

**ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT,
DIVISION OF ENVIRONMENTAL QUALITY**

IN THE MATTER OF:

AFIN: 60-00004

LIS No. 21-084

POROCEL INDUSTRIES, LLC
10300 ARCH STREET PIKE
LITTLE ROCK, AR 72206

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 Porocel Industries, LLC (Respondent) and the Director of the Division of Environmental Quality¹ (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 mineral and product materials processing facility located at 10300 Arch Street Pike in Little Rock, Pulaski County, Arkansas.

2. There are two (2) Air Permits referenced in this CAO. 0635-AR-20 (Permit R20)

¹ Pursuant to Act 910 of 2019, the Arkansas Transformation and Efficiencies Act, the former Arkansas Department of Environmental Quality is now the Division of Environmental Quality in the newly created Arkansas Department of Energy and Environment.

was issued on July 31, 2018 and voided on June 13, 2019. 0635-AR-21 (Permit R21) was issued on June 13, 2019.

3. In correspondence dated February 15, 2019, DEQ approved changes to Permit R20 to permit a tray dryer as SN-A-68. Specific Condition 23 of Permit R20 was revised to include SN-A-68.

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 or order adopted by the Arkansas Pollution Control and Ecology Commission under this chapter or of a permit issued under this chapter by the Division of Environmental Quality;

5. 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.”

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. Respondent is an affected facility that is subject to the requirements of 40 C.F.R. Part 60, Subpart UUU — Standards of Performance for Calciners and Dryers in Mineral Industries (Subpart UUU).

8. Specific Condition 23 of the Permit provides that each owner or operator of any affected facility that is subject to the requirements of Subpart UUU shall comply with the emission limitations set forth therein on and after the date on which the initial performance test

required by § 60.8 is completed, but not later than 180 days after the initial startup, whichever date comes first. Performance tests are required for Source Numbers A-53, A-66, A-67, and A-68. No emissions shall be discharged into the atmosphere from any affected facility that:

- a. Contains particulate matter in excess of 0.092 gram per dry standard cubic meter (g/dscm) [0.040 grain per dry standard cubic foot (gr/dscf)] for Calciners and for Calciners and dryers installed in series and in excess of 0.057 g/dscm (0.025 gr/dscf) for dryers (All calciner and burner sources are installed in series); and
- b. Exhibits greater than 10 percent opacity, unless the emissions are discharged from an affected facility using a wet scrubbing control device.

9. On March 29, 2021, DEQ personnel conducted an inspection of Respondent's facility covering the period of August 1, 2018, through February 28, 2021.

10. The inspection revealed that Respondent failed to conduct the required initial performance testing for particulate matter and opacity at SN-A-66, SN-A-67, and SN-A-68. Such failures violate Specific Condition 23 of Permit R20 and Permit R21 and therefore violate Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304. The initial startup dates and the testing due dates are presented in the following table.

Initial Performance Test Due Dates, Subpart UUU		
Source Number	Initial Startup Date	Test Due Date
A-66	July 2018	January 2019
A-67	September 2018	March 2019
A-68	September 2018	March 2019

11. In correspondence dated April 14, 2021, DEQ informed Respondent of the compliance issues identified during the inspection that was conducted on March 29, 2021. 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.

12. In correspondence dated May 24, 2021, Trinity Consultants, Inc., on behalf of

Respondent, stated that several factors delayed the initial performance testing of these sources for particulate matter. Such factors included satisfying initial testing of SN-A-66, SN-A-67 for NO_x emissions that took precedence over particulate matter testing, production delays driven by lack of customer demand, and facility process shutdowns due to COVID-19.

13. On May 27, 2021, DEQ received Respondent's stack testing protocol for initial testing of SN-A-66, SN-A-67, and SN-A-68. The testing was scheduled for June 22, 2021.

14. On June 22, 2021, DEQ personnel were informed that the initial testing of SN-A-66, SN-A-67, and SN-A-68 was cancelled and would be rescheduled for a later date.

15. In correspondence dated June 16, 2021, DEQ informed Respondent that formal enforcement action was proceeding in 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 fifteen (15) calendar days of the effective date of this CAO, Respondent shall demonstrate compliance with initial performance testing of SN-A-66, SN-A-67, and SN-A-68 particulate matter emission limits and opacity limits of Specific Condition 23 of Permit R21.

2. Within sixty (60) calendar days after the completion of the initial performance testing of SN-A-66, SN-A-67, and SN-A-68, Respondent shall submit the test results of the initial performance testing to DEQ.

3. In compromise and full settlement of the violations specified in the FINDINGS OF FACT, Respondent agrees to pay a civil penalty of **THREE THOUSAND EIGHT HUNDRED FORTY DOLLARS (\$3,840.00)**. Payment is due within thirty (30) calendar days

of 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 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.

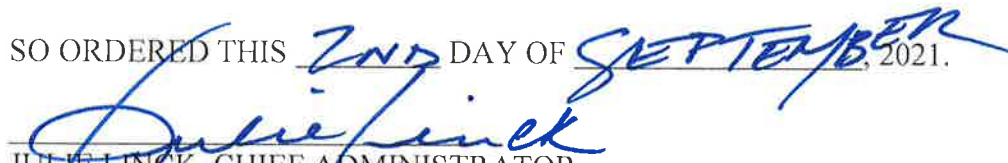
10. Nothing contained in this CAO shall relieve Respondent of any obligations

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 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 SEPTEMBER, 2021.


JULIE LINCK, CHIEF ADMINISTRATOR
ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT,
DIVISION OF ENVIRONMENTAL QUALITY

APPROVED AS TO FORM AND CONTENT:

POROCEL INDUSTRIES, LLC

BY: Gerald Ashford (Signature)

Gerald Ashford (Typed or printed name)

TITLE: Plant Manager

DATE: 8/30/2021