

ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT,
DIVISION OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

AFIN: 60-04184

LIS No. 20-168

WELSPUN TUBULAR, LLC
9301 FRAZIER PIKE
LITTLE ROCK, ARKANSAS 72206

CONSENT ADMINISTRATIVE ORDER

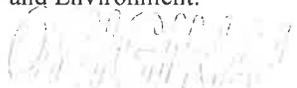
This Consent Administrative Order (CAO) is issued pursuant to the authority delegated under the federal Clean Air Act, 42 U.S.C. § 7401 *et seq.*, and the federal regulations issued thereunder. In addition, this CAO is issued pursuant to the authority of the Arkansas Water and Air Pollution Control Act (the Act), Ark. Code Ann. § 8-4-101 *et seq.*, Arkansas Pollution Control and Ecology Commission (APC&EC) Regulation 7, APC&EC Regulation 8, APC&EC Regulation 18, and APC&EC Regulation 19.

The issues herein having been settled by agreement of Welspun Tubular, LLC (Respondent) and the Director of the Division of Environmental Quality¹ (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 steel pipe manufacturing facility located at 9301 Frazier Pike in Little Rock, Pulaski County, Arkansas.
2. The Air Permit referenced in this CAO is Air Permit 2145-AR-5 (the Permit). The

Pursuant to Act 910 of 2019, the Arkansas Transformation and Efficiencies Act, the former Arkansas Department of Environmental Quality is now the Division of Environmental Quality in the newly created Arkansas Department of Energy and Environment.



Permit was issued on November 17, 2015.

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 the Division of Environmental Quality;

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 November 1, 2018, Respondent discovered exceedances of the 9.5 ton per year (tpy) limit for a single Hazardous Air Pollutant (HAP) at the Internal Coating Operation (SN-12).

7. In a letter dated January 8, 2019, Respondent notified DEQ personnel that it was unknowingly using a paint containing HAPs at the facility and as a result, caused exceedances of the 12-month rolling total tpy emission rate limit for a single HAP at SN-12. To correct the noncompliance, Respondent stated that it contacted the paint manufacturer and began the process of acquiring a reformulated paint with a lower HAP. Respondent used the new formula as a replacement.

8. On August 6, 2019, DEQ personnel conducted a full compliance inspection of Respondent’s facility. The inspection covered the reporting period of July 2018 through June

2019. The inspection also covered a record review for July 2019.

9. During the inspection, it was discovered that Respondent exceeded the 9.5 tpy limit for a single HAP at SN-12. Records reviewed during the inspection indicated that Respondent exceeded the 12-month rolling total emission rate limit for Xylene for ten (10) months, from October 2018 through July 2019. (Table 1)

Table 1

MONTH/YEAR	HAP	12-MONTH ROLLING TOTAL EMISSION RATE LIMIT (TPY)	ACTUAL 12-MONTH ROLLING TOTAL EMISSION RATE (TPY)
October 2018	Xylene	9.5	10.98
November 2018	Xylene	9.5	11.26
December 2018	Xylene	9.5	11.27
January 2019	Xylene	9.5	11.27
February 2019	Xylene	9.5	11.30
March 2019	Xylene	9.5	11.30
April 2019	Xylene	9.5	11.30
May 2019	Xylene	9.5	11.30
June 2019	Xylene	9.5	11.30
July 2019	Xylene	9.5	10.28

Such acts violate Specific Condition 2 of the Permit and therefore violate Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

10. In a letter dated August 15, 2019, DEQ informed Respondent of the compliance issues identified in the inspection conducted on August 6, 2019. This letter was intended to give Respondent an opportunity to review the issues identified and submit any additional information Respondent deemed appropriate.

11. On August 29, 2019, Respondent submitted a letter to DEQ in response to the August 15, 2019 letter. The response letter stated that the facility had exceeded the single HAP tpy emission rate limit at SN-12 because Respondent believed the paint being used did not

ORIGINAL

contain HAPs. However, it was determined that the paint being used contained the HAP Xylene. Respondent stated that the paint manufacturer was contacted and a new reformulated paint containing a very small amount of the HAP Formaldehyde was developed, and is currently used at the facility.

12. On October 14, 2019, DEQ sent Respondent a formal enforcement letter for the compliance issues discovered during the August 6, 2019 investigation.

13. In a letter dated November 4, 2019, Respondent requested consideration under DEQ's Environmental Self-Disclosure Incentive Policy (Policy) for Respondent's January 8, 2019 disclosure of the non-compliance issues associated with the exceedances of the 12-month rolling total tpy emission rate limit for a single HAP at SN-12.

14. In correspondence dated February 13, 2020, DEQ informed Respondent that it completed its review of Respondent's self-disclosure and found that Respondent had not met all eight (8) conditions of the Policy and therefore is not entitled to a reduction in the civil administrative penalty contained in the ORDER AND AGREEMENT section of this CAO.

15. On March 6, 2020, Respondent and DEQ personnel held a meeting to discuss the CAO and Supplemental Environmental Project considerations.

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. This CAO addresses all violations contained 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 **NINE THOUSAND SIX HUNDRED**

ORIGINAL

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 Section, DEQ, 5301 Northshore Drive, North Little Rock, Arkansas 72118-5317, prior to 4:00 p.m. on **August 29, 2020**. Thirty five percent (35%) of the civil penalty amount or thirty five percent (35%) of one-half of the civil penalty, depending upon whether Respondent chooses the settlement option in paragraph 3 or 4 of the Order and Agreement, shall be used to fund a Supplemental Environmental Project (SEP) to be approved by the DEQ Director.

3. 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 **August 29, 2020**, **ONE THOUSAND SIX HUNDRED EIGHTY DOLLARS (\$1,680.00)** may be used to fund the SEP and **THREE THOUSAND ONE HUNDRED TWENTY DOLLARS (\$3,120.00)** shall be made payable to the Division of Environmental Quality and mailed to:

DEQ, Fiscal Division
5301 Northshore Drive
North Little Rock, Arkansas 72118-5317.

4. If this CAO is not signed and returned to Air Enforcement Section, DEQ, 5301 Northshore Drive, North Little Rock, Arkansas 72118-5317, prior to 4:00 p.m. on **August 29, 2020**, **THREE THOUSAND THREE HUNDRED SIXTY DOLLARS (\$3,360.00)** may be used to fund the SEP and **SIX THOUSAND TWO HUNDRED FORTY DOLLARS (\$6,240.00)** shall be made payable to the Division of Environmental Quality and mailed to:

DEQ, Fiscal Division
5301 Northshore Drive
North Little Rock, Arkansas 72118-5317.

5. Unless otherwise notified in writing by DEQ, Respondent shall pay the

appropriate settlement amount provided by the chosen settlement option within thirty (30) days after the effective date of this CAO.

6. Respondent shall submit for approval a SEP within thirty (30) days after the effective date of this CAO. Respondent shall provide documentation of completion of the SEP within six (6) months of the effective date of the CAO. Respondent shall be obliged to pay the difference to DEQ as a civil penalty with a repayment rate for \$1 for each \$1 SEP, up to the maximum original commitment of **THREE THOUSAND THREE HUNDRED SIXTY DOLLARS (\$3,360.00)** or one-half of this amount, **ONE THOUSAND SIX HUNDRED EIGHTY DOLLARS (\$1,680.00)** if:

- a. Respondent fails to complete the SEP within the completed time frames;
- b. It is discovered or determined that Respondent was required by a federal, state, or local obligation, rule, law, regulation, or statute to perform the SEP; or
- c. Expenditure by the Respondent in completing the SEP is less than the amount required by the SEP.

7. 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.

8. 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.

9. 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.

10. 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.

11. 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.

12. As provided by APC&EC Regulation 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.

13. 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.

14. 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.

15. By virtue of the signature appearing below, the individual represents that he or she is a Managing Member of Respondent, being duly authorized to execute and bind Respondent to the terms contained herein. Execution of this CAO by an individual other than a Managing Member 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 25 DAY OF August, 2020.

Becky W Keogh
BECKY W. KEOGH, DIRECTOR
ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT,
DIVISION OF ENVIRONMENTAL QUALITY

APPROVED AS TO FORM AND CONTENT:

WELSPUN TUBULAR, LLC

BY: [Signature] (Signature)

Rajesh Chokhani (Typed or printed name)

TITLE: Chief Operating Officer / Managing Member

DATE: August 13, 2020

[Faint red stamp]