



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We Protect Hoosiers and Our Environment.

100 N. Senate Avenue • Indianapolis, IN 46204
(800) 451-6027 • (317) 232-8603 • www.idem.IN.gov

Eric J. Holcomb
Governor

Bruno L. Pigott
Commissioner

| | | |
|--------------------------------|---|--------------------------------------|
| STATE OF INDIANA |) | SS: BEFORE THE INDIANA DEPARTMENT OF |
| |) | |
| COUNTY OF MARION |) | ENVIRONMENTAL MANAGEMENT |
| COMMISSIONER OF THE DEPARTMENT |) | |
| OF ENVIRONMENTAL MANAGEMENT, |) | |
| |) | |
| Complainant, |) | |
| |) | |
| v. |) | Case No. 2019-26214-A |
| |) | |
| HARLAN BAKERIES-AVON LLC, |) | |
| |) | |
| Respondent. |) | |

AGREED ORDER

Complainant and Respondent desire to settle and compromise this action without hearing or adjudication of any issue of fact or law, and consent to the entry of the following Findings of Fact and Order. Pursuant to Indiana Code ("IC") 13-30-3-3, entry into the terms of this Agreed Order does not constitute an admission of any violation contained herein. Respondent's entry into this Agreed Order shall not constitute a waiver of any defense, legal or equitable, which Respondent may have in any future administrative or judicial proceeding, except a proceeding to enforce this order.

I. FINDINGS OF FACT

1. Complainant is the Commissioner ("Complainant") of the Indiana Department of Environmental Management ("IDEM"), a department of the State of Indiana created by IC 13-13-1-1.
2. Respondent is Harlan Bakeries-Avon LLC ("Respondent"), which owns and operates a stationary intermediate and finished baked goods operation with Plant ID No. 063-00059 located at 7597 East US Highway 36 in Avon, Hendricks County, Indiana ("Site").
3. IDEM has jurisdiction over the parties and the subject matter of this action.
4. Pursuant to IC 13-30-3-3, IDEM issued a Notice of Violation ("NOV") in conjunction with this Agreed Order via Electronic Mail to:

Hugh Harlan, President
Harlan Bakeries-Avon LLC
7597 East US Highway 36
Avon, IN 46123
hharlan@harlanbakeries.com

Robert E. Inveiss,
Registered Agent
111 Monument Circle, Suite 2700
Indianapolis, IN 46204
rinveiss@boselaw.com

5. During an investigation including a records review conducted by a representative of IDEM, the following violations were found:

- a. Pursuant to Federally Enforceable State Operating Permit No. 063-33421-00059 ("Permit"), Condition D.1.2 and 326 IAC 2-8-4, the Volatile Organic Compounds (VOC) emissions from the catalytic oxidizer (OXIDIZER-0001) stack exhaust (S-1) shall not exceed 0.36 pounds per hour.

Respondent failed to operate the catalytic oxidizer (OXIDIZER-0001) from April 22, 2019 at 7:50am to April 23, 2019 at 11:30am resulting in VOC emissions of 4.4 pounds per hour during the time frame, in violation of Permit Condition D.1.2 and 326 IAC 2-8-4.

- b. Pursuant to Permit Condition D.1.4, in order to comply with Condition D.1.1, the catalytic oxidizer (OXIDIZER-0001) shall be in operation and control emissions from OVEN-0002 at all times that OVEN-0002 is in operation.

Respondent failed to operate the catalytic oxidizer (OXIDIZER-0001) from April 22, 2019 at 7:50am to April 23, 2019 at 11:30am, in violation of Permit Condition D.1.4.

- c. Pursuant to Permit Condition D.1.2 and 326 IAC 2-8-4, the Volatile Organic Compounds (VOC) emissions from the catalytic oxidizer (OXIDIZER-0001) stack exhaust (S-1) shall not exceed 0.36 pounds per hour.

Respondent demonstrated emissions of 1.12 pounds per hour during compliance testing which occurred on March 19, 2019, in violation of Permit Condition D.1.2 and 326 IAC 2-8-4.

6. Respondent conducted compliance testing on June 14, 2019, with the results indicating compliance.
7. Orders of the Commissioner are subject to administrative review by the Office of Environmental Adjudication under IC 4-21.5; however, in recognition of the settlement reached, Respondent acknowledges notice of this right and waives any right to administrative and judicial review of this Agreed Order.

II. ORDER

1. This Agreed Order shall be effective ("Effective Date") when it is approved by Complainant or Complainant's delegate, and has been received by Respondent. This Agreed Order shall have no force or effect until the Effective Date.
2. Respondent shall comply with Federally Enforceable State Operating Permit No. 063-44031-00059 unless superseded by a permit renewal or modification.
3. All submittals required by this Agreed Order, unless IDEM notifies the Respondent otherwise in writing, shall be sent to:

Jennifer Bailey, Senior Enforcement Case Manager
Office of Air Quality
Indiana Department of Environmental Management
100 North Senate Avenue
Indianapolis, IN 46204-2251
Jbailey2@idem.in.gov

4. Pursuant to IC 13-30-4-1, Respondent is assessed and agrees to pay a civil penalty of Seventeen Thousand Five Hundred Dollars (\$17,500). Said penalty amount shall be due and payable to the Environmental Management Special Fund within thirty (30) days of the Effective Date; the thirtieth day being the "Due Date."
5. Civil penalties are payable by check to the "Environmental Management Special Fund." Checks shall include the Case Number of this action and shall be mailed to:

Indiana Department of Environmental Management
Accounts Receivable
IGCN, Room 1340
100 North Senate Avenue
Indianapolis, IN 46204

6. In the event that the monies due to IDEM pursuant to this Agreed Order are not paid on or before their Due Date, Respondent shall pay interest on the unpaid balance at the rate established by IC 24-4.6-1. The interest shall be computed as having accrued from the Due Date until the date that Respondent pays any unpaid balance. Such interest shall be payable to the Environmental Management Special Fund, and shall be payable to IDEM in the manner specified in Paragraph 5, above.
7. Signatories to this Agreed Order certify that they are fully authorized to execute this Agreed Order and legally bind the party they represent.
8. This Agreed Order shall apply to and be binding upon Respondent and all successors and assigns. Respondent shall provide a copy of this Agreed Order,

if in force, to any subsequent owners, successors, or assigns before ownership rights are transferred.

9. No change in ownership, corporate, or partnership status of Respondent shall in any way alter the Respondent's status or responsibilities under this Agreed Order.
10. Respondent shall ensure that all contractors, firms, and other persons performing work under this Agreed Order comply with the terms of this Agreed Order.
11. In the event that any terms of this Agreed Order are found to be invalid, the remaining terms shall remain in full force and effect and shall be construed and enforced as if this Agreed Order did not contain the invalid terms.
12. This Agreed Order is not and shall not be interpreted to be a permit or a modification of an existing permit. This Agreed Order, and IDEM's review or approval of any submittal made by Respondent pursuant to this Agreed Order, shall not in any way relieve Respondent of the obligation to comply with the requirements of any applicable permits or any applicable Federal or State laws or regulations.
13. Complainant does not, by its approval of this Agreed Order, warrant or aver in any manner that Respondent's compliance with any aspect of this Agreed Order will result in compliance with the provisions of any permit, order, or any applicable Federal or State law or regulation. Additionally, IDEM or anyone acting on its behalf shall not be held liable for any costs or penalties Respondent may incur as a result of Respondent's efforts to comply with this Agreed Order.
14. Nothing in this Agreed Order shall prevent or limit IDEM's rights to obtain penalties or injunctive relief under any applicable Federal or State law or regulation, except that IDEM may not, and hereby waives its right to, seek additional civil penalties for the violations specified in the NOV.
15. Nothing in this Agreed Order shall prevent IDEM or anyone acting on its behalf from communicating with the U.S. Environmental Protection Agency ("U.S. EPA") or any other agency or entity about any matters relating to this enforcement action. IDEM or anyone acting on its behalf shall not be held liable for any costs or penalties Respondent may incur as a result of such communications with the U.S. EPA or any other agency or entity.
16. This Agreed Order shall remain in effect until Respondent has complied with all terms and conditions of this Agreed Order and IDEM has issued a Resolution of Case letter to Respondent.

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TECHNICAL RECOMMENDATION:
Department of Environmental
Management

By: David P. McIver

David P. McIver
Section Chief
Enforcement Section
Office of Air Quality

Date: December 14, 2021

RESPONDENT:
Harlan Bakeries-Avon LLC

By: _____

Printed: _____

Title: _____

Date: _____

COUNSEL FOR RESPONDENT:

By: _____

Date: _____

APPROVED AND ADOPTED BY THE INDIANA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT THIS _____ DAY OF
_____, 20____.

For the Commissioner:

Matthew Stuckey
Assistant Commissioner
Office of Air Quality
Indiana Department of Environmental
Management