

Executive Summary – Enforcement Matter – Case No. 43943

Texas A&M University

RN100216274

Docket No. 2012-0775-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

Texas A&M University College Station Campus, 1111 Research Parkway, College Station,
Brazos County

Type of Operation:

University with a utilities plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: August 17, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$9,890

Amount Deferred for Expedited Settlement: \$1,978

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$7,912

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. 43943

Texas A&M University

RN100216274

Docket No. 2012-0775-AIR-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: January 11, 2012

Date(s) of NOE(s): March 8, 2012

Violation Information

1. Failed to conduct quarterly cylinder gas audits (“CGAs”). Specifically, Respondent did not conduct a quarterly CGA for the carbon monoxide (“CO”), oxygen (“O₂”), and nitrogen oxides (“NO_x”) continuous emissions monitoring system (“CEMS”) for the second quarter of 2011 [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), New Source Review (“NSR”) Permit No. 44762 Special Conditions (“SC”) Nos. 10.B. and 10.C. and Federal Operating Permit (“FOP”) No. O1624 Special Terms and Conditions (“STC”) No. 6.A.].
2. Failed to report unscheduled CEMS downtime by the end of the next business day. Specifically, the CEMS experienced unscheduled downtime beginning on July 29, 2011 which was not reported by Respondent until November 22, 2011 [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), NSR Permit No. 44762 SC No. 10.E., and FOP No. O1624 STC No. 6.A.].
3. Failed to continuously monitor for NO_x, CO, and O₂ from Boiler No. 12. Specifically, the NO_x, CO, and O₂ CEMS experienced downtime from 6:00 am on July 29 to 9:00 am on August 2, 2011, from 11:00 pm on August 2, 2011 to 8:00 am August 3, 2011, and from 6:00 am on August 16, 2011 to 2:00 pm on December 22, 2011, for a total of 3,176 hours [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), NSR Permit No. 44762 SC No. 10 and FOP No. O1624 STC No. 6.A.].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent has implemented the following corrective measures at the site:

- a. By November 22, 2011, notified the TCEQ of the unscheduled CEMS downtime;
- b. By December 22, 2011, replaced the programmable logic controller for the CEMS; and
- c. By March 12, 2012, implemented procedures to ensure that unscheduled CEMS downtime is reported.

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RN100216274
Docket No. 2012-0775-AIR-E

Technical Requirements:

The Order will require Respondent to:

- a. Within 30 days, implement procedures to ensure that all quarterly CGAs are conducted; and
- b. Within 45 days, submit written certification demonstrating compliance.

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: Rebecca Johnson, Enforcement Division, Enforcement Team 5, MC R-14, (361) 825-3423; Debra Barber, Enforcement Division, MC 219, (512) 239-0412
TCEQ SEP Coordinator: N/A
Respondent: W. Jan Faber, Assistant General Counsel, Texas A&M University, 1111 Research Parkway, College Station, Texas 77845
Darryl Petersen, Supervisor for Utilities Environmental Services, Texas A&M University, 1584 TAMU, College Station, Texas 77843-1584
Respondent's Attorney: N/A

Penalty Calculation Worksheet (PCW)
 Policy Revision 2 (September 2002) PCW Revision October 30, 2008

TCEQ DATES	Assigned	5-Apr-2012	Screening	5-Apr-2012	EPA Due	31-Dec-2012
	PCW	30-Apr-2012				

RESPONDENT/FACILITY INFORMATION			
Respondent	Texas A&M University		
Reg. Ent. Ref. No.	RN100216274		
Facility/Site Region	9-Waco	Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	43943	No. of Violations	3
Docket No.	2012-0775-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Raymond Marlow
		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	\$8,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1
 Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	34.0% Enhancement	Subtotals 2, 3, & 7	\$2,890
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Notes: Enhancement for two NOVs with same/similar violations, two NOVs with dissimilar violations and one order with denial of liability.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$1,500
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$1,163
Approx. Cost of Compliance	\$41,400

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$9,890
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$9,890
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$9,890
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DEFERRAL	20.0% Reduction	Adjustment	-\$1,978
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$7,912
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Screening Date 5-Apr-2012

Docket No. 2012-0775-AIR-E

PCW

Respondent Texas A&M University

Policy Revision 2 (September 2002)

Case ID No. 43943

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100216274

Media [Statute] Air

Enf. Coordinator Raymond Marlow

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	2	4%
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%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 34%

>> 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, two NOVs with dissimilar violations and one order with denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 34%

Screening Date 5-Apr-2012
Respondent Texas A&M University
Case ID No. 43943
Reg. Ent. Reference No. RN100216274
Media [Statute] Air
Enf. Coordinator Raymond Marlow
Violation Number 1

Docket No. 2012-0775-AIR-E

PCW

Policy Revision 2 (September 2002)
 PCW Revision October 30, 2008

Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), Tex. Health & Safety Code § 382.085(b), New Source Review ("NSR") Permit No. 44762 Special Conditions ("SC") Nos. 10.B. and 10.C. and Federal Operating Permit ("FOP") No. O1624 Special Terms and Conditions ("STC") No. 6.A.

Violation Description Failed to conduct quarterly cylinder gas audits ("CGAs"). Specifically, the Respondent did not conduct a quarterly CGA for the carbon monoxide ("CO"), oxygen ("O2"), and nitrogen oxides ("NOx") continuous emissions monitoring system ("CEMS") for the second quarter of 2011.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				10%
Potential			x	

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
				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 Number of violation days

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 for not conducting the quarterly CGA.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$7

Violation Final Penalty Total \$1,340

This violation Final Assessed Penalty (adjusted for limits) \$1,340

Economic Benefit Worksheet

Respondent Texas A&M University
Case ID No. 43943
Req. Ent. Reference No. RN100216274
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	\$100	1-Apr-2011	1-Aug-2012	1.34	\$7	n/a	\$7
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 implement measures designed to ensure that the quarterly CGAs are conducted. The Date Required is the date of non-compliance. The Final Date is the date corrective measures are estimated to be 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

\$100

TOTAL

\$7

Screening Date 5-Apr-2012
Respondent Texas A&M University
Case ID No. 43943
Reg. Ent. Reference No. RN100216274
Media [Statute] Air
Enf. Coordinator Raymond Marlow

Docket No. 2012-0775-AIR-E

PCW

Policy Revision 2 (September 2002)
 PCW Revision October 30, 2008

Violation Number

Rule Cite(s)

30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), Tex. Health & Safety Code § 382.085(b), NSR Permit No. 44762 SC No. 10.E. and FOP No. O1624 STC No. 6.A.

Violation Description

Failed to report the unscheduled CEMS downtime by the end of the next business day. Specifically, the CEMS experienced unscheduled downtime beginning on July 29, 2011 which was not reported by the Respondent until November 22, 2011.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="25%"/>
100% of the rule requirement was not met.					

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

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

Violation Base Penalty

One single event is recommended.

Good Faith Efforts to Comply

10.0% Reduction

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

Notes: Corrective actions were completed on March 12, 2012, after the March 8, 2012 NOE.

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent: Texas A&M University
Case ID No.: 43943
Reg. Ent. Reference No.: RN100216274
Media: Air
Violation No.: 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				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	\$100	30-Jul-2011	12-Mar-2012	0.62	\$3	n/a	\$3
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 implement measures designed to ensure that unscheduled CEMS downtime is reported. The Date Required is the date the downtime should have been reported. The Final Date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$3

Screening Date 5-Apr-2012

Docket No. 2012-0775-AIR-E

PCW

Respondent Texas A&M University

Policy Revision 2 (September 2002)

Case ID No. 43943

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100216274

Media [Statute] Air

Enf. Coordinator Raymond Marlow

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), Tex. Health & Safety Code § 382.085(b), NSR Permit No. 44762 SC No. 10 and FOP No. O1624 STC No. 6.A.

Violation Description

Failed to continuously monitor for NOx, CO, and O2 from Boiler No. 12. Specifically, the NOx, CO, and O2 CEMS experienced downtime from 6:00 am on July 29 to 9:00 am on August 2, 2011, from 11:00 pm on August 2, 2011 to 8:00 am August 3, 2011 and from 6:00 am on August 16, 2011 to 2:00 pm on December 22, 2011, for a total of 3,176 hours.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

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

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2

146 Number of violation days

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

Violation Base Penalty \$5,000

Two quarterly events are recommended from the date of non-compliance (July 29, 2011) to the date of compliance (December 22, 2011).

Good Faith Efforts to Comply

25.0% Reduction

\$1,250

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

Notes

The Respondent completed corrective actions on December 22, 2011, prior to the March 8, 2012 NOE.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,154

Violation Final Penalty Total \$5,450

This violation Final Assessed Penalty (adjusted for limits) \$5,450

Economic Benefit Worksheet

Respondent Texas A&M University
Case ID No. 43943
Rea. Ent. Reference No. RN100216274
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	\$41,200	29-Jul-2011	22-Dec-2011	0.40	\$55	\$1,099	\$1,154
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

Actual expense, provided by the Respondent, to replace the faulty programmable logic controller for the CEMS. The Date Required is the first date of CEMS downtime. Final Date is the date that corrective measures 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

\$41,200

TOTAL

\$1,154

Compliance History Report

Customer/Respondent/Owner-Operator: CN600307623 Texas A&M University Classification: AVERAGE Rating: 3.32
Regulated Entity: RN100216274 TEXAS A&M UNIVERSITY COLLEGE STATION CAMPUS Classification: AVERAGE Site Rating: 7.69

ID Number(s):

AIR NEW SOURCE PERMITS	REGISTRATION	91611
AIR NEW SOURCE PERMITS	PERMIT	3432
AIR NEW SOURCE PERMITS	REGISTRATION	12905
AIR NEW SOURCE PERMITS	PERMIT	44762
AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	BM0032V
AIR NEW SOURCE PERMITS	AFS NUM	4804100003
AIR NEW SOURCE PERMITS	REGISTRATION	51136
AIR NEW SOURCE PERMITS	REGISTRATION	79666
AIR OPERATING PERMITS	PERMIT	2054
AIR OPERATING PERMITS	ACCOUNT NUMBER	BM0032V
AIR OPERATING PERMITS	PERMIT	1624
AIR OPERATING PERMITS	PERMIT	2051
AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	BM0032V

Location: 1111 RESEARCH PARKWAY, COLLEGE STATION, BRAZOS COUNTY, TEXAS

TCEQ Region: REGION 09 - WACO

Date Compliance History Prepared: April 05, 2012

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: April 05, 2007 to April 05, 2012

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

Name: Raymond Marlow, P.G. Phone: (409)899-8785

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. If YES, when did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2011 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 2008-0903-AIR-E

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: Special Condition 10F PERMIT
Special Terms and Conditions 6A OP

Description: Failed to comply with the 90% system reliability requirement for the Nitrogen oxides ("NOx")
Continuous Emission Monitoring System

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: Special Condition 3 PERMIT
Special Terms and Conditions 6 OP

Description: Failure to comply with their NOx emission limits, for 81 hours, as required by SC 3 of NSR

Permit No. 44762 and SC 6 of FOP O-01624.

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	11/01/2007	(598935)
2	01/14/2008	(613390)
3	06/02/2008	(640360)
4	05/19/2008	(654141)
5	07/02/2008	(684101)
6	07/14/2008	(684517)
7	07/15/2008	(685524)
8	09/03/2008	(700865)
9	10/09/2008	(700874)
10	01/20/2009	(702672)
11	01/08/2009	(721481)
12	02/19/2009	(722392)
13	02/06/2009	(724987)
14	04/03/2009	(738510)
15	07/09/2009	(745959)
16	06/12/2009	(747436)
17	08/10/2009	(765039)
18	12/16/2009	(786002)
19	01/06/2010	(787349)
20	05/28/2010	(794765)

21 06/16/2010 (826623)
22 06/18/2010 (827742)
23 07/06/2010 (828737)
24 12/16/2010 (880178)
25 06/14/2011 (932992)
26 08/25/2011 (936100)
27 10/10/2011 (958932)
28 03/08/2012 (975947)

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

Date: 05/19/2008 (654190) CN600307623
Self Report? YES 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)
Description: Failure to comply with the emission limits for NOx and CO as required in SC 3 of
NSR Permit No. 44762, pursuant to 30 TAC 116.115(c); and SC 6 of FOP
O-01624, pursuant to 30 TAC 122.143(4).

Date: 05/27/2008 (640360) CN600307623
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 122, SubChapter B 122.146(2)
5C THSC Chapter 382 382.085(b)
Description: Failure to submit the final annual compliance certification report for Title V Permit
Nos. O-02052 and O-02053 pursuant to a letter dated August 1, 2007 from the
TCEQ Air Permits Division.

Date: 06/23/2008 (684101) CN600307623
Self Report? YES 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)
Description: Failure to comply with the emission limits for NOx and CO as required in SC 3 of
NSR Permit No. 44762, pursuant to 30 TAC 116.115(c); and SC 6 of FOP
O-01624, pursuant to 30 TAC 122.143(4).

Date: 08/26/2011 (936100) CN600307623
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(A)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP
Description: TAMU failed to report all instances of deviations in their ACC for FOP No.
O-01624 for the reporting period of May 1, 2010 to April 30, 2011.

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
TEXAS A&M UNIVERSITY
RN100216274**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2012-0775-AIR-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Texas A&M University ("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 together stipulate that:

1. The Respondent owns and operates a university with a utilities plant at 1111 Research Parkway in College Station, Brazos 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 Executive Director 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 March 13, 2012.
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 Nine Thousand Eight Hundred Ninety Dollars (\$9,890) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Seven Thousand Nine Hundred Twelve Dollars (\$7,912) of the administrative penalty and One Thousand Nine Hundred

Seventy-Eight Dollars (\$1,978) 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 and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:
 - a. By November 22, 2011, notified the TCEQ of the unscheduled continuous emissions monitoring system ("CEMS") downtime;
 - b. By December 22, 2011, replaced the programmable logic controller for the CEMS; and
 - c. By March 12, 2012, implemented procedures to ensure that unscheduled CEMS downtime is reported.
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 conduct quarterly cylinder gas audits ("CGAs"), in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), New Source Review ("NSR") Permit No. 44762 Special Conditions ("SC") Nos. 10.B. and 10.C. and Federal Operating Permit ("FOP") No. 01624 Special Terms and Conditions ("STC") No. 6.A., as documented during a record review conducted on January 11, 2012. Specifically, the Respondent did not conduct a quarterly CGA for the carbon monoxide ("CO"), oxygen (O₂), and nitrogen oxides ("NO_x") CEMS for the second quarter of 2011.

2. Failed to report unscheduled CEMS downtime by the end of the next business day, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), NSR Permit No. 44762 SC No. 10.E., and FOP No. O1624 STC No. 6.A., as documented during a record review conducted on January 11, 2012. Specifically, the CEMS experienced unscheduled downtime beginning on July 29, 2011 which was not reported by the Respondent until November 22, 2011.
3. Failed to continuously monitor for NO_x, CO, and O₂ from Boiler No. 12, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), NSR Permit No. 44762 SC No. 10 and FOP No. O1624 STC No. 6.A., as documented during a record review conducted on January 11, 2012. Specifically, the NO_x, CO, and O₂ CEMS experienced downtime from 6:00 am on July 29 to 9:00 am on August 2, 2011, from 11:00 pm on August 2, 2011 to 8:00 am August 3, 2011 and from 6:00 am on August 16, 2011 to 2:00 pm on December 22, 2011, for a total of 3,176 hours.

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: Texas A&M University, Docket No. 2012-0775-AIR-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, implement procedures to ensure that all quarterly CGAs are conducted; and
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Air Section, Manager
Waco Regional Office
Texas Commission on Environmental Quality
6801 Sanger Avenue, Suite 2500
Waco, Texas 76710-7826

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the

Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

7. This 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.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Pam Dawkins
For the Executive Director

9/5/12
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.

W. Jan Faber
Signature

June 7, 2012
Date

W. JAN FABER
Name (Printed or typed)
Authorized Representative of
Texas A&M University

Assistant General Counsel
Title The Texas A&M System

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.