

ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT,  
DIVISION OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

AFIN: 31-00010

LIS No. 24-148

CERTAINTEED GYPSUM MANUFACTURING, INC.  
794 STATE HIGHWAY 369 NORTH  
NASHVILLE, AR 71852

**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 CertainTeed Gypsum Manufacturing, Inc. (Respondent) and the Director 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 gypsum wallboard manufacturing facility located at 794 State Highway 369 North in Nashville, Howard County, Arkansas.
2. The Air Permit referenced in this CAO is 0598-AOP-R14 (the Permit). The Permit was issued on November 15, 2023.

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 DEQ;

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. On February 7, 2024, DEQ personnel performed a routine compliance inspection of the facility. The inspection reporting period was June 1, 2022, through December 31, 2023.

7. 40 C.F.R. § 60.674(c) (Subpart OOO) states that, except as specified in paragraph (d) or (e) of this section, the owner or operator of any affected facility for which construction, modification, or reconstruction commenced on or after April 22, 2008, that uses a baghouse to control emissions must conduct quarterly thirty-minute visible emissions inspections using EPA Method 22. The owner or operator must record each Method 22 test, including the date and any corrective actions taken, in the logbook required under § 60.676(b).

8. Specific Condition 19 of the Permit states that Respondent must conduct quarterly thirty-minute visible emissions inspections at Raymond Roller Mills #5 Bin Vent (SN-64) using EPA Method 22. Respondent must record each Method 22 test, including the date and any corrective actions taken, in the logbook required under 40 C.F.R. § 60.676(b).

9. Specific Condition 67 of the Permit states that Respondent must conduct quarterly

thirty-minute visible emissions inspections at Martin Air Cleaner Baghouse (SN-65) using EPA Method 22. Respondent must record each Method 22 test, including the date and any corrective actions taken, in the logbook required under 40 C.F.R. § 60.676(b).

10. During the inspection, it was revealed that Respondent failed to provide records of quarterly thirty-minute visible emissions inspections at SN-64 and SN-65 for the entire reporting period. Such failures violate Specific Condition 19 and Specific Condition 67 of the Permit and Subpart OOO and therefore violate Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

11. Specific Condition 84 of the Permit and 40 C.F.R. § 60.674(b) (Subpart OOO) states that the owner or operator of any affected facility for which construction, modification, or reconstruction commenced on or after April 22, 2008, that uses wet suppression to control emissions from the affected facility must perform monthly periodic inspections to check that water is flowing to discharge spray nozzles in the wet suppression system. The owner or operator must record each inspection of the water spray nozzles, including the date of each inspection and any corrective actions taken, in the logbook required under § 60.676(b).

12. During the inspection, it was revealed that Respondent failed to provide records of monthly inspections of the wet suppression system from November 2023 through March 2024. Such a failure violates Specific Condition 84 of the Permit and Subpart OOO 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 29, 2024, DEQ informed Respondent of the compliance issues identified during the February 7, 2024, inspection. This was intended to provide Respondent with the opportunity to review the violations and submit any additional information Respondent deemed appropriate regarding the compliance issues.

14. In correspondence dated March 25, 2024, Respondent stated and provided documentation for the following:

- a. The quarterly thirty-minute visible emissions inspections at SN-64 and SN-65 for Quarter 1 2024 had been completed.
- b. The installation of the Terex Screen (SN-71) and Telesmith Cone Crusher (SN-72) was completed in November 2023. The wet suppression system is the control equipment for SN-71 and SN-72.
- c. Intermittent issues with the wet suppression system caused monthly inspections to not occur.
- d. Repairs were completed and the wet suppression system was operational as of March 13, 2024.
- e. Daily, weekly, and monthly opacity readings were being performed.

15. In correspondence dated April 15, 2024, DEQ informed Respondent that formal enforcement action was proceeding regarding this matter.

### **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 thirty (30) calendar days of the effective date of this CAO, Respondent shall submit records of quarterly thirty-minute visible emissions inspections at SN-64 and SN-65 for Quarter 1 2024 to demonstrate compliance with Specific Conditions 19 and 67 of the Permit and Subpart OOO.
2. Within thirty (30) calendar days of the effective date of this CAO, Respondent shall

submit records of monthly inspections of the wet suppression system to demonstrate compliance with Specific Condition 84 of the Permit and Subpart 000. The records shall be submitted on a monthly basis for a period of six (6) months beginning with the month following the effective date of this CAO.

3. In compromise and full settlement of the violations specified in the FINDINGS OF FACT, Respondent agrees to pay a civil penalty of **EIGHT THOUSAND SIX HUNDRED FORTY DOLLARS (\$8,640.00)**. Payment is due within thirty (30) calendar days after 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.

4. 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.

5. 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.

6. 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.

7. 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.

8. 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.

9. 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.

10. 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.

11. 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.

12. By virtue of the signature appearing below, the individual represents that he or she is an Officer of Respondent, being duly authorized to execute and bind Respondent to the terms contained herein. Execution of this CAO by an individual other than an Officer 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 14 DAY OF October, 2024.

Bailey Taylor

BAILEY TAYLOR

CHIEF ADMINISTRATOR OF ENVIRONMENT AND DEQ DIRECTOR ARKANSAS  
DEPARTMENT OF ENERGY & ENVIRONMENT

APPROVED AS TO FORM AND CONTENT:

CERTAINTEED GYPSUM MANUFACTURING, INC.

BY: Gretchen Baker (Signature)

Gretchen Baker (Typed or printed name)

TITLE: Plant Manager

DATE: Sept. 30, 2024