



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

VALLEY REGIONAL OFFICE

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W. Tayloe Murphy, Jr.
Secretary of Natural Resources

Robert G. Burnley
Director

R. Bradley Chewning
Regional Director

STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION

ORDER BY CONSENT ISSUED TO

**Mohawk Industries, Inc.
Lees Carpets Division
Registration #: 80269**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1187, -1184, -1307(D), -1309, and -1316(C), between the State Air Pollution Control Board and Lees Carpets Division of Mohawk Industries, Inc., for the purpose of resolving certain alleged violations of environmental law and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning 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 citizens’ board of the Commonwealth of Virginia as described in Code §§ 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, and incorporates the additional terms and conditions as set out in Appendix A to this document.
6. "Lees Carpets" or "Facility" means Lees Carpets Division of Mohawk Industries, Inc., a carpet and yarn manufacturing facility located at 404 Anderson Street, Glasgow, Virginia.
7. "VRO" means the Valley Regional Office of DEQ, located at 4411 Early Road, P.O. Box 3000, Harrisonburg, Virginia 22801.
8. "CFR" means Code of Federal Regulations.

SECTION C: Findings of Facts and Conclusions of Law

1. On November 17, 2004, DEQ issued Lees Carpets a Notice of Violation (NOV) based upon information obtained from stack testing performed on Lees Carpets' exhaust stack (HS1) for the #1 and #2 Suessen heat set lines, whose particulate matter (PM) limits were set to avoid potential for significant deterioration (PSD) permitting.
2. Condition 8 of Lees Carpets' Minor NSR Permit, dated November 8, 2002, and Condition VI.A.4 of Lees Carpets' Title V Operating Permit, modified January 22, 2004, limits the emissions from the HS1 exhaust stack for the #1 Suessen heat set line to 0.10 lbs/hr of PM and 0.10 lbs/hr of PM-10 emissions. Stack testing conducted on September 2, 2004 indicated that particulate matter emissions from HS1 were 0.183 lbs/hr. As a mitigating factor, subsequent stack testing indicated that while PM emissions were exceeded during maximum permitted operational parameters, the facility may have been within permitted limits during normal operations. Thus, potential for harm to the environment is minimized.
3. Lees Carpets representatives met with DEQ permitting, compliance, and enforcement personnel on December 7, 2004 to discuss the allegations and establish a compliance resolution. Lees Carpets narrowed the PM exceedence problem down to a failure of current pollution control equipment, specifically a de-mister unit, to fully treat condensable PM particles. Lees Carpets requested, and DEQ agreed, to allow Lees Carpets an opportunity to address the condensable PM problem by establishing throughput limits and re-tuning the de-mister to determine optimal operating parameters, followed by re-stack testing the HS1 line for PM. The results of the testing and re-tuning were found to be acceptable by DEQ.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it pursuant to Va. Code §§ 10.1-1186(2), 10.1-1309, and 10.1-1316(C), orders Lees Carpets, and Lees Carpets voluntarily agrees to the following conditions in settlement of the violations cited in this Order:

1. Lees Carpets agrees to pay a civil charge of **\$2,000.00** within 30 days of the effective date of this Order. Payment must indicate that the civil charge is paid pursuant to this Order, and shall include Lees Carpets' Federal Identification Number. Payment shall be by check, certified

check, money order, or cashier's check payable to "**Treasurer of the Commonwealth of Virginia**" and sent to:

**Receipts Control
Department of Environmental Quality
P. O. Box 10150
Richmond, Virginia 23240**

2. And, Lees Carpets shall comply with the terms and conditions as set out in Appendix A to this Order.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Lees Carpets, for good cause shown by Lees Carpets, or on its own motion after notice to Lees Carpets and its opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified herein. 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 this 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, Lees Carpets admits to the allegations in Section C of this Order.
4. Lees Carpets 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. Lees Carpets declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the 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 of Lees Carpets to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by Lees Carpets 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. Lees Carpets 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. Lees Carpets shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Lees Carpets 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 Lees Carpets 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 Lees Carpets. Notwithstanding the foregoing, Lees Carpets 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 Lees Carpets. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Lees Carpets 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, Lees Carpets voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of 30 March, 2005.

R. Bradley Clumming
Robert G. Burnley
Department of Environmental Quality

Lees Carpets voluntarily agrees to the issuance of this Order.

By: Joe Wallow
Date: 3-21-05

Commonwealth of Virginia
City/County of Rockbridge

The foregoing document was signed and acknowledged before me this 21 day of
March, 2005, by Joe Wallace, who is
(name)

VPIM JJ of Lees Carpets, on behalf of Lees Carpets
(title)

M. Scott Byers
Notary Public

My commission expires: 5-31-06

APPENDIX A

In addition to the foregoing, the Virginia State Air Pollution Control Board orders and Lees Carpets agrees to implement this corrective action plan as an additional provision to this Order. Based on the information obtained to date, DEQ has determined that Lees Carpets must comply with the terms and conditions as set out below:

1. Lees Carpets shall limit throughput to the #1 Suessen heat set line to 119 lbs/hr of yarn.
2. Lees Carpets shall maintain the de-mister cooling coil set point at 175 °F.
3. Lees carpets shall apply for a modification to the facility's Minor NSR Permit, dated November 8, 2002, and the facility's Title V permit to incorporate the conditions of this Appendix by May 1, 2005.