

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

Page 1 of 2

**DOCKET NO.:** 2007-1719-AIR-E **TCEQ ID:** RN100220847 **CASE NO.:** 34852**RESPONDENT NAME:** Lone Star Industries, Inc. dba Buzzi Unicem USA

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Lone Star Industries Maryneal Cement Plant, 202 County Road 306, 0.75 mile north of Maryneal, Nolan County</p> <p><b>TYPE OF OPERATION:</b> Portland cement manufacturing plant</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on April 14, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Mr. Terry Murphy, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-5025; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171  <b>Respondent:</b> Mr. Jose Madera, Environmental Manager, Lone Star Industries, Inc., P.O. Box 1639, Sweetwater, Texas 79556  Mr. Robert Sagmeister, Plant Manager, Lone Star Industries, Inc., P.O. Box 1639, Sweetwater, Texas 79556  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> September 3 to 13, 2007</p> <p><b>Date of NOV/NOE Relating to this Case:</b> September 27, 2007 (NOE)</p> <p><b>Background Facts:</b> This was a routine record review.</p> <p><b>AIR</b></p> <p>Failed to comply with the emissions limits for particulate matter ("PM") and dioxin/furan from Kiln No. 2 set by National Emission Standards for Hazardous Air Pollutants ("NESHAP") for the Portland Cement Manufacturing Industry and by its New Source Review ("NSR") Air Permit. Specifically, a stack test was performed June 13 to 15, 2007, on the vent from the baghouse for Kiln No. 2, and results showed PM at 0.459 pounds per ton ("lbs/ton") and dioxin/furan at 0.494 nanograms per dry standard cubic meter ("ng/dscm"). The NESHAP limits are 0.30 lb/ton and 0.20 ng/dscm, respectively. In addition, the permit limits PM to 10.8 pounds per hour ("lb/hr"), and the stack test showed PM emissions at 18.7 lb/hr. [NSR Air Permit No. 5918B, Special Condition 1, 30 TEX. ADMIN. CODE §§ 101.20(2), 116.115(c), and 113.690, and 40 CODE OF FEDERAL REGULATIONS § 63.1343(b)(1) and (b)(3)(i), and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>	<p><b>Total Assessed:</b> \$7,400</p> <p><b>Total Deferred:</b> \$1,480  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$5,920</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent:</p> <p>a. Self-reported all alleged failures to comply with the emissions limits for PM and dioxin/furan from Kiln No. 2 (Emissions Point Number SC-2) set by NESHAP;</p> <p>b. Periodically provides progress updates to the TCEQ Region 2 personnel as the Respondent works toward establishing compliance with the PM emissions limits set by NESHAP; and</p> <p>c. Returned to compliance with the dioxin/furan limits set by NESHAP from Kiln No. 2 by September 12, 2007.</p> <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, certify compliance with the emissions limits for PM set by NESHAP for Kiln No. 2; or</p> <p>b. Within 180 days after the effective date of this Agreed Order, either obtain authorization for an increase in PM emissions from Kiln No. 2 or cease operations until such time that appropriate authorization is obtained; and</p> <p>c. Within 195 days after the effective date of this Agreed Order, certify compliance with Ordering Provision b.</p>

Additional ID No(s): ND0014S



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision September 19, 2007

<b>DATES</b>	<b>Assigned</b>	1-Oct-2007
	<b>PCW</b>	2-Nov-2007
	<b>Screening</b>	23-Oct-2007
	<b>EPA Due</b>	7-Aug-2008

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Lone Star Industries, Inc. dba Buzzi Unichem USA
<b>Reg. Ent. Ref. No.</b>	RN100220847
<b>Facility/Site Region</b>	3-Abilene
<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	34852	<b>No. of Violations</b>	1
<b>Docket No.</b>	2007-1719-AIR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Air	<b>Enf. Coordinator</b>	Terry Murphy
<b>Multi-Media</b>		<b>EC's Team</b>	EnforcementTeam 4
<b>Admin. Penalty \$</b>	<b>Limit Minimum</b>	\$0	<b>Maximum</b>
			\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1**

**ADJUSTMENTS (+/-) TO SUBTOTAL 1**

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History**  Enhancement **Subtotals 2, 3, & 7**

**Notes**

**Culpability**   Enhancement **Subtotal 4**

**Notes**

**Good Faith Effort to Comply**  Reduction **Subtotal 5**

Before NOV      NOV to EDPRP/Settlement Offer

Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/>	(mark with x)

**Notes**

**Total EB Amounts**  **Subtotal 6**   
 Approx. Cost of Compliance  **0% Enhancement\***  
 \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal**

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes**

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL**  Reduction **Adjustment**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes**

**PAYABLE PENALTY**

**Screening Date** 23-Oct-2007

**Docket No.** 2007-1719-AIR-E

**PCW**

**Respondent** Lone Star Industries, Inc. dba Buzzi Unichem USA

Policy Revision 2 (September 2002)

**Case ID No.** 34852

PCW Revision September 19, 2007

**Reg. Ent. Reference No.** RN100220847

**Media [Statute]** Air

**Enf. Coordinator** Terry Murphy

**Compliance History Worksheet**

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	4	20%
	Other written NOVs	4	8%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an Intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 48%

>> **Repeat Violator (Subtotal 3)**

No

**Adjustment Percentage (Subtotal 3)** 0%

>> **Compliance History Person Classification (Subtotal 7)**

Average Performer

**Adjustment Percentage (Subtotal 7)** 0%

>> **Compliance History Summary**

**Compliance History Notes**

The penalty was enhanced by four NOVs for same or similar violations, four NOVs for dissimilar violations, and one 1660-style agreed order.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 48%

**Screening Date** 23-Oct-2007 **Docket No.** 2007-1719-AIR-E **PCW**  
**Respondent** Lone Star Industries, Inc. dba Buzzi Unichem USA *Policy Revision 2 (September 2002)*  
**Case ID No.** 34852 *PCW Revision September 19, 2007*  
**Reg. Ent. Reference No.** RN100220847  
**Media [Statute]** Air  
**Enf. Coordinator** Terry Murphy

**Violation Number**   
**Rule Cite(s)** New Source Review (NSR) Air Permit No. 5918B, Special Condition 1, 30 Tex. Admin. Code §§ 101.20(2), 116.115(c), and 113.690, 40 Code of Federal Regulations § 63.1343(b)(1) and (b)(3)(i), and Tex. Health & Safety Code § 382.085(b)  
**Violation Description** Failed to comply with the emissions limits for particulate matter ("PM") and dioxin/furan from Kiln No. 2 set by National Emission Standards for Hazardous Air Pollutants ("NESHAP") for the Portland Cement Manufacturing Industry and by its New Source Review ("NSR") Air Permit. Specifically, a stack test was performed on June 13 to 15, 2007, on the vent from the baghouse for Kiln No. 2, and results showed PM at 0.459 pounds per ton ("lbs/ton") and dioxan/furan at 0.494 nanograms per dry standard cubic meter ("ng/dscm"). The NESHAP limits are 0.30 lb/ton and 0.20 ng/dscm, respectively. In addition, the permit limits PM to 10.8 pounds per hour ("lb/hr"), and the stack test showed PM emissions at 18.7 lb/hr. These violations were documented during a record review conducted September 3 to 13, 2007.

**Base Penalty**

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text" value="25%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

**Matrix Notes** Human health or the environment were exposed to insignificant amounts of pollutants which did not exceed levels protective of human health or environmental receptors as a result of the violations.

**Adjustment**

Violation Events

Number of Violation Events  Number of violation days

*mark only one with an x*

daily	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input checked="" type="checkbox"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

**Violation Base Penalty**

Two quarterly events are recommended from the date of the stack test (June 15, 2007) to the enforcement screening date (October 23, 2007).

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

### Economic Benefit Worksheet

**Respondent** Lone Star Industries, Inc. dba Buzzi Unichem USA  
**Case ID No.** 34852  
**Reg. Ent. Reference No.** RN100220847  
**Media** Air  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
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No commas or \$

**Delayed Costs**

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$5,000	13-Jun-2007	1-Jun-2008	1.0	\$16	\$323	\$339
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs to perform maintenance and adjustments to the process. The Date Required is the date of the initial stack test showing non-compliant emissions, and the Final Date is the date complete return to compliance is expected.

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$339

# Compliance History

Customer/Respondent/Owner-Operator: CN602827297 Lone Star Industries, Inc. Classification: AVERAGE Rating: 3.59

Regulated Entity: RN100220847 LONE STAR INDUSTRIES Classification: AVERAGE Site Rating: 8.31  
MARYNEAL CEMENT PLANT

ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	ND0014S
	AIR OPERATING PERMITS	PERMIT	1119
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD084287655
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	32552
	WASTEWATER	PERMIT	WQ0003905000
	WASTEWATER	PERMIT	TPDES0116874
	WASTEWATER	PERMIT	TX0116874
	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	51180
	AIR NEW SOURCE PERMITS	PERMIT	1770
	AIR NEW SOURCE PERMITS	PERMIT	4737
	AIR NEW SOURCE PERMITS	PERMIT	5918A
	AIR NEW SOURCE PERMITS	PERMIT	5918B
	AIR NEW SOURCE PERMITS	PERMIT	7681
	AIR NEW SOURCE PERMITS	PERMIT	31566
	AIR NEW SOURCE PERMITS	PERMIT	30719
	AIR NEW SOURCE PERMITS	PERMIT	35571
	AIR NEW SOURCE PERMITS	PERMIT	43783
	AIR NEW SOURCE PERMITS	PERMIT	47585
	AIR NEW SOURCE PERMITS	PERMIT	49537
	AIR NEW SOURCE PERMITS	PERMIT	49538
	AIR NEW SOURCE PERMITS	PERMIT	50061
	AIR NEW SOURCE PERMITS	PERMIT	50063
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	ND0014S
	AIR NEW SOURCE PERMITS	PERMIT	54445
	AIR NEW SOURCE PERMITS	AFS NUM	4835300001
	AIR NEW SOURCE PERMITS	PERMIT	49046
	AIR NEW SOURCE PERMITS	REGISTRATION	82775
	AIR NEW SOURCE PERMITS	REGISTRATION	PSDTX1101
	WASTE WATER GENERAL PERMIT	PERMIT	2E0000013
	USED OIL	REGISTRATION	A85425

Location: 202 County Road 306; 3/4 mile north of Maryneal Rating Date: September 01 07 Repeat Violator: NO

TCEQ Region: REGION 03 - ABILENE

Date Compliance History Prepared: October 10, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: October 10, 2002 to October 10, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Terry Murphy Phone: (512) 239-5025

### Site Compliance History Components

- |  |     |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period?    | No  |
| 3. If Yes, who is the current owner?   | N/A |
| 4. If Yes, who was/were the prior owner(s)?  | N/A |
| 5. When did the change(s) in ownership occur?  | N/A |

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 04/26/2007

Admin. Order 2006-1549-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)  
5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failed to submit initial notification with 24 hours from the discovery date for a reportable emissions event

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT LLL 63.1344(a)(3)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: Special Condition No. 3 OP

Description: Lone Star failed to limit the fabric filter Inlet temperature to 440 degrees F. or less on four occasions for Kiln No. 1 from April 19, 2005 to April 18, 2006.

Classification: Minor

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(C)  
5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failed to maintain visible emissions below 15 percent opacity limit for any six minute period,

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	10/21/2002	(230578)	47	08/15/2005	(399792)
2	11/21/2002	(230581)	48	08/25/2005	(447247)
			49	09/26/2005	(447248)
3	12/23/2002	(230584)	50	09/28/2005	(433057)
4	01/03/2003	(20578)	51	09/28/2005	(433058)
5	01/06/2003	(19904)	52	09/28/2005	(433050)
6	01/21/2003	(230587)	53	09/29/2005	(433190)
7	02/18/2003	(22341)	54	09/29/2005	(433209)
8	02/18/2003	(22342)	55	10/24/2005	(491684)
9	02/18/2003	(22339)	56	11/28/2005	(491685)
10	02/18/2003	(22338)	57	11/29/2005	(438274)
11	02/18/2003	(22340)	58	01/24/2006	(491686)
12	02/24/2003	(230552)	59	02/21/2006	(491683)
13	02/28/2003	(19437)	60	04/20/2006	(505887)
14	03/18/2003	(230555)	61	04/26/2006	(462436)
15	04/09/2003	(230560)	62	04/26/2006	(462438)
16	05/27/2003	(325840)	63	05/04/2006	(462437)
17	06/20/2003	(325841)	64	05/15/2006	(462799)
18	07/28/2003	(325842)	65	05/23/2006	(505886)
19	08/14/2003	(325843)	66	05/23/2006	(505888)
20	09/17/2003	(325844)	67	05/23/2006	(505890)
21	10/16/2003	(325845)	68	06/13/2006	(505889)
22	11/20/2003	(325846)	69	07/07/2006	(466363)
23	12/29/2003	(325847)	70	07/14/2006	(528130)
24	01/27/2004	(325848)	71	08/16/2006	(528131)
25	02/12/2004	(325838)	72	08/23/2006	(490421)
26	03/16/2004	(325839)	73	08/23/2006	(489084)
27	04/26/2004	(366154)	74	09/15/2006	(528132)
28	06/10/2004	(366155)	75	09/19/2006	(512891)
29	06/10/2004	(366156)	76	10/16/2006	(551641)
30	07/14/2004	(366157)	77	11/02/2006	(551642)
31	07/19/2004	(281427)	78	12/19/2006	(551643)
32	08/16/2004	(366158)	79	01/08/2007	(588737)
33	09/13/2004	(366159)	80	02/05/2007	(588733)
34	10/22/2004	(366160)	81	02/25/2007	(540424)
35	11/22/2004	(340055)	82	03/12/2007	(588734)
36	11/29/2004	(389580)	83	05/04/2007	(588735)
37	01/25/2005	(389581)	84	06/18/2007	(588736)
38	01/25/2005	(389582)	85	08/30/2007	(573353)
39	01/25/2005	(427122)	86	08/31/2007	(574387)
40	02/28/2005	(427119)	87	09/21/2007	(594678)
41	03/22/2005	(389579)	88	09/21/2007	(594682)
42	05/04/2005	(427120)	89	09/21/2007	(594675)
43	05/04/2005	(427121)	90	09/27/2007	(595299)
44	05/12/2005	(380696)	91	09/27/2007	(595292)
45	07/21/2005	(447246)	92	09/27/2007	(595296)
46	08/15/2005	(340056)			

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 11/30/2002 (230584)  
 Self Report? YES Classification Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]  
 Description: Failure to meet the limit for one or more permit parameter  
 Date: 07/19/2004 (281427)  
 Self Report? NO Classification Moderate  
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
 Rqmt Prov: OP O-01119  
 Description: Failure to conduct an Environmental Protection Agency approved method 22 for determination of fugitive emissions from a material source.  
 Self Report? NO Classification Minor  
 Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)  
 Rqmt Prov: OP O-01119  
 Description: Failure to report, in writing, to the executive director all instances of deviations, the probable cause of the deviations, and any corrective actions or preventative measures taken for each emission unit addressed in the permit.  
 Date: 08/08/2005 (399792)  
 Self Report? NO Classification Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT LLL 63.1344(a)(3)  
 Description: Lone Star failed to limit the fabric filter inlet temperature to 440 degrees or less on three occasions for kiln No. 1 and 14 occasions for Kiln No. 2 from October 19, 2004 to April 18, 2005.  
 Date: 08/08/2005 (340056)  
 Self Report? NO Classification Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 Description: Lone Star failed to meet the Demonstration Criteria set forth in of 30 Tex. Admin. Code § 101.222(b) and are not subject to an affirmative defense, resulting in unauthorized emissions.  
 Self Report? NO Classification Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 Description: Lone Star failed to maintain and operate the pollution control device consistent with good practice for minimizing emissions and reducing the number of emissions events.  
 Self Report? NO Classification Moderate  
 Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)  
 30 TAC Chapter 116, SubChapter B 116.115(c)  
 Description: Lone Star failed to report the emissions events to the TCEQ within 24 hours of discovery as required by 30 Texas Admin Code 101.201(a)(1)(B)  
 Date: 09/28/2005 (433050)  
 Self Report? NO Classification Moderate  
 Citation: 30 TAC Chapter 113, SubChapter C 113.690  
 Description: Buzzi Unicem USA, Lone Star Industries Maryneal Cement Plant is in violation of 30 TAC 113 Section 113.690. Specifically, Kiln no. 1 Baghouse (EPN SC-1) failed to meet the dioxin / furan emission limit of 30 TAC Section 113.690 (40 CFR 63, Subpart LLL) during compliance testing on February 16 and 18, 2005.  
 Date: 09/28/2005 (433057)  
 Self Report? NO Classification Moderate  
 Citation: 30 TAC Chapter 113, SubChapter C 113.690  
 Description: Buzzi Unicem USA, Lone Star Industries Maryneal Cement Plant is in violation of 30 TAC 113 Section 113.690. Kiln no. 3 Baghouse failed to meet the dioxin / furan emission limit of 30 TAC Section 113.690 (40 CFR 63, Subpart LLL) during compliance testing of February 16 and 17, 2005.  
 Date: 07/07/2006 (466363)  
 Self Report? NO Classification Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Rqmt Prov: PERMIT WQ0003905  
 Description: Failure to provide annual flow meter calibrations for the meters located at Outfall 001 and Outfall 002.  
 Self Report? NO Classification Moderate  
 Citation: 30 TAC Chapter 319, SubChapter A 319.5(b)  
 Description: Failure to sample and analyze for TDS at Outfall 002 at the required sampling frequency.  
 Self Report? NO Classification Moderate  
 Citation: 30 TAC Chapter 319, SubChapter A 319.11(b)  
 Description: Failure to analyze TSS effluent samples within required analytical hold times.  
 Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 319, SubChapter A 319.7(a)[G]  
 Description: Failure to maintain and provide monitoring records for all required analyses or measurements.  
 Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)  
 Description: Failure to provide pH meter calibration records.  
 Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Rqmt Prov: PERMIT WQ0003905  
 Description: Failure to provide an irrigation operating log that includes the actual surface area wetted each day of use.  
 Date: 09/27/2007 (595296)  
 Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 113, SubChapter C 113.690  
 Description: Lone Star Industries, Inc., dba Buzzi Unichem USA, Lone Star Industries Maryneal Cement Plant, Kiln No. 1 Baghouse (EPN SC-1) is in violation of 30 TAC §113.690 (40 CFR Part 63, Subpart LLL) relating to the National Emission Standards for Hazardous Air Pollutants for the Portland Cement Manufacturing Industry. Specifically, during the stack compliance test conducted on June 12, 13, and 16, 2007, Kiln No. 1 did not meet the 0.20 ng/dscm allowable for Dioxin/Furan found in 40 CFR §63.1343.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSS).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
LONE STAR INDUSTRIES, INC. DBA  
BUZZI UNICEM USA  
RN100220847**

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**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2007-1719-AIR-E**

**I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Lone Star Industries, Inc. dba Buzzi Unicem USA ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a portland cement manufacturing plant at 202 County Road 306, 0.75 mile north of Maryneal, Nolan County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about October 2, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Seven Thousand Four Hundred Dollars (\$7,400) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations").



The Respondent has paid Five Thousand Nine Hundred Twenty Dollars (\$5,920) of the administrative penalty and One Thousand Four Hundred Eighty Dollars (\$1,480) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent:
  - i. Self-reported all alleged failures to comply with the emissions limits for particulate matter ("PM") and dioxin/furan from Kiln No. 2 (Emissions Point Number SC-2) set by National Emission Standards for Hazardous Air Pollutants ("NESHAP");
  - ii. Periodically provides progress updates to the TCEQ Region 2 personnel as the Respondent works toward establishing compliance with the PM matter emission limits set by NESHAP; and
  - iii. Returned to compliance with the dioxin/furan limits set by NESHAP from Kiln No. 2 by September 12, 2007.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.



## II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have failed to comply with the emissions limits for PM and dioxin/furan from Kiln No. 2 set by NESHAP for the Portland Cement Manufacturing Industry and by its New Source Review ("NSR") Air Permit, in violation of NSR Air Permit No. 5918B, Special Condition 1, 30 TEX. ADMIN. CODE §§ 101.20(2), 116.115(c), and 113.690, and 40 CODE OF FEDERAL REGULATIONS § 63.1343(b)(1) and (b)(3)(i), and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, a stack test was performed June 13 to 15, 2007, on the vent from the baghouse for Kiln No. 2, and results showed PM at 0.459 pounds per ton ("lbs/ton") and dioxan/furan at 0.494 nanograms per dry standard cubic meter ("ng/ dscm"). The NESHAP limits are 0.30 lb/ton and 0.20 ng/dscm, respectively. In addition, the permit limits PM to 10.8 pounds per hour ("lb/hr"), and the stack test showed PM emissions at 18.7 lb/hr. These violations were documented during a record review conducted September 3 to 13, 2007.

## III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

## IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Lone Star Industries, Inc. dba Buzzi Unicem USA, Docket No. 2007-1719-AIR-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, certify compliance with the emissions limits for PM set by NESHAP for Kiln No. 2; or
  - b. Within 180 days after the effective date of this Agreed Order, either obtain authorization for an increase in PM emissions from Kiln No. 2 or cease operations until such time that appropriate authorization is obtained, as required by 30 TEX. ADMIN. CODE § 116.110(a); and
  - c. Within 195 days after the effective date of this Agreed Order, certify compliance with Ordering Provision 2.b.



The certification required by either Ordering Provision 2.a. or 2.c. shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Air Section, Manager  
Abilene Regional Office  
Texas Commission on Environmental Quality  
1977 Industrial Boulevard  
Abilene, Texas 79602-7833

and

Air Section, Manager  
Lubbock Regional Office  
Texas Commission on Environmental Quality  
5012 50<sup>th</sup> Street, Suite 100  
Lubbock, Texas 79414-3421

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be

Dear Sir,

I am writing to you regarding the matter of the contract between us. I have reviewed the terms and conditions and find them acceptable. I am pleased to inform you that I have agreed to the terms and conditions of the contract.

Yours faithfully,  
[Signature]

[Name]  
[Address]  
[City]  
[State]  
[Zip Code]

I am writing to you regarding the matter of the contract between us. I have reviewed the terms and conditions and find them acceptable. I am pleased to inform you that I have agreed to the terms and conditions of the contract.

I am writing to you regarding the matter of the contract between us. I have reviewed the terms and conditions and find them acceptable. I am pleased to inform you that I have agreed to the terms and conditions of the contract.

I am writing to you regarding the matter of the contract between us. I have reviewed the terms and conditions and find them acceptable. I am pleased to inform you that I have agreed to the terms and conditions of the contract.

made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



Lone Star Industries, Inc. dba Buzzi Unicem USA  
DOCKET NO. 2007-1719-AIR-E  
Page 6

### SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

*[Signature]*  
For the Executive Director

3/21/2008  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

*[Signature]*  
Signature

3/10/08  
Date

ROBERT J. SAGMEISTER  
Name (Printed or typed)  
Authorized Representative of  
Lone Star Industries, Inc. dba Buzzi Unicem USA

PLANT MANAGER  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

