

**ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT,  
DIVISION OF ENVIRONMENTAL QUALITY**

IN THE MATTER OF:

AFIN: 29-00016

LIS No. 22-097

SOUTHERN BAKERIES, LLC  
2700 EAST THIRD STREET  
HOPE, AR 71801

**CONSENT ADMINISTRATIVE ORDER**

This Consent Administrative Order (CAO) is issued pursuant to the authority delegated under the federal Clean Air Act, 42 U.S.C. § 7401 *et seq.*, and the federal regulations issued thereunder. In addition, this CAO is issued pursuant to the authority of the Arkansas Water and Air Pollution Control Act (the Act), Ark. Code Ann. § 8-4-101 *et seq.*, Arkansas Pollution Control and Ecology Commission (APC&EC) Rule 7, APC&EC Rule 8, APC&EC Rule 18, APC&EC Rule 19, and APC&EC Rule 26.

The issues herein having been settled by agreement of Southern Bakeries, LLC (Respondent) and the Chief Administrator of the Division of Environmental Quality (DEQ), it is hereby agreed and stipulated that the following FINDINGS OF FACT and ORDER AND AGREEMENT be entered.

**FINDINGS OF FACT**

1. Respondent owns and operates a commercial bakery located at 2700 East Third Street in Hope, Hempstead County, Arkansas.
2. There are two (2) Air Permits referenced in this CAO. 1940-AOP-R6 (Permit R6) was issued on August 18, 2016, and voided on October 15, 2021. 1940-AOP-R7 (Permit R7) was issued on October 15, 2021.

3. Ark. Code Ann. § 8-4-217(a)(3) provides:

(a) It shall be unlawful for any person to:

...

(3) Violate any provisions of this chapter or of any rule or order adopted by the Arkansas Pollution Control and Ecology Commission under this chapter or of a permit issued under this chapter by the Division of Environmental Quality;

4. Ark. Code Ann. § 8-4-103(c)(1)(A) provides, “Any person that violates any provision of this chapter and rules, permits, or plans issued pursuant to this chapter may be assessed an administrative civil penalty not to exceed ten thousand dollars (\$10,000) per violation.”

5. Pursuant to Ark. Code Ann. § 8-4-103(c)(1)(B) as referenced by Ark. Code Ann. § 8-4-304, “Each day of a continuing violation may be deemed a separate violation for purposes of penalty assessment.”

6. General Provision 7 of Permit R6 and Permit R7 requires Respondent to submit reports of all required monitoring every six (6) months. The year’s first Semi-Annual Monitoring (SAM) report is due on July 1 and must cover the reporting period of June 1 through May 31. The year’s second SAM report is due on January 1 and must cover the reporting period of December 1 through November 30.

7. General Provision 21 of Permit R6 and Permit R7 requires Respondent submit an Annual Compliance Certification (ACC). The ACC is due January 1 of every year and must cover the reporting period of December 1 through November 30.

8. On December 9, 2019, DEQ personnel performed a compliance inspection of Respondent’s facility.

9. The inspection revealed Respondent failed to submit two (2) timely SAM reports.

The first report was due on January 1, 2019, but was not received by DEQ until February 21, 2019. The second report was due on July 1, 2019, but was not received by DEQ until December 9, 2019. Such failures violate General Provision 7 of Permit R6 and therefore violate Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

10. The inspection also revealed Respondent failed to submit a timely ACC. The ACC was due on January 1, 2019, but was not received by DEQ until February 21, 2019. Such failure violates General Provision 21 of Permit R6 and therefore violates Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

11. In correspondence dated February 18, 2020, Respondent was informed that DEQ would be taking informal rather than formal enforcement action for Respondent's violation of General Provision 7 and General Provision 21 of Permit R6. However, DEQ reserved the right to address these violations in the future if it is discovered at a later date that Respondent was out of compliance for similar violations.

12. On February 4, 2021, Respondent submitted an ACC. A review of the ACC by DEQ personnel revealed that the ACC was due on January 1, 2021, but was not received by DEQ until February 4, 2021. Thus, Respondent failed to submit a timely ACC. Such failure violates General Provision 21 of Permit R6 and therefore violates Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

13. In correspondence dated February 17, 2021, Respondent was informed that DEQ would be taking informal rather than formal enforcement action for Respondent's violation of General Provision 21 of Permit R6. However, DEQ reserved the right to address this violation in the future if it is discovered at a later date that Respondent was out of compliance for similar

violations.

14. On April 19, 2022, DEQ personnel conducted a compliance inspection of Respondent's facility. The inspection review period was December 1, 2019, through April 30, 2022.

15. The inspection revealed that Respondent failed to submit a timely SAM report during the inspection review period. The SAM report was due on January 1, 2022, but was not received by DEQ until April 27, 2022. Such failure violates General Provision 7 of Permit R7 and therefore violates Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

16. The inspection also revealed that Respondent failed to submit a timely ACC report during the inspection review period. The report was due on January 1, 2022, but was not received by DEQ until May 17, 2022. Such failure violates General Provision 21 of Permit R7 and therefore violates Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

17. In correspondence dated May 11, 2022, DEQ informed Respondent of the compliance issues identified during the inspection conducted on April 19, 2022. The letter was intended to provide Respondent with the opportunity to review the violations and submit any additional information Respondent deemed appropriate regarding the compliance issues.

18. In correspondence dated July 5, 2022, DEQ informed Respondent that formal enforcement action was proceeding in this matter.

19. On July 15, 2022, Respondent provided a written response to DEQ's formal enforcement correspondence dated July 5, 2022. Respondent stated that the cause for late SAM

report and ACC that were due on January 1, 2022, was due to the sudden departure of the individual tasked with preparing and submitting these reports.

20. Respondent stated that the air permit report tasks have been reassigned and that formal checks and balances have been implemented to ensure multiple individuals have oversight to ensure timely submissions of reports in the future.

### ORDER AND AGREEMENT

WHEREFORE, Respondent, neither admitting nor denying the factual and legal allegations contained in this CAO, and DEQ do hereby agree and stipulate as follows:

1. Within fifteen (15) calendar days of the effective date of this CAO, Respondent shall submit a compliance action plan (Plan) that is subject to DEQ approval to address the continued late submittal of SAM reports and ACCs as referenced in the FINDINGS OF FACT of this CAO. The Plan shall describe the issues contributing to the problem, corrective actions to be taken, and the implementation of the Plan. The requirements of this paragraph shall be met upon issuance of a letter by DEQ approving the Plan.

2. In compromise and full settlement of the violations specified in the FINDINGS OF FACT, Respondent agrees to pay a civil penalty of **SEVEN THOUSAND TWO HUNDRED DOLLARS (\$7,200.00)**. Payment is due within thirty (30) calendar days of the effective date of this CAO. Such payment shall be made payable to:

DEQ, Fiscal Division  
5301 Northshore Drive  
North Little Rock, Arkansas 72118-5317.

In the event that Respondent fails to pay the civil penalty within the prescribed time, DEQ shall be entitled to attorneys' fees and costs associated with collection.

3. All applicable submissions required by this CAO are subject to approval by DEQ. In the event of any deficiency, Respondent shall, within fifteen (15) calendar days of notification by DEQ, submit any additional information requested. Failure to respond adequately to the notice of deficiency within fifteen (15) calendar days constitutes a failure to meet a deadline and is subject to the civil penalties established in the following Paragraph.

4. Failure to meet the limits, requirements, or deadlines of this CAO or the applicable approved schedules provided for herein constitutes a violation of this CAO. If Respondent fails to meet any limits, requirements, or deadlines, Respondent shall pay, on demand, to DEQ civil penalties according to the following schedule:

- |  |                |
|--|----------------|
| a) First day through the fourteenth day:     | \$100 per day  |
| (b) Fifteenth day through the thirtieth day: | \$500 per day  |
| (c) More than thirty days:                   | \$1000 per day |

Stipulated penalties shall be paid within thirty (30) calendar days of receipt of DEQ's demand to Respondent for such penalties. These stipulated penalties may be imposed for delay in scheduled performance and shall be in addition to any other remedies or sanctions that may be available to DEQ by reason of Respondent's failure to comply with the requirements of this CAO. DEQ reserves its rights to collect other penalties and fines pursuant to its enforcement authority in lieu of the stipulated penalties set forth above.

5. If any event, including, but not limited to, an occurrence of nature, causes or may cause a delay in the achievement of compliance by Respondent with the requirements or deadlines of this CAO, Respondent shall notify DEQ in writing as soon as reasonably possible after it is apparent that a delay will result, but in no case after the due dates have passed. The notification shall describe in detail the anticipated length of the delay, the precise cause of the

delay, the measures being taken and to be taken to minimize the delay, and the timetable by which those measures will be implemented.

6. DEQ may grant an extension of any provision of this CAO, provided that Respondent requests such an extension in writing and provided that the delay or anticipated delay has or will be caused by circumstances beyond the control of and without the fault of Respondent. The time for performance may be extended for a reasonable period, but in no event longer than the period of delay resulting from such circumstances. The burden of proving that any delay is caused by circumstances beyond the control of and without the fault of Respondent and the length of the delay attributable to such circumstances shall rest with Respondent. Failure to notify DEQ promptly, as provided in the previous Paragraph of the ORDER AND AGREEMENT, shall be grounds for a denial of an extension.

7. This CAO is subject to public review and comment in accordance with Ark. Code Ann. § 8-4-103(d), and therefore is not effective until thirty (30) calendar days after public notice of the CAO is given. DEQ retains the right and discretion to rescind this CAO based on comments received within the thirty (30) day public comment period.


8. As provided by APC&EC Rule 8, this matter is subject to being reopened upon Commission initiative or in the event a petition to set aside this CAO is granted by the Commission.

9. Nothing contained in this CAO shall relieve Respondent of any obligations imposed by any other applicable local, state, or federal laws. Except as specifically provided herein, nothing contained in this CAO shall be deemed in any way to relieve Respondent of responsibilities contained in the permit.

10. Nothing in this CAO shall be construed as a waiver by DEQ of its enforcement authority over alleged violations not specifically addressed herein. In addition, this CAO neither exonerates Respondent from any past, present, or future conduct that is not expressly addressed herein, nor relieves Respondent of the responsibilities for obtaining any necessary permits.

11. By virtue of the signature appearing below, the individual represents that he or she is a Managing Member of Respondent, being duly authorized to execute and bind Respondent to the terms contained herein. Execution of this CAO by an individual other than a Managing Member of Respondent shall be accompanied by a resolution granting signature authority to that individual as duly ratified by the governing body of the entity.

SO ORDERED THIS 12TH DAY OF SEPTEMBER 2022.

  
\_\_\_\_\_  
JULIE LINCK, CHIEF ADMINISTRATOR  
ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT,  
DIVISION OF ENVIRONMENTAL QUALITY

APPROVED AS TO FORM AND CONTENT:

SOUTHERN BAKERIES, LLC

BY:  (Signature)

Rickey G. Ledbetter (Typed or printed name)

TITLE: Executive V.P. & Gen. Mgr. / Managing Member

DATE: September 06, 2022