

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

IN THE MATTER OF:

AFIN: 44-00050

LIS No. 23-071

DUCOMMUN LABARGE TECHNOLOGIES, INC.
403 LABARGE AVENUE
HUNTSVILLE, AR 72740

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 Ducommun LaBarge Technologies, Inc. (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 an electronic assembly manufacturing facility located at 403 LaBarge Avenue in Huntsville, Madison County, Arkansas.

2. 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;

3. 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.”

4. 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.”

5. APC&EC Rule 18.301 states that no person shall cause or permit the operation, construction, or modification of a stationary source, which actually emits two (2) tons per year (tpy) or more of any single hazardous air pollutant or five (5) tons per year (tpy) or more of any combination of hazardous air pollutants.

6. On October 25, 2022, Respondent submitted a registration application. A review of the application revealed Respondent’s usage of a new Hazardous Air Pollutant (HAP), n-Propyl Bromide.

7. In correspondence dated December 2, 2022, DEQ personnel requested additional information regarding the submission of the October 2022 registration application.

8. In correspondence dated December 8, 2022, and December 15, 2022, Respondent provided the requested information.

9. In a phone call on or about February 21, 2023, DEQ personnel determined that Respondent needed to submit a minor source permit application rather than a registration application.

10. On February 21, 2023, Respondent submitted a minor source permit application.

11. On March 30, 2023, Respondent submitted a Hazardous Air Pollutant (HAP) emissions spreadsheet.

12. A review of the minor source permit application and the supplied HAP emissions spreadsheets revealed that Respondent exceeded the regulatory emission limit of two (2) tpy of any single HAP for pollutant n-Propyl Bromide as shown in Table 1. Exceeding the emission limit requires a permit to operate the facility. The facility did not have an active permit. Therefore, Respondent operated the facility without a permit. Such an act violates APC&EC Rule 18.301 and therefore violates Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

Table 1		
Pollutant	Spreadsheet Emissions (Tons Per Year)	Permit Emissions Limit (Tons Per Year)
n-Propyl Bromide	3.7	2

13. In correspondence dated April 10, 2023, DEQ informed Respondent that formal enforcement action was proceeding regarding this matter.

14. In correspondence dated April 19, 2023, Respondent provided that it had found an alternative solvent that would reduce HAPs emissions, likely below the level of minor source permitting, that it would implement in its process by June 2023.

15. In correspondence dated April 19, 2023, DEQ requested HAP emissions records for the alternative solvent that would show total single HAP emissions below the minor source permitting level. DEQ also informed Respondent that such records may determine that Respondent

does not require an air permit.

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. Respondent shall perform either option A or option B for n-Propyl Bromide emissions in accordance with APC&EC Rule 18.301.

Option A: Until such times as the permit becomes final, Respondent should operate in accordance with the application submitted on February 21, 2023.

Or

Option B: If Respondent withdraws the permit application submitted on February 21, 2023 due to a determination that total single HAP emissions are below 2 tpy, within sixty (60) calendar days of the effective date of this CAO, Respondent shall submit HAPs emissions records showing compliance with APC&EC Rule 18.301 for a period of six months.

2. If Option B is chosen, the records shall be submitted to:

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

3. Within fifteen (15) calendar days of the effective date of this CAO, Respondent shall inform DEQ which option(s) Respondent chooses for ORDER AND AGREEMENT Paragraph 1.

4. In compromise and full settlement of the violations specified in the FINDINGS OF FACT, Respondent agrees to pay a civil penalty of **ONE THOUSAND SEVEN HUNDRED**

SIXTY DOLLARS (\$1,760.00), or one-half of the penalty, **EIGHT HUNDRED EIGHTY DOLLARS (\$880.00)** if this CAO is signed and returned to Air Enforcement Section, DEQ, 5301 Northshore Drive, North Little Rock, Arkansas 72118-5317, prior to 4:00 p.m. on **October 11, 2023**. 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.

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 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 22^d DAY OF September, 2023.



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

APPROVED AS TO FORM AND CONTENT:

DUCOMMUN LARBARGE TECHNOLOGIES, INC.

BY:  (Signature)

Allison Pinson (Typed or printed name)

TITLE: Performance Center Director

DATE: 9/19/23