

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

IN THE MATTER OF:

AFIN: 31-00010

LIS No. 25-044

CERTAINTEED GYPSUM MANUFACTURING, INC.
794 STATE HIGHWAY 369 NORTH
NASHVILLE, AR 71852

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.*), APC&EC Rule 19 (8 CAR § 41-101, *et seq.*), and APC&EC Rule 26 (8 CAR § 42-101, *et seq.*).

The issues herein having been settled by agreement of CertainTeed Gypsum Manufacturing, 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 gypsum wallboard manufacturing facility located at 794 State Highway 369 North in Nashville, Howard County, Arkansas.
2. The Air Permit referenced in this CAO is 0598-AOP-R14 (the Permit). The Permit was issued on November 15, 2023.

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. In a letter dated April 29, 2024, Respondent requested consideration under DEQ’s Environmental Self-Disclosure Incentive Policy (Policy) for Respondent’s disclosure of the non-compliance issues associated with Respondent’s facility.

7. Specific Condition 46 of the Permit states that the 12-month rolling totals for gasoline throughput and each month’s data shall be maintained on-site.

8. In the self-disclosure letter, Respondent stated that it failed to maintain 12-month rolling total records for the Gasoline Storage Tank (SN-08). Such a failure violates Specific Condition 46 of the Permit and therefore violates Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

9. Specific Condition 74 of the Permit states that Respondent shall not operate generators attached to the Crambo Grinder with Mobile 242 kW Generator (SN-66), the Nemus 3400 Trommel Screen with Mobile 70 kW Generator (SN-67), and the RotoChopper with 630

HP Diesel Engine (SN-70) in excess of 6,000 hours per calendar year.

10. Specific Condition 75 of the Permit states that Respondent shall maintain monthly records to demonstrate compliance with Specific Condition 74 of the Permit.

11. Plantwide Condition 9 of the Permit states that Respondent will maintain a 12-month rolling total of the wallboard production.

12. Respondent failed to correctly format the 12-month rolling totals spreadsheets to determine the correct operation hours at SN-66, SN-67, SN-70, and the wallboard production per calendar year. Such a failure violates Specific Condition 46, Specific Condition 75, and Plantwide Condition 9 of the Permit and therefore violates Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

13. Specific Condition 37 of the Permit states that Respondent shall not exceed the VOC emission rates of 6.8 lb/hr and 29.5 tpy at Tunnel Dryer 1 (SN-44).

14. In the self-disclosure letter, Respondent stated that the permitted VOC emissions limit for SN-44 did not adequately consider VOC emissions from the silicone oil. It was revealed that Respondent exceeded the permitted VOC emissions limits of 6.8lb/hr and 29.5tpy by emitting 26.08lb/hr and 35.41tpy. Such a failure violates Specific Condition 37 of the Permit and therefore violates Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

15. In correspondence dated July 25, 2024, Respondent stated that the spreadsheets for SN-08, SN-66, SN-67, SN-70, and Wallboard Production had been modified to calculate 12-month rolling totals.

16. On August 15, 2024, Respondent submitted a permit modification application increasing the VOC limit for SN-44 to account for VOC emissions from the silicone oil. The permit modification application was deemed administratively complete on August 19, 2024.

17. DEQ determined that all eight (8) conditions of the Policy were met, qualifying Respondent for penalty mitigation.

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 12-month rolling total records for the period of November 2023 to July 2024 using the revised spreadsheets for SN-08, SN-66, SN-67, SN-70, and Wallboard Production referenced in paragraph 15 of the FINDINGS OF FACT to show compliance with Specific Condition 46, Specific Condition 74, Specific Condition 75, and Plantwide Condition 9 of the Permit.

2. 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.

3. 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.

4. 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.

5. 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.

6. This CAO is subject to public review and comment in accordance with Ark. Code Ann. § 8-4-103(d). However, this CAO shall become effective upon execution by Respondent and the Director of DEQ.

7. 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.

8. 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.

9. 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.

10. 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 as attested by the secretary of said entity. 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 15 DAY OF May, 2025.

Bailey Taylor
BAILEY TAYLOR
CHIEF ADMINISTRATOR OF ENVIRONMENT AND DEQ DIRECTOR
ARKANSAS DEPARTMENT OF ENERGY & ENVIRONMENT

APPROVED AS TO FORM AND CONTENT:

CERTAINTEED GYPSUM MANUFACTURING, INC.

BY: Christopher J. Holder (Signature)

Christopher Holder (Typed or printed name)

TITLE: Plant Manager

DATE: 5/01/25