

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

IN THE MATTER OF:

AFIN: 15-00328

LIS No. 22-107

SEMCO LLC
#1 RECOVERY ROAD
MORRILTON, ARKANSAS 72110

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, APC&EC Rule 8, APC&EC Rule 18, and APC&EC Rule 19.

The issues herein having been settled by agreement of SEMCO LLC (Respondent) and the Chief Administrator 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 an energy recovery wheel manufacturing facility located at #1 Recovery Road in Morrilton, Conway County, Arkansas.
2. The Air Permit referenced in this CAO is 1941-AR-1 (the Permit). The Permit was issued on July 22, 2002.

3. 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.”

4. 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.”

5. On April 14, 2022, DEQ personnel conducted a full compliance inspection of Respondent’s facility.

6. The inspection covered the reporting period of February 2017 through February 2022.

7. Specific Condition 6 of the Permit states that pursuant to § 18.1004 of Rule 18 and Ark. Code Ann. § 8-4-203 as referenced by § 8-4-304 and § 8-4-311, the permittee shall maintain monthly records which demonstrate compliance with the individual and total HAP ton per year limits in Specific Conditions 2 and 5. Records shall be updated by the fifteenth day of the month following the month to which the records pertain. These records shall be kept on site, and shall be made available to Division personnel upon request. A twelve month rolling average and each individual month’s data shall be kept on site.

8. During the inspection, it was discovered that Respondent failed to maintain the monthly records and the twelve month rolling totals from February 2017 through February 2022 (60 months) that demonstrate compliance with the HAP limits in Specific Conditions 2 and 5 of the Permit. Such failure violates Specific Condition 6 of the Permit and therefore violates Ark.

Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304. Such failure also inhibits DEQ's ability to determine compliance with Specific Conditions 2 and 5 of the Permit.

9. Specific Condition 8 of the Permit states that pursuant to § 19.705 of Rule 19 and Ark. Code Ann. § 8-4-203 as referenced by § 8-4-304 and § 8-4-311, the permittee shall maintain monthly records which demonstrate compliance with the annual VOC emissions in Specific Condition 1 and usage limits in Specific Condition 7. Records shall be updated by the fifteenth day of the month following the month for which the records pertain and each time a different coating is used. These records shall be kept on site, and shall be made available to Division personnel upon request. A twelve month rolling total and each individual month's data shall be kept on site.

10. During the inspection, it was discovered that Respondent failed to maintain monthly records and twelve month rolling totals that demonstrate compliance with the VOC emission rate limits in Specific Condition 1 of the Permit and also failed to maintain monthly records and twelve month rolling totals that demonstrate compliance with the usage limits in Specific Condition 7 of the Permit from February 2017 through February 2022 (60 months). Such failures violate Specific Condition 8 of the Permit and therefore violate Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304. Such failures also inhibit DEQ's ability to determine compliance with Specific Conditions 1 and 7 of the Permit.

11. Specific Condition 12 of the Permit states that pursuant to § 19.705 of Rule 19 and Ark. Code Ann. § 8-4-203 as referenced by § 8-4-304 and § 8-4-311, the permittee shall maintain monthly records which demonstrate compliance with the annual VOC emissions in Specific Condition 1 (23.9 tpy) and usage limits in Specific Conditions 9, 10 and 11. Records

shall be updated by the fifteenth day of the month following the month for which the records pertain and each time a different coating is used. These records shall be kept on site, and shall be made available to Division personnel upon request. A twelve month rolling total and each individual month's data shall be kept on site.

12. During the inspection, it was discovered that Respondent failed to maintain monthly records and twelve month rolling totals that demonstrate compliance with the VOC emission rate limits in Specific Condition 1 of the Permit and also failed to maintain monthly records and twelve month rolling totals that demonstrate compliance with the usage limits in Specific Conditions 9, 10, and 11 of the Permit from February 2017 through February 2022 (60 months). Such failures violate Specific Condition 12 of the Permit and therefore violate Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304. Such failures also inhibit DEQ's ability to determine compliance with Specific Conditions 1, 9, 10, and 11 of the Permit.

13. In a letter dated May 2, 2022, DEQ informed Respondent of the compliance issues identified during the inspection conducted on April 14, 2022. This letter was intended to give Respondent an opportunity to review the issues identified and submit any additional information Respondent deemed appropriate.

14. On June 2, 2022, Respondent submitted sixteen (16) documents in response to the May 2, 2022 letter.

15. A review of the documents determined that due to improper calculations, lack of clear formatting, and lack of unit labeling, the documents submitted did not demonstrate compliance with the Permit.

16. On June 15, 2022, DEQ sent Respondent a formal enforcement letter for the

compliance issues discovered during the April 14, 2022 inspection.

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. To demonstrate compliance with Specific Conditions 6, 8, and 12 of the Permit, Respondent shall submit the monthly records and the twelve month rolling totals required by Specific Conditions 6, 8, and 12 of the Permit. These records shall be submitted for six (6) consecutive months beginning with the month following the effective date of this CAO. The records shall be submitted by the fifteenth (15th) day of the following month for which they pertain.

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 FOUR HUNDRED DOLLARS (\$14,400.00)**, or one-half of the penalty, **SEVEN THOUSAND TWO HUNDRED DOLLARS (\$7,200.00)** 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 **October 23, 2022**. 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.

3. 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.

4. 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.

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.


8. As provided by APC&EC Rule 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.

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. 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 27th DAY OF OCTOBER, 2022.


JULIE LINCK, CHIEF ADMINISTRATOR
ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT,
DIVISION OF ENVIRONMENTAL QUALITY

APPROVED AS TO FORM AND CONTENT:

SEMCO LLC

BY:  (Signature)

DANIEL ALEXANDER (Typed or printed name)

TITLE: DIRECTOR OF PRODUCTION

DATE: 10-17-22