

**Executive Summary – Enforcement Matter – Case No. 41815**  
**Guardian Industries Corp.**  
**RN100221811**  
**Docket No. 2011-0933-AIR-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

AIR

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

Guardian Industries - Corsicana, 3801 South United States Highway 287, Corsicana, Navarro County

**Type of Operation:**

Glass manufacturing plant

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** September 30, 2011

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$3,075

**Amount Deferred for Expedited Settlement:** \$615

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$2,460

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Average

Site/RN - Average

**Major Source:** Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002

**Executive Summary – Enforcement Matter – Case No. 41815  
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Docket No. 2011-0933-AIR-E**

***Investigation Information***

**Complaint Date(s):** N/A  
**Complaint Information:** N/A  
**Date(s) of Investigation:** April 18 to 25, 2011  
**Date(s) of NOE(s):** May 18, 2011

***Violation Information***

Failed to comply with permitted emission rates during a stack test conducted on March 1, 2011 on the Glass Furnace Stack [Emission Point Number (“EPN”) 10]. Specifically, it was determined that the emission rate for total particulate matter/particulate matter less than 10 microns in aerodynamic diameter (“PM/PM10”) was 29.09 pounds per hour (“lbs/hr”), exceeding the maximum allowable hourly emission rate of 25.00 lbs/hr. The emissions from EPN 10 were estimated to be 9,030.72 lbs of PM/PM10 from March 1, 2011 to June 1, 2011 [30 TEX. ADMIN. CODE §§ 101.20(3) and 116.115(c), TEX. HEALTH & SAFETY CODE § 382.085(b), and Permit Nos. 8518 and PSDTX370M3, Special Conditions No. 1].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Respondent conducted a successful stack test on the Glass Furnace Stack (EPN 10) on June 1, 2011 which demonstrated compliance with the permitted hourly emission rate for PM/PM10 in accordance with Permit Nos. 8518 and PSDTX370M3.

**Technical Requirements:**

N/A

***Litigation Information***

**Date Petition(s) Filed:** N/A  
**Date Answer(s) Filed:** N/A  
**SOAH Referral Date:** N/A  
**Hearing Date(s):** N/A  
**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A  
**TCEQ Enforcement Coordinator:** Kimberly Morales, Enforcement Division, Enforcement Team 5, MC R-12, (713) 422-8938; Debra Barber, Enforcement Division, MC 219, (512) 239-0412  
**TCEQ SEP Coordinator:** N/A

**Executive Summary – Enforcement Matter – Case No. 41815**  
**Guardian Industries Corp.**  
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**Docket No. 2011-0933-AIR-E**

**Respondent:** Kurt L. Christian, Plant Manager, Guardian Industries Corp., 3801  
South United States Highway 287, Corsicana, Texas 75109  
**Respondent's Attorney:** N/A





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	23-May-2011	<b>Screening</b>	8-Jun-2011	<b>EPA Due</b>	10-Feb-2012
	<b>PCW</b>	3-Aug-2011				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Guardian Industries Corp.	
<b>Reg. Ent. Ref. No.</b>	RN100221811	
<b>Facility/Site Region</b>	4-Dallas/Fort Worth	<b>Major/Minor Source</b> Major

## CASE INFORMATION

<b>Enf./Case ID No.</b>	41815	<b>No. of Violations</b>	1
<b>Docket No.</b>	2011-0933-AIR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Kimberly Morales
		<b>EC's Team</b>	Enforcement Team 5
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** *Subtotal 1* **\$2,500**

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

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

**Compliance History** **33.0%** Enhancement *Subtotals 2, 3, & 7* **\$825**

Notes: Enhancement for one NOV with same/similar violations, four NOVs with dissimilar violations, and one order with denial of liability.

**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* **\$250**

**Economic Benefit** **0.0%** Enhancement\* *Subtotal 6* **\$0**

Total EB Amounts \$63  
Approx. Cost of Compliance \$5,000  
\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** *Final Subtotal* **\$3,075**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **0.0%** *Adjustment* **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

*Final Penalty Amount* **\$3,075**

**STATUTORY LIMIT ADJUSTMENT** *Final Assessed Penalty* **\$3,075**

**DEFERRAL** **20.0%** Reduction *Adjustment* **-\$615**

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

Notes:

Deferral offered for expedited settlement.

**PAYABLE PENALTY** **\$2,460**

Screening Date 8-Jun-2011

Docket No. 2011-0933-AIR-E

PCW

Respondent Guardian Industries Corp.

Policy Revision 2 (September 2002)

Case ID No. 41815

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100221811

Media [Statute] Air

Enf. Coordinator Kimberly Morales

### Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	1	5%
	Other written NOVs	4	8%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	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 ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	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 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 33%

#### >> Repeat Violator (Subtotal 3)

No

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

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

Average Performer

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

#### >> Compliance History Summary

**Compliance History Notes**

Enhancement for one NOV with same/similar violations, four NOVs with dissimilar violations, and one order with denial of liability.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 33%

Screening Date 8-Jun-2011

Docket No. 2011-0933-AIR-E

PCW

Respondent Guardian Industries Corp.

Policy Revision 2 (September 2002)

Case ID No. 41815

PCW Revision October 30, 2006

Reg. Ent. Reference No. RN100221811

Media [Statute] Air

Enf. Coordinator Kimberly Morales

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 101.20(3) and 116.115(c), Tex. Health & Safety Code § 382.085(b), and Permit Nos. 8518 and PSDTX370M3, Special Conditions No. 1

Violation Description Failed to comply with permitted emission rates during a stack test conducted on March 1, 2011 on the Glass Furnace Stack [Emission Point Number ("EPN") 10]. Specifically, it was determined that the emission rate for total particulate matter/particulate matter less than 10 microns in aerodynamic diameter ("PM/PM10") was 29.09 pounds per hour ("lbs/hr"), exceeding the maximum allowable hourly emission rate of 25.00 lbs/hr. The emissions from EPN 10 were estimated to be 9,030.72 lbs of PM/PM10 from March 1, 2011 to June 1, 2011.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			x	25%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				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 as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 92

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,500

One quarterly event is recommended from the March 1, 2011 stack test to the June 1, 2011 compliance date.

Good Faith Efforts to Comply

10.0% Reduction \$250

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

Notes The Respondent completed corrective actions on June 1, 2011, after the May 18, 2011 NOE.

Violation Subtotal \$2,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$63

Violation Final Penalty Total \$3,075

This violation Final Assessed Penalty (adjusted for limits) \$3,075

## Economic Benefit Worksheet

**Respondent** Guardian Industries Corp.  
**Case ID No.** 41815  
**Reg. Ent. Reference No.** RN100221811  
**Media** Air  
**Violation No.** 1

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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)	\$5,000	1-Mar-2011	1-Jun-2011	0.25	\$63	n/a	\$63

Notes for DELAYED costs

Estimated cost to implement measures to comply with permitted emission rates for EPN 10. The Date Required is the date of the stack test. The Final Date is the date that corrective actions were completed.

### 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

\$5,000

**TOTAL**

\$63

# Compliance History

Customer/Respondent/Owner-Operator: CN600131015 Guardian Industries Corp. Classification: AVERAGE Rating: 13.36

Regulated Entity: RN100221811 GUARDIAN INDUSTRIES - Classification: AVERAGE Site Rating: 23.72  
CORSICANA

ID Number(s):

AIR OPERATING PERMITS	ACCOUNT NUMBER	NB0014R
AIR OPERATING PERMITS	PERMIT	1091
POLLUTION PREVENTION PLANNING	ID NUMBER	P03827
INDUSTRIAL AND HAZARDOUS WASTE	EPA ID	TXD037460706
INDUSTRIAL AND HAZARDOUS WASTE	SOLID WASTE REGISTRATION # (SWR)	34673
AIR NEW SOURCE PERMITS	PERMIT	8518
AIR NEW SOURCE PERMITS	REGISTRATION	14293
AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	NB0014R
AIR NEW SOURCE PERMITS	REGISTRATION	73858
AIR NEW SOURCE PERMITS	AFS NUM	4834900014
AIR NEW SOURCE PERMITS	EPA ID	PSDTX370M3
AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	NB0014R
AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	NB0014R

Location: 3801 SOUTH UNITED STATES HIGHWAY 287, CORSICANA, TX, 75109

TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: June 08, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: June 08, 2006 to June 08, 2011

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

Name: Kimberly Morales Phone: (713) 422-8938

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2010 Repeat Violator: NO

## Components (Multimedia) for the Site:

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

Effective Date: 04/25/2010

ADMINORDER 2009-1138-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)

30 TAC Chapter 116, SubChapter B 116.115(c)

30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
Rqmt Prov: General Terms and Conditions OP  
Special Condition No. 7 PERMIT  
Special Terms and Conditions No. 6 OP  
Description: Failed to maintain the glass furnace (EPN 10) temperature continuously at or above 2,900 degrees Fahrenheit since October 31, 2008.  
Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
Rqmt Prov: General Terms and Conditions OP  
SC 21D PERMIT  
Special Terms and Conditions No. 6 OP  
Description: Failed to maintain records of, and thereby document compliance with, the permitted, argon hourly emissions rate limit of 4.91 pounds per hour, as well as a record of the hourly argon usage rate, for the Coater Vacuum Exhaust Stack (EPN 773).  
Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
Rqmt Prov: General Terms and Conditions OP  
SC 15 PERMIT  
Special Terms and Conditions No. 6 OP  
Description: Failed to limit the annual usage of mineral spirits to the amount allowed by permit. Specifically, the annual usage of mineral spirits from Cutting Area (EPN 0600) for the year 2008 was 11,575.0 gallons, while the permit limit was 10,551.9 gallons.  
Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
Rqmt Prov: General Terms and Conditions OP  
Special Condition No. 1 PERMIT  
Special Terms and Conditions No. 6 OP  
Description: Failed to comply with the permitted emissions limits for particulate matter. Specifically, since October 27, 2006, emissions of particulate matter, including particulate matter equal to or less than ten microns in diameter, from the Bulk Elevator Baghouse Stack (EPN 767), the Batch Elevator Baghouse Stack (EPN 767A), and the Cullet Elevator Baghouse Stack (EPN 770), have exceeded the emissions limit for both tons per year and pounds per hour. See table for details:  
Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
Rqmt Prov: GTC, STC 6 OP  
SC 21F PERMIT  
Description: Failed to maintain records of, and thereby demonstrate compliance with, the maximum annual operating schedules for the fabric filter baghouses and their associated processes for EPNs 766, 766A, 767, 783, 784, 768c and 786.  
Classification: Moderate  
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
Rqmt Prov: GTC, STC 5 OP  
Description: Failed to conduct opacity and visible emissions observations. Specifically, monthly opacity observations of the Glass Furnace Stack (EPN 10) were not performed during the months of April and December of 2007, and weekly visible emissions observations of the baghouse stacks (GRP-FABFLT) were not performed forty-eight times during the period October 28, 2005 to January 2, 2009.  
Classification: Moderate  
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.145(2)(A)  
30 TAC Chapter 122, SubChapter B 122.146(5)  
5C THSC Chapter 382 382.085(b)  
Rqmt Prov: GTC OP

STC 9 OP

Description: Failed to include all deviations in semiannual deviation reports and failed to submit accurate annual compliance certifications. Specifically, all deviations were not reported for the three semiannual reporting periods of October 26, 2005 through April 25, 2006; April 26, 2006 through October 25, 2006; and October 26, 2007 through April 25, 2008. Consequently, the annual compliance certifications for the three annual periods of October 26, 2005 through October 25, 2006; October 26, 2006 . . .

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)

Rqmt Prov: GTC and STC 6 OP  
SC 21C PERMIT

Description: Failed to maintain records of, and thereby document compliance with, the mineral spirits daily usage limit and the hourly emissions limit for volatile organic compounds (mineral spirits) from the Cutting Area (EPN 0600).

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.145(2)(B)  
30 TAC Chapter 122, SubChapter B 122.146(5)  
5C THSC Chapter 382 382.085(b)

Rqmt Prov: GTC, STC 9 OP

Description: Failed to submit deviation reports. Specifically, although deviations occurred, no deviation reports were submitted for the three semiannual reporting periods of October 26, 2006 through April 25, 2007; April 26, 2007 through October 25, 2007; and April 26, 2008 through October 25, 2008.

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 07/26/2006 (459377)
- 2 02/08/2007 (537912)
- 3 06/08/2007 (561786)
- 4 01/30/2008 (609339)
- 5 06/16/2008 (682733)
- 6 02/26/2009 (724889)
- 7 07/14/2009 (761486)
- 8 07/21/2009 (762777)
- 9 07/15/2010 (803284)
- 10 07/15/2010 (825117)
- 11 08/17/2010 (829879)
- 12 08/11/2010 (841155)
- 13 03/11/2011 (891533)
- 14 01/14/2011 (891661)

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

Date: 07/27/2006 (459377) CN600131015  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.116(a)(1)  
 5C THC Chapter 382, SubChapter D 382.085(b)  
 Description: Failure to include emissions of carbon monoxide and mineral spirits in permit representations.

Date: 06/13/2008 (682733)  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 101, SubChapter A 101.10(e)  
 5C THSC Chapter 382 382.085(b)  
 Description: Failure to submit a 2007 EI: Category B19 (g)(3)

Date: 03/04/2009 (724889) CN600131015  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
 30 TAC Chapter 122, SubChapter B 122.146(2)  
 5C THSC Chapter 382 382.085(b)  
 Description: Failure to submit the permit compliance certification within 30 days of the end of the certification period.

Date: 08/18/2010 (829879) CN600131015  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)  
 5C THSC Chapter 382 382.085(b)  
 MAERT PERMIT  
 Description: Failure to comply with the maximum allowable emission rate limitation for PM10. Total emissions of air contaminants must not exceed the values stated on the Maximum Allowable Emissions Rates Table [30 TAC 116.115(b)(2)(F)].

Date: 03/15/2011 (891533) CN600131015  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 5C THSC Chapter 382 382.085(b)  
 8518 Special Condition #36(C) PERMIT  
 Description: Failure to maintain the daily mineral spirits usage record, as required by Permit No. 8518 Special Condition #36(C), in violation of 30 TAC 116.115(c).

Date: 03/15/2011 (891533) CN600131015  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 5C THSC Chapter 382 382.085(b)  
 8518 Special Condition #15 PERMIT  
 Description: Failure to limit the maximum allowable usage rate for mineral spirits to 28.9 gallons per day, as required by the previous permit special condition #15), in violation of 30 TAC 116.115(c).

## F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

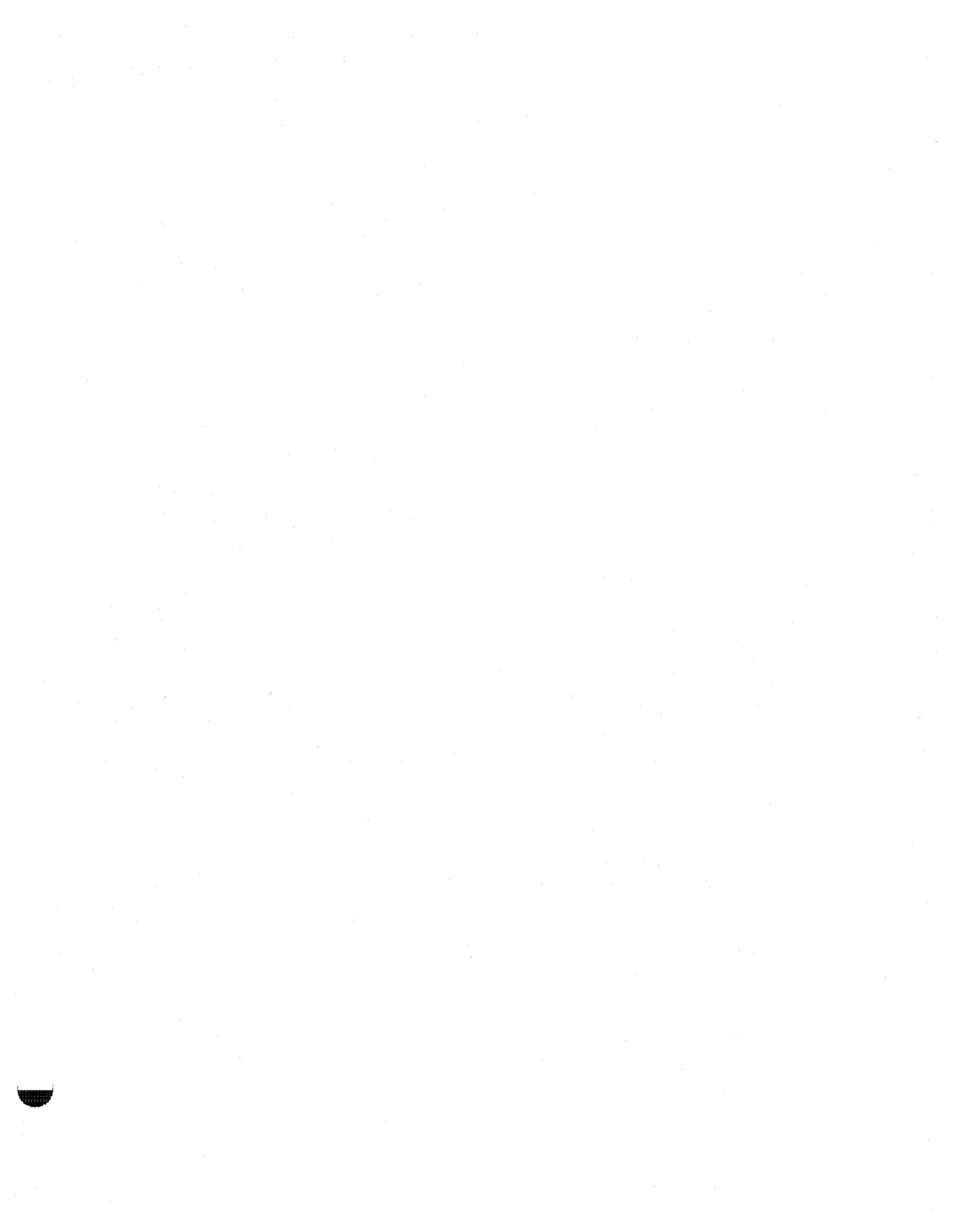
N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



<b>IN THE MATTER OF AN</b>	<b>§</b>	<b>BEFORE THE</b>
<b>ENFORCEMENT ACTION</b>	<b>§</b>	
<b>CONCERNING</b>	<b>§</b>	<b>TEXAS COMMISSION ON</b>
<b>GUARDIAN INDUSTRIES CORP.</b>	<b>§</b>	
<b>RN100221811</b>	<b>§</b>	<b>ENVIRONMENTAL QUALITY</b>

**AGREED ORDER**  
**DOCKET NO. 2011-0933-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 Guardian Industries Corp. ("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 glass manufacturing plant at 3801 South United States Highway 287 in Corsicana, Navarro 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 May 23, 2011.
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 Three Thousand Seventy-Five Dollars (\$3,075) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Thousand Four Hundred Sixty Dollars

(\$2,460) of the administrative penalty and Six Hundred Fifteen Dollars (\$615) 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 conducted a successful stack test on the Glass Furnace Stack [Emission Point Number ("EPN") 10] on June 1, 2011 which demonstrated compliance with the permitted hourly emission rate for total particulate matter/particulate matter less than 10 microns in aerodynamic diameter ("PM/PM10") in accordance with Permit Nos. 8518 and PSDTX370M3.
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 permitted emission rates during a stack test conducted on March 1, 2011 on the Glass Furnace Stack (EPN 10), in violation of 30 TEX. ADMIN. CODE §§ 101.20(3) and 116.115(c), TEX. HEALTH & SAFETY CODE § 382.085(b), and Permit Nos. 8518 and PSDTX370M3, Special Conditions No. 1, as documented during a record review conducted from April 18 to 25, 2011. Specifically, it was determined that the emission rate for PM/PM10 was 29.09 pounds per hour ("lbs/hr"), exceeding the maximum allowable hourly emission rate of 25.00 lbs/hr. The emissions from EPN 10 were estimated to be 9,030.72 lbs of PM/PM10 from March 1, 2011 to June 1, 2011.

## 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: Guardian Industries Corp., Docket No. 2011-0933-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 separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

  
\_\_\_\_\_  
For the Executive Director

10/6/11  
\_\_\_\_\_  
Date

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

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

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

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

  
\_\_\_\_\_  
Signature

August 25, 2011  
\_\_\_\_\_  
Date

KURT L CHRISTIAN  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Guardian Industries Corp.

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.