

Executive Summary – Enforcement Matter – Case No. 42069
Oldcastle BuildingEnvelope, Inc.
RN100218783
Docket No. 2011-1190-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

Oldcastle Building Envelope Texas Facility, 803 Airport Road, Terrell, Kaufman County

Type of Operation:

Aluminum extrusions 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: November 4, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$12,730

Amount Deferred for Expedited Settlement: \$2,546

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$10,184

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

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Oldcastle BuildingEnvelope, Inc.
RN100218783
Docket No. 2011-1190-AIR-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: April 5, 2011
Date(s) of NOE(s): June 20, 2011

Violation Information

1. Failed to submit the semi-annual deviation report within 30 days after the end of the reporting period. Specifically, the semi-annual deviation report for the December 1, 2009 through May 31, 2010 reporting period was due June 30, 2010, but was not received until December 17, 2010 [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(C), Federal Operating Permit ("FOP") No. O2730, Special Terms and Conditions No. 11, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

2. Failed to include calculation results for each rolling 12-month organic Hazardous Air Pollutant emission rate from the paint booths during six-month reporting periods. Specifically, the report for the December 1, 2009 through May 31, 2010 reporting period submitted on December 17, 2010 and the report for the June 1, 2010 through November 30, 2010 reporting period submitted on December 29, 2010 contained a certification of compliance with the 27.5 pounds ("lbs") per gallon limit for coating solid, but did not include the calculation results as documentation of compliance [30 TEX. ADMIN. CODE §§ 101.20(2), 113.960, 116.115(c), and 122.143(4), FOP No. O2730, Special Terms and Conditions Nos. 1.D. and 8, New Source Review ("NSR") Permit No. 9396, Special Conditions No. 5, 40 CODE OF FEDERAL REGULATIONS § 63.3920(a)(3)(v), and TEX. HEALTH & SAFETY CODE § 382.085(b)].

3. Failed to comply with the permitted emission rates for volatile organic compounds ("VOC"). Specifically, unauthorized emissions from emission point numbers ("EPNs") 2 and 3 (Auto Topcoat Booth), 6 and 7 (Manual Topcoat Booth), and TO-1 (Auto Primer Booth) totaled 8,385.52 lbs; unauthorized emissions from EPN Mixing (Paint Mixing Room) totaled 385.90 lbs; and unauthorized emissions from EPNs MP-1 and MO-1 (Mini Paint Booth and Oven) totaled 2,305.30 lbs. A total of approximately 11,076.72 lbs of VOC was released over a 12-month period [30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and (c), and 122.143(4), FOP No. O2730, Special Terms and Conditions No. 8, NSR Permit No. 9396, General Conditions No. 8, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

**Executive Summary – Enforcement Matter – Case No. 42069
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RN100218783
Docket No. 2011-1190-AIR-E**

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:

- a. Submitted the semi-annual deviation report for the December 1, 2009 through May 31, 2010 reporting period on December 17, 2010;
- b. Trained employees to keep VOC usage below 6.0 lbs per hour from EPNs MP-1 and MO-1 by February 1, 2011;
- c. Amended NSR Permit No. 9396 to increase hourly emission limits for EPNs 2, 3, 6, 7, TO-1, and Mixing on March 22, 2011; and
- d. Transferred data from the current database to a spreadsheet using calculations to report emission amounts from the booths on a 12-month rolling average on June 28, 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

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Trina Grieco, Enforcement Division,
Enforcement Team 5, MC R-13, (210) 403-4006; Debra Barber, Enforcement Division,
MC 219, (512) 239-0412

TCEQ SEP Coordinator: N/A

Respondent: John Alford, Environmental Specialist, Oldcastle BuildingEnvelope,
Inc., 803 Airport Road, Terrell, Texas 75160-5224

Robert Dunn, General Manager, Oldcastle BuildingEnvelope, Inc., 803 Airport Road,
Terrell, Texas 75160-5224

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	20-Jun-2011	Screening	13-Jul-2011	EPA Due	16-Mar-2012
	PCW	29-Aug-2011				

RESPONDENT/FACILITY INFORMATION

Respondent	Oldcastle BuildingEnvelope, Inc.				
Reg. Ent. Ref. No.	RN100218783				
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Major		

CASE INFORMATION

Enf./Case ID No.	42069	No. of Violations	3	
Docket No.	2011-1190-AIR-E	Order Type	1660	
Media Program(s)	Air	Government/Non-Profit	No	
Multi-Media		Enf. Coordinator	Trina Grieco	
		EC's Team	Enforcement Team 5	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$12,700**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **25.0%** Enhancement **Subtotals 2, 3, & 7** **\$3,175**

Notes: Enhancement for one NOV with same/similar 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** **\$3,145**

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

Total EB Amounts \$288
Approx. Cost of Compliance \$4,750
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$12,730**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$12,730**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$12,730**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$2,546**

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 **\$10,184**

Screening Date 13-Jul-2011

Docket No. 2011-1190-AIR-E

PCW

Respondent Oldcastle BuildingEnvelope, Inc.

Policy Revision 2 (September 2002)

Case ID No. 42069

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100218783

Media [Statute] Air

Enf. Coordinator Trina Grieco

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	0	0%
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) 25%

>> 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 and one order with denial of liability.

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

Screening Date 13-Jul-2011

Docket No. 2011-1190-AIR-E

PCW

Respondent Oldcastle BuildingEnvelope, Inc.

Policy Revision 2 (September 2002)

Case ID No. 42069

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100218783

Media [Statute] Air

Enf. Coordinator Trina Grieco

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 122.143(4) and 122.145(2)(C), Federal Operating Permit ("FOP") No. Q2730, Special Terms and Conditions No. 11, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to submit the semi-annual deviation report within 30 days after the end of the reporting period. Specifically, the semi-annual deviation report for the December 1, 2009 through May 31, 2010 reporting period was due June 30, 2010, but was not received until December 17, 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		X			25%
The Respondent failed to comply with 100% of the rule requirements.					

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 170

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

Violation Base Penalty \$2,500

One single event is recommended for the late report.

Good Faith Efforts to Comply

25.0% Reduction

\$625

Extraordinary		
Ordinary	X	
N/A		(mark with x)

Notes The Respondent completed corrective actions on December 17, 2010, prior to the June 20, 2011 Notice of Enforcement ("NOE").

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$6

Violation Final Penalty Total \$2,500

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

Economic Benefit Worksheet

Respondent Oldcastle BuildingEnvelope, Inc.
Case ID No. 42069
Reg. Ent. Reference No. RN100218783
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)	\$250	30-Jun-2010	17-Dec-2010	0.47	\$6	n/a	\$6

Notes for DELAYED costs

Estimated expense for Plant personnel to timely submit the deviation report. The Date Required is the date that the semi-annual deviation report was due. The Final Date is the date 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

\$250

TOTAL

\$6

Screening Date 13-Jul-2011

Docket No. 2011-1190-AIR-E

PCW

Respondent Oldcastle BuildingEnvelope, Inc.

Policy Revision 2 (September 2002)

Case ID No. 42069

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100218783

Media [Statute] Air

Enf. Coordinator Trina Grieco

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 101.20(2), 113.960, 116.115(c), and 122.143(4), FOP No. O2730, Special Terms and Conditions Nos. 1.D. and 8, New Source Review ("NSR") Permit No. 9396, Special Conditions No. 5, 40 Code of Federal Regulations § 63.3920(a)(3)(v), and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to include calculation results for each rolling 12-month organic Hazardous Air Pollutant emission rate from the paint booths during six-month reporting periods. Specifically, the report for the December 1, 2009 through May 31, 2010 reporting period submitted on December 17, 2010 and the report for the June 1, 2010 through November 30, 2010 reporting period submitted on December 29, 2010 contained a certification of compliance with the 27.5 pounds per gallon limit for coating solid, but did not include the calculation results as documentation of compliance.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
			X	1%

Matrix Notes The Respondent failed to comply with less than 30% (one of seven) of the rule requirements.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 2 193 Number of violation days

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

Violation Base Penalty \$200

Two single events are recommended for the two deficient reports.

Good Faith Efforts to Comply

10.0% Reduction \$20

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

Notes The Respondent completed corrective actions by June 28, 2011, after the June 20, 2011 NOE.

Violation Subtotal \$180

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$25

Violation Final Penalty Total \$230

This violation Final Assessed Penalty (adjusted for limits) \$230

Economic Benefit Worksheet

Respondent Oldcastle BuildingEnvelope, Inc.
Case ID No. 42069
Reg. Ent. Reference No. RN100218783
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
<small>No commas or \$</small>							

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)	\$500	30-Jun-2010	28-Jun-2011	0.99	\$25	n/a	\$25

Notes for DELAYED costs

Estimated expense to transfer data from the current database to a spreadsheet using calculations to report emission amounts from the booths on a 12-month rolling average. The Date Required is the date the first report was due. The Final Date is the date 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

\$500

TOTAL

\$25

Screening Date 13-Jul-2011

Docket No. 2011-1190-AIR-E

PCW

Respondent Oldcastle BuildingEnvelope, Inc.

Policy Revision 2 (September 2002)

Case ID No. 42069

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100218783

Media [Statute] Air

Enf. Coordinator Trina Grieco

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code §§ 116.115(b)(2)(F) and (c), and 122.143(4), FOP No. O2730, Special Terms and Conditions No. 8, NSR Permit No. 9396, General Conditions No. 8, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to comply with the permitted emission rates for volatile organic compounds ("VOC"), as detailed in the attached table. Specifically, unauthorized emissions from emission point numbers ("EPNs") 2 and 3 (Auto Topcoat Booth), 6 and 7 (Manual Topcoat Booth), and TO-1 (Auto Primer Booth) totaled 8,385.52 pounds ("lbs"); unauthorized emissions from EPN Mixing (Paint Mixing Room) totaled 385.90 lbs; and unauthorized emissions from EPNs MP-1 and MO-1 (Mini Paint Booth and Oven) totaled 2,305.30 lbs. A total of approximately 11,076.72 lbs of VOC was released over a 12-month period, as shown in the attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of contaminants that did not exceed protective levels as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 4

364 Number of violation days

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

Violation Base Penalty \$10,000

Four quarterly events are recommended from December 2009 through November 2010.

Good Faith Efforts to Comply

25.0% Reduction

\$2,500

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

Notes

The Respondent completed corrective actions on March 22, 2011, prior to the June 20, 2011 NOE.

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$257

Violation Final Penalty Total \$10,000

This violation Final Assessed Penalty (adjusted for limits) \$10,000

Economic Benefit Worksheet

Respondent Oldcastle BuildingEnvelope, Inc.
Case ID No. 42069
Reg. Ent. Reference No. RN100218783
Media Air
Violation No. 3

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	\$500	1-Dec-2009	1-Feb-2011	1.17	\$29	n/a	\$29
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$3,500	1-Dec-2009	22-Mar-2011	1.30	\$228	n/a	\$228
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated expense to amend NSR Permit No. 9396 to increase emission limits for EPNs 2, 3, 6, 7, TO-1, and Mixing (\$3,500) and to train employees to keep VOC usage below 6.0 lbs/hour from EPNs MP-1 and MO-1 (\$500). The Dates Required are the date of the first exceedance. The Final Dates are the dates 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

\$4,000

TOTAL

\$257

Oldcastle BuildingEnvelope, Inc.
Case No. 42069; Docket No. 2011-1190-AIR-E
NSR Permit No. 9396; Violation 3

Violation Month	EPNs 2 & 3; 6 & 7; and TO-1 (Permit Limit 31.48 lbs/hr)		EPN Mixing (Permit Limit 1.42 lbs/hr)		EPNs MP-1 and MO-1 (Permit Limit 6.0 lbs/hr)	
	Actual Emissions (lbs/hr)	Unauthorized Emissions (lbs)	Actual Emissions (lbs/hr)	Unauthorized Emissions (lbs)	Actual Emissions (lbs/hr)	Unauthorized Emissions (lbs)
December 2009	c	c	3.12	385.90	9.69	302.58
January 2010	33.95	832.39	c	c	8.99	263.12
February 2010	c	c	c	c	8.05	200.90
March 2010	c	c	c	c	7.67	128.59
April 2010	c	c	c	c	8.34	234.00
May 2010	c	c	c	c	7.97	258.07
June 2010	33.09	557.06	c	c	7.42	171.82
July 2010	31.53	17.60	c	c	6.07	6.51
August 2010	36.13	1,794.90	c	c	6.27	31.86
September 2010	43.53	4,892.30	c	c	6.93	79.05
October 2010	32.21	291.27	c	c	9.84	384.00
November 2010	c	c	c	c	7.80	244.80

c = compliant

Compliance History

Customer/Respondent/Owner-Operator: CN602245813 Oldcastle BuildingEnvelope, Inc. Classification: AVERAGE Rating: 4.72
 Regulated Entity: RN100218783 OLDCASTLE BUILDING ENVELOPE Classification: AVERAGE Site Rating: 6.43
 TEXAS FACILITY

ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	KB0015U
	AIR OPERATING PERMITS	PERMIT	2730
	WASTEWATER	EPA ID	TX0071048
	AIR NEW SOURCE PERMITS	PERMIT	9396
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	KB0015U
	AIR NEW SOURCE PERMITS	AFS NUM	4825700023
	AIR NEW SOURCE PERMITS	REGISTRATION	78366
	AIR NEW SOURCE PERMITS	REGISTRATION	81832
	AIR NEW SOURCE PERMITS	REGISTRATION	12424B
	AIR NEW SOURCE PERMITS	REGISTRATION	35169
	STORMWATER	PERMIT	TXR05W352
	INDUSTRIAL AND HAZARDOUS WASTE	SOLID WASTE REGISTRATION #	30350
		(SWR)	
	INDUSTRIAL AND HAZARDOUS WASTE	EPA ID	TXD093516656
	POLLUTION PREVENTION PLANNING	ID NUMBER	P00768
	AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	KB0015U

Location: 803 AIRPORT RD, TERRELL, TX, 75160

TCEQ Region: REGION 04 - DFW METROPLEX

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: Trina Grieco Phone: (210) 403-4006

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? Yes
3. If Yes, who is the current owner/operator? Oldcastle BuildingEnvelope, Inc.
4. If Yes, who was/were the prior owner(s)/operator(s)? Butler Manufacturing Company
Oldcastle Windows, Inc. / Oldcastle Glass Engineered Products, Inc.
5. When did the change(s) in owner or operator occur? 07/01/2007
09/21/2009
02/08/2011
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: 01/30/2009 ADMINORDER 2008-1168-AIR-E

Classification: Moderate
 Citation: 30 TAC Chapter 115, SubChapter E 115.429(b)
 5C THSC Chapter 382 382.085(b)

Description: Failed to test the RTO and associated paint booths for capture and control efficiency by June 15, 2007 to ensure compliance with the requirements related to surface coating processes.

- 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. (CEEDS Inv. Track. No.)

1 11/09/2006 (518523)
2 05/29/2007 (559777)
3 07/07/2008 (671355)
4 08/28/2008 (684696)
5 08/19/2008 (688083)
6 06/16/2011 (908711)

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

Date: 06/20/2011 (908711) CN602245813
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
30 TAC Chapter 113, SubChapter C 113.960
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT MMMM 63.3920(a)
5C THSC Chapter 382 382.085(b)
Applicable Requirements Summary OP
Description: Failure to submit a semi-annual 40 CFR 63, Subpart MMMM report, no later than
30 days after the end of the reporting period

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
OLDCASTLE
BUILDINGENVELOPE, INC.
RN100218783**

**§
§
§
§
§
§**

**BEFORE THE

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2011-1190-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 Oldcastle BuildingEnvelope, 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 extrusions manufacturing plant at 803 Airport Road in Terrell, Kaufman County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about June 25, 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 Twelve Thousand Seven Hundred Thirty Dollars (\$12,730) is assessed by the Commission in settlement of the violations alleged in

Section II ("Allegations"). The Respondent has paid Ten Thousand One Hundred Eighty-Four Dollars (\$10,184) of the administrative penalty and Two Thousand Five Hundred Forty-Six Dollars (\$2,546) 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. Submitted the semi-annual deviation report for the December 1, 2009 through May 31, 2010 reporting period on December 17, 2010;
 - b. Trained employees to keep volatile organic compounds ("VOC") usage below 6.0 pounds per hour ("lbs/hr") from emission point numbers ("EPNs") MP-1 and MO-1 by February 1, 2011;
 - c. Amended New Source Review ("NSR") Permit No. 9396 to increase hourly emission limits for EPNs 2, 3, 6, 7, TO-1, and Mixing on March 22, 2011; and
 - d. Transferred data from the current database to a spreadsheet using calculations to report emission amounts from the booths on a 12-month rolling average on June 28, 2011.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have:

1. Failed to submit the semi-annual deviation report within 30 days after the end of the reporting period, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(C), Federal Operating Permit ("FOP") No. O2730, Special Terms and Conditions No. 11, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on April 5, 2011. Specifically, the semi-annual deviation report for the December 1, 2009 through May 31, 2010 reporting period was due June 30, 2010, but was not received until December 17, 2010.
2. Failed to include calculation results for each rolling 12-month organic Hazardous Air Pollutant emission rate from the paint booths during six-month reporting periods, in violation of 30 TEX. ADMIN. CODE §§ 101.20(2), 113.960, 116.115(c), and 122.143(4), FOP No. O2730, Special Terms and Conditions Nos. 1.D. and 8, NSR Permit No. 9396, Special Conditions No. 5, 40 CODE OF FEDERAL REGULATIONS § 63.3920(a)(3)(v), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on April 5, 2011. Specifically, the report for the December 1, 2009 through May 31, 2010 reporting period submitted on December 17, 2010 and the report for the June 1, 2010 through November 30, 2010 reporting period submitted on December 29, 2010 contained a certification of compliance with the 27.5 lbs per gallon limit for coating solid, but did not include the calculation results as documentation of compliance.
3. Failed to comply with the permitted emission rates for VOC, in violation of 30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and (c), and 122.143(4), FOP No. O2730, Special Terms and Conditions No. 8, NSR Permit No. 9396, General Conditions No. 8, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on April 5, 2011. Specifically, unauthorized emissions from EPNs 2 and 3 (Auto Topcoat Booth), 6 and 7 (Manual Topcoat Booth), and TO-1 (Auto Primer Booth) totaled 8,385.52 lbs; unauthorized emissions from EPN Mixing (Paint Mixing Room) totaled 385.90 lbs; and unauthorized emissions from EPNs MP-1 and MO-1 (Mini Paint Booth and Oven) totaled 2,305.30 lbs. As shown in the following table, a total of approximately 11,076.72 lbs of VOC was released over a 12-month period.

Violation Month	EPNs 2 & 3; 6 & 7; and TO-1 (Permit Limit 31.48 lbs/hr)		EPN Mixing (Permit Limit 1.42 lbs/hr)		EPNs MP-1 and MO-1 (Permit Limit 6.0 lbs/hr)	
	Actual Emissions (lbs/hr)	Unauthorized Emissions (lbs)	Actual Emissions (lbs/hr)	Unauthorized Emissions (lbs)	Actual Emissions (lbs/hr)	Unauthorized Emissions (lbs)
December 2009	c	c	3.12	385.90	9.69	302.58
January 2010	33.95	832.39	c	c	8.99	263.12
February 2010	c	c	c	c	8.05	200.90
March 2010	c	c	c	c	7.67	128.59
April 2010	c	c	c	c	8.34	234.00
May 2010	c	c	c	c	7.97	258.07
June 2010	33.09	557.06	c	c	7.42	171.82
July 2010	31.53	17.60	c	c	6.07	6.51
August 2010	36.13	1,794.90	c	c	6.27	31.86
September 2010	43.53	4,892.30	c	c	6.93	79.05
October 2010	32.21	291.27	c	c	9.84	384.00
November 2010	c	c	c	c	7.80	244.80

c = compliant

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

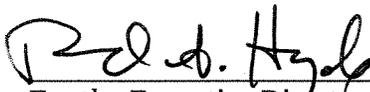
1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations 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: Oldcastle BuildingEnvelope, Inc., Docket No. 2011-1190-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

12/2/11

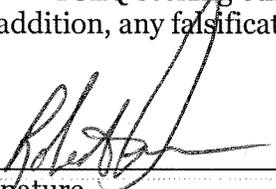
Date

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

9/15/2011

Date

Robert Dunn

Name (Printed or typed)
Authorized Representative of
Oldcastle BuildingEnvelope, Inc.

General 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.