By its signature below, Lawrenceville Brick voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of \_\_\_\_\_, 2002.

\_\_\_\_\_  
Robert G. Burnley, Director  
Department of Environmental Quality

Lawrenceville Brick voluntarily agrees to the issuance of this Order.

Date: \_\_\_\_\_

Benjamin B. Powell  
President

State of Virginia

City/County of \_\_\_\_\_

The foregoing document was signed and acknowledged before me this \_\_\_\_\_ day of  
\_\_\_\_\_, 2002, by \_\_\_\_\_, who is  
(name)  
\_\_\_\_\_ of Brick and Tile Corporation of Lawrenceville, on behalf of the Corporation.  
(title)

\_\_\_\_\_  
My commission expires:  
Date

\_\_\_\_\_  
Notary Public