

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

IN THE MATTER OF:

AFIN: 21-00079

LIS No. 20-003

SAF-HOLLAND USA, INC.
1103 SOUTH MAIN STREET
DUMAS, AR 71639

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 SAF-Holland USA, Inc. (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 facility that manufactures truck suspension systems located at 1103 South Main Street in Dumas, Desha County, Arkansas.
2. The investigation noted in this CAO covered (3) Air Permits. 1951-AR-4 (Permit

¹ 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.

R4) was issued on February 3, 2012, and voided on November 6, 2017. 1951-AR-5 (Permit R5) was issued on November 6, 2017, and voided on February 1, 2018. 1951-AR-6 (Permit R6) was issued on February 1, 2018, and was still in effect at the time of investigation. 1951-AR-7 (Permit R7) was issued on May 14, 2019, and is the most current permit.

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) as referenced by Ark. Code Ann. §§ 8-4-304 and 8-4-311 authorizes DEQ to assess an administrative civil penalty not to exceed ten thousand dollars (\$10,000) per violation for any violation of any provision of the Act and any regulation or permit issued pursuant to the Act.

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 April 30, 2019, DEQ personnel performed a full compliance inspection of Respondent's facility. The reporting period for the inspection covered was January 2017 through April 2019.

7. Specific Condition 7 requires Respondent to maintain monthly records to demonstrate compliance with Specific Condition 6, which prohibits Respondent from processing more than 2,500,000 pounds of welding wire at SN-01 (Fabrication Welding) and SN-05 (Fabrication Welding- New Building) per consecutive 12-month period. The twelve month

rolling totals and each individual month's records are to be maintained on site and made available to DEQ personnel upon request. The inspection revealed that Respondent failed to provide records at SN-01 for the months of January 2017 through December 2017 and at SN-05 for the months of November 2017 through December 2017. Such failures violate Specific Condition 7 of Permit R4 and Permit R5 and therefore violate Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

8. Specific Condition 9 requires Respondent to maintain and make available daily logs of total finishing hours at SN-04A (Drying Oven). The inspection revealed that Respondent failed to provide daily log records of total finishing hours at SN-04A from February 6, 2018, through June 13, 2018, and April 1, 2019, through April 30, 2019. Such failures violate Specific Condition 9 of Permit R5 and Permit R6 and therefore violate Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

9. Specific Condition 10 requires Respondent to maintain and make available daily logs of total finishing hours at SN-04B (Touch-Up Painting). The inspection revealed that Respondent failed to provide daily log records of total finishing hours at SN-04B for the days of February 6, 2018, through June 13, 2018 and April 1, 2019, through April 30, 2019. Such failures violate Specific Condition 10 of Permit R5 and Permit R6 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 May 20, 2019, DEQ notified Respondent of the violations found during the compliance inspection. This was intended to provide Respondent with the opportunity to review the violations and submit additional information deemed appropriate regarding the violations.

11. In correspondence dated June 20, 2019, Respondent addressed the violations

found during the inspection. Respondent stated that the recordkeeping issues were identified and stated that a new recordkeeping system was being developed and utilized to demonstrate compliance with the revised permit that was issued on May 14, 2019.

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 records to demonstrate compliance with Specific Conditions 7, 9, and 10 of Permit R7. The records shall be submitted no later than the 15th day of each following month for a period of three (3) months from the effective date of this CAO.

2. All records shall be mailed to:

DEQ, Office of Air Quality
Enforcement Section
5301 Northshore Drive
North Little Rock, Arkansas 72118-5317

3. In compromise and full settlement of the violations specified in the FINDINGS OF FACT, Respondent agrees to pay a civil penalty of **NINE THOUSAND ONE HUNDRED TWENTY DOLLARS (\$9120.00)**, or one-half of the penalty, **FOUR THOUSAND FIVE HUNDRED SIXTY DOLLARS (\$4560.00)** 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 **December 14, 2019**. Payment is due within thirty (30) calendar days of the effective date of this CAO. Such payment shall 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.

4. 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.

5. 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.

6. 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.

7. 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.

8. 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.

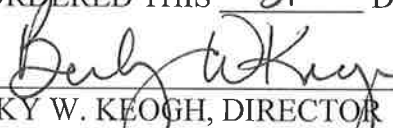
9. As provided by APC&EC Regulation 8, this matter is subject to being reopened upon Commission initiative or in the event a petition to set aside this CAO is granted by the Commission.

10. 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.

11. 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 does it relieve Respondent of the responsibilities for obtaining any necessary permits.

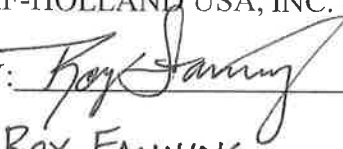
12. By virtue of the signature appearing below, the individual represents that he or she is an Officer of Respondent, being duly authorized to execute and bind Respondent to the terms contained herein. Execution of this CAO by an individual other than an Officer of Respondent shall be accompanied by a resolution granting signature authority to that individual as duly ratified by the governing body of the entity.

SO ORDERED THIS 31 DAY OF December, 2019.


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

APPROVED AS TO FORM AND CONTENT:

SAF-HOLLAND USA, INC.

BY:  (Signature)

ROY FANNING (Typed or printed name)

TITLE: PLANT MANAGER

DATE: 19-DEC-2019