

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

AFIN: 60-00118

LIS No. 17-103

TUBO-FGS, L.L.C.
d/b/a FIBER GLASS SYSTEMS
2700 WEST 65TH STREET
LITTLE ROCK, ARKANSAS 72209



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 Tubo-FGS, L.L.C. d/b/a Fiber Glass Systems ("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 facility located at 2700 West 65th Street in Little Rock, Pulaski County, Arkansas. This facility manufactures chemically resistant fiberglass reinforced plastic piping systems for industrial use.

2. The investigation noted in this CAO covered two (2) air permits. Air Permit 0587-AR-10 ("Permit R10") was issued on July 19, 2012, and was voided on August 3, 2015. Air Permit 0587-AR-11 ("Permit R11") was issued on August 3, 2015, 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 February 14 and 16, 2017, ADEQ personnel conducted a full compliance inspection of Respondent's facility. The inspection covered the reporting period of January 2015 through December 2016.

7. The inspection revealed that Respondent exceeded the permitted emission rate limits for Volatile Organic Compound (VOC) excluding Styrene. Under Permit R10, the emission rate limit for VOC excluding Styrene was 40.2 tons per consecutive 12-month period. Under Permit R11, the emission rate limit for VOC excluding Styrene is 43 tons per consecutive

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12-month period. Records reviewed during the inspection indicated that Respondent exceeded the VOC consecutive 12-month emission rate limit on sixteen (16) occasions. Respondent exceeded the VOC consecutive 12-month emission rate limit in Permit R10 seven (7) times from January 2015 through July 2015. Respondent exceeded the VOC consecutive 12-month emission rate limit in Permit R11 nine (9) times from August 2015 through November 2016. The exceedances of the 12-month emission rates are listed in the table below. Such acts violate Specific Condition 8 of Permits R10 and R11 and therefore violate Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

Month	VOC (excluding Styrene) 12-Month Rolling Total (tpy)	VOC (excluding Styrene) 12-Month Rolling Total (tpy) LIMIT
January 2015	60.2	40.2
February 2015	58.7	40.2
March 2015	59.0	40.2
April 2015	57.9	40.2
May 2015	55.7	40.2
June 2015	53.9	40.2
July 2015	52.6	40.2
August 2015	50.4	43.0
September 2015	48.9	43.0
October 2015	47.4	43.0
November 2015	45.7	43.0
December 2015	45.1	43.0
January 2016	44.0	43.0
February 2016	43.4	43.0
March 2016	43.1	43.0
November 2016	44.0	43.0

8. In a letter dated March 8, 2017, ADEQ informed Respondent of the compliance issues identified in the inspection conducted on February 14 and 16, 2017. This letter was intended to give Respondent an opportunity to review the issues identified and submit any

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additional information Respondent deems appropriate.

9. Respondent submitted a response dated April 6, 2017, to the March 8, 2017 letter. The response letter included an Air Permit Modification Application, in which Respondent requests to raise the Specific Condition 8 VOC emission rate limit from 43 tons per consecutive 12-month period to 95 tons per consecutive 12-month period.

10. ADEQ received the permit modification application on April 7, 2017, and it was deemed administratively complete on April 10, 2017. The permit modification application is currently under review.

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. This CAO addresses all violations addressed in the FINDINGS OF FACT.
2. Until such time as ADEQ issues a final air permitting decision on the application referenced herein, Respondent may, at its own risk and with no guarantee that a final permit will be issued, operate in accordance with the information and specifications set forth in the application as it existed at ADEQ on April 7, 2017.
3. After a final permitting decision is issued, operations shall then continue in accordance with the terms and conditions of the air permit. During any time in which operations are conducted under the air permit, Respondent shall maintain all records necessary to demonstrate compliance with the throughput, usage, and emission rates contained in the air permit. Such records shall be maintained on-site and made available to ADEQ upon request.
4. Any subsequent changes formally made by ADEQ to the application are hereby

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incorporated by reference into this CAO. After a final permitting decision is issued, Respondent's operations shall conform to the final permitting decision.

5. In compromise and full settlement of the violations specified in the FINDINGS OF FACT, Respondent agrees to pay a civil penalty of **THREE THOUSAND TWO HUNDRED DOLLARS (\$3,200.00)**, or one-half of the penalty, **ONE THOUSAND SIX HUNDRED DOLLARS (\$1,600.00)** 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 **November 5, 2017**. 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.

6. 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.

7. 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:

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|--|----------------|
| (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.

8. 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.

9. 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

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to notify ADEQ promptly, as provided in the previous Paragraph of the ORDER AND AGREEMENT, shall be grounds for a denial of an extension.

10. 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.

11. 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.

12. 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.

13. 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.

14. 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 said individual as duly ratified by the governing body of the entity.

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SO ORDERED THIS 15 DAY OF November, 2017.

Becky W. Keogh
BECKY W. KEOGH, DIRECTOR

ARKANSAS DEPARTMENT OF
ENVIRONMENTAL QUALITY

APPROVED AS TO FORM AND CONTENT:

TUBO-FGS, L.L.C.
d/b/a FIBER GLASS SYSTEMS

BY: Bill Crabbe (Signature)

Bill Crabbe (Typed or printed name)

TITLE: V.P. Global HSE/Managing Member

DATE: 10/31/2017

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