

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

AFIN: 22-00018

LIS No. 18-058

SEAARK, LLC
728 WEST PATTON
MONTICELLO, AR 71657

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) Regulation 7, APC&EC Regulation 8, APC&EC Regulation 18, and APC&EC Regulation 19.

The issues herein having been settled by agreement of SeaArk, LLC (Respondent) and the Director of the Arkansas Department of Environmental Quality (ADEQ), 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 an aluminum boat manufacturing facility located at 728 West Patton in Monticello, Drew County, Arkansas.
2. The investigation noted in this CAO covered Air Operating Permit 1971-AR-2 (the Permit). The Permit was issued on July 18, 2016 and is currently still in effect.

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, regulation, or order adopted by the Arkansas Pollution Control and Ecology Commission under this chapter or of a permit issued under this chapter by the Arkansas Department of Environmental Quality.

4. Ark. Code Ann. § 8-4-103(c)(1)(A) as referenced by Ark. Code Ann. §§ 8-4-304 and 8-4-311 authorizes ADEQ to assess an administrative civil penalty not to exceed ten thousand dollars (\$10,000) per violation for any violation of any provision of the Act and any regulation or permit issued pursuant to the Act.

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. On October 12, 2017, ADEQ personnel conducted a routine compliance inspection of Respondent’s facility for the reporting period of September 2016 through August 2017.

7. Specific Condition 6 of the Permit specifies the VOC content limits of products used at each of its sources. The compliance inspection revealed that Respondent used numerous products that contained VOC in excess of the specified limits at sources SN-02 through SN-08, SN-10, and SN-11 during this reporting period. Such acts violate Specific Condition 6 of the Permit and therefore violate Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304. For a list of the products that exceeded the VOC limits and the number of events that occurred at each source see Appendix A, Table 1.

8. Specific Condition 8 of the Permit specifies the material throughput limits

allowed at each of its sources. The compliance inspection revealed that Respondent had exceeded the specified material throughput limits at sources SN-02 through SN-09 during this reporting period. Such acts violate Specific Condition 8 of the Permit and therefore violate Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304. For a list of the material throughput limits that were exceeded and the number of events that occurred at each source see Appendix B, Table 2.

9. In correspondence dated November 8, 2017, ADEQ informed Respondent of the compliance issues identified during the October 12, 2017 routine compliance inspection. This was intended to provide Respondent with the opportunity to review the violations and submit information Respondent deemed appropriate regarding the compliance issues.

10. In correspondence dated December 12, 2017, Respondent stated that it will be submitting a permit modification application to address the inspection findings. To date, Respondent has not submitted said permit modification application.

11. In correspondence dated January 18, 2018, ADEQ informed Respondent that the compliance issues noted in ADEQ's November 8, 2017 correspondence were proceeding through formal enforcement channels.

ORDER AND AGREEMENT

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

1. Within thirty (30) calendar days of the effective date of this CAO, Respondent shall perform either Option A or Option B:

Option A: Submit a written letter of assurance to *ADEQ, Office of Air Quality* –

Enforcement Section, 5301 Northshore Drive, North Little Rock, Arkansas 72118-5317, that Respondent's compliance with the limits of Specific Condition 6 and Specific Condition 8 of the Permit are achievable and can be maintained; or

Option B: Submit a permit modification application requesting that the limits of Specific Condition 6 and/or Specific Condition 8 of the Permit be changed to levels that Respondent can achieve and maintain.

2. In compromise and full settlement of the violations specified in the FINDINGS OF FACT, Respondent agrees to pay a civil penalty of **FORTY-ONE THOUSAND EIGHT HUNDRED FIFTY DOLLARS (41,850.00)**, or one-half of the penalty, **TWENTY THOUSAND NINE HUNDRED TWENTY-FIVE DOLLARS (\$20,925.00)** if this CAO is signed and returned to Air Enforcement Section, ADEQ, 5301 Northshore Drive, North Little Rock, Arkansas 72118-5317, prior to 4:00 p.m. on **July 1, 2018**. Payment is due within thirty (30) calendar days of the effective date of this CAO. Such payment shall be made payable to:

ADEQ, 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, ADEQ shall be entitled to attorneys' fees and costs associated with collection.

3. All applicable submissions required by this CAO are subject to approval by ADEQ. In the event of any deficiency, Respondent shall, within fifteen (15) calendar days of notification by ADEQ, submit any additional information requested. Failure to adequately respond 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 said CAO. If Respondent fails to meet any limits, requirements, or deadlines, Respondent shall pay, on demand, to ADEQ 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 ADEQ'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 which may be available to ADEQ by reason of Respondent's failure to comply with the requirements of this CAO. ADEQ 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 ADEQ 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. ADEQ 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 ADEQ 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. ADEQ retains the right and discretion to rescind this CAO based on comments received within the thirty-day public comment period.

8. As provided by APC&EC Regulation 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, nor, except as specifically provided herein, shall this CAO 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 ADEQ of its enforcement authority over alleged violations not specifically addressed herein. In addition, this CAO does not exonerate Respondent from any past, present, or future conduct which is not expressly addressed herein, nor does it relieve 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 said individual as duly ratified by the governing body of the entity.

SO ORDERED THIS 2nd DAY OF July, 2018.

Becky W. Knogh
BECKY W. KNOGH, DIRECTOR

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

APPROVED AS TO FORM AND CONTENT:

SEAARK, LLC

BY: [Signature] (Signature)

Steve Henderson (Typed or printed name)

TITLE: President / Managing Member

DATE: 6/27/18

Appendix A, Table 1. List of Sources at Which Products Used had VOC Content that Exceeded Allowed Limits

Source(s)	Month/Year	Product	VOC Limit lb/gal	VOC Content lb/gal	Number of Events
SN-02	September 2016, December 2016, February 2017, March 2017, May 2017	Primer Catalyst, Wash, 2016	6.44	6.67	5
SN-03	September 2016, December 2016, February 2017, March 2017, May 2017	Primer Catalyst, Wash, 2016	6.29	6.67	5
SN-04, SN-05, SN-06, SN-07, & SN-08	February 2017	Paint, Cobblestone, 2017, Nat Gear Camo	6.42	9.59	1
SN-04, SN-05, SN-06, SN-07, & SN-08	February 2017	Paint, Major Brown, 2017, Nat Gear Camo	6.42	9.59	1
SN-04, SN-05, SN-06, SN-07, & SN-08	February 2017	Paint, Hazel, 2017, Nat Gear Camo	6.42	9.76	1
SN-10 & SN-11	September 2016 October 2016	Accelerator, Urethane	3.85	6.71	2
SN-10 & SN-11	September 2016 October 2016 May 2017	Catalyst, Urethane Primer	3.85	4.38	3
SN-10 & SN-11	September 2016 November 2016 December 2016	Catalyst, Polane B	3.85	7.03	3
SN-10 & SN-11	September 2016 October 2016 November 2016 December 2016 February 2017 March 2017 June 2017 July 2017 August 2017	Paint, Urethane, Patriot Red, 2016	3.85	4.33	9

[Handwritten signature]

Appendix A, Table 1. List of Sources at Which Products Used had VOC Content that Exceeded Allowed Limits

Source(s)	Month/Year	Product	VOC Limit lb/gal	VOC Content lb/gal	Number of Events
SN-10 & SN-11	September 2016 October 2016 November 2016 February 2017 March 2017 June 2017 July 2017 August 2017	Paint, Urethane, Mystic White, 2017	3.85	4.64	8
SN-10 & SN-11	September 2016 October 2016 January 2017 March 2017 July 2017 August 2017	Paint, Urethane, Coastal Green, 2017	3.85	4.58	6
SN-10 & SN-11	September 2016 October 2016 November 2016 May 2017 June 2017 July 2017 August 2017	Paint, Urethane, Sparkle Silver, 2017	3.85	3.88	7
SN-10 & SN-11	September 2016 October 2016 November 2016 March 2017 May 2017 June 2017 July 2017 August 2017	Reducer, Catalyst for Wash Primer	3.85	6.35	8
SN-10 & SN-11	September 2016 October 2016 May 2017 July 2017	Reducer, Urethane	3.85	6.76	4
SN-10 & SN-11	September 2016 October 2016 February 2017	Reducer, Polane 69	3.85	7.03	3
SN-10 & SN-11	September 2016 February 2017	Catalyst, Primer Genesis	3.85	4.38	2

ORIGINAL

Appendix A, Table 1. List of Sources at Which Products Used had VOC Content that Exceeded Allowed Limits

Source(s)	Month/Year	Product	VOC Limit lb/gal	VOC Content lb/gal	Number of Events
SN-10 & SN-11	September 2016 March 2017 May 2017	Additive, Urethane, Genesis	3.85	8.03	3
TOTAL EVENTS					71

Appendix B, Table 2. List of Sources at Which Throughput of Material Exceeded Allowed Limits

Source	Month/Year	Material	Throughput Limit Gal./ 12 Months	Reported Throughput Gal./ 12 Months	Number of Events
SN-02	September 2016	Paint Products	1,200	1,282.5	1
SN-03	September 2016	Paint Products	1,200	1,282.5	1
SN-04, SN-05, SN-06, SN-07, & SN-08	January 2017	Paint Products	3,600	6,687.5	1
	February 2017			6,958.5	1
	March 2017			6,448	1
	April 2017			6,812	1
	May 2017			6,791	1
	June 2017			6,403	1
	July 2017			7,298	1
	August 2017			7,856	1
SN-09	September 2016	Acetone	60	110	1
	October 2016			110	1
	November 2016			110	1
	December 2016			110	1
	January 2017			110	1
	February 2017			110	1
	March 2017			110	1
	April 2017			155.8	1
	May 2017			201.7	1
	June 2017			247.5	1
	July 2017			293.3	1
	August 2017			339.2	1
TOTAL EVENTS					22