



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

NORTHERN REGIONAL OFFICE

13901 Crown Court, Woodbridge, Virginia 22193

(703) 583-3800 Fax (703) 583-3821

www.deq.virginia.gov

Douglas W. Domenech
Secretary of Natural Resources

David K. Paylor
Director

Thomas A. Faha
Regional Director

STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO BLUE RIDGE GROWERS, INC.

Registration No. 40798

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 Blue Ridge Growers, Inc, for the purpose of resolving certain violations of the Virginia Air Pollution Control Law and the applicable permit and regulations.

SECTION B: Definitions

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

1. "Blue Ridge" means Blue Ridge Growers, Inc., a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Blue Ridge is a "person" within the meaning of Va. Code § 10.1-1300.
2. "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.
3. "CFR" means the Code of Federal Regulations, as incorporated into the Regulations.
4. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.

5. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
6. "Facility" means the Blue Ridge Grower's, Inc. facility, located at 21409 Germanna Highway in Stevensburg, Virginia, which is located in Culpeper County, Virginia.
7. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.
8. "NRO" means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.
9. "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.
10. "PCE" means a partial compliance evaluation by DEQ staff.
11. "Permit" means a New Source Review permit to modify and operate a greenhouse facility, which was issued under the Virginia Air Pollution Control Law and the Regulations to Blue Ridge Growers, Inc. on April 8, 2005, as amended on June 1, 2011.
12. "RCA" means Request for Corrective Action.
13. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" mean 9 VAC 5 chapters 10 through 80.
14. "Va. Code" means the Code of Virginia (1950), as amended.
15. "VAC" means the Virginia Administrative Code.
16. "Virginia Air Pollution Control Law" means Chapter 13 (§ 10.1-1300 *et seq.*) of Title 10.1 of the Va. Code.
17. "Warning Letter" or "WL" means a type of Notice of Alleged Violation under Va. Code §10.1-1309.

SECTION C: Findings of Fact and Conclusions of Law

1. Blue Ridge owns and operates the Facility in Stevensburg, Virginia. The Facility is the subject of the Permit which allows Blue Ridge to construct and operate a greenhouse facility.
2. On February 22, 2010, DEQ issued a RCA to Blue Ridge for failing to submit the Fuel Quality Report for the period from January 1, 2009, through June 30, 2009, and for the

late submittal of the Fuel Quality Report for the period from July 1, 2009, through December 31, 2009.

3. The Fuel Quality Report for the period from January 1, 2009, through June 30, 2009 was due by July 31, 2009, and received by DEQ on March 18, 2010, and the Fuel Quality Report for the period from July 1, 2009, through December 31, 2009, which was due by January 31, 2010, was received by DEQ on February 5, 2010.
4. On February 2, 2011, DEQ issued a Warning Letter to Blue Ridge for failing to submit the Fuel Quality Report for the period from January 1, 2010, through June 30, 2010, which was due by July 31, 2010.
5. The Fuel Quality Report for the period from January 1, 2010, through June 30, 2010, was received by DEQ on February 18, 2011.
6. On August 3, 2011, Department staff conducted a PCE of the Facility record for compliance with the requirements of the Virginia Air Pollution Control Law, the Permit, and the Regulations. Based on this evaluation, Department staff made the following observation:
 - a. Blue Ridge failed to submit the Fuel Quality Report for the period from January 1, 2011, through June 30, 2011.
7. Permit Condition 17 and 40 CFR 60.48c require the Permittee to submit fuel quality reports to the Air Compliance Manager of the NVRO at the address listed in Condition 15, within thirty days after the end of each semi-annual period. The semi-annual periods shall be January 1 through June 30 and July 1 through December 31. If no shipments of distillate oil were received during the semi-annual period, the semi-annual report shall consist of the dates included in the semi-annual period and a statement that no oil was received during the semi-annual period.
8. On August 3, 2011, based on the evaluation, the Department issued a Notice of Violation to Blue Ridge for the violation described in paragraphs C(6) through C(7), above.
9. On August 17, 2011, Blue Ridge submitted the Fuel Quality report for the period from January 1, 2011, through June 30, 2011.
10. Based on the results of the August 3, 2011 evaluation and the documentation submitted on August 17, 2011, the Board concludes that Blue Ridge has violated Permit Condition 17 and 40 CFR 60.48c as described in paragraphs C(6) and C(7) above.
11. In order for Blue Ridge to return to compliance, DEQ staff and representatives of Blue Ridge have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 10.1-1309 and -1316, the Board orders Blue Ridge, and Blue Ridge agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of \$2,065.00 within 30 days of the effective date of the Order, in settlement of the violations cited in this Order.

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

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

Blue Ridge 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).

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Blue Ridge for good cause shown by Blue Ridge, or on its own motion pursuant to the Administrative Progress Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. 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; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Blue Ridge admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Blue Ridge 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. Blue Ridge 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 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 modify, rewrite, amend, or enforce this Order.

6. Failure by Blue Ridge 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. Blue Ridge 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. Blue Ridge shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Blue Ridge shall notify the 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 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 verbally within 24 hours and in writing within three business days, 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 and any 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 Blue Ridge. Nevertheless, Blue Ridge 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 Blue Ridge has completed all of the requirements of the Order;
 - b. Blue Ridge 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 Blue Ridge.

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

And it is so ORDERED this 12th day of July, 2017



Thomas A. Faha, NRO Regional Director
Department of Environmental Quality

Blue Ridge Growers, Inc. voluntarily agrees to the issuance of this Order.

Date: 7/2/12 By: *Joseph R. Daniel*, President
(Person) (Title)
Blue Ridge Growers, Inc.

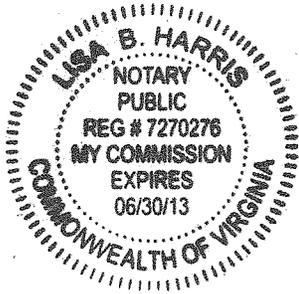
Commonwealth of Virginia
City/County of Culpeper

The foregoing document was signed and acknowledged before me this 2 day of
July, 2012 by Joseph R. Daniel who is
President of Blue Ridge Growers, Inc., on behalf of the corporation.

Lisa B. Harris
Notary Public

7270276
Registration No.

My commission expires: 6/30/13
Notary seal:



**APPENDIX A
SCHEDULE OF COMPLIANCE**

Blue Ridge Growers, Inc. shall:

1. Create and submit a plan for timely compliance with Permit and regulatory requirements to DEQ by August 1, 2012, for review and approval. Upon approval, the plan shall be implemented immediately

1. **Certification of Documents and Reports**

In accordance with 9 VAC 5-20-230(A), in all documents or reports, including, without limitation, the SEP Completion Report, submitted to DEQ pursuant to this Consent Order, Blue Ridge, shall by its officers, sign and certify under penalty of law that the information contained in such document or report is true, accurate, and not misleading by signing the following statement:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering and evaluating the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

2. **DEQ Contact**

Unless otherwise specified in this Order, Blue Ridge shall submit all requirements of Appendix A of this Order to:

**Enforcement
Virginia Department of Environmental Quality Northern Regional Office
13901 Crown Court
Woodbridge, VA 22193**