

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 2  
**DOCKET NO.: 2009-1004-AIR-E TCEQ ID: RN100217041 CASE NO.: 37877**  
**RESPONDENT NAME: Mansfield Plumbing Products LLC**

<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> Mansfield Plumbing Products, 1505 Industrial Drive, Henderson, Rusk County</p> <p><b>TYPE OF OPERATION:</b> Plastics manufacturing plant</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input 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 November 23, 2009. 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. James Nolan, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-6634; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> Mr. Gary Matlock, Research and Development Manager, Mansfield Plumbing Products LLC, P.O. Box 620, Perrysville, Ohio 44864  <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 checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input 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> May 18, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> June 17, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>AIR</b></p> <p>1) Failure to submit an annual compliance certification within 30 days of the end of the certification period. Specifically, the Respondent did not submit the annual certification for the period beginning October 16, 2003 and ending the date the permit was voided, September 7, 2004 [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.146(1), Federal Operating Permit No. O-2316 Site-wide Requirements No. 2, and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>2) Failure to submit an annual compliance certification and a semi-annual deviation report within 30 days of the end of the certification period. Specifically, the Respondent failed to submit the annual certification for the four annual reporting periods beginning September 7, 2004 and ending April 30, 2008 and the semi-annual deviation reports for the eight semi-annual reporting periods beginning April 7, 2005 and ending April 30, 2008 [30 TEX. ADMIN. CODE §§ 122.143(4), 122.145(2)(B), and 122.146(1), Federal Operating Permit No. O-2626 General Terms and Conditions, and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>	<p><b>Total Assessed:</b> \$12,500</p> <p><b>Total Deferred:</b> \$2,500  <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> \$10,000</p> <p><b>Site Compliance History Classification</b>  <input checked="" type="checkbox"/> High <input 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 has implemented the following corrective measures at the Plant:</p> <p>a. On May 1, 2009, a reporting system was put in place at the Plant to ensure that all semi-annual deviation reports and annual compliance certifications are submitted complete, accurate, and timely; and</p> <p>b. On May 7, 2009, an annual compliance certification was received for the May 1, 2008 through April 30, 2009 reporting period and a semi-annual deviation report was received for the November 1, 2008 through April 30, 2009 reporting period.</p>

Additional ID No(s): RL0008A



Policy Revision 2 (September 2002)

# Penalty Calculation Worksheet (PCW)

PCW Revision October 30, 2008

<b>DATES</b>	Assigned	22-Jun-2009	Screening	29-Jun-2009	EPA Due	13-Mar-2010
	PCW	27-Jul-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	Mansfield Plumbing Products LLC		
Reg. Ent. Ref. No.	RN100217041		
Facility/Site Region	5-Tyler	Major/Minor Source	Major

<b>CASE INFORMATION</b>			
Enf./Case ID No.	37877	No. of Violations	2
Docket No.	2009-1004-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	James Nolan
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$12,500
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	25.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$3,125
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Notes: Penalty enhancement due to one previous 1660-style Agreed Order and one previous similar NOV.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$3,125
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts: \$378  
 Approx. Cost of Compliance: \$1,650  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$12,500
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$12,500
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$12,500
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	-\$2,500
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$10,000
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Screening Date 29-Jun-2009

Docket No. 2009-1004-AIR-E

PCW

Respondent Mansfield Plumbing Products LLC

Policy Revision 2 (September 2002)

Case ID No. 37877

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100217041

Media [Statute] Air

Enf. Coordinator James Nolan

## Compliance History Worksheet

## &gt;&gt; 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	0	0%
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) 25%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

Penalty enhancement due to one previous 1660-style Agreed Order and one previous similar NOV.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 25%

**Screening Date** 29-Jun-2009 **Docket No.** 2009-1004-AIR-E **PCW**  
**Respondent** Mansfield Plumbing Products LLC *Policy Revision 2 (September 2002)*  
**Case ID No.** 37877 *PCW Revision October 30, 2009*

**Reg. Ent. Reference No.** RN100217041

**Media [Statute]** Air

**Enf. Coordinator** James Nolan

**Violation Number** 1

**Rule Cite(s)** 30 Tex. Admin. Code §§ 122.143(4) and 122.146(1), Federal Operating Permit No. O-2316 Site-wide Requirements No. 2, and Tex. Health & Safety Code § 382.085(b)

**Violation Description** Failed to submit an annual compliance certification within 30 days of the end of the certification period. Specifically, the Respondent did not submit the annual certification for the period beginning October 16, 2003 and ending the date the permit was voided, September 7, 2004.

**Base Penalty** \$10,000

**>> Environmental, Property and Human Health Matrix**

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					0%
Potential					

**>> Programmatic Matrix**

Falsification	Harm			Percent
	Major	Moderate	Minor	
	x			25%

**Matrix Notes**

100% of the rule requirement was not met.

**Adjustment** \$7,500

\$2,500

**Violation Events**

Number of Violation Events 1 1673 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

mark only one with an x

**Violation Base Penalty** \$2,500

One annual event is recommended.

**Good Faith Efforts to Comply**

**25.0% Reduction** \$625

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

**Notes**

On May 1, 2009, a reporting system was put in place at the Plant to prevent the recurrence of similar violations.

**Violation Subtotal** \$1,875

**Economic Benefit (EB) for this violation**

**Estimated EB Amount** \$264

**Statutory Limit Test**

**Violation Final Penalty Total** \$2,500

**This violation Final Assessed Penalty (adjusted for limits)** \$2,500

## Economic Benefit Worksheet

**Respondent** Mansfield Plumbing Products LLC  
**Case ID No.** 37877  
**Reg. Ent. Reference No.** RN100217041  
**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	Onetime Costs	EB Amount
No commas or \$							

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,150	7-Oct-2004	7-May-2009	4.68	\$264	n/a	\$264

Notes for DELAYED costs

Estimated cost for additional training and oversight to ensure the proper preparation and submittal of annual compliance certification reports and semi-annual deviation reports. The date required is the date the first report should have been submitted and the final date is the date by which a reporting system was put into place and a current annual compliance certification and semi-annual deviation report were submitted.

**Avoided Costs**

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,150

**TOTAL**

\$264

<b>Screening Date</b> 29-Jun-2009	<b>Docket No.</b> 2009-1004-AIR-E	<b>PCW</b>			
<b>Respondent</b> Mansfield Plumbing Products LLC	<small>Policy Revision 2 (September 2002)</small>				
<b>Case ID No.</b> 37877	<small>PCW Revision October 30, 2009</small>				
<b>Reg. Ent. Reference No.</b> RN100217041					
<b>Media [Statute]</b> Air					
<b>Enf. Coordinator</b> James Nolan					
<b>Violation Number</b> <input type="text" value="2"/>					
<b>Rule Cite(s)</b>	30 Tex. Admin. Code §§ 122.143(4), 122.145(2)(B), and 122.146(1), Federal Operating Permit No. O-2626 General Terms and Conditions, and Tex. Health & Safety Code § 382.085(b)				
<b>Violation Description</b>	Failed to submit an annual compliance certification and a semi-annual deviation report within 30 days of the end of the certification period. Specifically, the Respondent failed to submit the annual certification for the four annual reporting periods beginning September 7, 2004 and ending April 30, 2008 and the semi-annual deviation reports for the eight semi-annual reporting periods beginning April 7, 2005 and ending April 30, 2008.				
<b>Base Penalty</b>		<input type="text" value="\$10,000"/>			
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>					
<b>OR</b>	<b>Harm</b>				
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
		<b>Percent</b>	<input type="text" value="0%"/>		
<b>&gt;&gt; Programmatic Matrix</b>					
	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	
		<b>Percent</b>	<input type="text" value="25%"/>		
<b>Matrix Notes</b>	100% of the rule requirement was not met.				
		<b>Adjustment</b>	<input type="text" value="\$7,500"/>		
		<input type="text" value="\$2,500"/>			
<b>Violation Events</b>					
<b>Number of Violation Events</b>		<input type="text" value="4"/>	<input type="text" value="1308"/>	<b>Number of violation days</b>	
<small>mark only one with an x</small>	daily	<input type="text"/>			
	weekly	<input type="text"/>			
	monthly	<input type="text"/>			
	quarterly	<input type="text"/>			
	semiannual	<input type="text"/>			
	annual	<input checked="" type="text" value="x"/>			
single event	<input type="text"/>				
		<b>Violation Base Penalty</b>			<input type="text" value="\$10,000"/>
		Four annual events are recommended for the four years the reports were required.			
<b>Good Faith Efforts to Comply</b>		<b>25.0% Reduction</b>		<input type="text" value="\$2,500"/>	
		Before NOV	NOV to EDRP/Settlement Offer		
Extraordinary	<input type="text"/>				
Ordinary	<input checked="" type="text" value="x"/>				
N/A	<input type="text"/>		<small>(mark with x)</small>		
<b>Notes</b>	On May 1, 2009, a reporting system was put in place at the Plant to prevent the recurrence of similar violations. On May 7, 2009, an annual compliance certification was received for the May 1, 2008 through April 30, 2009 reporting period and a semi-annual deviation report was received for the November 1, 2008 through April 30, 2009 reporting period.				
		<b>Violation Subtotal</b>			<input type="text" value="\$7,500"/>
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>			
<b>Estimated EB Amount</b>		<input type="text" value="\$0"/>		<b>Violation Final Penalty Total</b>	
				<input type="text" value="\$10,000"/>	
		<b>This violation Final Assessed Penalty (adjusted for limits)</b>			<input type="text" value="\$10,000"/>

## Economic Benefit Worksheet

**Respondent** Mansfield Plumbing Products LLC  
**Case ID No.** 37877  
**Reg. Ent. Reference No.** RN100217041  
**Media** Air  
**Violation No.** 2

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The economic benefit for this violation is calculated in Violation 1.

**Avoided Costs**

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$0

**TOTAL** \$0

# Compliance History Report

Customer/Respondent/Owner-Operator:	CN602423527	Mansfield Plumbing Products LLC	Classification: AVERAGE	Rating: 1.50
Regulated Entity:	RN100217041	MANSFIELD PLUMBING PRODUCTS	Classification: HIGH	Site Rating: 0.00
ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	RL0008A	
	AIR OPERATING PERMITS	PERMIT	2626	
	AIR OPERATING PERMITS	PERMIT	2626	
	STORMWATER	PERMIT	TXR05Y556	
	AIR NEW SOURCE PERMITS	PERMIT	23031	
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	RL0008A	
	AIR NEW SOURCE PERMITS	AFS NUM	4840100039	
	AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	RL0008A	
Location:	1505 INDUSTRIAL DR, HENDERSON, TX, 75652			
TCEQ Region:	REGION 05 - TYLER			
Date Compliance History Prepared:	June 29, 2009			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	June 24, 2004 to June 29, 2009			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	<u>James Nolan</u>	Phone:	<u>(512) 239-6634</u>	

## 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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2008 Repeat Violator: NO

### 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: 02/22/2009 ADMINORDER 2008-1291-AIR-E
  - Classification: Moderate
  - Citation: 30 TAC Chapter 101, SubChapter A 101.10(e)  
5C THSC Chapter 382 382.085(b)
  - Description: Failed to submit a 2007 Emissions Inventory.
- 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	08/11/2004	(286897)
2	10/28/2004	(292545)
3	05/24/2006	(465441)
4	06/09/2008	(682021)
5	07/31/2008	(687704)
6	06/17/2009	(746133)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
  - Date: 06/11/2008 (682021)
  - Self NO Classification: Moderate
  - Citation: 30 TAC Chapter 101, SubChapter A 101.10(e)

5C THSC Chapter 382 382.085(b)

Description: Failed to submit a 2007 Emissions Inventory.

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  
MANSFIELD PLUMBING PRODUCTS  
LLC  
RN100217041**

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§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2009-1004-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 Mansfield Plumbing Products LLC ("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 plastics manufacturing plant at 1505 Industrial Drive in Henderson, Rusk 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 June 22, 2009.
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 Five Hundred Dollars (\$12,500) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Ten Thousand Dollars (\$10,000) of the administrative penalty and Two

- Thousand Five Hundred Dollars (\$2,500) 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 May 1, 2009, a reporting system was put in place at the Plant to ensure that all semi-annual deviation reports and annual compliance certifications are submitted complete, accurate, and timely in accordance with 30 TEX. ADMIN. CODE §§ 122.145 and 122.146; and
    - b. On May 7, 2009, an annual compliance certification was received for the May 1, 2008 through April 30, 2009 reporting period and a semi-annual deviation report was received for the November 1, 2008 through April 30, 2009 reporting period.
  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:

1. Failed to submit an annual compliance certification within 30 days of the end of the certification period, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.146(1), Federal Operating Permit No. O-2316 Site-wide Requirements No. 2, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on May 18, 2009. Specifically, the Respondent did not submit the annual certification for the period beginning October 16, 2003 and ending the date the permit was voided, September 7, 2004.
2. Failed to submit an annual compliance certification and a semi-annual deviation report within 30 days of the end of the certification period, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4), 122.145(2)(B), and 122.146(1), Federal Operating Permit No. O-2626 General Terms and

Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on May 18, 2009. Specifically, the Respondent failed to submit the annual certification for the four annual reporting periods beginning September 7, 2004 and ending April 30, 2008 and the semi-annual deviation reports for the eight semi-annual reporting periods beginning April 7, 2005 and ending April 30, 2008.

### 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: Mansfield Plumbing Products LLC, Docket No. 2009-1004-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 Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
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

*John Srdelic*  
For the Executive Director

10/20/2009  
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.

*Gary Matlock*  
Signature

8/31/09  
Date

Gary Matlock  
Name (Printed or typed)  
Authorized Representative of  
Mansfield Plumbing Products LLC

RED 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.