



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

TIDEWATER REGIONAL OFFICE

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W. Tayloe Murphy, Jr.
Secretary of Natural Resources

Robert G. Burnley
Director

Francis L. Daniel
Regional Director

STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION ORDER BY CONSENT ISSUED TO Sorrentino Mariani & Company

Registration number 61357

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §10.1-1307, §10.1-1316, and §10.1-1319 between the State Air Pollution Control Board and Sorrentino Mariani & Company, for the purpose of resolving certain 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 collegial body of the Commonwealth of Virginia as described in Va. 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. “Sorrentino Mariani” means Sorrentino Mariani & Company certified to do business in Virginia, and its affiliates, partners, subsidiaries, and parents.
6. “Order” means this document, also known as a Consent Order.

7. “TRO” means the Tidewater Regional Office of DEQ, located in Virginia Beach, Virginia.
8. “Permit” means Stationary Source Permit to Construct and Operate.
9. "Regulations" means Virginia Regulations for the Control and Abatement of Air Pollution (9 VAC 5-80-10 et seq.).

SECTION C: Findings of Fact and Conclusions of Law

1. Sorrentino Mariani owns and operates the wood furniture manufacturing facility located at 2701 St. Julian Way, Norfolk, VA (facility).
2. Pursuant to the Regulations, DEQ issued a Stationary Source Permit to Construct and Operate to Sorrentino Mariani on December 26, 2001 for operation of the facility.
3. Condition number 21 of the Permit states: “Annual requirements to fulfill legal obligations to maintain current stationary source emissions data will necessitate a prompt response by the permittee to requests by the DEQ or the Board for information to include, as appropriate: process and production data; changes in control equipment; and operating schedules.”
4. DEQ mailed a request dated January 3, 2005 to Sorrentino Mariani for an annual update and emission statement of facility stationary source emissions data for the 2004 calendar year. A response date of April 1, 2005 was stated in the request.
5. According to DEQ files, a response to the request for the annual update and emission statement was not received by April 1, 2005. On May 5, 2005 DEQ issued a Warning Letter to Sorrentino Mariani addressing the delinquent 2004 calendar year annual update and emission statement.
6. On June 1, 2005 DEQ received from Sorrentino Mariani an annual update and emission statement for calendar year 2004. DEQ’s review revealed that the submitted emission statement was not complete. DEQ staff contacted Sorrentino Mariani on June 3, 2005 requesting a complete submittal of the emission statement.
7. DEQ alleges that Sorrentino Mariani violated the Permit by failing to submit an annual update and emission statement for the calendar year 2004 by the requested date of April 1, 2005.
8. A Notice of Violation was issued to Sorrentino Mariani on June 21, 2005 for failure to submit a complete emission statement for the 2004 calendar year by April 1, 2005 as requested by DEQ and required by the Permit.

9. A complete emission statement was subsequently received from Sorrentino Mariani by DEQ on August 8, 2005, 130 days late.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code §10.1-1316.C, orders Sorrentino Mariani and Sorrentino Mariani voluntarily agrees, to pay a civil charge of \$2,000.00 within 30 days of the effective date of this Order in settlement of the violations cited in this Order. Payment shall be made by check payable to the "Treasurer of Virginia," shall indicate Sorrentino Mariani 's Federal Identification Number, and shall be sent to:

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

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Sorrentino Mariani for good cause shown by Sorrentino Mariani, or on its own motion after notice and 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 Sorrentino Mariani by DEQ on June 21, 2005. 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, Sorrentino Mariani admits the jurisdictional allegations and factual findings contained herein.
4. Sorrentino Mariani 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. Sorrentino Mariani 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. Failure by Sorrentino Mariani 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. Sorrentino Mariani 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. Sorrentino Mariani shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Sorrentino Mariani 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 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 Sorrentino Mariani. Notwithstanding the foregoing, Sorrentino Mariani 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 Sorrentino Mariani. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Sorrentino Mariani 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, Sorrentino Mariani voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of Oct. 20, 2005.

Francis L. Daniel

Francis L. Daniel, Regional Director
for Robert G. Burnley, Director
Department of Environmental Quality

Sorrentino Mariani voluntarily agrees to the issuance of this Order.

By: *Virgil R. Mariani*

Date: 9.28.05

Commonwealth of Virginia

City/County of Norfolk

The foregoing document was signed and acknowledged before me this 28 day of September, 2005, by Virgil R. Mariani, who is
(month) (name)

President of Sorrentino Mariani, on behalf of the company.
(title)

[Signature]
Notary Public

My commission expires: 7.31.08