

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-0380-AIR-E **TCEQ ID:** RN100215250 **CASE NO.:** 35496

RESPONDENT NAME: Alumax Mill Products, 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"/> IMMINENT 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: Alumax Mill Products Texarkana, 300 Alumax Drive, Texarkana, Bowie County</p> <p>TYPE OF OPERATION: Aluminum production plant</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 January 19, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Samuel Short, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-5363; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Mark Salih, Environmental Health and Safety Manager, Alumax Mill Products, Inc., 300 Alumax Drive, Texarkana, Texas 75501 Mr. Mike Leherr, Plant Manager, Alumax Mill Products, Inc., 300 Alumax Drive, Texarkana, Texas 75501 Respondent's Attorney: Not represented by counsel on this enforcement matter</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 25, 2008</p> <p>Date of NOV/NOE Relating to this Case: February 1, 2008 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>AIR</p> <p>Failure to comply with the permitted volatile organic compound ("VOC") emission limit for the Cold Mill Filtration System Outlet Stack, emission point number ("EPN") 121. Specifically, the VOC permitted emission limit is 8.00 pounds per hour ("lbs/hr"), and during reference method stack tests conducted on June 6 and 7, 2007 and on August 2 and 3, 2007 the VOC emission rate was 32.62 lbs/hr and 23.81 lbs/hr respectively [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), Federal Operating Permit No. O-1413, Special Terms and Conditions No. 8, Air Permit No. 9476 and PSD-TX-886, Special Conditions No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$46,350</p> <p>Total Deferred: \$9,270 <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: \$37,080</p> <p>Site Compliance History Classification <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input checked="" type="checkbox"/> High <input 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 submitted an application to amend Air Permit No. 9476 on February 19, 2008.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the application to amend Air Permit No. 9476 within 30 days after the date of such requests, or by any other deadline specified in writing; and</p> <p>b. Within 115 days after the effective date of this Agreed Order, submit written certification that the amendment to Air Permit No. 9476 has been obtained and/or demonstrate compliance with the current VOC emission limits in Air Permit No. 9476 and PSD-TX-886 for the Cold Mill Filtration System Outlet Stack, EPN 121. The certification shall include detailed supporting documentation including receipts and/or other records.</p>

Additional ID No(s): BK0051Q



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision February 29, 2008

DATES	Assigned	25-Feb-2008	Screening	4-Mar-2008	EPA Due	
	PCW	12-Mar-2008				

RESPONDENT/FACILITY INFORMATION			
Respondent	Alumax Mill Products, Inc.		
Reg. Ent. Ref. No.	RN100215250		
Facility/Site Region	5-Tyler	Major/Minor Source	Major

CASE INFORMATION				
Enf./Case ID No.	35496	No. of Violations	1	
Docket No.	2008-0380-AIR-E	Order Type	1660	
Media Program(s)	Air	Enf. Coordinator	Samuel Short	
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)	<i>Subtotal 1</i>	\$45,000
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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.

Compliance History	3% Enhancement	<i>Subtotals 2, 3, & 7</i>	\$1,350
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Notes: Change in the penalty recommended due to having two NOV's for the same or similar violations, five NOV's for non similar violations, three NOIs, two disclosures of violations, and for having a High Performer classification.

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

Good Faith Effort to Comply	0% Reduction	<i>Subtotal 5</i>	\$0
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	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes: The Respondent does not meet the good faith criteria.

	0% Enhancement*	<i>Subtotal 6</i>	\$0
Total EB Amounts	\$442	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$5,000		

SUM OF SUBTOTALS 1-7	<i>Final Subtotal</i>	\$46,350
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0%	<i>Adjustment</i>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<i>Final Penalty Amount</i>	\$46,350
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STATUTORY LIMIT ADJUSTMENT	<i>Final Assessed Penalty</i>	\$46,350
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DEFERRAL	20% Reduction	<i>Adjustment</i>	-\$9,270
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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.

PAYABLE PENALTY	\$37,080
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Screening Date 4-Mar-2008

Docket No. 2008-0380-AIR-E

PCW

Respondent Alumax Mill Products, Inc.

Policy Revision 2 (September 2002)

Case ID No. 35496

PCW Revision February 29, 2008

Reg. Ent. Reference No. RN100215250

Media [Statute] Air

Enf. Coordinator Samuel Short

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)	2	10%
	Other written NOVs	5	10%
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	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)	3	-3%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	2	-4%
Please Enter Yes or No			
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) 13%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance History Notes

Change in the penalty recommended due to having two NOVs for the same or similar violations, five NOVs for non similar violations, three NOIs, two disclosures of violations, and for having a High Performer classification.

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

Screening Date 4-Mar-2008	Docket No. 2008-0380-AIR-E	PCW
Respondent Alumax Mill Products, Inc.	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 35496	<i>PCW Revision February 29, 2008</i>	
Reg. Ent. Reference No. RN100215250		
Media [Statute] Air		
Enf. Coordinator Samuel Short		
Violation Number <input type="text" value="1"/>		
Rule Cite(s)	30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), Federal Operating Permit No. O-1413, Special Terms and Conditions No. 8, Air Permit No. 9476 and PSD-TX-886, Special Conditions No. 1, and Tex. Health & Safety Code § 382.085(b)	
Violation Description	Failed to comply with the permitted volatile organic compound ("VOC") emission limit for the Cold Mill Filtration System Outlet Stack, EPN 121. Specifically, the VOC permitted emission limit is 8.00 pounds per hour ("lbs/hr"), and during reference method stack tests conducted on June 6 and 7, 2007 and on August 2 and 3, 2007 the VOC emission rate was 32.62 lbs/hr and 23.81 lbs/hr respectively.	
Base Penalty		<input type="text" value="\$10,000"/>

>> Environmental, Property and Human Health Matrix

OR	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%"/>	

>> Programmatic Matrix

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

Matrix Notes
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.

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	monthly	<input checked="" type="text" value="x"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

Nine monthly events are recommended from the June 6, 2007 date of the first failed stack test to the March 4, 2008 screening date.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$442"/>	Violation Final Penalty Total <input type="text" value="\$46,350"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$46,350"/>	

Economic Benefit Worksheet

Respondent Alumax Mill Products, Inc.
Case ID No. 35496
Reg. Ent. Reference No. RN100215250
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
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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				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs	\$5,000	6-Jun-2007	12-Mar-2009	1.8	\$442	n/a	\$442
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

The estimated cost to submit a permit amendment application and obtain authorization to increase VOC emission limits. Date required is the date of the first failed stack test and the final date is the projected date of compliance.

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

\$5,000

TOTAL

\$442

Compliance History

Customer/Respondent/Owner-Operator: CN600128003 Alumax Mill Products, Inc. Classification: HIGH Rating: 0.00
 Regulated Entity: RN100215250 ALUMAX MILL PRODUCTS TEXARKANA Classification: HIGH Site Rating: 0.00

ID Number(s):	AIR OPERATING PERMITS AIR OPERATING PERMITS INDUSTRIAL AND HAZARDOUS WASTE GENERATION INDUSTRIAL AND HAZARDOUS WASTE GENERATION WASTEWATER WASTEWATER WASTEWATER PETROLEUM STORAGE TANK REGISTRATION AIR NEW SOURCE PERMITS AIR NEW SOURCE PERMITS AIR NEW SOURCE PERMITS AIR NEW SOURCE PERMITS AIR NEW SOURCE PERMITS STORMWATER	ACCOUNT NUMBER PERMIT EPA ID SOLID WASTE REGISTRATION # (SWR) PERMIT PERMIT PERMIT REGISTRATION PERMIT PERMIT ACCOUNT NUMBER EPA ID AFS NUM PERMIT	BK0051Q 1413 TXD981056815 34877 WQ0002742000 TPDES0097055 TX0097055 32 9476 46850 BK0051Q PSDTX886 4803700012 TXR05M678
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Location: 300 ALUMAX DR, TEXARKANA, TX, 75501

Rating Date: September 01 07 Repeat Violator: NO

TCEQ Region: REGION 05 - TYLER
 Date Compliance History Prepared: February 28, 2008
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: February 28, 2003 to February 28, 2008

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

Name: Samuel Short Phone: (512) 239-5363

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? N/A
Alumax Mill Products, Inc
Alcoa Mill Products
M-G Industries, Inc
Alcoa, Inc
Alcoa Mill Products, Inc
4. If Yes, who was/were the prior owner(s)? Alcoa Mill Products, Inc
5. When did the change(s) in ownership occur? 10/30/2006

Components (Multimedia) for the Site :

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

N/A

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	03/21/2003	(320421)
N/A		
2	03/24/2003	(28430)
3	04/21/2003	(320424)
4	05/02/2003	(33907)
5	05/20/2003	(320425)
6	06/18/2003	(320426)

7	07/24/2003	(320428)
8	08/19/2003	(320429)
9	09/15/2003	(320430)
10	10/21/2003	(320431)
11	11/19/2003	(320432)
12	12/29/2003	(320434)
13	02/20/2004	(320420)

14 03/22/2004 (261232)
15 03/23/2004 (320423)
16 03/23/2004 (262461)
17 04/22/2004 (362922)
18 05/20/2004 (362923)
19 06/15/2004 (320427)
20 07/15/2004 (362924)
21 08/16/2004 (362926)
22 09/17/2004 (362927)
23 10/20/2004 (362925)
24 10/20/2004 (362928)
25 10/20/2004 (362929)
26 11/11/2004 (340334)
27 11/18/2004 (387976)
28 12/15/2004 (387977)
29 02/02/2005 (349468)
30 02/15/2005 (425607)
31 02/21/2005 (349543)
32 02/28/2005 (371904)
33 03/01/2005 (371979)
34 03/09/2005 (372749)
35 03/22/2005 (387975)
36 04/15/2005 (425608)
37 05/23/2005 (425609)
38 05/23/2005 (425611)
39 06/20/2005 (425610)
40 08/16/2005 (446144)
41 08/16/2005 (446146)
42 08/22/2005 (403996)
43 09/12/2005 (446145)
44 10/10/2005 (434043)
45 11/18/2005 (435951)
46 12/22/2005 (478401)
47 01/18/2006 (478402)
48 02/17/2006 (478397)
49 02/21/2006 (455202)
50 02/27/2006 (452543)
51 02/28/2006 (457701)
52 03/16/2006 (478398)
53 03/16/2006 (478399)
54 03/16/2006 (478400)
55 04/19/2006 (460971)
56 05/10/2006 (465542)
57 05/22/2006 (504614)
58 06/14/2006 (482057)
59 06/16/2006 (504615)
60 07/11/2006 (484274)
61 08/15/2006 (526927)
62 08/28/2006 (509833)
63 09/25/2006 (526928)
64 10/19/2006 (550858)
65 10/19/2006 (550861)
66 11/21/2006 (550859)
67 12/11/2006 (533538)
68 12/15/2006 (550860)
69 02/22/2007 (587297)
70 03/20/2007 (587298)
71 04/13/2007 (587299)
72 04/13/2007 (556690)
73 05/02/2007 (555792)
74 05/21/2007 (587300)

75 05/22/2007 (587302)
76 06/18/2007 (587301)
77 08/15/2007 (604978)
78 09/21/2007 (604977)
79 09/21/2007 (604979)
80 09/21/2007 (604980)
81 10/16/2007 (627148)
82 11/26/2007 (627149)
83 12/20/2007 (627150)
84 02/13/2008 (616462)
85 02/13/2008 (617339)

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

Date 05/31/2003 (320426)

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 02/23/2004 (261232)

Self Report? NO Classification: Moderate

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

Description: Failure to notify the Texas Commission on Environmental Quality (TCEQ) Tyler Regional Office of a reportable emissions event within 24 hours after discovery of the event.

Date 02/29/2004 (320423)

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 (362922)

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 (362923)

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 08/16/2005 (403996)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)
5C THC Chapter 382, SubChapter A 382.054

Description: Failure to submit a Title V semi-annual deviation report in a timely manner.

Date 04/20/2006 (460971)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(B)
30 TAC Chapter 122, SubChapter B 122.143(4)

Rqmt Prov: OP FOP 1413 S.T. and C. 2(l) and 7
PERMIT NSR 9476 S.C. 6

Description: Failure to prevent unauthorized emissions by failing to control opacity at or below 5% during an emissions event at Well Furnace No. 3. Since the event was caused by human error the affirmative defense can not be met pursuant to 30 TAC 101.222(b)(2).

F. Environmental audits.

Notice of Intent Date: 10/17/2003 (262892)

Disclosure Date: 03/25/2004

Viol. Classification: Minor

Citation: 40 CFR Chapter 63, SubChapter C, PT 63, SubPT RRR 63.1506(b)(2)

Description: The required labels contain incorrect information

Viol. Classification: Moderate

Citation: 40 CFR Chapter 63, SubChapter C, PT 63, SubPT RRR 63.1506(c)

Description: The hoods appear to meet the intended goal of the regulation, it is not clear that they meet the engineering

standards referenced in the rule. Specifically, face velocity recommendations may not meet standards.

Viol. Classification: Moderate

Citation: 40 CFR Chapter 63, SubChapter C, PT 63, SubPT RRR 63.1506(m)(5)

40 CFR Chapter 63, SubChapter C, PT 63, SubPT RRR 63.1506(n)(1)

Description: parametric limits were incorrectly determined for melters and holders; the parametric limits in the OM&M plan are incorrectly set

Viol. Classification: Minor

Citation: 40 CFR Chapter 63, SubChapter C, PT 63, SubPT RRR 63.1510

Description: OM&M plan was reviewed and errors and omissions were identified

Viol. Classification: Minor

Citation: 40 CFR Chapter 63, SubChapter C, PT 63, SubPT RRR 63.1511

40 CFR Chapter 63, SubChapter C, PT 63, SubPT RRR 63.1512

Description: The method used to calculate actual emissions was not well documented and was not in conformance with the rules.

Viol. Classification: Moderate

Citation: 40 CFR Chapter 63, SubChapter C, PT 63, SubPT RRR 63.1516(b)(1)(iv)

Description: The incorrect set parametric limits in the OM&M plan were not met and were not reported in the August 2003 report.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter A 335.9(a)

Description: Recent changes to the site have resulted in changes in designation of some waste units

Viol. Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter A 335.6(h)

Description: Mineral spirits and Kensol (kerosene) are reclaimed on-site

Viol. Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)(4)

Description: Contingency plan in the latest version of the RPCC plan did not contain the TX and USEPA required minimum elements

Viol. Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter H 335.261(a)

30 TAC Chapter 335, SubChapter H 335.262

30 TAC Chapter 335, SubChapter H 335.262(b)

Description: Universal wastes were not handled correctly

Viol. Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter O 335.431(c)(1)

Description: No determination on LDR applicability is in the files for some wastes since at least 1999 and in some cases longer.

Viol. Classification: Minor

Citation: 30 TAC Chapter 335, SubChapter Q 335.474

Description: The plan was not timely filed

Viol. Classification: Minor

Citation: 30 TAC Chapter 335, SubChapter Q 335.474(1)

Description: The current executive summary fails to mention the relatively new Tube Mill as a process on-site.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter A 335.10(b)(12)

30 TAC Chapter 335, SubChapter A 335.10(b)(17)

30 TAC Chapter 335, SubChapter A 335.10(b)(22)

30 TAC Chapter 335, SubChapter A 335.10(b)(8)

30 TAC Chapter 335, SubChapter A 335.10(b)(9)

Description: Several manifests do not have the state-required State of Tx 1st transporter ID number

Viol. Classification: Minor

Citation: 30 TAC Chapter 335, SubChapter A 335.13(j)

30 TAC Chapter 335, SubChapter A 335.13(k)

Description: A manifest No. return copy was not found and the review of the paper files does not indicate any exception reports filed

Viol. Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter R 335.511(a)

30 TAC Chapter 335, SubChapter C 335.62

30 TAC Chapter 335, SubChapter C 335.70(a)

Description: No formal solid waste determinations were made for wastes generated at the site using the checklist that the State of Tx recommends.

Viol. Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.132(e)(2)

30 TAC Chapter 122, SubChapter B 122.132(e)(3)

Description: The original Title V Operating Permit is not correct

Disclosure Date: 07/13/2004

Viol. Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter P 305.541

Description: failed to comply with applicable effluent guidelines and standards

Viol. Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(11)

Description: incorrectly reported monitoring methods and sampling periods

Viol. Classification: Moderate

Citation: 40 CFR Chapter 270, SubChapter I, PT 270, SubPT C 270.30(a)

Rqmt PERMIT Other Requirements No. 1

Description: reported measurements less than the MAL as less than the laboratory's minimum detection limit rather than "< (MAL value)"

Viol. Classification: Moderate

Citation: 40 CFR Chapter 270, SubChapter I, PT 270, SubPT C 270.30(a)

Rqmt PERMIT Part III, Section C.3.(b)

Description: sampled storm water discharged via Outfall 002 after it has combined with process wastewater discharged via Outfall 002

Viol. Classification: Moderate

Citation: 40 CFR Chapter 270, SubChapter I, PT 270, SubPT C 270.30(a)

Rqmt PERMIT Part III., Section D.1.(d)

Description: failed to certify that the conditions specified in General Permit TX05M68 Part III., Section D.1.(d) exist

Viol. Classification: Moderate

Citation: 40 CFR Chapter 273, SubChapter I, PT 273, SubPT C 273.39(b)

40 CFR Chapter 273, SubChapter I, PT 273, SubPT C 273.39(c)

30 TAC Chapter 335, SubChapter H 335.261

Description: failed to keep and maintain a record of each shipment of universal waste sent from the handler to other facilities for at least three years

Viol. Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115

Rqmt PERMIT SC No. 19

Description: combustion chamber temperature of the top (finish) coat and primer coat thermal oxidizers fell below 1400 degrees Fahrenheit on multiple occasions

Viol. Classification: Moderate

Citation: 40 CFR Chapter 60, SubChapter C, PT 60, SubPT TT 60.465(d)

Description: failed to submit semiannual reports of incinerator temperature drops to TCEQ

Viol. Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)

Description: incorrectly reported applicability of 40 CFR 60.465(c) instead of 40 CFR 60.465(d)

Notice of Intent Date: 07/20/2005 (400851)

Disclosure Date: 08/29/2005

Viol. Classification: Minor

Rqmt PERMIT TPDES General Permit TX05M678

Description: Certification statement was included in the SWP3 but was not signed by the responsible official as required.

Notice of Intent Date: 10/24/2007 (600862)

No DOV Associated

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
ALUMAX MILL PRODUCTS, INC.
RN100215250**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2008-0380-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 Alumax Mill Products, 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 appear before the Commission and together stipulate that:

1. The Respondent owns and operates a aluminum production plant at 300 Alumax Drive in Texarkana, Bowie 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 February 6, 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 Forty-Six Thousand Three Hundred Fifty Dollars (\$46,350) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Thirty-Seven Thousand Eighty Dollars (\$37,080) of the administrative penalty and Nine Thousand Two Hundred Seventy Dollars (\$9,270) 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 submitted an application to amend Air Permit No. 9476 on February 19, 2008.
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 permitted volatile organic compound ("VOC") emission limit for the Cold Mill Filtration System Outlet Stack, emission point number ("EPN") 121, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), Federal Operating Permit No. O-1413, Special Terms and Conditions No. 8, Air Permit No. 9476 and PSD-TX-886, Special Conditions No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on January 25, 2008. Specifically, the VOC permitted emission limit is 8.00 pounds per hour ("lbs/hr"), and during reference method stack tests conducted on June 6 and 7, 2007 and on August 2 and 3, 2007 the VOC emission rate was 32.62 lbs/hr and 23.81 lbs/hr respectively.

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: Alumax Mill Products, Inc., Docket No. 2008-0380-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. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the application to amend Air Permit No. 9476 within 30 days after the date of such requests, or by any other deadline specified in writing; and
 - b. Within 115 days after the effective date of this Agreed Order, submit written certification that the amendment to Air Permit No. 9476 has been obtained and/or demonstrate compliance with the current VOC emission limits in Air Permit No. 9476 and PSD-TX-886 for the Cold Mill Filtration System Outlet Stack, EPN 121. The certification shall include detailed supporting documentation including receipts and/or other records, and be notarized by a State of Texas Notary Public, and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, 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
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3756

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 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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Soderlin
For the Executive Director

12/29/2008
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.

Michael A. ...
Signature

Nov 5, 2008
Date

Mike Leherr
Name (Printed or typed)
Authorized Representative of
Alumax Mill Products, Inc.

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.

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