

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

IN THE MATTER OF:

AFIN: 46-00257

LIS No. 23-042

SAMSAND, LLC
2327 MILLER COUNTY ROAD 381 SOUTH
GARLAND, AR 71839

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, and APC&EC Rule 19.

The issues herein having been settled by agreement of Samsand, LLC (Respondent) and the Chief Administrator 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 sand processing facility located at 2327 Miller County Road 381 South in Garland, Miller County, Arkansas.
2. The Air Permit referenced in this CAO is 2223-A (the Permit). The Permit was issued on June 15, 2010.

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 the Division of Environmental Quality;

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 October 6, 2022, DEQ personnel performed a routine compliance inspection of the facility for the reporting period October 1, 2017 through September 30, 2022.

7. Specific Condition 7 states that Respondent shall install, calibrate, maintain, and operate monitoring devices that continuously measure and record the pressure loss of the gas stream through the scrubber, SN-05, and the scrubbing liquid flow rate through the scrubber. The pressure loss monitoring device must be certified by the manufacturer to be accurate within five percent of the water column gauge pressure at the level of operations. These records must be retained for at least two (2) years, kept on site, and made available to Department personnel upon request.

8. Specific Condition 8 states that Respondent shall once per day determine and record, from the monitoring devices in Specific Condition 7, an arithmetic average over a two hour period of both the change in pressure of the gas stream across the scrubber and the flow rate of the scrubbing liquid.

9. 40 C.F.R. Part 60 Subpart UUU – Standards of Performance for Calciners and Dryers in Mineral Industries, § 60.734(d) states that an affected facility subject to the provisions of this subpart that uses a wet scrubber to comply with the mass emission standard shall install, calibrate, maintain, and operate monitoring devices that continuously measure and record the pressure loss of the gas stream through the scrubber and the scrubbing liquid flow rate to the scrubber. The pressure loss monitoring device must be certified by the manufacturer to be accurate within five percent of water column gauge pressure at the level of operation. The liquid flow rate monitoring device must be certified by the manufacturer to be accurate within five percent of design scrubbing liquid flow rate.

10. 40 C.F.R. Part 60 Subpart UUU – Standards of Performance for Calciners and Dryers in Mineral Industries, § 60.735(b) states that each owner or operator who uses a wet scrubber to comply with § 60.732 shall determine and record once each day, from the recordings of the monitoring devices in § 60.734(d), an arithmetic average over a two-hour period of both the change in pressure of the gas stream across the scrubber and the flowrate of the scrubbing liquid.

11. During the inspection, it was revealed that Respondent failed to install a pressure loss measuring device, measure and record the installed flow meter for the entire reporting period, and produce daily pressure loss records for the Natural Gas Fired Heater with Scrubber (SN-05) for the reporting period October 1, 2017 through September 30, 2022. Such failures violate Specific Condition 7 and 8 of the Permit and Subpart UUU and therefore violate Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

12. General Condition 16 states that the Permit authorizes only those pollutant emitting activities addressed therein.

13. During the inspection, it was revealed that Respondent implemented changes to the facility without first obtaining a new permit. The changes included screen reconfiguration and updating, rotary dryer drum and burner updates, the addition of two (2) product silos and associated truck loadouts, and the addition of two (2) diesel and gasoline storage tanks. Such acts violate General Condition 16 of the Permit and therefore violate Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

14. In correspondence dated November 4, 2022, DEQ informed Respondent of the compliance issues identified during the October 6, 2022 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.

15. In correspondence dated December 29, 2022, 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, to demonstrate compliance with Specific Condition 7, Respondent shall install a pressure loss measuring device.

2. Within thirty (30) calendar days after the installation of the pressure loss measuring device, Respondent shall submit pressure loss and flow rate records showing compliance with Specific Conditions 7 and 8 and Subpart UUU for a period of six (6) months. Records shall be submitted to:

DEQ, Office of Air Quality
Enforcement Program
5301 Northshore Drive
North Little Rock, Arkansas 72118-5317.

3. Within sixty (60) calendar days of the effective date of this CAO, Respondent shall submit a permit modification application to address the facility changes outlined in Paragraph 13 of the Findings of Fact.

4. In compromise and full settlement of the violations specified in the FINDINGS OF FACT, Respondent agrees to pay a civil penalty of **TWELVE THOUSAND NINE HUNDRED SIXTY DOLLARS (\$12,960.00)**, or one-half of the penalty, **SIX THOUSAND FOUR HUNDRED EIGHTY DOLLARS (\$6,480.00)** if this CAO is signed and returned to Air Enforcement Program, DEQ, 5301 Northshore Drive, North Little Rock, Arkansas 72118-5317, prior to 4:00 p.m. on **June 2, 2023**. 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.

5. 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.

6. 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.

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 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.

8. 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.

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. DEQ retains the right and discretion to rescind this CAO based on comments received within the thirty (30) day public comment period.

10. 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.


11. 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.

12. 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.

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 02 DAY OF June, 2023.



CALEB J. OSBORNE
DIVISION OF ENVIRONMENTAL QUALITY, DIRECTOR
CHIEF ADMINISTRATOR, ENVIRONMENT
ARKANSAS DEPARTMENT OF ENERGY & ENVIRONMENT

APPROVED AS TO FORM AND CONTENT:

SAMSAND, LLC

BY:  (Signature)

Brock Brinkman (Typed or printed name)

TITLE: PRESIDENT

DATE: 6/1/23