



**Walter Wright, Jr.**  
wwright@mwlaw.com  
(501) 688.8839

## Air Enforcement: Arkansas Department of Energy and Environment - Division of Environmental Quality and Malvern Clay Brick Manufacturing Facility Enter into Consent Administrative Order

08/17/2021

The Arkansas Department of Energy and Environment – Division of Environmental Quality (“DEQ”) and Acme Brick Company (“ABC”) entered into a Consent Administrative Order (“CAO”) addressing alleged violations of an air permit. See LIS No. 21-073.

The CAO provides that ABC owns and operates a clay brick manufacturing facility (“Facility”) in Malvern, Arkansas.

Three air permits are stated to have been issued to the facility. The most recent version of the permit is 1154-AOP-R7.

DEQ personnel are stated to have conducted a routine compliance inspection of the Facility for the reporting period of June 1, 2019 through May 31, 2020. Such inspection is stated to have allegedly determined the Facility failed to provide the semi-annual compliance reports for the Eastgate Tunnel Kiln (SN-14) and the Westgate Tunnel Kiln (SN-18) for certain specified reporting periods. It further provides:

Specific Conditions 44 and 45 of RS, R6, and R7, as well as 40 C.F.R Part § 63.8485 of Subpart JJJJ: National Emission Standards for Hazardous Air Pollutants for Brick and Structural Clay Products Manufacturing (Subpart JJJJ) require Respondent to provide semi-annual compliance reports for SN-14. Respondent did not include Subpart JJJJ semi-annual information when the Title V Semi-Annual Monitoring (SAM) Reports were submitted to DEQ on December 23, 2019.

The alleged failures are stated to violate Specific Conditions 44 and 45 of certain air permits.

The Facility is further alleged to have failed to conduct a performance test in SN-22 and SN-23 within 60 days after achieving the maximum production rate, but no later than 180 days after initial startup, therefore violating Specific Condition 100 of certain air permits and Specific Condition 101 of Permit R7.

ABC in response to DEQ provided semi-annual compliance information for certain time periods. It also stated that it has:

... closely reviewed the Preliminary Inspection Findings Report and it has worked to resolve these issues to better maintain compliance moving forward. In regards to the violation of Specific Condition 100 (Permit RS & Permit R6) and Specific Condition 101 (Permit R7), Respondent stated that a Method 9 test

had not been conducted at SN-22 (Impact Crusher) and SN-23 (Material Transfer), but was scheduled to be completed on September 10, 2020.

A protocol submitted to DEQ by the Facility indicates that Method 9 testing was set to be performed at SN-22 and SN-23 on September 10, 2020. Further, the CAO provides that opacity results from SN-22 and SN-23 (Impact Crusher and Material Transfer) were provided indicating that the visible emissions at the sources were within the requirements of Specific Condition 101 and Subpart 000 of Permit R7. Additional detail and explanations related to the alleged violations are stated to have been provided to DEQ on October 27, 2020, stating:

The response outlined that the facility misinterpreted the 40 CFR Part 63 reporting requirements and thought that the Title V SAM report would suffice for these requirements. Respondent stated that during an internal audit, it was discovered that SN-22 and SN-23 were subject to Subpart 000 requirements. To correct this violation, Respondent submitted a permit modification on May 11, 2018 and completed testing requirements on September 10, 2020.

ABC neither admits nor denies the factual and legal allegations contained in the CAO.

The CAO assesses a civil penalty of \$4,320.

A copy of the CAO can be downloaded [here](#).