

ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT, DIVISION OF
ENVIRONMENTAL QUALITY

IN THE MATTER OF:

Board of Trustees of the University of Arkansas,
acting for and on behalf of the
University of Arkansas Fort Smith
5210 Grand Avenue
Fort Smith AR, 72913

LIS No. 26-006
EPA ID: ARR 000002311
AFIN 66-01527

CONSENT ADMINISTRATIVE ORDER

This Consent Administrative Order (CAO) is issued pursuant to the authority of the Arkansas Hazardous Waste Management Act of 1979, Ark. Code Ann. § 8-7-201 et seq., the Remedial Action Trust Fund Act, Ark. Code Ann. § 8-7-501 et seq., and 8 Code of Arkansas Rules (CAR) pt. 10; 8 CAR pt. 11; and Arkansas Pollution Control and Ecology Commission (PC&EC) Rule 23, now codified as 8 CAR pt. 81¹.

Without admitting or denying the truth or falsity of any of the above allegations or issues currently in dispute, the Board of Trustees of the University of Arkansas, acting for and on behalf of the University of Arkansas at Fort Smith (Respondent) and the Arkansas Department of Energy and Environment, Division of Environmental Quality (DEQ) wish to avoid the uncertainty of litigation and settle and resolve their differences by entering into this CAO. The FINDINGS OF FACT and ORDER AND AGREEMENT are stated as follows.

FINDINGS OF FACT

1. Respondent is located at 5210 Grand Avenue, Fort Smith, Sebastian County, Arkansas (Facility).
2. Respondent is a 4-year public university in the University of Arkansas system.

¹ PC&EC Rule 23 has not been individually set out but is a part of the Code of Arkansas Rules (CAR).

3. Respondent is a large quantity generator of hazardous waste.
4. Ark. Code Ann. § 8-7-204(c) provides that each day of a continuing violation may be deemed a separate violation for purposes of penalty assessment and authorizes DEQ to assess an administrative civil penalty not to exceed twenty-five thousand dollars (\$25,000) per day for violations of any provision of the Arkansas Hazardous Waste Management Act (Act) and any rules, permits, or plans issued pursuant to the Act.
5. Ark. Code Ann. § 8-7-205(1) states, "It shall be unlawful for any person to [v]iolate any provisions of this subchapter or of any rule, permit, or order adopted or issued under this subchapter[.]"
6. On May 22-23, 2024, DEQ conducted a Compliance Evaluation Inspection (CEI) at the Facility. DEQ asserts the following violations were identified during the CEI:
 - a. DEQ observed the Respondent failed to determine if a solid waste is a hazardous waste for eight (8) waste streams. This failure violates PC&EC Rule 23 § 262.11.
 - b. DEQ observed the Respondent accumulating hazardous waste on-site for greater than ninety (90) days without receiving an extension from DEQ. This violates PC&EC Rule 23 § 262.17(a).
 - c. DEQ observed several containers holding hazardous waste that were not properly labeled with the words "Hazardous Waste" in the Shipping and Receiving Central Accumulation Area (CAA) and the Plant Operations Room 130 CAA. Failure to mark or label CAA containers with the words "Hazardous Waste" violates PC&EC Rule 23 §262.17(a)(5)(i)(A).
 - d. DEQ observed the Respondent failed to inspect the Shipping and Receiving CAA or the Plant Operations Room 130 CAA where containers are stored, looking for

leaking containers and for deterioration of containers caused by corrosion and other factors, at least weekly. This failure violates PC&EC Rule 23 § 262.17(a)(1)(v).

- c. DEQ observed the Respondent failed to have facility personnel successfully complete training required to perform job duties related to hazardous waste management. This failure violates PC&EC Rule 23 §262.17(a)(7)(i)(A).

7. In a letter dated July 11, 2024, DEQ notified Respondent of the asserted findings of the CEI investigation.

8. In a letter dated August 8, 2024, Respondent submitted a response to DEQ containing all actions taken to rectify the asserted violations.

9. In a letter dated September 23, 2024, DEQ notified Respondent that their response, dated August 8, 2024, failed to adequately address the asserted violations.

10. In a letter dated October 2, 2024, Respondent submitted a response to DEQ containing further actions to address the asserted violations.

11. On October 15, 2024, Hazardous Waste Compliance determined that the asserted violations have been corrected.

ORDER AND AGREEMENT

WHEREFORE, the parties agree to the following:

1. Within thirty (30) calendar days of the effective date of this Order, Respondent shall submit to DEQ a Standard Operating Procedure (SOP) describing regular internal auditing practices of the facility and its waste streams to achieve and maintain compliance with applicable Arkansas environmental rules.

2. In compromise and full settlement of the violations specified in the Findings of Fact, Respondent agrees to pay a civil penalty of Fourteen Thousand Dollars (\$14,000.00)², of which Nine Thousand Dollars (\$9,000.00) shall be conditionally SUSPENDED by DEQ. The allowance of a conditional suspension is based upon DEQ's primary goal of regulatory compliance. If Respondent fully complies with this Order, the suspended penalty of Nine Thousand Dollars (\$9,000.00) shall be DISMISSED by DEQ. Such suspension and dismissal of civil penalties is contingent upon Respondent complying with the terms of this Order, including payment of the civil penalty and reimbursement for administrative costs. If Respondent violates any term of this Order, the full balance of Fourteen Thousand Dollars (\$14,000.00) shall become payable immediately to DEQ. Payment of the civil penalty³, including reimbursement for administrative costs, in the amount of One Thousand Four Hundred Dollars (\$1,400.00) is due within thirty (30) calendar days of the effective date of this Order and shall be made payable to the Division of Environmental Quality and mailed to the attention of:

DEQ, Fiscal Division
5301 Northshore Drive
North Little Rock, AR 72118

In the event that Respondent fails to pay the civil penalty within the prescribed time, DEQ shall be entitled to attorneys' fees and costs of collection.

² Ten percent (10%) of the total penalty will be paid to DEQ as reimbursement for administrative costs associated with the Order.

³ Amount of civil penalty to be paid = Total civil penalty — suspended penalty.

3. If any event, including but not limited to an act of nature, occurs that causes or may cause a delay in the achievement of compliance by Respondent with the requirements or deadlines of this Order, Respondent shall so 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 specified in this Order. 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.
4. DEQ may grant an extension of any provision of this Order if Respondent requests such an extension in writing, and 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. Respondent has the burden of proving that any delay is caused by circumstances beyond the control and without the fault of Respondent, as well as the length of the delay attributable to such circumstances. Failure to notify DEQ promptly, as provided in the preceding paragraph of this Section, shall be grounds for a denial of an extension.
5. All requirements by the Order and Agreement are subject to approval by DEQ. Unless otherwise specified herein, in the event of any deficiencies, 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 such Notice of Deficiency within the timeframe specified in writing by DEQ constitutes a failure to meet the requirements established by this Order.
6. This Order is subject to public review and comment in accordance with Ark. Code Ann. § 8-4-103(d) and 8 CAR pt. 11, and shall not be effective until thirty (30) calendar days after public notice is given. DEQ retains the right to rescind this Order based upon the comments received within the thirty (30) calendar day public comment period. Notwithstanding the public notice requirements, the corrective actions necessary to achieve compliance shall be taken immediately.

The publication of this Order shall occur on or about the 10th or 25th day of the month following the date this Order is executed. As provided by 8 CAR pt. 11, this matter is subject to being reopened upon Commission initiative, or in the event a petition to set aside this Order is granted by the Commission.

7. Nothing in this Order shall be construed as a waiver by DEQ of its enforcement authority over alleged violations not specifically addressed herein. Also, this Order does not exonerate Respondent from any past, present, or future conduct that is not expressly addressed herein, nor does it relieve Respondent of its responsibilities for obtaining any necessary permits.

8. By virtue of the signature appearing below, the individual represents that he or she is an authorized representative of Respondent, being duly authorized to execute and bind Respondent to the terms contained herein. Execution of this Order by an individual other than an authorized representative of Respondent shall be accompanied by satisfactory documentation of the signature authority delegated to said individual by the governing body of the entity.

SO ORDERED THIS 22 DAY OF April, 2026.

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

APPROVED AS TO FORM AND CONTENT:
Board of Trustees of the University of Arkansas,
acting for and on behalf of the
University of Arkansas Fort Smith

BY:

DocuSigned by:
Signature Carey Tucker
50DB6BADF161427

Print Name Carey Tucker

Title Vice Chancellor for Finance and Administration

Date 4/16/2026

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Bailey Taylor
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Board of Trustees of the University of Arkansas,
acting for and on behalf of the
University of Arkansas Fort Smith

BY:

DocuSigned by:
Signature Carey Tucker
c0db60ADF161427

Print Name Carey Tucker

Title Vice Chancellor for Finance and Administration

Date 4/16/2026