



# **COMMONWEALTH of VIRGINIA**

Matthew J. Strickler  
Secretary of Natural Resources

## **DEPARTMENT OF ENVIRONMENTAL QUALITY**

### **Blue Ridge Regional Office**

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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 OWENS-BROCKWAY GLASS CONTAINER, INC. FOR THE RINGGOLD, VA FACILITY Registration No. 30718**

### **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 Owens-Brockway Glass Container, Inc., regarding its facility in Ringgold, 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 Roanoke, 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 Owens-Brockway Glass Container, Inc. facility, located at 29 Glassblower Lane, Ringgold, Virginia. The Facility is a glass manufacturing facility.
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. "Owens" means Owens-Brockway Glass Container, Inc., a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Owens is a "person" within the meaning of Va. Code § 10.1-1300.
9. "Permit" means the Title V permit issued to Owens on December 8, 2017. The Permit incorporates a Stationary Source Permit to Modify and Operate a Glass Manufacturing Facility dated April 6, 2001 and a Stationary Source Permit to Modify and Operate a hot end surface treatment process dated December 14, 2005. The Permit was issued under the Virginia Air Pollution Control Law and the Regulations.
10. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" mean 9 VAC 5 chapters 10 through 80.
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 Fact and Conclusions of Law**

1. Owens owns and operates the Facility in Ringgold, Virginia. The Facility is the subject of the Permit that allows air emissions related to glass manufacturing. The Permit contains conditions and enumerates emission limitations and monitoring requirements at the Facility.
2. On August 8, 2018, DEQ staff conducted a Full Compliance Evaluation (FCE) of the Facility and observed the following:
  - a. Owens had failed to conduct weekly observations for the Emergency Generator (EG-1) and the Emergency Fire Pump Engine (EFP-1), as outlined in condition 27 of the Title V permit dated December 8, 2017. Records indicated that the first observation for Emergency Generator (EG-1) was May 4, 2018 and the first observation for the Emergency Fire Pump Engine was May 2, 2018. Owens could not provide any

observations from the issuance of the permit dated December 8, 2017 until the dates mentioned above for each unit.

- b. Owens had failed to conduct daily observations for the HEST Process (EU-6) and Batch House and Silo (EU-13), as outlined in conditions 35 and 36 of the Title V permit dated December 8, 2017. Records indicated that Owens was continuing to complete weekly observations for these areas, however, when the renewed Title V Permit was issued December 8, 2017, the requirement changed to daily. The facility began conducting the required daily observations on these areas February 12, 2018, however, the weekend time periods were not observed when the equipment was in operation.
3. Condition #27 of Owen's Permit requires that at least one time in any week the emergency generator (EG-1) or emergency fire pump engine (EFP-1) operates, an observation of the presence of visible emissions from the affected unit's exhaust stack shall be made and the permittee shall maintain an observation log to demonstrate compliance.
4. Condition #35 of the Permit requires that daily observations for the presence of visible emissions from the HEST process exhaust stack (stack ID 007) shall be made and the permittee shall maintain an observation log for the HEST process (EU-6) to demonstrate compliance.
5. Condition #36 of the Permit requires that Daily observations for the presence of visible emissions from the Batch House & Silo (EU-13) discharge points shall be made and the permittee shall maintain an observation log for the Batch House & Silos (EU-13) to demonstrate compliance
6. On August 28, 2018, the Department issued NOV ABRRO000997 to Owens for the violations listed in paragraph, C(2), above.
7. On September 7, 2018, Owens responded to the NOV stating that it had corrected the areas of non-compliance and provided an explanation of the corrections as well as documentation indicating that proper weekly and daily visible emission evaluations are being performed, as required by the Permit.
8. Based on the August 8, 2019 inspection and subsequent documentation submittals, the Board concludes that Owens violated Permit conditions #27, #35, and #36 as described in paragraph C(2), above.
9. Owens has submitted documentation that verifies that the violations described in paragraph C(2), above, have been corrected.

**SECTION D: Agreement and Order**

Accordingly, by virtue of the authority granted it in Va. Code §§ 10.1-1309 and -1316, the Board orders Owens, and Owens agrees to pay a civil charge of **\$8,125** 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

Owens shall include its Federal Employer Identification Number (FEIN) 22-2784144 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, Owens 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 Owens for good cause shown by Owens, 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, Owens 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. Owens 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. Owens 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 Owens 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. Owens 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. Owens shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Owens 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 Owens.
11. This Order shall continue in effect until:

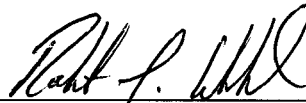
- a. The Director or his designee terminates the Order after Owens has completed all of the requirements of the Order;
- b. Owens petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
- c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Owens.

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

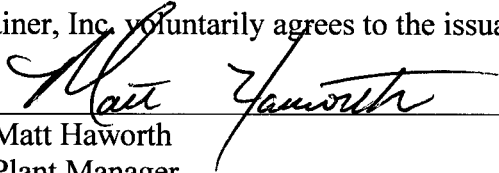
15. By its signature below, Owens voluntarily agrees to the issuance of this Order.

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



Robert J. Weld, Regional Director  
Department of Environmental Quality


Owens-Brockway Glass Container, Inc. voluntarily agrees to the issuance of this Order.

Date: 6/12/2019 By:   
Matt Haworth  
Plant Manager  
Owens-Brockway Glass Container, Inc.

State of Virginia  
City/County of Danville



The foregoing document was signed and acknowledged before me this 12<sup>th</sup> day of June, 2019, by Matt Haworth who is the Plant Manager for Owens-Brockway Glass Container, Inc., on behalf of the corporation.

  
Notary Public  
7726345  
Registration No.

My commission expires: 01/31/2021  
Notary seal: