

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

IN THE MATTER OF:

AFIN: 20-00042

LIS No. 25-034

TRANSITECH INC.  
622 W. 6TH STREET  
FORDYCE, ARKANSAS 71742

**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, now codified at 8 CAR § 10-101 *et seq.*, APC&EC Rule 8 (8 CAR § 11-101 *et seq.*), APC&EC Rule 18 (8 CAR § 40-101 *et seq.*), and APC&EC Rule 19 (8 CAR § 41-101 *et seq.*).

The issues herein having been settled by agreement of Transitech Inc. (Respondent) and the Director 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 railway tank car refurbishing facility located at 622 W. 6th Street in Fordyce, Dallas County, Arkansas.
2. The Air Permit referenced in this CAO is 0687-AR-4 (the Permit). The Permit was issued on June 30, 1995.

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 DEQ;
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 May 1, 2024, DEQ personnel conducted a full compliance inspection of Respondent’s facility. The inspection covered the reporting period of April 2022 through March 2024.
7. Ark. Code Ann. § 8-4-310(a)(2) states that it is a misdemeanor punishable under § 8-4-103 to construct, install, use, or operate any source capable of emitting air contaminants without having first obtained a permit to do so, if required by rule of the Arkansas Pollution Control and Ecology Commission, or to do so contrary to the provisions of any permit issued by DEQ or after any such permit has been suspended or revoked.
8. During the inspection, the review of paint usage records revealed that Respondent was emitting unpermitted Hazardous Air Pollutants (HAPs) from the use of paints containing HAPs at its railcar refinishing process. Respondent’s current Air Operating Permit does not authorize the emission of HAPs. Such an act violates Ark. Code Ann. § 8-4-310(a)(2) and therefore Ark. Code

Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

9. In a letter dated May 30, 2024, DEQ informed Respondent of the compliance issues identified during the inspection conducted on May 1, 2024. This letter was intended to give Respondent an opportunity to review the issues identified and submit any additional information Respondent deemed appropriate.

10. In correspondence dated September 11, 2024, 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, Respondent shall submit to DEQ a Permit Modification Application to add HAPs to Respondent's permit.

2. In compromise and full settlement of the violations specified in the FINDINGS OF FACT, Respondent agrees to pay a civil penalty of **NINE THOUSAND SIX HUNDRED DOLLARS (\$9,600.00)**, or one-half of the penalty, **FOUR THOUSAND EIGHT HUNDRED DOLLARS (\$4,800.00)** 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 **May 15, 2025**. Payment is due within thirty (30) calendar days after the effective date of this CAO. Such payment shall be made payable to:

DEQ, Fiscal Services  
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.

3. 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.

4. 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.

5. 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.

6. 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.

7. 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.

8. As provided by APC&EC Rule 8, now codified at 8 CAR § 11-101, *et seq.*, 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.

9. 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.

10. 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.

11. 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 30 DAY OF April, 2025.

Bailey Taylor

BAILEY TAYLOR

CHIEF ADMINISTRATOR OF ENVIRONMENT AND DEQ DIRECTOR  
ARKANSAS DEPARTMENT OF ENERGY & ENVIRONMENT

APPROVED AS TO FORM AND CONTENT:

TRANSITECH INC.

BY: James L Morgan (Signature)

JAMES L. MORGAN (Typed or printed name)

TITLE: PRESIDENT

DATE: April 23, 2025