COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

W. Tayloe Murphy, Jr.
Secretary of Natural Resources

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Robert G. Burnley
Director

Steven A. Dietrich
Regional Director

STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION
A SPECIAL ORDER BY CONSENT
ISSUED TO
BASSETT FURNITURE INDUSTRIES – PLANT 11

SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code § 10.1-1307.D, 10.1-1309, and 10.1-1184, and § 10.1-1316.C, between the State Air Pollution Control Board and Bassett Furniture Industries, for the purpose of resolving certain violations of State Air Pollution Control Laws 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 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.

6. "Bassett Furniture Industries" means the corporation certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.

7. "Facility" means the structure at 747 Beaver Creek Drive located in Martinsville, Virginia.

8. "WCRO" means the West Central Regional Office of DEQ, located in Roanoke, Virginia.

9. "Permit" means the Virginia Title V Operating Permit, with an effective date of January 1, 2002.

10. "O&M" means operations and maintenance.

SECTION C: Findings of Fact and Conclusions of Law

1. Bassett Furniture Industries owns and operates a facility in Martinsville, Virginia. This facility has a Title V permit, to operate a furniture manufacturing operation. Included in the Title V Permit are specific requirements of 40 CFR Part 63 Subpart JJ.

2. On August 3, 2005 DEQ staff conducted a complaint investigation at the Bassett Furniture Industries facility located in Martinsville, VA. An anonymous complaintant alleged that there were serious violations of air regulations at this facility. The violations alleged included: unlocking and turning the spray pressure over 10 psi on white paint spray guns, opacity exceedances from the white paint spray booths, removing filters from the spray booths while spraying and allowing paint to shoot straight through the paint booth, and broken pressure test cap kits for spray guns. The complainant further alleged that the pressure test cap kit was broken around July 22, 2005 and not replaced. During the August 3rd site visit, DEQ requested that Bassett test various spray guns including all that sprayed white paint and investigated all allegations in the complaint. Bassett Furniture could not provide the pressure test cap kit for two spray guns on one booth at the time of this inspection.

3. On August 22, 2005 DEQ conducted a follow-up site inspection at the Bassett Furniture Plant. During this visit a further review of records was conducted and clarification of plant compliance with Subpart JJ was investigated.

4. On September 13, 2005 a Notice of Violation was issued to Bassett Furniture Industries. The NOV was issued as Bassett was unable to provide documentation to demonstrate compliance with the Work Practice Standards of 40 CFR Part 63 Subpart JJ.

5. The Title V Permit condition V.E.1.a., and 63.803(a) state that each owner/operator or permittee shall prepare and maintain a written work practice implementation plan that defines environmentally desirable work practices for each wood furniture operation manufacturing operation. Bassett Furniture Industries Work Practice Plan outlines specific routine testing of all spray guns to ensure compliance with the emission limitations of Subpart JJ.

6. Bassett Furniture Industries is in violation of Condition V.E.1.a., of the Title V Permit and 40 CFR Part 63.803(a).

SECTION D: Agreement and Order

Accordingly the State Air Pollution Control Board, by virtue of the authority granted it pursuant to Va. Code §§10.1-1309 and 10.1-1316, orders Bassett Furniture Industries, and Bassett Furniture Industries agrees to pay a civil charge of **$2,800.00** in settlement of the violations cited in this Order.

1. **$2,800.00** of this civil charge shall be paid within 30 days of the effective date of this Order. 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 10150
   Richmond, Virginia 23240

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Bassett Furniture Industries, for good cause shown by Bassett Furniture Industries, 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 alleged in the Notice of Violation issued to Bassett Furniture Industries by DEQ on September 13, 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, Bassett Furniture Industries admits the jurisdictional allegations, but does not admit the factual allegations or legal conclusions of law contained herein. DEQ and Bassett Furniture Industries agree that the actions undertaken by Bassett Furniture Industries in accordance with this Consent Order do not constitute an admission of liability by Bassett Furniture Industries. Bassett Furniture Industries does not admit, and retains the right to controvert in any subsequent proceedings other than proceedings to implement or enforce this Order, the validity of the Findings of Facts and Conclusions of Law contained in Section C of this Order.

4. Bassett Furniture Industries 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. Bassett Furniture Industries declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 9-6.14:1 *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 to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.

6. Failure by Bassett Furniture Industries 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. Bassett Furniture Industries 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. Bassett Furniture Industries shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Bassett Furniture Industries 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 Bassett Furniture Industries.

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 Bassett Furniture Industries. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Bassett Furniture Industries from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. By its signatures below, Bassett Furniture Industries agree to the issuance of this Order.

And it is so ORDERED this 4th day of NOVEMBER, 2005.

Steven A. Dietrich

FOR Robert G. Burnley, Director
Department of Environmental Quality

Bassett Furniture Industries agrees to the issuance of this Order.

By: Joseph S. Williams III

Date: 11-2-05

Commonwealth of Virginia
City/County of Henry

The foregoing document was signed and acknowledged before me this 2nd day of November, 2005, by Joseph S. Williams, III (name), who is Plant Manager (title) of Bassett Furniture Industries, on behalf of the Corporation.

Jacqueline G. Duke
Notary Public

My commission expires: 7/31/06.