

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

AFIN: 50-00006

LIS No. 18-028

FIRESTONE BUILDING PRODUCTS COMPANY, LLC  
1406 HIGHWAY 371 N  
PRESCOTT, AR 71857

**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 Firestone Building Products Company, 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 a rubber roofing manufacturing facility located at 1406 Highway 371 North in Prescott, Nevada County, Arkansas.
2. The investigation noted in this CAO covered Air Operating Permit 0698-AR-22 (the Permit). The Permit was issued on October 3, 2016 and was voided on April 17, 2017.

3. The current permit for this facility is Air Operating Permit 0698-AR-23 and was issued on April 17, 2017.

4. 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.

5. 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.

6. 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."

7. On April 13, 2017, ADEQ personnel conducted a full compliance inspection of Respondent's facility.

8. The inspection revealed that Respondent failed to conduct annual visible emissions observations for opacity at Emergency Diesel Fire Pump (SN-503) and Emergency Diesel Generator (SN-504) in 2013, 2014, 2015, and 2016 as required by Specific Condition 52. Such failures violate Specific Condition 52 of the Permit and therefore violate Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

9. The inspection also revealed that Respondent failed to conduct annual visible emissions observations for opacity at Emergency Diesel Air Compressors (SN-505 and SN-506)

in 2013, as required by Specific Condition 70. Such failures violate Specific Condition 70 of the Permit and therefore violate Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

10. In correspondence dated April 24, 2017, ADEQ informed Respondent of the issues identified in the inspection conducted April 13, 2017. This letter was intended to provide Respondent with the opportunity to review the issues identified and submit additional information Respondent deemed appropriate.

11. In correspondence dated June 23, 2017, ADEQ informed Respondent that the issues identified for Specific Conditions 52 and 70 were proceeding through formal enforcement. This letter was intended to provide Respondent with the opportunity to submit additional information regarding the issues identified.

12. On June 29, 2017, Respondent contacted ADEQ personnel about records for their facility. In the conversation, Respondent provided that during the inspection the opacity records could not be located due to changes in staff, but had since been found and ready to submit to ADEQ. Also, Respondent provided that they did not receive the correspondence from April 24, 2017. The delivery record from the United States Postal Service shows that the correspondence was delivered on April 27, 2017.

13. In response to the June 29, 2017 conversation, Respondent emailed records and additional information to ADEQ to be considered. A review of the records by the Inspector indicated that compliance still was not demonstrated for the annual visible emission observations for 2013, 2014, 2015, and 2016; however the proposed visible emissions observation form created would be sufficient moving forward.

**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 sixty (60) calendar days of the effective date of this CAO, Respondent shall submit to ADEQ annual visible emissions for the opacity limits assigned for SN-503 and SN-504 for the year 2017 to show compliance with Specific Condition 52.

2. Within sixty (60) calendar days of the effective date of this CAO, Respondent shall submit to ADEQ annual visible emissions for the opacity limits assigned for SN-505 and SN-506 for the year 2017 to show compliance with Specific Condition 70.

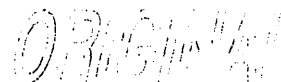
3. All records shall be mailed to:

ADEQ, Office of Air Quality  
-Enforcement Section  
5301 Northshore Drive  
North Little Rock, Arkansas 72118-5317

4. In compromise and full settlement of the violations specified in the FINDINGS OF FACT, Respondent agrees to pay a civil penalty of **FOUR THOUSAND DOLLARS (\$4,000.00)**, or one-half of the penalty, **TWO THOUSAND DOLLARS (\$2,000.00)** 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 **March 21, 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.

5. 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.

6. 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 consents and agrees to 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.

7. 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.

8. 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.

9. 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.

10. 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.

11. 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.

12. 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.

13. 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 16 DAY OF March, 2018.

Becky W. Keogh  
BECKY W. KEOGH, DIRECTOR

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

APPROVED AS TO FORM AND CONTENT:

FIRESTONE BUILDING PRODUCTS COMPANY, LLC

BY: Kevin R. Ward (Signature)

Kevin R. Ward (Typed or printed name)

TITLE: Plant Manager

DATE: MARCH 17, 2018

*[Faint stamp or signature]*