

**Executive Summary – Enforcement Matter – Case No. 41989**  
**Prairie View A&M University**  
**RN100219666**  
**Docket No. 2011-1121-AIR-E**

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

**Media:**

AIR

**Small Business:**

No

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

Prairie View A&M University, located on University Drive at Farm-to-Market Road 1098,  
Prairie View, Waller County

**Type of Operation:**

University

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** November 11, 2011

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$10,970

**Amount Deferred for Expedited Settlement:** \$0

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

**Total Paid to General Revenue:** \$10,970

**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. 41989**  
**Prairie View A&M University**  
**RN100219666**  
**Docket No. 2011-1121-AIR-E**

***Investigation Information***

**Complaint Date(s):** N/A  
**Complaint Information:** N/A  
**Date(s) of Investigation:** March 24 and 25, 2011  
**Date(s) of NOE(s):** May 27, 2011

***Violation Information***

1. Failed to submit a permit compliance certification (“PCC”) and deviation reports within 30 days after the end of the certification and reporting periods [30 TEX. ADMIN. CODE §§ 122.143(4) and (8), 122.145(2)(C), and 122.146(2), Federal Operating Permit (“FOP”) No. O1711, General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b)].
2. Failed to maintain and operate a totalizing fuel flow meter for Heater 3 [30 TEX. ADMIN. CODE §§ 117.340(a) and 122.143(4), FOP No. O1711, Special Terms and Conditions No. 1.A., and TEX. HEALTH & SAFETY CODE § 382.085(b)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Executive Director recognizes that:

- a. FOP No. O1711 was voided on March 3, 2010;
- b. The PCC for the June 16, 2009 through March 3, 2010 certification period and the deviation reports for the June 16, 2009 through December 15, 2009 and December 16, 2009 through March 3, 2010 reporting periods were submitted on April 5, 2011; and
- c. The totalizing fuel flow meter for Heater 3 was replaced on April 21, 2011.

**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

**Executive Summary – Enforcement Matter – Case No. 41989**  
**Prairie View A&M University**  
**RN100219666**  
**Docket No. 2011-1121-AIR-E**

***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

**Respondent:** Corey S. Bradford, Ph.D., Senior Vice President for Business Affairs, Prairie View A&M University, P.O. Box 519, Mail Stop 1300, Prairie View, Texas 77446

**Respondent's Attorney:** N/A





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

<b>DATES</b>	Assigned	31-May-2011	Screening	27-Jun-2011	EPA Due	21-Feb-2012
	PCW	28-Jun-2011				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	Prairie View A&M University		
Reg. Ent. Ref. No.	RN100219666		
Facility/Site Region	12-Houston	Major/Minor Source	Major

<b>CASE INFORMATION</b>			
Enf./Case ID No.	41989	No. of Violations	2
Docket No.	2011-1121-AIR-E	Order Type	Findings
Media Program(s)	Air	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Kimberly Morales
		EC's Team	Enforcement Team 5
Admin. Penalty \$	Limit Minimum	\$0	Maximum
			\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$8,500</b>
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<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>		
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>		
<b>Compliance History</b>	32.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>
		<b>\$2,720</b>

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

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>\$250</b>
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
Total EB Amounts	\$278	<small>*Capped at the Total EB \$ Amount</small>	
Approx. Cost of Compliance	\$2,676		

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$10,970</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	<b>\$10,970</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$10,970</b>
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<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	<b>\$0</b>
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

No deferral is recommended for Findings Orders.

<b>PAYABLE PENALTY</b>	<b>\$10,970</b>
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Screening Date 27-Jun-2011

Docket No. 2011-1121-AIR-E

PCW

Respondent Prairie View A&M University

Policy Revision 2 (September 2002)

Case ID No. 41989

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100219666

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> )	2	10%
	Other written NOVs	1	2%
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)** 32%

>> 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 two NOVs with same/similar violations, one NOV with dissimilar violations, and one order with denial of liability.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 32%

Screening Date 27-Jun-2011

Docket No. 2011-1121-AIR-E

PCW

Respondent Prairie View A&M University

Policy Revision 2 (September 2002)

Case ID No. 41989

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100219666

Media [Statute] Air

Enf. Coordinator Kimberly Morales

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 122.143(4) and (8), 122.145(2)(C), and 122.146(2), Federal Operating Permit ("FOP") No. O1711, General Terms and Conditions, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to submit a final permit compliance certification ("PCC") within 30 days after the date the permit was voided. Specifically, the PCC for the June 16, 2009 through March 3, 2010 certification period was not submitted until April 5, 2011. In addition, the deviation reports for the June 16, 2009 through December 15, 2009 and December 16, 2009 through March 3, 2010 reporting periods were combined into one report that was not submitted until April 5, 2011.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (25%).

Matrix Notes The Respondent failed to meet 100% of the rule requirement.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 3 Number of violation days 446

Table for event frequency: daily, weekly, monthly, quarterly, semiannual, annual, single event (marked with x).

Violation Base Penalty \$7,500

Three single events are recommended based on the three reports that were not submitted as required.

Good Faith Efforts to Comply

0.0% Reduction \$0

Table for Good Faith Efforts: Extraordinary, Ordinary, N/A (marked with x).

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$46

Violation Final Penalty Total \$9,900

This violation Final Assessed Penalty (adjusted for limits) \$9,900

# Economic Benefit Worksheet

**Respondent** Prairie View A&M University  
**Case ID No.** 41989  
**Reg. Ent. Reference No.** RN100219666  
**Media** Air  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$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)	\$750	14-Jan-2010	5-Apr-2011	1.22	\$46	n/a	\$46

Notes for DELAYED costs

Estimated cost to prepare and timely submit the annual compliance certification and deviation reports as required. The Date Required is the date the first deviation report was due. The Final Date is the date the annual compliance certification and deviation reports were submitted.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$750

**TOTAL**

\$46

Screening Date 27-Jun-2011

Docket No. 2011-1121-AIR-E

PCW

Respondent Prairie View A&M University

Policy Revision 2 (September 2002)

Case ID No. 41989

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100219666

Media [Statute] Air

Enf. Coordinator Kimberly Morales

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 117.340(a) and 122.143(4), FOP No. 01711, Special Terms and Conditions No. 1.A., and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to maintain and operate a totalizing fuel flow meter for Heater 3. Specifically, the meter was malfunctioning and not providing accurate measurements.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				10%
Potential			x	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 628

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,000

One single event is recommended.

Good Faith Efforts to Comply

25.0% Reduction \$250

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

Notes The Respondent completed corrective actions on April 21, 2011.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$232

Violation Final Penalty Total \$1,070

This violation Final Assessed Penalty (adjusted for limits) \$1,070

## Economic Benefit Worksheet

**Respondent** Prairie View A&M University  
**Case ID No.** 41989  
**Reg. Ent. Reference No.** RN100219666  
**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
No commas or \$							

### Delayed Costs

Equipment	\$1,926	1-Aug-2009	21-Apr-2011	1.72	\$11	\$221	\$232
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

Estimated cost to replace the totalizing fuel flow meter. The Date Required is the date the fuel flow meter began malfunctioning. The Final Date is the date the flow meter was replaced.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,926

**TOTAL**

\$232

# Compliance History

Customer/Respondent/Owner-Operator: CN600130405 Prairie View A&M University Classification: AVERAGE Rating: 4.07  
Regulated Entity: RN100219666 PRAIRIE VIEW A&M UNIVERSITY Classification: AVERAGE Site Rating: 13.14

ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	WB0007M
	AIR OPERATING PERMITS	PERMIT	1711
	AIR OPERATING PERMITS	ACCOUNT NUMBER	4844300006
	AIR NEW SOURCE PERMITS	REGISTRATION	11661
	AIR NEW SOURCE PERMITS	REGISTRATION	36047
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	WB0007M
	AIR NEW SOURCE PERMITS	AFS NUM	4847300006
	AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	WB0007M

Location: UNIVERSITY DR AT FM 1098, PRAIRIE VIEW, TX, 77446

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: June 27, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: June 27, 2006 to June 27, 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: 10/04/2007 ADMINORDER 2007-0615-AIR-E  
Classification: Moderate  
Citation: 30 TAC Chapter 122, SubChapter B 122.146(1)  
5C THC Chapter 382, SubChapter D 382.085(b)  
Description: Failure to submit an annual compliance certification for the certification period, June 16, 2005 through June 15, 2006. (CATEGORY A.8. Attachment A c.(1)(E))

N/A

C. Chronic excessive emissions events.

N/A

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

- 1 04/11/2007 (512471)
- 2 05/08/2008 (641154)
- 3 01/16/2009 (703454)
- 4 01/06/2009 (709383)
- 5 01/05/2010 (767557)
- 6 02/19/2010 (791015)
- 7 12/21/2010 (829525)
- 8 05/27/2011 (899975)
- 9 03/25/2011 (906568)

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

Date: 05/08/2008 (595727) CN600130405  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 111, SubChapter A 111.151  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
FOP ST&C 1A OP  
FOP ST&C 3(E) OP  
Description: Failure to verify that PM emissions from nonagricultural processes meet the specified emission limits.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 117, SubChapter B 117.340(a)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
FOP ST&C7(B) OP  
Description: Failure to equip group boilers(B10, B11, and B12) with totalizing flow meters by March 31, 2007.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 117, SubChapter H 117.9020(2)(C)(i)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
FOP ST&C 12(A) OP  
Description: Failure to conduct stacks testing by March 31, 2007.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.146(2)  
30 TAC Chapter 122, SubChapter B 122.146(4)  
5C THSC Chapter 382 382.085(b)  
FOP ST&C 3(C)(iii) OP  
Description: Failure to submit complete and accurate compliance certifications and deviation reports in a timely manner.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 117, SubChapter B 117.310(f)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
FOP ST&C 7(A) OP  
Description: Failure to test emergency generators outside of the prohibited time period

between the hours of 6:00 a.m. and 12:00 p.m.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 117, SubChapter B 117.345(f)(6)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 5C THSC Chapter 382 382.085(b)  
 FOP ST&C 7(D) OP  
 Description: Failure to maintain required records to support exemption from the Chapter 117 emissions specification for emergency engines.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
 5C THSC Chapter 382 382.085(b)  
 FOP ST&C 3(B)(IV)(1) OP  
 Description: Failure to conduct quarterly opacity observation of visible emissions.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 106, SubChapter A 106.8(c)(2)(A)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 5C THSC Chapter 382 382.085(b)  
 FOP ST&C 10 OP  
 Description: Failure to maintain adequate operaton records to verify compliance with PBR authorizations.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 101, SubChapter H 101.360(a)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 5C THSC Chapter 382 382.085(b)  
 FOP ST&C 1(D)(vii) OP  
 Description: Failure to submit the Initial ECT-3 Form, Level of Activity Certification.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 117, SubChapter B 117.350(a)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 5C THSC Chapter 382 382.085(b)  
 FOP ST&C 7(C) OP  
 Description: Failure to submit a final control report to show compliance with the requirements of 30 TAC 117.354(a).

Date: 01/06/2010 (767557) CN600130405

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 117, SubChapter B 117.340(a)(1)(B)(ii)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 5C THSC Chapter 382 382.085(b)  
 Special Term and Condition 1A OP  
 Description: Failure to install a fuel flow meter to heater HTR-3 during the time period of June 16, 2008 to June 27, 2008. Category B1

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 115, SubChapter C 115.242(1)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 5C THSC Chapter 382 382.085(b)  
 FOP 1711, Special Condition 5B (ii) OP  
 Description: Failure to install stage II controls during the time frame of June 16, 2008 to August 27, 2008. Category B3

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 115, SubChapter C 115.245(1)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 5C THSC Chapter 382 382.085(b)  
 FOP 1711, Special Condition 5B (v) OP  
 Description: Failure to complete testing for the new stage II controls, which the testing and certification was seven days past due. Category B1

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 117, SubChapter B 117.340(a)(1)(B)(i)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 5C THSC Chapter 382 382.085(b)  
 Special Term and Condition 1A OP  
 Description: Failure to maintain the totalizing fuel flow meter rate for boiler B-10 from June 16, 2006 to October 17, 2008. Category C1

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 117, SubChapter B 117.300(3)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 5C THSC Chapter 382 382.085(b)  
 Special Term and Condition 1A OP

Description: Failure to comply with 30 TAC 117 for generator model EMG-42 from June 16, 2008 to May 22, 2009. Category B19 (g) (1)

Self Report? NO Classification: Moderate

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)  
 General Terms and Conditions OP

Description: Failure to submit the annual compliance certification for Federal Operating Permit (FOP) O-01711 no later than 30 days at the end of the certification period. Category B3

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
 30 TAC Chapter 122, SubChapter B 122.145(2)(C)  
 5C THSC Chapter 382 382.085(b)  
 General Terms and Conditions OP

Description: Failure to submit the second semi-annual deviation report for Federal Operating Permit (FOP) O-01711 no later than 30 days at the end of the reporting period. Category B3

Date: 12/23/2010 (829525) CN600130405

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 117, SubChapter B 117.310(c)(1)(B)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 5C THSC Chapter 382 382.085(b)  
 ST&C7 OP

Description: Exceeded state emission limit of 400 ppmv at 3.0% O2 for CO per 30 TAC 117.310(c)(1)(B). Category B-13 violation.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
PRAIRIE VIEW A&M UNIVERSITY  
RN100219666

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**AGREED ORDER**  
**DOCKET NO. 2011-1121-AIR-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality (“the Commission” or “TCEQ”) considered this agreement of the parties, resolving an enforcement action regarding Prairie View A&M University (“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 presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

**I. FINDINGS OF FACT**

1. The Respondent owns and operates a university located on University Drive at Farm-to-Market Road 1098 in Prairie View, Waller County, Texas (the “Facility”).

2. The Facility consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. During a record review conducted on March 24 and 25, 2011, TCEQ staff documented that the final permit compliance certification ("PCC") was not submitted within 30 days after the date that Federal Operating Permit ("FOP") No. O1711 was voided. The PCC for the June 16, 2009 through March 3, 2010 certification period was not submitted until April 5, 2011. TCEQ staff also documented that the deviation reports for the June 16, 2009 through December 15, 2009 and December 16, 2009 through March 3, 2010 reporting periods were combined into one report that was not submitted until April 5, 2011.
4. During a record review conducted on March 24 and 25, 2011, TCEQ staff documented that the totalizing fuel flow meter for Heater 3 was malfunctioning and not providing accurate measurements.
5. The Respondent received notice of the violations on May 31, 2011.
6. The Executive Director recognizes that:
  - a. FOP No. O1711 was voided on March 3, 2010;
  - b. The PCC for the June 16, 2009 through March 3, 2010 certification period and the deviation reports for the June 16, 2009 through December 15, 2009 and December 16, 2009 through March 3, 2010 reporting periods were submitted on April 5, 2011; and
  - c. The totalizing fuel flow meter for Heater 3 was replaced on April 21, 2011.

## II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to submit a PCC and deviation reports within 30 days after the end of the certification and reporting periods, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and (8); 122.145(2)(C), and 122.146(2), FOP No. O1711, General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b).
3. As evidenced by Findings of Fact No. 4, the Respondent failed to maintain and operate a totalizing fuel flow meter for Heater 3, in violation of 30 TEX. ADMIN. CODE §§ 117.340(a) and 122.143(4), FOP No. O1711, Special Terms and Conditions No. 1.A., and TEX. HEALTH & SAFETY CODE § 382.085(b).

4. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of Ten Thousand Nine Hundred Seventy Dollars (\$10,970) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid the Ten Thousand Nine Hundred Seventy Dollar (\$10,970) administrative penalty.

### III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Ten Thousand Nine Hundred Seventy Dollars (\$10,970) as set forth in Section II, Paragraph 5 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Prairie View A&M University, Docket No. 2011-1121-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

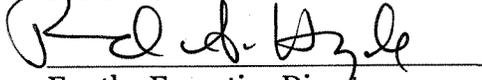
2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
4. 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.

5. 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.
6. 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.
7. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

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

12/2/11  
\_\_\_\_\_  
Date

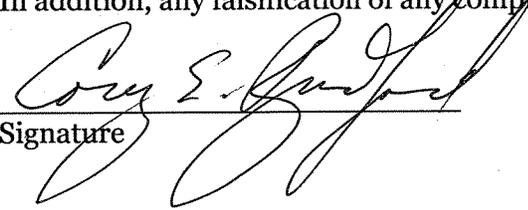
I, the undersigned, have read and understand the attached Agreed Order in the matter of Prairie View A&M University. I am authorized to agree to the attached Agreed Order on behalf of Prairie View A&M University, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Prairie View A&M University waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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

9/20/11  
\_\_\_\_\_  
Date

\_\_\_\_\_  
Corey S. Bradford, Ph.D.

\_\_\_\_\_  
Senior VP for Business Affairs

\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Prairie View A&M University

\_\_\_\_\_  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section III, Paragraph 1 of this Agreed Order.