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*Commonwealth of Virginia*

*VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY*

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Regional Director

**STATE AIR POLLUTION CONTROL BOARD  
ENFORCEMENT ACTION - ORDER BY CONSENT  
ISSUED TO  
SPEYSIDE BOURBON COOPERAGE IN VIRGINIA, INC.**

**Registration No. 11814**

**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 Speyside Bourbon Cooperage in Virginia, Inc., for the purpose of resolving certain violations of the Virginia Air Pollution Control Law and the applicable permits and regulations.

**SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meanings 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 the Speyside Bourbon Cooperage in Virginia, Inc. facility, located at 6373 Lee Highway, Atkins, Smyth County, Virginia.
5. “Speyside Bourbon Cooperage in Virginia, Inc.” means Speyside Bourbon

Cooperage in Virginia, Inc., a corporation authorized to do business in Virginia and its affiliates, partners, subsidiaries, and parents. Speyside Bourbon Cooperage in Virginia, 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 partial compliance evaluation by DEQ staff.
9. "Regulations" or "Regulations for the Control and Abatement of Air Pollution", means 9 VAC 5 chapters 10 through 80.
10. "SWRO" means the Southwest Regional Office of DEQ, located in Abingdon, Virginia.
11. "Va. Code" means the Code of Virginia (1950), as amended.
12. "VAC" means the Virginia Administrative Code.
13. "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 Facts and Conclusions of Law**

1. Speyside Bourbon Cooperage in Virginia, Inc. owns and operates the Facility in Smyth County, Virginia. The Facility is a bourbon barrel cooperage facility.
2. On November 19, 2019, DEQ staff conducted a PCE at the Facility. During the PCE, DEQ staff noted equipment had been installed at the Facility without a permit.
3. On November 19, 2019, DEQ received a permit application from Speyside Bourbon Cooperage in Virginia, Inc.
4. 9 VAC 5-80-1120 (A) states, "No owner or other person shall begin actual construction of, or operate, any new stationary source or any project subject to this article without first obtaining from the board a permit under the provisions of this article. The owner may not construct or operate the stationary source or project contrary to the terms and conditions of that permit."
5. On December 11, 2019, based on the November 19, 2019 PCE, the Department

issued a Notice of Violation No. ASWRO001378 to Speyside Bourbon Cooperage in Virginia, Inc. for the alleged violation described in paragraph C(2) above.

6. On December 16, 2019, the Department received a telephone and electronic response to the NOV from representatives of the Facility.
7. On December 18, 2019, the Department met with representatives of the Facility and the Facility submitted a date of start of construction of February 26, 2019.
8. Based on the results of the November 19, 2019 PCE, the December 16, 2019 response and the December 18, 2019 meeting, the Board concludes that Speyside Bourbon Cooperage in Virginia, Inc. has violated 9 VAC 5-80-1120 (A) as described in paragraph C(2) and C(4).

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

Accordingly, by virtue of the authority granted it in Va. Code §§ 10.1-1309 and - 1316, the Board orders Speyside Bourbon Cooperage in Virginia, Inc. and Speyside Bourbon Cooperage in Virginia, Inc. agrees to:

Pay a civil charge of \$3,547 within 30 days of the effective date of the Order in settlement of the violation cited in this Order.

Each payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia", delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 1104  
Richmond, Virginia 23218

Speyside Bourbon Cooperage in Virginia, Inc. 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). If the Department has to refer collection of moneys due under this Order to the Department of Law, Speyside Bourbon Cooperage in Virginia, Inc. shall be liable for attorneys' fees of 30% of the amount outstanding.

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

1. The Board may modify, rewrite, or amend the Order with the consent of Speyside Bourbon Cooperage in Virginia, Inc. for good cause shown by Speyside Bourbon Cooperage in Virginia, Inc. , 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 only those violations specifically identified in Section C of this Order and NOV No. ASWRO001378 dated December 11, 2019. 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; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Speyside Bourbon Cooperage in Virginia, Inc. admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Speyside Bourbon Cooperage in Virginia, Inc. 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. Speyside Bourbon Cooperage in Virginia, Inc. 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 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 or Director to modify, rewrite, amend, or enforce this Order.
6. Failure by Speyside Bourbon Cooperage in Virginia, Inc. 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. Speyside Bourbon Cooperage in Virginia, Inc. 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 unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Speyside Bourbon Cooperage in Virginia, Inc. shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Speyside Bourbon Cooperage in Virginia, Inc. shall notify 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 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.

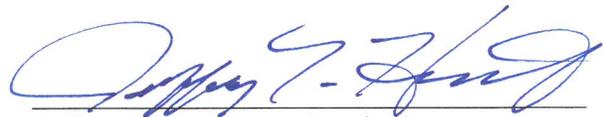
Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition listed above, which the parties intend to assert will result in the impossibility of compliance, shall constitute waiver of any claim of inability to comply with 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 Speyside Bourbon Cooperage in Virginia, Inc.. Nevertheless, Speyside Bourbon Cooperage in Virginia, Inc. 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 Speyside Bourbon Cooperage in Virginia, Inc. has completed all of the requirements of the Order.
  - b. Speyside Bourbon Cooperage in Virginia, Inc. 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 Speyside Bourbon Cooperage in Virginia, Inc..

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

And it is ORDERED this 21<sup>ST</sup> day of January, 2020



Jeffrey L. Hurst - Regional Director  
Department of Environmental Quality

Speyside Bourbon Cooperage in Virginia, Inc. voluntarily agrees to the issuance of this Order.

Date: 1/17/2020 By: [Signature]  
Josh Chandler, Plant Manager  
Speyside Bourbon Cooperage in Virginia, Inc.

Commonwealth of Virginia

City/County of SMYTH

The foregoing document was signed and acknowledged before me this 17th day of JANUARY, 2020 by JOSHUA LEE CHANDLER -who is PLANT MANAGER of Speyside Bourbon Cooperage in Virginia, Inc., on behalf of the corporation.

[Signature]  
Notary Public

169994  
Registration No.

My commission expires: 12-31-23

Notary Seal:

