

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

IN THE MATTER OF:

AFIN: 66-00219

Case #: CAO-25-0106

COVIA ISP, INC FORT SMITH PLANT
5300 GERBER RD
FORT SMITH, AR 72904

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., 8 Code of Arkansas Rules (CAR) pt. 10, 8 CAR pt. 11, 8 CAR pt. 40, 8 CAR pt. 41, and 8 CAR pt. 42.

The issues herein having been settled by agreement of COVIA ISP, INC FORT SMITH PLANT (Respondent) and the Director of the Arkansas Department of Energy and Environment, 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 operates an industrial sand mining facility located at 5300 GERBER RD, FORT SMITH, Sebastian County, Arkansas (Site).
2. DEQ issued Air Title V Permit 0492-AOP-R14 (Permit) to Respondent on May 22, 2024.
3. Arkansas Code Annotated § 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. Pursuant to Ark. Code Ann. § 8-4-103(c)(1)(A)-(B):

(A) 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.

(B) Each day of a continuing violation may be deemed a separate violation for purposes of penalty assessment.

5. On July 22, 2025, DEQ performed a full air compliance evaluation at the Site covering the reporting period of June 1, 2024, through May 31, 2025.

6. On July 28, 2025, DEQ notified Respondent of the evaluation results. This was intended to provide Respondent with the opportunity to review the non-compliance items and submit any additional information Respondent deemed appropriate regarding the issues. A written response addressing the non-compliance items was to be submitted by August 28, 2025.

7. On August 21, 2025, DEQ received Respondent's written response regarding the actions taken to correct the non-compliance items. Respondent stated that the required maintenance had been completed and attached maintenance documents indicating that Respondent conducted maintenance on the 2.135 MMBtu/hr Emergency Generator (SN-73A) on July 30, 2025.

8. On September 26, 2025, DEQ notified Respondent via a Notice of Non-Compliance (NNC) stating that formal enforcement was proceeding regarding the violations in the list below.
9. On September 26, 2025, DEQ received Respondent's written response regarding the actions taken to correct the non-compliance items. Respondent re-stated that the required maintenance has been completed and attached maintenance documents indicating that Respondent conducted maintenance on SN-73A on July 30, 2025.
10. List of Violations:
 - (a) Specific Condition 28 of the Permit states that for SN-73A, Respondent shall, except during periods of start-up, change oil and filter every 500 hours of operation or annually, whichever comes first; inspect air cleaner every 1,000 hours of operation or annually, whichever comes first, and replace as necessary; inspect all hoses and belts every 500 hours of operation or annually, whichever comes first, and replace as necessary.

During the inspection it was discovered that Respondent failed to conduct the required annual maintenance at SN-73A during 2024. The annual maintenance for the year 2023 was conducted on June 13, 2023. Therefore, the annual maintenance for the year 2024 was due by June 13, 2024. The annual maintenance was not completed until July 30, 2025. Failing to perform the annual maintenance on SN-73A is a violation of Specific Condition 28 of the Permit, 8 CAR § 41-204, and 40 C.F.R. Part 63, Subpart ZZZZ.

Order and Agreement

WHEREFORE, the parties stipulate and agree as follows:

1. This CAO addresses all violations referenced in the Findings of Fact.

2. In compromise and full settlement of the violations specified in the Findings of Fact, Respondent agrees to pay a civil penalty of FIVE THOUSAND SIX HUNDRED DOLLARS \$5,600.00, of which ten percent (10%) shall be paid as reimbursement to DEQ for administrative costs associated with this CAO. Payment is due within thirty (30) calendar days after the effective date of this CAO. Payment can be made online using the Financials tab of your site in SEEK or mailed in by check. The Compliance Action Number should be referenced in the memo line of paper checks and 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.
3. All requirements of this CAO are subject to approval by DEQ. In the event of any deficiency, Respondent shall, within the timeframe specified by DEQ, submit any additional information or changes requested, or take additional actions specified by DEQ to correct any such deficiencies. Failure to respond adequately to the notice of deficiency within the timeframe specified by DEQ constitutes a failure to meet the requirements established by this CAO and is subject to the civil penalties established in the following Paragraph.
4. Failure to meet any term(s) of this CAO or the applicable approved schedules provided for herein constitutes a violation of this CAO. If Respondent fails to meet any term(s) of this CAO, 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:	\$1,000 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. Notwithstanding the public notice requirements, the corrective actions necessary to achieve compliance shall be taken immediately.

8. As provided by 8 CAR pt. 11, this matter is subject to being reopened upon Pollution Control and Ecology Commission (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. The individual signing this CAO 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.

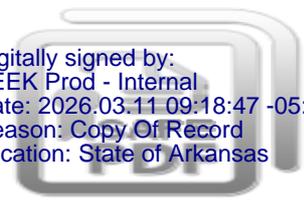
It is so ordered.

Consent Administrative Order - Approval Form

version 1.8

(Submission #: HQK-39S6-8X89A, version 1)

Digitally signed by:
SEEK Prod - Internal
Date: 2026.03.11 09:18:47 -05:00
Reason: Copy Of Record
Location: State of Arkansas



Details

Submission ID HQK-39S6-8X89A

Form Input

Consent Administrative Order

Case Number

CAO-25-0106

Consent Administrative Order Attachment

ENF - CAO.pdf - 02/03/2026 12:04 PM

Comment

NONE PROVIDED

Agreements and Signature(s)

SUBMISSION AGREEMENTS

- I am the owner of the account used to perform the electronic submission and signature.
- I have the authority to submit the data on behalf of the facility I am representing.
- I agree that providing the account credentials to sign the submission document constitutes an electronic signature equivalent to my written signature.
- I have reviewed the electronic form being submitted in its entirety, and agree to the validity and accuracy of the information contained within it to the best of my knowledge.

Respondent Signatory Authority

I certify that I am authorized to execute this CAO and to legally bind Respondent to its terms and conditions.

Signed By William Blackmore on 02/06/2026 at 4:25 PM

Chief Administrator of Environment and DEQ Director, Arkansas Department of Energy and Environment

This CAO is agreed to and ordered as of the date of my signature.

Signed By Bailey Taylor on 03/11/2026 at 9:18 AM