

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 3
DOCKET NO.: 2009-0094-AIR-E **TCEQ ID:** RN100215250 **CASE NO.:** 37062
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 August 10, 2009. 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 4, MC 149, (512) 239-2134; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Michael R. 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: December 1, 2008 and April 23, 2009</p> <p>Date of NOV/NOE Relating to this Case: January 16, and April 29, 2009 (NOE)</p> <p>Background Facts: These were record reviews.</p> <p>AIR</p> <p>1) Failure to maintain the three-hour block average inlet temperature for each fabric filter at the decoating/delacquering/drying system baghouse [Emission Point ("BPN") 001] at or below the average inlet temperature established during the performance test. Specifically, the Respondent reported that on 28 occasions during February, May, and June 2008, and on 14 occasions during July, September, October, and December 2008, the inlet temperature exceeded 868 degrees Fahrenheit established during the January 11, 2008 performance test [30 TEX. ADMIN. CODE §§ 113.750, 116.115(c), and 122.143(4), 40 CODE OF FEDERAL REGULATIONS ("CFR") § 63.1506(g)(4), Air Permit No. 9476, Special Condition ("SC") 6, Federal Operating Permit ("FOP") No. O-01413, Special Terms and Conditions ("STC") 8, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>2) Failure to maintain the three-hour block average temperature of each afterburner at the incinerator at or above the average temperature established during the performance test. Specifically, the Respondent reported that on 16 occasions from April 16, 2008 through June 26, 2008 the temperature dropped below 1496 degrees Fahrenheit established during the January 11, 2008 performance</p>	<p>Total Assessed: \$11,929</p> <p>Total Deferred: \$2,385 <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: \$9,544</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 has implemented the following corrective measures at the Plant:</p> <p>a. On November 7, 2008, implemented a program that included mentoring and training regarding charging materials for the furnace;</p> <p>b. On November 13, 2008, installed a new burner for the RODECS incinerator, which ensures consistent higher temperatures to be held, and also allows the system baghouse to run at a more consistent temperature;</p> <p>c. On December 10, 2008, conducted a performance test which demonstrated compliance; and</p> <p>d. On December 17, 2008, submitted the corrected deviation report for the reporting period of March 1, 2008 through August 29, 2008.</p>

test [30 TEX. ADMIN. CODE §§ 113.750, 116.115(c), and 122.143(4), 40 CFR § 63.1506(g)(1)(i), Air Permit No. 9476, SC 6, FOP No. O-01413, STC 8, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

3) Failure to report each instance of a deviation in the semi-annual deviation report for the reporting period of March 1, 2008 through August 29, 2008. Specifically, the Respondent did not include the deviation of failure to meet the emission limits for dioxins and furans during performance tests conducted on May 13 and 14, 2008 and on July 17 and 18, 2008 at EPN 001 [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), FOP No. O-01413, General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

4) Failure to condition, by the batch decoating/delacquering/ drying system ("RODECS"), an aluminum blind that was painted on one side that was received from an outside source. Specifically, on November 1, 2008, an employee charged unauthorized material to the side well furnace during the melt cycle before it had been conditioned in the RODECS [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), Air Permit No. 9476, SC 13, FOP No. O-01413, STC 8 and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Additional ID No(s): 0



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision October 30, 2008

TCEQ

Assigned	20-Jan-2009	Screening	21-Jan-2009	EPA Due	13-Oct-2009
PCW	12-May-2009				

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.	37062	No. of Violations	4
Docket No.	2009-0094-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Suzanne Walrath
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$15,100

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 4.0% Enhancement **Subtotals 2, 3, & 7** \$604

Notes: The Respondent has received three Notices of Violation for same or similar violations, has received four dissimilar violations, has submitted three Notice of Intent to Audit letters, and has disclosed violations three times. Reduction due to high performer classification.

Culpability No 0.0% Enhancement **Subtotal 4** \$0

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** \$3,775Economic Benefit 0.0% Enhancement* **Subtotal 6** \$0

Total EB Amounts \$14,970
 Approx. Cost of Compliance \$306,650
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$11,929OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% **Adjustment** \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$11,929STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$11,929DEFERRAL 20.0% Reduction **Adjustment** -\$2,385

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 \$9,544

Screening Date 21-Jan-2009

Docket No. 2009-0094-AIR-E

PCW

Respondent Alumax Mill Products, Inc.

Policy Revision 2 (September 2002)

Case ID No. 37062

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100215250

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)	3	15%
	Other written NOVs	4	8%
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)	3	-6%
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) 14%

>> 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

The Respondent has received three Notices of Violation for same or similar violations, has received four dissimilar violations, has submitted three Notice of Intent to Audit letters, and has disclosed violations three times. Reduction due to high performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 4%

Screening Date 21-Jan-2009	Docket No. 2009-0094-AIR-E	PCW
Respondent Alumax Mill Products, Inc.	<small>Policy Revision 2 (September 2002)</small>	
Case ID No. 37062	<small>PCW Revision October 30, 2008</small>	
Reg. Ent. Reference No. RN100215250		
Media [Statute] Air		
Enf. Coordinator Suzanne Walrath		
Violation Number <input type="text" value="1"/>		
Rule Cite(s)	30 Tex. Admin. Code §§ 113.750, 116.115(c) and 122.143(4), 40 Code of Federal Regulations ("CFR") § 63.1506(g)(4), Air Permit No. 9476, Special Condition ("SC") 6, Federal Operating Permit ("FOP") No. O-01413, Special Terms and Conditions ("STC") 8, and Tex. Health & Safety Code § 382.085(b)	
Violation Description	Failed to maintain the three hour block average inlet temperature for each fabric filter at the decoating/delacquering/drying system baghouse [Emission Point ("EPN") 001] at or below the average inlet temperature established during the performance test. Specifically, the Respondent reported that on 28 occasions during February, May, and June 2008 and on 14 occasions during July, September, October, and December 2008, the inlet temperature exceeded 868 degrees Fahrenheit established during the January 11, 2008 performance test.	
Base Penalty		<input type="text" value="\$10,000"/>

>> Environmental, Property and Human Health Matrix			
OR	Release	Harm	
		Major Moderate Minor	
	Actual	<input type="text"/>	<input type="text"/>
	Potential	<input type="text" value="x"/>	<input type="text"/>
			Percent <input type="text" value="25%"/>
>> Programmatic Matrix			
	Falsification	Major	Moderate
	<input type="text"/>	<input type="text"/>	<input type="text"/>
			Percent <input type="text" value="0%"/>
Matrix Notes	Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors. The maximum temperature was 917 degrees Fahrenheit, an exceedance of 49 degrees Fahrenheit.		
Adjustment			<input type="text" value="\$7,500"/>
			<input type="text" value="\$2,500"/>

Violation Events			
Number of Violation Events	<input type="text" value="4"/>	<input type="text" value="35"/>	Number of violation days
<small>mark only one with an x</small>	daily	<input type="text"/>	Violation Base Penalty <input type="text" value="\$10,000"/>
	weekly	<input type="text"/>	
	monthly	<input type="text"/>	
	quarterly	<input type="text" value="x"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input type="text"/>	
Four quarterly events are recommended for the months of February, May, June, July, September, October, and December 2008.			

Good Faith Efforts to Comply		<input type="text" value="25.0%"/> Reduction	<input type="text" value="\$2,500"/>
	<small>Before NOV</small>	<small>NOV to EDPRP/Settlement Offer</small>	
Extraordinary	<input type="text"/>	<input type="text"/>	
Ordinary	<input type="text" value="x"/>	<input type="text"/>	
N/A	<input type="text"/>	<small>(mark with x)</small>	
Notes	The Respondent achieved compliance for this violation on December 10, 2008.		
Violation Subtotal			<input type="text" value="\$7,500"/>

Economic Benefit (EB) for this violation		Statutory Limit Test	
Estimated EB Amount	<input type="text" value="\$0"/>	Violation Final Penalty Total	<input type="text" value="\$7,900"/>
This violation Final Assessed Penalty (adjusted for limits)			<input type="text" value="\$7,900"/>

Economic Benefit Worksheet

Respondent Alumax Mill Products, Inc.
Case ID No. 37062
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				0.00	\$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

See economic benefit for Violation No. 2.

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

Screening Date 21-Jan-2009	Docket No. 2009-0094-AIR-E	PCW	
Respondent Alumax Mill Products, Inc.	<small>Policy Revision 2 (September 2002)</small>		
Case ID No. 37062	<small>PCW Revision October 30, 2008</small>		
Reg. Ent. Reference No. RN100215250			
Media [Statute] Air			
Enf. Coordinator Suzanne Walrath			
Violation Number <input type="text" value="2"/>			
Rule Cite(s)	30 Tex. Admin. Code §§ 113.750, 116.115(c), and 122.143(4), 40 CFR § 63.1506(g)(1)(i), Air Permit No. 9476, SC 6, FOP No. O-01413, STC 8, and Tex. Health & Safety Code § 382.085(b)		
Violation Description	Failed to maintain the three hour block average temperature of each afterburner at the incinerator at or above the average temperature established during the performance test. Specifically, the Respondent reported that on 16 occasions from April 16, 2008 through June 26, 2008 the temperature dropped below 1496 degrees Fahrenheit established during the January 11, 2008 performance test.		
Base Penalty		<input type="text" value="\$10,000"/>	
>> Environmental, Property and Human Health Matrix			
OR	Release	Harm	
		Major Moderate Minor	
	Actual	<input type="text"/>	<input type="text"/>
	Potential	<input type="text" value="x"/>	<input type="text"/>
		Percent	<input type="text" value="25%"/>
>> Programmatic Matrix			
	Falsification	Major	Moderate Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>
		Percent	<input type="text" value="0%"/>
Matrix Notes	Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors. The lowest temperature was 1,435 degrees Fahrenheit, a drop of 61 degrees.		
Adjustment		<input type="text" value="\$7,500"/>	
		<input type="text" value="\$2,500"/>	
Violation Events			
Number of Violation Events		<input type="text" value="1"/>	<input type="text" value="16"/> Number of violation days
<small>mark only one with an x</small>	daily	<input type="text"/>	Violation Base Penalty <input type="text" value="\$2,500"/>
	weekly	<input type="text"/>	
	monthly	<input type="text"/>	
	quarterly	<input type="text" value="x"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input type="text"/>	
One quarterly event is recommended for the months of April, May, and June 2008.			
Good Faith Efforts to Comply		<input type="text" value="25.0%"/> Reduction	<input type="text" value="\$625"/>
		<small>Before NOV NOV to EDPRP/Settlement Offer</small>	
Extraordinary	<input type="text"/>	<input type="text"/>	
Ordinary	<input type="text" value="x"/>	<input type="text"/>	
N/A	<input type="text"/>	<small>(mark with x)</small>	
Notes	The Respondent achieved compliance for this violation on December 10, 2008.		
Violation Subtotal		<input type="text" value="\$1,875"/>	
Economic Benefit (EB) for this violation		Statutory Limit Test	
Estimated EB Amount	<input type="text" value="\$14,966"/>	Violation Final Penalty Total	<input type="text" value="\$1,975"/>
This violation Final Assessed Penalty (adjusted for limits)		<input type="text" value="\$1,975"/>	

Economic Benefit Worksheet

Respondent Alumax Mill Products, Inc.
Case ID No. 37062
Reg. Ent. Reference No. RN100215250
Media Air
Violation No. 2

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	\$275,000	25-Feb-2008	13-Nov-2008	0.72	\$658	\$13,160	\$13,818
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	\$29,000	25-Feb-2008	10-Dec-2008	0.79	\$1,148	n/a	\$1,148
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

These costs are for the installation of a new burner for the RODECS incinerator, which ensures consistent higher temperatures to be held, and also allows the system baghouse to run at a more consistent temperature. Additional costs are also for a performance test to ensure that parameters were properly set to avoid temperature drops and exceedances, beginning on the date of the first temperature exceedance, and ending on the date the burner was installed and performance testing was conducted demonstrating compliance.

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	\$304,000	TOTAL	\$14,966
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Screening Date 21-Jan-2009	Docket No. 2009-0094-AIR-E	PCW														
Respondent Alumax Mill Products, Inc.	<small>Policy Revision 2 (September 2002)</small>															
Case ID No. 37062	<small>PCW Revision October 30, 2008</small>															
Reg. Ent. Reference No. RN100215250																
Media [Statute] Air																
Enf. Coordinator Suzanne Walrath																
Violation Number 3																
Rule Cite(s) 30 Tex. Admin. Code §§ 122.143(4) and 122.145(2)(A), FOP No. O-01413, General Terms and Conditions, and Tex. Health & Safety Code § 382.085(b)																
Violation Description	Failed to report each instance of a deviation in the semi-annual deviation report for the reporting period of March 1, 2008 through August 29, 2008. Specifically, the Respondent did not include the deviation of failure to meet the emission limits for dioxins and furans during performance tests conducted on May 13 and 14, 2008 and July 17 and 18, 2008 at EPN 01.															
Base Penalty		\$10,000														
>> Environmental, Property and Human Health Matrix																
OR	Harm															
	Release Major Moderate Minor															
	Actual	Percent <input type="text" value="0%"/>														
	Potential															
>> Programmatic Matrix																
	Falsification Major Moderate Minor															
	<input type="text"/> <input type="text"/> <input type="text"/> <input checked="" type="checkbox"/>	Percent <input type="text" value="1%"/>														
Matrix Notes	Less than 30% of the rule requirement was not met.															
Adjustment		\$9,900														
		\$100														
Violation Events																
	Number of Violation Events <input type="text" value="1"/>	<input type="text" value="1"/> Number of violation days														
<small>mark only one with an x</small>	<table border="1" style="border-collapse: collapse;"> <tr><td>daily</td><td><input type="text"/></td></tr> <tr><td>weekly</td><td><input type="text"/></td></tr> <tr><td>monthly</td><td><input type="text"/></td></tr> <tr><td>quarterly</td><td><input type="text"/></td></tr> <tr><td>semiannual</td><td><input type="text"/></td></tr> <tr><td>annual</td><td><input type="text"/></td></tr> <tr><td>single event</td><td style="text-align: center;"><input checked="" type="checkbox"/></td></tr> </table>	daily	<input type="text"/>	weekly	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input checked="" type="checkbox"/>	Violation Base Penalty <input type="text" value="\$100"/>
daily	<input type="text"/>															
weekly	<input type="text"/>															
monthly	<input type="text"/>															
quarterly	<input type="text"/>															
semiannual	<input type="text"/>															
annual	<input type="text"/>															
single event	<input checked="" type="checkbox"/>															
One single is recommended for the deviation report that was missing information.																
Good Faith Efforts to Comply		\$25														
	25.0% Reduction															
	Before NOV NOV to EDPRP/Settlement Offer															
Extraordinary	<input type="text"/>															
Ordinary	<input checked="" type="checkbox"/>															
N/A	<input type="text"/> (mark with x)															
Notes	The Respondent achieved compliance for this violation on December 17, 2008.															
Violation Subtotal		\$75														
Economic Benefit (EB) for this violation		Statutory Limit Test														
Estimated EB Amount	<input type="text" value="\$2"/>	Violation Final Penalty Total <input type="text" value="\$79"/>														
This violation Final Assessed Penalty (adjusted for limits)		\$79														

Economic Benefit Worksheet

Respondent: Alumax Mill Products, Inc.
Case ID No.: 37062
Reg. Ent. Reference No.: RN100215250
Media: Air
Violation No.: 3

Percent Interest	Years of Depreciation
5.0	15

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Item Description 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)	\$150	29-Sep-2008	17-Dec-2008	0.22	\$2	n/a	\$2

Notes for DELAYED costs

This is the estimated cost for submitting a corrected deviation report, beginning on the date the report was submitted with the missing information, and ending on the date compliance was achieved.

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 \$150

TOTAL \$2

Screening Date 21-Jan-2009 **Docket No.** 2009-0094-AIR-E **PCW**
Respondent Alumax Mill Products, Inc. *Policy Revision 2 (September 2002)*
Case ID No. 37062 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN100215250
Media [Statute] Air
Enf. Coordinator Suzanne Walrath
Violation Number
Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), Air Permit No. 9476, SC 13, FOP No. O-01413, STC 8 and Tex. Health & Safety Code § 382.085(b)
Violation Description Failed to condition by the batch decoating/delacquering/drying system (RODECS) an aluminum blind that was painted on one side that was received from an outside source. Specifically, on November 1, 2008, an employee charged unauthorized material to the side well furnace during the melt cycle, before it had been conditioned in the RODECS.
Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Matrix Notes Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

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

Violation Base Penalty

One single event is recommended.

Good Faith Efforts to Comply Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input checked="" type="checkbox"/>	<input type="text"/>
N/A	<input type="text"/>	(mark with x)

Notes The Respondent achieved compliance for this violation on November 7, 2008.

Violation Subtotal

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Alumax Mill Products, Inc.
Case ID No. 37062
Reg. Ent. Reference No. RN100215250
Media Air
Violation No. 4

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$2,500	1-Nov-2008	7-Nov-2008	0.02	\$2	n/a	\$2
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

These are estimated costs for implementing a program that included mentoring and training regarding charging materials for the furnace. Date Required is the date the violation occurred. Final Date is the date the training was completed.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$2,500	TOTAL	\$2
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Compliance History Report

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	ACCOUNT NUMBER	BK0051Q
	AIR OPERATING PERMITS	PERMIT	1413
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD981056815
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	34877
	WASTEWATER	PERMIT	WQ0002742000
	WASTEWATER	PERMIT	TPDES0097055
	WASTEWATER	PERMIT	TX0097055
	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	32
	AIR NEW SOURCE PERMITS	PERMIT	9476
	AIR NEW SOURCE PERMITS	PERMIT	46850
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	BK0051Q
	AIR NEW SOURCE PERMITS	EPA ID	PSDTX886
	AIR NEW SOURCE PERMITS	AFS NUM	4803700012
	AIR NEW SOURCE PERMITS	REGISTRATION	86684
	AIR NEW SOURCE PERMITS	EPA ID	PSDTX886M1
	STORMWATER	PERMIT	TXR05M678

Location: 300 ALUMAX DRIVE, TEXARKANA, TEXAS 75501
TCEQ Region: REGION 05 - TYLER

Date Compliance History Prepared: January 21, 2009
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: January 21, 2004 to January 21, 2009

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Suzanne Walrath Phone: 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? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |
| 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.

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	02/20/2004	(320420)
2	03/22/2004	(261232)
3	03/23/2004	(262461)
4	03/23/2004	(320423)
5	04/22/2004	(362922)
6	05/20/2004	(362923)
7	06/15/2004	(320427)
8	07/15/2004	(362924)
9	08/16/2004	(362926)
10	09/17/2004	(362927)
11	10/20/2004	(362925)
12	10/20/2004	(362928)
13	10/20/2004	(362929)
14	11/11/2004	(340334)
15	11/18/2004	(387976)
16	12/15/2004	(387977)
17	02/02/2005	(349468)
18	02/15/2005	(425607)
19	02/21/2005	(349543)
20	02/28/2005	(371904)
21	03/01/2005	(371979)
22	03/09/2005	(372749)
23	03/22/2005	(387975)
24	04/15/2005	(425608)
25	05/23/2005	(425609)
26	05/23/2005	(425611)
27	06/20/2005	(425610)
28	08/16/2005	(446144)
29	08/16/2005	(446146)
30	08/22/2005	(403996)
31	09/12/2005	(446145)
32	10/10/2005	(434043)
33	11/18/2005	(435951)
34	12/22/2005	(478401)
35	01/18/2006	(478402)
36	02/17/2006	(478397)
37	02/21/2006	(455202)
38	02/27/2006	(452543)
39	02/28/2006	(457701)
40	03/16/2006	(478398)
41	03/16/2006	(478399)
42	03/16/2006	(478400)
43	04/19/2006	(460971)
44	05/10/2006	(465542)
45	05/22/2006	(504614)
46	06/14/2006	(482057)
47	06/16/2006	(504615)
48	07/11/2006	(484274)
49	08/15/2006	(526927)
50	08/28/2006	(509833)
51	09/25/2006	(526928)
52	10/19/2006	(550858)

53 10/19/2006 (550861)
 54 11/21/2006 (550859)
 55 12/11/2006 (533538)
 56 12/15/2006 (550860)
 57 02/22/2007 (587297)
 58 03/20/2007 (587298)
 59 04/13/2007 (556690)
 60 04/13/2007 (587299)
 61 05/02/2007 (555792)
 62 05/21/2007 (587300)
 63 05/22/2007 (587302)
 64 06/18/2007 (587301)
 65 08/15/2007 (604978)
 66 09/21/2007 (604977)
 67 09/21/2007 (604979)
 68 09/21/2007 (604980)
 69 10/16/2007 (627148)
 70 11/26/2007 (627149)
 71 12/20/2007 (627150)
 72 02/13/2008 (616462)
 73 02/13/2008 (617339)
 74 02/21/2008 (676082)
 75 03/19/2008 (676083)
 76 04/14/2008 (694448)
 77 05/27/2008 (694449)
 78 06/20/2008 (715858)
 79 07/11/2008 (715859)
 80 08/19/2008 (715860)
 81 09/17/2008 (715861)
 82 12/17/2008 (721193)
 83 01/16/2009 (709446)

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

Date: 02/23/2004 (261232) Classification: Moderate
 Self Report? NO
 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) CN600128003 Classification: Moderate
 Self Report? YES
 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) CN600128003 Classification: Moderate
 Self Report? YES
 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) CN600128003 Classification: Moderate
 Self Report? YES
 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) CN600128003 Classification: Moderate
 Self Report? NO

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

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).

Date: 05/31/2008 (715858)

CN600128003

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.

Notice of Intent Date: 10/17/2003 (262092)

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 Prov: 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 Prov: 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 Prov: 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 Prov: 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 Prov: 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)

Disclosure Date: 03/17/2008

Viol. Classification: Moderate
Citation: 40 CFR Chapter 261, SubChapter I, PT 261, SubPT C 261.24
30 TAC Chapter 335, SubChapter R 335.504

Description: Failure to make a hazardous waste determination.

Notice of Intent Date: 04/15/2008 (654962)

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. 2009-0094-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 an 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 January 21, 2009 and May 4, 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 Eleven Thousand Nine Hundred Twenty-Nine Dollars (\$11,929) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Nine Thousand Five Hundred Forty-Four Dollars (\$9,544) of the administrative penalty and Two Thousand Three Hundred Eighty-Five Dollars (\$2,385) 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 November 7, 2008, implemented a program that included mentoring and training regarding charging materials for the furnace;
 - b. On November 13, 2008, installed a new burner for the batch decoating/delacquering/drying system ("RODECS") incinerator, which ensures consistent higher temperatures to be held, and also allows the system baghouse to run at a more consistent temperature;
 - c. On December 10, 2008, conducted a performance test which demonstrated compliance; and
 - d. On December 17, 2008, submitted the corrected deviation report for the reporting period of March 1, 2008 through August 29, 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:

1. Failed to maintain the three-hour block average inlet temperature for each fabric filter at the decoating/delacquering/drying system baghouse [Emission Point ("EPN") 001] at or below the average inlet temperature established during the performance test, in violation of 30 TEX. ADMIN. CODE §§ 113.750, 116.115(c), and 122.143(4), 40 CODE OF FEDERAL REGULATIONS ("CFR") § 63.1506(g)(4), Air Permit No. 9476, Special Condition ("SC") 6, Federal Operating Permit ("FOP") No. O-01413, Special Terms and Conditions ("STC") 8, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during record reviews conducted on

December 1, 2008 and April 23, 2009. Specifically, the Respondent reported that on 28 occasions during February, May, and June 2008, and on 14 occasions during July, September, October, and December 2008, the inlet temperature exceeded 868 degrees Fahrenheit established during the January 11, 2008 performance test.

2. Failed to maintain the three hour block average temperature of each afterburner at the incinerator at or above the average temperature established during the performance test, in violation of 30 TEX. ADMIN. CODE §§ 113.750, 116.115(c), and 122.143(4), 40 CFR § 63.1506(g)(1)(i), Air Permit No. 9476, SC 6, FOP No. O-01413, STC 8, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on December 1, 2008. Specifically, the Respondent reported that on 16 occasions from April 16, 2008 through June 26, 2008 the temperature dropped below 1496 degrees Fahrenheit established during the January 11, 2008 performance test.
3. Failed to report each instance of a deviation in the semi-annual deviation report for the reporting period of March 1, 2008 through August 29, 2008, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), FOP No. O-01413, General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on December 1, 2008. Specifically, the Respondent did not include the deviation of failure to meet the emission limits for dioxins and furans during performance tests conducted on May 13 and 14, 2008 and on July 17 and 18, 2008 at EPN 001.
4. Failed to condition, by the RODECS, an aluminum blind that was painted on one side that was received from an outside source, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c), 122.143(4), Air Permit No. 9476, SC 13, FOP No. O-01413, STC 8 and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on April 23, 2009. Specifically, on November 1, 2008, an employee charged unauthorized material to the side well furnace during the melt cycle before it had been conditioned in the RODECS.

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. 2009-0094-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 Zoller

For the Executive Director

8/6/2009

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.

Michael R. Leherr

Signature

June 5, 2009

Date

Michael R. 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.

