



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

VALLEY REGIONAL OFFICE

P.O. Box 3000, Harrisonburg, Virginia 22801

(540) 574-7800 Fax (540) 574-7878

Located at 4411 Early Road, Harrisonburg, VA.

www.deq.virginia.gov

Molly Joseph Ward
Secretary of Natural Resources

David K. Paylor
Director

Amy Thatcher Owens
Regional Director

STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO ARIAKE U.S.A., INC. Registration No. 81104

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 Ariake U.S.A., Inc. for the purpose of resolving certain violations of the Virginia Air Pollution Control Law, the Permit, and applicable regulations.

SECTION B: Definitions

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

1. "Ariake" means Ariake U.S.A., Inc., a corporation authorized to do business in Virginia, and its affiliates, partners, and subsidiaries. Ariake U.S.A., Inc. 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. "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, as described in Va. Code § 10.1-1185.

5. "Facility" means the Ariake U.S.A., Inc. facility located at 1711 N. Liberty Street, Harrisonburg in Rockingham County, Virginia.
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. "Permit" means a Minor New Source permit to operate an edible rendering plant which was issued under the Virginia Air Pollution Control Law and the Regulations to Ariake on August 29, 2016.
9. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" means 9 VAC 5 chapters 10 through 80.
10. "Va. Code" means the Code of Virginia (1950), as amended.
11. "VAC" means the Virginia Administrative Code.
12. "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 Fact and Conclusions of Law

1. Ariake, U.S.A., Inc. (Ariake) operates an edible rendering facility (facility) located at 1711 N. Liberty Street in Rockingham County (Harrisonburg), Virginia. The facility produces food stock and seasoning and operates under a Minor New Source Review (NSR) permit dated August 29, 2016.
2. On August 10, 2016, Ariake submitted an air permit application to DEQ for the addition of a new Goto cooker/dryer at the facility. Ariake reported that the installation and start-up dates of this new equipment were August 17, 2015 and September 23, 2015, respectively.
3. 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."
4. 9 VAC 5-80-1210.E. states: "Any owner who constructs or operates a source subject to this section not in accordance with the terms and conditions of any permit to construct or operate, or any owner of a source subject to this section who commences construction or operation without receiving a permit hereunder shall be subject to appropriate enforcement action including, but not limited to, any specified in this section."

5. On September 7, 2016, the Department issued Notice of Violation (NOV) No. AVRO000502-001 to Ariake for the violations described in paragraphs C(2) through C(4), above.
6. On August 29, 2016, DEQ issued a Minor New Source Review Permit to Ariake that included the new equipment listed in C(2) above, correcting the violations cited in C(2) through C(4) above.
7. Based on the results of the documentation submitted on August 10, 2016, the Board concludes that Ariake has violated 9 VAC 5-80-1120.A., as described in paragraphs C(2) through C(4), above.

SECTION D: Agreement and Order

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

Pay a civil charge of **\$5,824.00** 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

Ariake 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, Ariake shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Ariake for good cause shown by Ariake, 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 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, Ariake admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Ariake 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. Ariake 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 Ariake 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. Ariake 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. Ariake shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Ariake 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.

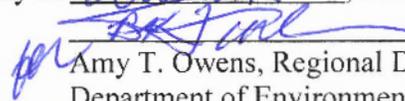
9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Ariake. Nevertheless, Ariake agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - a. the Director or his designee terminates the Order after Ariake has completed all of the requirements of the Order;
 - b. Ariake 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 Ariake.

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

Consent Order
Ariake U.S.A., Inc. - Registration No. 81104
Page 6 of 7

And it is so ORDERED this 27th day of December, 2016.



for Amy T. Owens, Regional Director
Department of Environmental Quality

Ariake U.S.A., Inc. voluntarily agrees to the issuance of this Order.

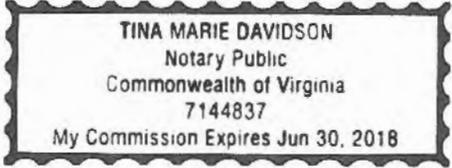
Date: 12-21-2016 By: Yuji Hiratsuka, Director
(Person) (Title)
Ariake U.S.A., Inc.

Commonwealth of Virginia
City/County of Rockingham

The foregoing document was signed and acknowledged before me this 21st day of December, 2016, by Yuji Hiratsuka who is Director of Ariake U.S.A., Inc., on behalf of the corporation.

Tina Marie Davidson
Notary Public

7144837
Registration No.



My commission expires: June 30, 2018