



# **COMMONWEALTH of VIRGINIA**

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Secretary of Natural Resources

DEPARTMENT OF ENVIRONMENTAL QUALITY  
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David K. Paylor  
Director

Robert J. Weld  
Regional Director

**STATE AIR POLLUTION CONTROL BOARD  
ENFORCEMENT ACTION - ORDER BY CONSENT  
ISSUED TO  
WHOLESOME HARVEST BAKING, LLC  
FOR THE  
ROANOKE, VA FACILITY  
Registration No. 21320**

## **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 Wholesome Harvest Baking, LLC, regarding its facility in Roanoke, Virginia, for the purpose of resolving certain violations of the Virginia Air Pollution Control Law, applicable regulations and its permit.

## **SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning 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. "BRRO" means the Blue Ridge Regional Office of DEQ, located in Salem, Virginia.
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 Wholesome Harvest Baking, LLC facility, located at 1955 Blue Hills Drive, Roanoke, Virginia. The Facility is a commercial bakery.
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 the Minor New Source Review issued to WHB on October 13, 2016 and amended on October 23, 2018, which authorizes WHB to operate a stationary source of air pollution. The Permit was issued under the Virginia Air Pollution Control Law and the Regulations.
9. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" mean 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.
13. "WHB" means Wholesome Harvest Baking, LLC, a limited liability company authorized to do business in Virginia and its affiliates, partners, and subsidiaries. WHB is a "person" within the meaning of Va. Code § 10.1-1300.

### **SECTION C: Findings of Fact and Conclusions of Law**

1. WHB owns and operates the Facility in Roanoke, Virginia. The Facility is the subject of the Permit that allows air emissions related to a commercial bakery. The Permit contains conditions and enumerates emission limitations on the air emissions from the Facility.
2. On June 26, 2018, Department staff received verbal notification from WHB that it had operated Line 6A uncontrolled, disconnected from the regenerative thermal oxidizer ("RTO"), for a total of 47.5 hours over seven separate days in June 2018.
3. On June 29, 2018, the Department received email correspondence from WHB further outlining the impact of the uncontrolled operation of Line 6A. WHB reported the total pounds of excess uncontrolled emissions during the seven days of uncontrolled operation of Line 6A were 261.41, an amount lower than the Permit's limits. In the correspondence, WHB explained that the plant was experiencing continued product quality issues associated with steam accumulation in the oven of Line 6A.

4. Condition #1 of the Permit requires that when any baking oven is producing finished bread product (FBP), volatile organic compound (VOC) emissions from each baking line that is producing FBP shall be controlled by a regenerative thermal oxidizer (RTO).
5. On July 31, 2018, the Department issued Notice of Violation No. ABRRO000977 to WHB for the violations listed in paragraphs, C(2) through C(4), above.
6. On August 13, 2018, WHB and Department staff conducted a conference call to discuss the NOV. WHB ensured that Line 6A was controlled by an RTO whenever it was operated.
7. On August 29 & 30, 2018, WHB established low flow limits on baking Lines #5 and #7 by stack test. The purpose of the stack test was to demonstrate initial compliance with the 75% capture efficiency requirement for Baking Line #5 and establish a low flow limit that would serve to demonstrate continuous compliance with the permitted capture efficiency requirements.
8. WHB submitted a permit modification for the installation of a small catalytic oxidizer that would control Line 6A exclusively. The permit modification was issued on October 23, 2018.
9. On January 10, 2019, DEQ staff conducted a full compliance evaluation of the Facility and observed that the flow rate was below the low flow limit previously established. Per DEQ request, WHB provided additional flow data from August 29-December 31, 2018. The spreadsheet named RTO Flow Meter Data, showed that Line #5 operated below the low-flow limit established during the August 29-30, 2018 stack test.
10. Condition #1.b of the Permit requires that Baking Line #5 shall maintain at least the minimum average volumetric oven-gas flow rate as measured by the Line #5 flow meter to demonstrate a minimum capture efficiency of 75% for VOC emissions.
11. During the inspection, Department staff observed that the three flour silos were equipped with magnehelic gauges but two of the dust collectors associated with the three flour silos were not equipped with devices to measure the differential pressure drop. Department staff reviewed the required weekly differential pressure logs for the flour transport system and noted that weekly logs were not available for the two dust collectors that were not equipped with devices to measure the differential pressure drop.
12. Condition #12 of the Permit requires that each fabric filter shall be equipped with a device to continuously measure differential pressure drop.
13. Condition #13 of the Permit requires that to ensure good performance, the fabric filter pressure drop indicators shall be observed by the permittee with a frequency of not less

than once per week when the flour transport system is operational or when flour is being transported. The permittee shall keep a written record of these observations.

14. On February 6, 2019, the Department issued Notice of Violation ("NOV") ABRRO001108 to WHB for violations listed in paragraphs, C(9) through C(13), above.
15. Based on the June 2018 communications (phone & email), January 2019 inspection and subsequent documentation submittals, the Board concludes that WHB violated Permit conditions #1, #1.b, #12, and #13 as described in paragraphs C(2) through C(4) and C(9) through C(13), above.
16. WHB has submitted documentation that verifies that the violation described in paragraphs C(2) and C(4), above, has been corrected.
17. In order for WHB to complete its return to compliance, DEQ staff and representatives of WHB have agreed to the Schedule of Compliance, which is incorporated as Appendix A and B 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 WHB and WHB agrees to:

1. Perform the actions described in Appendix A and B of this Order, and
2. Pay a civil charge of **\$32,512** 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

WHB shall include its Federal Employer Identification Number (FEIN) 33-1031642 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, WHB shall be liable for attorneys' fees of 30% of the amount outstanding.

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

**Consent Order**

**Wholesome Harvest Baking, LLC; Registration No. 21320**

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1. The Board may modify, rewrite, or amend this Order with the consent of WHB for good cause shown by WHB, 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, WHB admits to the jurisdictional allegations, and agrees not to contest, but neither admits nor denies, the findings of fact and conclusions of law in this Order.
4. WHB 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. WHB 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 WHB 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. WHB 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. WHB shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. WHB 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 WHB.
11. This Order shall continue in effect until:
  - a. The Director or his designee terminates the Order after WHB has completed all of the requirements of the Order;
  - b. WHB 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 WHB.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve WHB 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 WHB 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 WHB 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 WHB to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of WHB.

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, WHB voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 17<sup>th</sup> day of July, 2019.



Robert J. Weld, Regional Director  
Department of Environmental Quality

Wholesome Harvest Bakery, LLC voluntarily agrees to the issuance of this Order.

Date: July 15, 2019 By: C.H. Pizer  
Craig H. Pizer  
Assistant Secretary  
Wholesome Harvest Bakery, LLC

State of Pennsylvania  
City/County of Montgomery

The foregoing document was signed and acknowledged before me this 15<sup>th</sup> day of July, 2019, by Craig H. Pizer who is Assistant Secretary for Wholesome Harvest Baking, LLC, on behalf of the company.

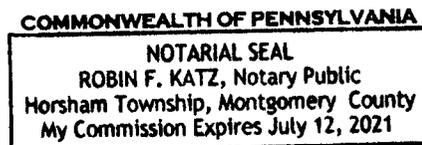


Robin F. Katz  
Notary Public

1082132

Registration No.

My commission expires:-  
Notary seal:



July 12, 2021

**APPENDIX A  
SCHEDULE OF COMPLIANCE**

Wholesome Harvest Baking, LLC shall:

1. No later than June 30, 2019, submit a permit application to the Department for the installation of a catalytic oxidizer to control Baking Lines 5, 6 & 7 with 100% capture efficiency of VOC emissions.
2. No later than July 1, 2020, complete installation of the catalytic oxidizer to control Baking Lines 5, 6 & 7.
3. Within 30 days of execution of this Order and continuing until this Order is terminated, submit to the Department, no later than the 10<sup>th</sup> day of the month, documentation demonstrating the previous month's compliance with Condition #13 of the Permit.
4. Documents to be submitted to the Department, other than the civil charge payment described in Section D of the Order, shall be sent to:

**Jerry Ford, Jr.**  
**VA DEQ - Blue Ridge Regional Office**  
**901 Russell Drive**  
**Salem, VA 24153**  
**Phone: (540) 562-6817**  
**e-mail: [Jerry.Ford@deq.virginia.gov](mailto:Jerry.Ford@deq.virginia.gov)**

## APPENDIX B INTERIM COMPLIANCE & MONITORING REQUIREMENTS

From the effective date of this Order until completion of the corrective action requirements contained in Appendix A, but in no event later than **July 1, 2020**, WHB shall demonstrate compliance with Conditions 1.b, 1.c, and 3 of the Permit as follows:

1. Baking Line 5 - WHB shall monitor the average volumetric oven-gas flow rate (measured every 15-minutes and recorded as a 3-hour average flow rate) during periods that line is in operation and product is in the oven.
2. Baking Line 7 - WHB shall monitor average volumetric oven-gas flow rate (measured every 15-minutes and recorded as a 3-hour average flow rate) during periods that the line is in operation and product is in the oven.
3. WHB shall monitor the average volumetric oven-gas flow rate no less than 95% of all periods that Baking Line 5 is in operation. WHB shall demonstrate compliance with the Baking Line 5 base flow rate of 1929 cfm no less than 90% of the monitored periods that Baking Line 5 is in operation.
4. WHB shall monitor the average volumetric oven-gas flow rate no less than 95% of all periods that Baking Line 7 is in operation. WHB shall demonstrate compliance with the Baking Line 7 base flow rate of 244 cfm no less than 90% of the monitored periods that Baking Line 7 is in operation.