

CAPTION: Docket No. 2008-0192-AIR-E. Consideration of an Agreed Order assessing administrative penalties against McWane, Inc. in Smith County; RN102679867; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Suzanne Walrath, Bryan Sinclair)

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2008-0192-AIR-E **TCEQ ID:** RN102679867 **CASE NO.:** 35342
RESPONDENT NAME: McWane, Inc.

ORDER TYPE:		
<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"/> IMMEDIATE AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<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>SITE WHERE VIOLATION(S) OCCURRED: Tyler Pipe Company, A Division of McWane, 11721 US Highway 69 North, Tyler, Smith County</p> <p>TYPE OF OPERATION: Iron and steel foundry</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on August 25, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Suzanne Walrath, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-2134; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Kent Brown, South Plant Assistant General Manager, McWane, Inc., 11721 US Highway 69 North, Tyler, Texas 75706 Respondent's Attorney: Mr. Rodman Johnson, Brown McCarroll, L.L.P., 111 Congress Avenue, Suite 1400, Austin, Texas 78701-4093</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: January 8, 2008</p> <p>Date of NOV/NOE Relating to this Case: January 16, 2008 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>AIR</p> <p>Failure to adhere to the permitted maximum allowable emission rate table ("MAERT") limit for EPN No. E2-3-1. Specifically, results of the stack test on September 12, 2007 found the volatile organic compound ("VOC") emissions were 45.76 pounds per hour ("lbs/hr"), and the allowable rate is 9.56 lbs/hr [30 TEX. ADMIN. CODE § 116.115(c), Air Permit No. 9425 and PSD-TX-1066, Special Condition No. 1, Federal Operating Permit No. O-01407, Special Condition No. 7, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$12,950</p> <p>Total Deferred: \$2,590 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$10,360</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:</p> <p>a. On September 27, 2007, upon receiving information concerning preliminary results of VOC testing, the Respondent immediately ceased operation of the South Plant Impact Molding line which generates emissions venting to the Impact FlexKleen Baghouse #2 ("EPN No. E2-3-1"); and</p> <p>b. On October 24, 2007, the Respondent submitted notification of a change to a qualified facility under Senate Bill 1126, and restarted operations.</p>

Additional ID No(s):: SK0041T



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision January 29, 2008

TCEQ

DATES	Assigned	22-Jan-2008	Screening	28-Jan-2008	EPA Due	12-Oct-2008
	PCW	19-May-2008				

RESPONDENT/FACILITY INFORMATION	
Respondent	McWane, Inc.
Reg. Ent. Ref. No.	RN102679867
Facility/Site Region	5-Air
Major/Minor Source	Major

CASE INFORMATION				
Enf./Case ID No.	35342	No. of Violations	1	
Docket No.	2008-0192-AIR-E	Order Type	1660	
Media Program(s)	Air	Enf. Coordinator	Suzanne Walrath	
Multi-Media		EC's Team	Enforcement Team 3	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 \$5,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 184% Enhancement Subtotals 2, 3, & 7 \$9,200

Notes: The Respondent has received one NOV for same or similar violations, 32 NOVs for not same or similar violations, two Findings Orders, one EPA order without a denial of liability, a criminal conviction, and has had an environmental management system in place since December 18, 2003.

Culpability No 0% Enhancement Subtotal 4 \$0

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 25% Reduction Subtotal 5 \$1,250

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	X	
N/A		(mark with x)

Notes: The Respondent achieved compliance on October 24, 2007.

Total EB Amounts \$9 0% Enhancement* Subtotal 6 \$0
 *Capped at the Total EB \$ Amount
Approx. Cost of Compliance \$1,500

SUM OF SUBTOTALS 1-7 Final Subtotal \$12,950

OTHER FACTORS AS JUSTICE MAY REQUIRE 0% Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$12,950

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty \$12,950

DEFERRAL 20% Reduction Adjustment -\$2,590

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

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY \$10,360

Screening Date 28-Jan-2008

Docket No. 2008-0192-AIR-E

PCW

Respondent McWane, Inc.

Policy Revision 2 (September 2002)

Case ID No. 35342

PCW Revision, January 29, 2008

Reg. Ent. Reference No. RN102679867

Media [Statute] Air

Enf. Coordinator Suzanne Walrath

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)	1	5%
	Other written NOVs	32	64%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	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	3	75%
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 judgments 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)	1	50%
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%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	Yes	-10%
	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) 184%

>> 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 Respondent has received one NOV for same or similar violations, 32 NOVs for not same or similar violations, two Findings Orders, one EPA order without a denial of liability, a criminal conviction, and has had an environmental management system in place since December 18, 2003.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 184%

<p>Screening Date 28-Jan-2008</p> <p>Respondent McWane, Inc.</p> <p>Case ID No. 35342</p> <p>Reg. Ent. Reference No. RN102679867</p> <p>Media [Statute] Air</p> <p>Enf. Coordinator Suzanne Walrath</p> <p>Violation Number <input type="text" value="1"/></p> <p>Rule Cite(s) 30 Tex. Admin. Code § 116.115(c), Air Permit No. 9425 and PSD-TX-1066, Special Condition No. 1, Federal Operating Permit No. O-01407, Special Condition No. 7, and Tex. Health & Safety Code § 382.085(b)</p> <p>Violation Description Failed to adhere to the permitted maximum allowable emission rate table ("MAERT") limit for the Impact FlexKleen Baghouse #2 (EPN No. E2-3-1). Specifically, results of the stack test conducted on September 12, 2007 found the volatile organic compound emissions were 45.76 pounds per hour ("lbs./hr."), and the allowable rate is 9.56 lbs./hr.</p>	<p style="text-align: right;">Docket No. 2008-0192-AIR-E</p> <p style="text-align: right;">PCW</p> <p style="text-align: right; font-size: small;">Policy Revision 2 (September 2002) PCW Revision January 29, 2008</p>																									
Base Penalty <input type="text" value="\$10,000"/>																										
>> Environmental, Property and Human Health Matrix																										
OR	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td></td> <td colspan="3" style="text-align: center;">Harm</td> <td></td> </tr> <tr> <td style="text-align: center;">Release</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td></td> </tr> <tr> <td style="text-align: center;">Actual</td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input checked="" type="text" value="x"/></td> <td style="text-align: center;"><input type="text"/></td> <td></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> <td></td> </tr> <tr> <td></td> <td colspan="3"></td> <td style="text-align: right;">Percent <input type="text" value="50%"/></td> </tr> </table>		Harm				Release	Major	Moderate	Minor		Actual	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>		Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>						Percent <input type="text" value="50%"/>
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Matrix Notes	<div style="border: 1px solid black; padding: 5px;"> Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation. </div>																									
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Violation Base Penalty <input type="text" value="\$5,000"/>																										
One monthly event is recommended beginning on the date of the stack test (September 12, 2007), and ending on the plant shutdown date (September 27, 2007).																										
Economic Benefit (EB) for this violation																										
Statutory Limit Test																										
Estimated EB Amount <input type="text" value="\$9"/>	Violation Final Penalty Total <input type="text" value="\$12,950"/>																									
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$12,950"/>																										

Economic Benefit Worksheet

Respondent McWane, Inc.
Case ID No. 35342
Reg. Ent. Reference No. RN102679867
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling	\$1,500	12-Sep-2007	24-Oct-2007	0.1	\$9	n/a	\$9
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

These are estimated costs for submitting the letter notifying a change to a qualified facility under Senate Bill 1126, beginning on the date of the non-compliant stack test, and ending on the date the letter was submitted to TCEQ.

Avoided Costs

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

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

\$1,500

TOTAL

\$9

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: February 08, 2003 to February 08, 2008

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

Name: Suzanne Walrath Phone: 512/239-2134

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? Yes
3. If Yes, who is the current owner? McWane, Inc.
4. If Yes, who was/were the prior owner(s)? Ransom Industries, LP
5. When did the change(s) in ownership occur? 7/7/2003

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: 05/14/2004

ADMINORDER 2002-0079-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.6(a)(2)(E)
30 TAC Chapter 101, SubChapter F 101.201(a)(2)(G)

5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failed to report emissions associated with two upset events from the sand reclamation system by compound descriptive type.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20
30 TAC Chapter 101, SubChapter F 101.221(a)

30 TAC Chapter 116, SubChapter B 116.115(b)(2)

40 CFR Chapter 60, SubChapter C, PT 60, SubPT UUU 60.732(a)

5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Special Conditions 1 & 3 PERMIT

Description: Failed to comply with the hourly and annual emission limitations for the Sand Reclamation and Core Machines Baghouse, EPN E1-40-1 and the Calciner heater E2-40-1 as listed in the MAERT of the TCEQ Air Permit No. 26516.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.7(a)
30 TAC Chapter 101, SubChapter F 101.221(a)

5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Special Condition 6D PERMIT

Description: Failed to ensure that the duct work serving the air pollution control equipment was in good working order.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.6(a)(1)
30 TAC Chapter 101, SubChapter F 101.201(a)(1)

5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to provide timely notification of seven upset events.

Classification: Moderate

Citation: 5C THC Chapter 382, SubChapter A 382.085(a)
Description: Failed to prevent unauthorized emissions during six upset events.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121

Rqmt Prov: Requirement NO. 1 PERMIT

Description: Failed to comply with the WET limit of 38% NOEC for grab samples collected on March 13, 2001 and May 16, 2001.

Effective Date: 07/15/2005

ADMINORDER 2003-0618-MLM-E

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: SC 11 PERMIT

Description: Failure to maintain and operate the coatings application system within the limits and specifications set forth by the manufacturer as required by Special Condition 11 of TCEQ New Source Review Permit No. 26203.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: SC 8 PERMIT

Description: Failure to comply with the 0.20 gallons per hour thinner usage rate as outlined in Special Condition 8 of TCEQ New Source Review Permit No. 26203.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: SC 16, 18, & 20 PERMIT

Description: Failure to exercise good environmental housekeeping practices as outlined in Special Conditions 16, 18, and 20 of TCEQ New Source Review Permit No. 26203.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: SC 14(B) PERMIT

Description: Failure to maintain and provide an accurate report of complete usage records and have them readily available upon request, as required by Special Condition 14(B) of TCEQ NSR Permit No. 26203.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.116(b)(1)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: application misrepresentation PERMIT

Description: Failure to conduct the mixing process in accordance with the representations included with the permit application for TCEQ New Source Review Permit No. 26203.

Classification: Major

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)
5C THC Chapter 382, SubChapter A 382.0518(a)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: No. 9425 PERMIT

Description: Failure to obtain TCEQ New Source Review permit authorization for all emission points and pollutants prior to constructing and operating the Impact Molding Process (FIN No. P3-1).

Classification: Major

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.160
40 CFR Chapter 51, SubChapter C, PT 51, SubPT I 51.166
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to obtain Prevention Of Significant Deterioration (PSD) permit authorization prior to completing a major modification where the new emission increases in TSP are greater than or equal to 15 tpy and CO is greater than or equal to 100 tpy, as outlined in Title 40 Code of Federal Regulations Part 51.166.

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter A 101.10(b)(2)(A)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to accurately report actual carbon monoxide emissions generated by the Impact Molding Process (FIN No. P3-1) and the Hermann Moldmaster process in the 2000 Emissions Inventory Questionnaire.

Classification: Major

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)
5C THC Chapter 382, SubChapter A 382.0518(a)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to obtain prior to construction and operation of the South Plant Impact Millroom Dip Tank without obtaining a permit or other authorization.

Classification: Major

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)
5C THC Chapter 382, SubChapter A 382.0518(a)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to obtain TCEQ New Source Review permit authorization for emissions generated by the JJR2 process line as a result of a ductile iron throughput increase at the South Plant cupola.

Classification: Major

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)
5C THC Chapter 382, SubChapter A 382.0518(a)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: 8157 PERMIT

Description: Failure to obtain TCEQ New Source Review (NSR) permit authorization for all emission points and pollutants prior to constructing and operating the Hermann Moldmaster Process (FIN No. P2-1 and P2-2).

Classification: Major

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.160
40 CFR Chapter 51, SubChapter C, PT 51, SubPT I 51.166
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: 8157 PERMIT

Description: Failure to obtain Prevention Of Significant Deterioration (PSD) permit authorization prior to completing a major modification to the process causing emission increases in TSP greater than or equal to 15 tpy and CO greater than or equal to 100 tpy outlined in Title 40 Code of Federal Regulations Part 51.166.

Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)
5C THC Chapter 382, SubChapter A 382.0518(a)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to verify that actual emissions were within the emission rate represented in the permit application for the Torrit Baghouse.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.116
5C THC Chapter 382, SubChapter A 382.0518(a)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Permit No. 4581 PERMIT

Description: Failure to operate the ductile inoculation fugitive emission collection system on the 65 ton furnace with an efficiency of 99% as presented in the 1991 permit amendment application.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter F 101.221(a)
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: 4246 PERMIT
8157 PERMIT

Description: Failure to maintain all air pollution and abatement equipment in good working order and operating properly during plant operations, which resulted in the failure to control visible emissions.

Classification: Major

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)(1)
5C THC Chapter 382, SubChapter A 382.0518(a)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Permit No. 26516 PERMIT

Description: Failure to represent all emissions generated from the graphite/isopropanol mixing and application operations (EPN No. FE1-15-16) and the core wash process in its application for Air Quality Permit under the New Source Review (NSR) permit no. 26516.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)
5C THC Chapter 382, SubChapter A 382.0518(a)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: application representation PERMIT

Description: Failure to obtain NSR authorization for engaging in modifications involving the usage of "Mag Rods" and a Bubbling Pot.

Classification: Moderate

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

Description: Failure to notify the TCEQ Tyler Regional office of an estimated reportable quantity emission within 24 hours of the event being discovered.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.116(a)(1)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Prmit No. 45728 PERMIT

Description: Failure to take prompt action and route all VOC emissions from the Impact Millroom Drying Tunnel to the thermal oxidizer as represented in McWayne's permit application.

Classification: Major

Citation: 30 TAC Chapter 106, SubChapter E 106.144(4)
30 TAC Chapter 116, SubChapter B 116.110(a)(4)

5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Permit By Rule no. 53044 PA

Description: Failure to submit Registration Form PI-7 to the TCEQ New Source Review Permit by Rule (PBR) 30 TAC §106.144 authorization prior to relocating Sand Storage Silo No. 7.

Classification: Major

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)(1)
5C THC Chapter 382, SubChapter A 382.0518(a)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to obtain TCEQ New Source Review permit authorization prior to constructing and operating the P.M. Stands Process line (FIN No.P34-1) .

Classification: Major

Citation: 30 TAC Chapter 116, SubChapter B 116.116(a)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Permit No. 22200 PERMIT

Description: Failure to accurately represent the VOC emissions associated with the 4260 Pipe Casting and Coating Process (FIN No. P39-1).

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Permit No. 70403, Special Condition 1 PERMIT

Description: Failure to maintain the maximum allowable emission rate for hydrogen chloride and hydrogen fluoride at the North Plant Cupola.

Classification: Moderate

Citation: TWC Chapter 26 26.121

Rqmt Prov: MGSP No. TXR05P127, Part III, Section A. PERMIT

Description: Failure to conduct a survey of potential non-storm water sources and to test or inspect the storm sewer system for the presence of non-storm water discharges.

Classification: Moderate

Citation: TWC Chapter 26 26.121

Rqmt Prov: Sec A(5)(h) PERMIT

Description: Failure to complete the required quarterly visual monitoring of the storm water discharge from each of the four storm water outfalls on the facility's site for the first two calendar quarters of 2002.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Prov No. 1 PERMIT
Prov. No. 2 PERMIT

Description: Exceeded the permitted effluent limits for COD, oil and grease, amd Zinc as shown in the Effluent Limitations and Monitoring Requirements Table 1 and 2 as specified in Permit No. 01793.

Classification: Moderate

Citation: 30 TAC Chapter 319, SubChapter A 319.11(a)
30 TAC Chapter 319, SubChapter A 319.11(b)

Rqmt Prov: Prov No. 2 PERMIT

Description: Failure to properly collect and preserve samples in one instance by using approved method.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)
5C THC Chapter 382, SubChapter A 382.0518(a)

5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Permit No. 22200 PERMIT

Description: Failed to renew Permit No. 22200 prior to its expiration date of May 24, 2003, thus, the Respondent operated the North Plant without a valid permit.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)

Description: Failure to record and report all of the information required in the final record for the emission events from Incident Nos. 50643 and 50800.

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Air Permit No. 4246, Special Provisions OP
Air Permit No. 70403, Special Cond. No.1 PERMIT

Description: Failure to prevent unauthorized emissions during an emissions event (Incident #50643).

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)

Description: Failure to submit an initial notification within 24 hours of the discovery of the event (Incident #50809).

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.160
40 CFR Chapter 51, SubChapter C, PT 51, SubPT I 51.166

5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to obtain PSD authorization prior to completing a major modification where the actual to potential emission increases in PM10 are greater than or equal to 15 tpy and CO are greater than or equal to 100 tpy.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Permit No. 70403, Special Condition 1 PERMIT

Description: Failure to prevent exceedance of the maximum allowable emission rate for particulate matter at the North Plant Millroom.

See addendum for information regarding federal actions.

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

Conviction Date: 3/22/2005 12:00:00AM Type of Action: COURTOORDER

Classification: Major

Rqmt Prov:

Citation: 18 USC Chapter 47 18.1001

Description: Concealment of Material Facts from US EPA

Classification: Major

Rqmt Prov:

Citation: 42 USC Chapter 85 Subchapter I 85.7413(c)(1)

Description: Knowing Violation of the Clean Air Act Preconstruction Requirements

C. Chronic excessive emissions events.

N/A

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

1	02/19/2003	(16096)
2	02/19/2003	(15495)
3	02/28/2003	(154610)
4	04/18/2003	(154613)
5	04/28/2003	(154618)
6	05/29/2003	(154622)
7	07/01/2003	(154626)
8	07/28/2003	(294039)
9	08/27/2003	(294041)
10	09/25/2003	(294043)
11	10/01/2003	(256332)
12	10/23/2003	(294045)
13	11/25/2003	(294047)
14	12/23/2003	(294049)
15	01/10/2004	(381560)
16	01/15/2004	(294050)
17	02/09/2004	(261296)
18	02/20/2004	(294029)
19	03/24/2004	(294032)
20	04/23/2004	(294033)
21	04/29/2004	(268008)
22	05/12/2004	(294035)
23	06/12/2004	(351534)
24	07/07/2004	(294037)

25	07/26/2004	(285711)
26	08/23/2004	(351535)
27	08/25/2004	(291570)
28	09/10/2004	(351536)
29	10/06/2004	(351537)
30	10/12/2004	(337099)
31	10/28/2004	(292838)
32	10/28/2004	(292982)
33	10/28/2004	(292827)
34	11/16/2004	(351538)
35	12/13/2004	(351539)
36	02/09/2005	(381557)
37	02/21/2005	(371479)
38	02/28/2005	(349129)
39	03/16/2005	(381558)
40	03/22/2005	(510983)
41	04/11/2005	(381559)
42	04/20/2005	(377468)
43	04/20/2005	(377410)
44	05/18/2005	(574680)
45	06/13/2005	(574683)
46	07/08/2005	(398031)
47	07/20/2005	(574686)
48	08/17/2005	(574689)
49	08/26/2005	(407410)
50	09/12/2005	(574691)
51	09/28/2005	(432244)
52	10/17/2005	(574693)
53	11/15/2005	(574695)
54	12/12/2005	(439793)
55	12/14/2005	(574697)
56	01/10/2006	(574699)
57	01/30/2006	(453417)
58	01/30/2006	(453366)
59	02/03/2006	(454281)
60	02/06/2006	(454489)
61	02/16/2006	(574674)
62	02/27/2006	(457461)
63	03/15/2006	(574676)
64	04/19/2006	(574678)
65	04/19/2006	(462002)
66	05/15/2006	(456452)
67	05/15/2006	(465503)
68	05/18/2006	(574681)
69	06/16/2006	(574684)
70	07/13/2006	(574687)
71	08/11/2006	(484869)
72	08/14/2006	(574690)
73	09/28/2006	(574692)
74	10/18/2006	(513693)
75	10/18/2006	(516276)
76	10/19/2006	(574694)
77	11/20/2006	(574696)
78	11/22/2006	(516188)
79	12/11/2006	(533767)
80	12/19/2006	(517528)
81	12/22/2006	(574698)
82	01/18/2007	(574700)
83	02/26/2007	(574675)
84	03/16/2007	(574677)
85	04/19/2007	(574679)
86	05/02/2007	(541962)
87	05/21/2007	(574682)
88	06/15/2007	(574685)
89	07/19/2007	(574688)
90	08/23/2007	(572476)
91	08/23/2007	(571889)
92	09/20/2007	(607482)

93 10/18/2007 (607483)
 94 10/18/2007 (607484)
 95 10/18/2007 (607485)
 96 01/16/2008 (613934)

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

Date	02/28/2003	(154613)		
Self Report?	YES		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	05/31/2003	(154626)		
Self Report?	YES		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	10/31/2003	(294047)		
Self Report?	YES		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	03/31/2004	(294033)		
Self Report?	YES		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	04/30/2004	(294035)		
Self Report?	YES		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	04/30/2004	(268008)		
Self Report?	NO		Classification:	Minor
Citation:	40 CFR Chapter 270, SubChapter I, PT 270, SubPT C 270.30(a)			
Rqmt Prov:	PERMIT 50141			
Description:	Failure to maintain the groundwater monitoring well identification numbers. Wells must be clearly marked and maintained.			
Self Report?	NO		Classification:	Moderate
Citation:	40 CFR Chapter 270, SubChapter I, PT 270, SubPT C 270.30(a)			
Rqmt Prov:	PERMIT 50141			
Description:	Failure to survey the monitoring well elevations on a frequency not to exceed five (5) year intervals as required in the approved permit.			
Date	06/30/2004	(351534)		
Self Report?	YES		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	10/31/2004	(351538)		
Self Report?	YES		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	01/31/2005	(381557)		
Self Report?	YES		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	02/28/2005	(381558)		
Self Report?	YES		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	05/31/2005	(574683)		
Self Report?	YES		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	06/30/2005	(574686)		
Self Report?	YES		Classification:	Moderate

Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	08/31/2005 (574691)		
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	09/30/2005 (574693)		
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	10/31/2005 (574695)		
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	03/31/2006 (574678)		
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	04/30/2006 (574681)		
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	07/31/2006 (574690)		
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	08/31/2006 (574692)		
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	09/30/2006 (574694)		
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	10/31/2006 (574696)		
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	11/27/2006 (516188)		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)		
Description:	Failure to maintain the fence against intruder entry at the gate to the ground storage tanks.		
Date	11/30/2006 (574698)		
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	12/31/2006 (574700)		
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	01/31/2007 (574675)		
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		

Date 02/28/2007 (574677)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date 03/31/2007 (574679)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date 04/30/2007 (574682)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date 05/31/2007 (574685)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date 06/30/2007 (574688)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date 08/23/2007 (572476)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter F 116.615(2)
30 TAC Chapter 116, SubChapter F 116.617(b)(1)(F)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THC Chapter 382, SubChapter D 382.085(b)
Rqmt Prov: PA 55428
OP O-01407 STC 9B
Description: Failure to operate the Hot Dip Asphalt Pipe Coating Baghouse (EPN E2103113) while the dipping lines were operating. Tyler Pipe reported that the dipping lines were operating while the baghouse had been shutdown. Tyler Pipe represented in the standard permit application (Permit 55428) that the baghouse would operate when the dipping lines were operating.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THC Chapter 382, SubChapter D 382.085(b)
Rqmt Prov: PA 4246 SC 8
OP O-01407 STC 7
Description: Failure to operate the NP Sand Handling Dust Collector (EPN E5-23-7) while the cannonball crusher was still in operation. Tyler Pipe reported that the baghouse had been shutdown following the completion of maintenance on the core machines, but the cannonball crusher was still in operation and venting to the baghouse.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 113, SubChapter C 113.1140
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(A)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT EEEEE 63.7741(a)(2)(iv)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT EEEEE 63.7746(a)
5C THC Chapter 382, SubChapter D 382.085(b)
Rqmt Prov: PA 9425 SC 4
OP O-01407 STC 1E
OP O-01407 STC 7
Description: Failure to perform a monthly transducer calibration check with a manometer on the South Plant Cupola Baghouse and failure to report the deviation in the first six month deviation report. Tyler Pipe reported that the manometer was not installed properly and therefore the monthly transducer check could not be performed as required.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 113, SubChapter C 113.1140
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT EEEEE 63.7740(f)(1)

40 CFR Chapter 63, SubChapter C, PT 63, SubPT EEEEE 63.7740(f)(2)
 5C THC Chapter 382, SubChapter D 382.085(b)
 Rqmt Prov: PA 9425 SC 4
 OP O-01407 STC 1K
 OP O-01407 STC 7
 Description: Failure to record the Dakota (EPN E2-15-11) and Vanaire (EPN E6-15-11) scrubbers fluid pH and fluid flow rates. Tyler Pipe reported that the 3-hour average fluid pH and fluid flow rates were not recorded on 12 days from April 23, 2007 to May 16, 2007.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 113, SubChapter C 113.100
 30 TAC Chapter 113, SubChapter C 113.1140
 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.10(b)(2)(v)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.6(e)(3)(iii)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT EEEEE 63.7752(a)(2)

Rqmt Prov: 5C THC Chapter 382, SubChapter D 382.085(b)
 PA 9425 SC 4
 OP O-01407 STC 1K
 OP O-01407 STC 7

Description: Failure to maintain SSMP logs for the Dakota and Vanaire scrubbers. Tyler Pipe reported that due to a miscommunication error, the logs were not maintained for 12 days from April 23, 2007 to May 16, 2007.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 113, SubChapter C 113.100
 30 TAC Chapter 113, SubChapter C 113.1140
 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.10(b)(2)(v)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.6(e)(1)(i)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT EEEEE 63.7710(a)
 5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: PA 70403 SC 14D
 PA 70403 SC 17
 PA 9425 SC 4
 OP O-01407 STC 1K
 OP O-01407 STC 7

Description: Failure to operate 3 baghouses on three occasions while operating the foundry. Tyler Pipe reported that on May 7, 2007, the South Plant cupola baghouse was not operating while the cupola was on spill. Tyler Pipe also reported that on May 9, 2007, the North Plant cupola baghouse lost control and shutdown due to a human programming error while the cupola was still operating. Tyler Pipe also reported that on May 17, 2007, the North Plant baghouse associated with the Small Wheel was shutdown whil

Date 08/31/2007 (607482)

Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date 09/30/2007 (607483)

Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

Non-Chapter 90 EMS in place at the site since December 18, 2003.

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

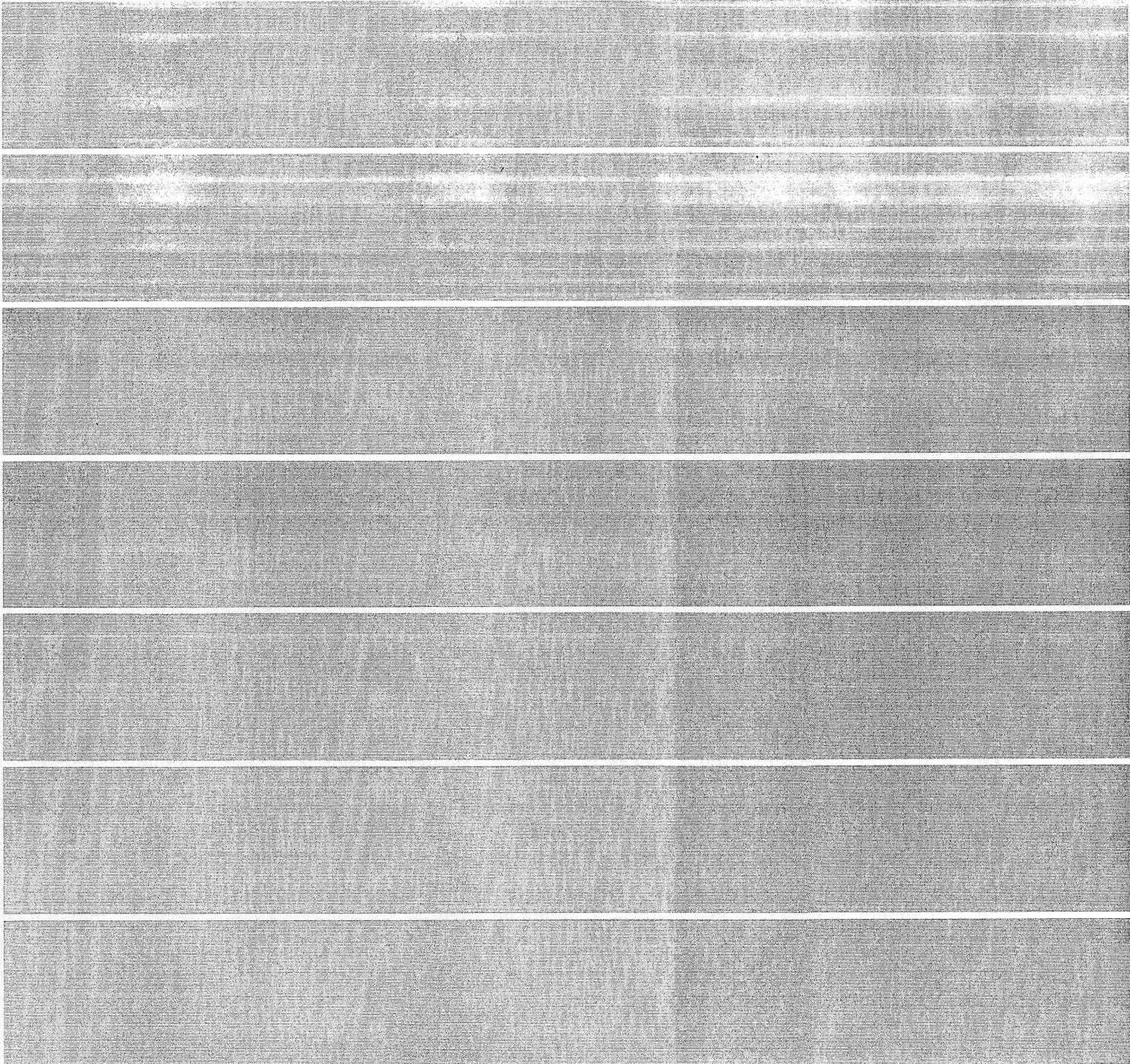
N/A

**Addendum to Compliance History
Federal Enforcement Actions**

CUSTOMER (Defendant):	McWane	CUSTOMER NO.:	CN602243313
REGULATED ENTITY:	TYLER PIPE COMPANY	REG. ENTITY NO.:	RN102679867
REG. ENTITY ADDRESS:	HWY. 69, 4 MILES N. OF LOOP 323		
REG. ENTITY CITY:	TYLER		

Violations

EPA CASE NO.:	06-2006-3319	CLASSIFICATION:	MODERATE				
ORDER ISSUED DATE (YYYYMMDD):	20060929	STATUTE:	CAA	SECT. OF STATUTE:	110		
ENFORCEMENT ACTION TYPE:	Administrative Penalty Order	CITATION:		CITE PART:		CITE SECT.:	
CASE RESULT:		PROGRAM:	State Implementation Plan (SIP)				
		VIOLATION TYPE:					



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
MCWANE, INC.
RN102679867**

§ **BEFORE THE**
§
§ **TEXAS COMMISSION ON**
§
§ **ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2008-0192-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 McWane, Inc. ("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, represented by Mr. Rodman Johnson, Attorney at Law of the law firm of Brown McCarroll, L.L.P., appear before the Commission and together stipulate that:

1. The Respondent owns and operates a iron and steel foundry at 11721 US Highway 69 North in Tyler, Smith 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 January 21, 2008.
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 Twelve Thousand Nine Hundred Fifty Dollars (\$12,950) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Ten Thousand Three Hundred Sixty (\$10,360) of the

- administrative penalty and Two Thousand Five Hundred Ninety Dollars (\$2,590) 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 has implemented the following corrective measures at the Plant:
 - a. On September 27, 2007, upon receiving information concerning preliminary results of volatile organic compound ("VOC") testing, the Respondent immediately ceased operation of the South Plant Impact Molding line which generates emissions venting to the Impact FlexKleen Baghouse #2 ("EPN No. E2-3-1"); and
 - b. On October 24, 2007, the Respondent submitted notification of a change to a qualified facility under Senate Bill 1126, and restarted operations.
 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 adhere to the permitted maximum allowable emission rate table ("MAERT") limit for EPN No. E2-3-1, in violation of 30 TEX. ADMIN. CODE § 116.115(c), Air Permit No. 9425 and PSD-TX-1066, Special Condition No. 1, Federal Operating Permit No. O-01407, Special Condition No. 7, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on January 8, 2008. Specifically, results of the stack test on September 12, 2007 found the VOC emissions were 45.76 pounds per hour ("lbs/hr"), and the allowable rate is 9.56 lbs/hr.

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: McWane, Inc., Docket No. 2008-0192-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. 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.
3. 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.
4. 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.
5. 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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

8/21/2008
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

8/16/08
Date

Kent Brown

Name (Printed or typed)
Authorized Representative of
McWane, Inc.

South Plant Asst Gen Mgr

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.

