

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 41530
GARDNER GLASS PRODUCTS, INC.
RN100242973
Docket No. 2011-0621-AIR-E

Order Type:

Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

7553 State Highway 75 South, Huntsville, Walker County

Type of Operation:

glass mirror manufacturing plant

Other Significant Matters:

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

Texas Register Publication Date: June 8, 2012

Comments Received: None

Penalty Information

Total Penalty Assessed: \$35,340

Total Paid to General Revenue: \$1,005

Total Due to General Revenue: \$34,335

Payment Plan: 35 payments of \$981 each

SEP Conditional Offset: N/A

Compliance History Classifications:

Person/CN –Average
Site/RN –Average

Major Source: Yes

Statutory Limit Adjustment: None

Applicable Penalty Policy: September 2002

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: November 29, 2010

Date(s) of NOV(s): N/A

Date(s) of NOE(s): April 15, 2011

Violation Information

1. Failed to submit an application for renewal at least six months prior to expiration of a Federal Operating Permit ("FOP") and continued to operate the Plant after the permit expired [30 TEX. ADMIN. CODE §§ 122.121 and 122.241(b) and TEX. HEALTH & SAFETY CODE §§ 382.054 and 382.085(b)].
2. Failed to operate the regenerative thermal oxidizer ("RTO") at a temperature of no less than 1400°F at all times when volatile organic compounds are routed to the RTO [30 TEX. ADMIN. CODE § 116.715(a), TEX. HEALTH & SAFETY CODE § 382.085(b), and Flexible Permit No. 18495 Special Condition No. 5.C.(4)].
3. Failed to include all deviations in deviation reports [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), TEX. HEALTH & SAFETY CODE § 382.085(b), and FOP No. O-2765 General Terms and Conditions].
4. Failed to perform required quarterly visible emissions monitoring [30 TEX. ADMIN. CODE §§ 116.715(a) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), Flexible Permit No. 18495 General Condition No. 3.B., and FOP No. O-2765 Special Terms and Conditions No. 3].
5. Failed to properly maintain and operate a control device [30 TEX. ADMIN. CODE §§ 116.715(a) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), Flexible Permit No. 18495 General Condition No. 9, and FOP No. O-2765 Special Terms and Conditions No. 3].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

On December 22, 2011, Respondent received authorization to operate under FOP O-2765.

Technical Requirements:

1. Within 30 days:
 - a. Implement improvements to training, design, operation, and/or maintenance procedures, in order to operate the RTO at a temperature of no less than 1400°F at all times when volatile organic compounds are routed to the RTO, and to prevent the reoccurrence of same or similar incidents;
 - b. Implement procedures designed to ensure semi-annual deviation reports are complete, accurate, and submitted within 30 days after the end of each deviation reporting period;
 - c. Implement improvements to training and operation in order to ensure that quarterly visible emissions monitoring is conducted; and
 - d. Implement improvements to training, design, operation, and/or maintenance procedures in order to ensure that the RTO is properly maintained.
2. Within 45 days, submit written certification to demonstrate compliance.

Litigation Information

Date Petition(s) Filed: September 6, 2011
Date Answer(s) Filed: September 30, 2011
SOAH Referral Date: November 8, 2011
Hearing Date(s):
Preliminary hearing: January 19, 2012 (waived)
Evidentiary hearing: May 17, 2012 (scheduled)
Settlement Date: May 7, 2012

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 41530
GARDNER GLASS PRODUCTS, INC.
RN100242973
Docket No. 2011-0621-AIR-E

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Contact Information

TCEQ Attorneys: Jeffrey Huhn, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Blas Coy, Public Interest Counsel, (512) 239-6363

TCEQ SEP Coordinator: N/A

TCEQ Enforcement Coordinator: James Nolan, Enforcement Division, (512) 239-6634

TCEQ Regional Contact: Manuel Bautista, Houston Regional Office, (713) 767-3678

Respondent: Kim Theodorsen, Operations Manager, Gardner Glass Products, Inc., 7553 State Highway 75 South, Huntsville, Texas 77340

Respondent's Attorney: N/A

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Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	18-Apr-2011	Screening	25-Apr-2011	EPA Due	10-Jan-2012
	PCW	24-Apr-2012				

RESPONDENT/FACILITY INFORMATION	
Respondent	Gardner Glass Products, Inc.
Reg. Ent. Ref. No.	RN100242973
Facility/Site Region	12-Houston
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	41530	No. of Violations	5
Docket No.	2011-0621-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	James Nolan
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$31,000
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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	14.0% Enhancement	Subtotals 2, 3, & 7	\$4,340
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Notes	Enhancement for seven NOVs with dissimilar violations.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$954	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$12,000	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$35,340
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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	
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Final Penalty Amount	\$35,340
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$35,340
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Deferral not offered for non-expedited settlement.
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PAYABLE PENALTY	\$35,340
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Screening Date 25-Apr-2011

Docket No. 2011-0621-AIR-E

PCW

Respondent Gardner Glass Products, Inc.

Policy Revision 2 (September 2002)

Case ID No. 41530

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100242973

Media [Statute] Air

Enf. Coordinator James Nolan

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>)	0	0%
	Other written NOVs	7	14%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<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) 14%

>> 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 seven NOVs with dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 14%

Screening Date 25-Apr-2011

Docket No. 2011-0621-AIR-E

PCW

Respondent Gardner Glass Products, Inc.

Policy Revision 2 (September 2002)

Case ID No. 41530

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100242973

Media [Statute] Air

Enf. Coordinator James Nolan

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 122.121 and 122.241(b) and Tex. Health & Safety Code §§ 382.054 and 382.085(b)

Violation Description Failed to submit an application for renewal at least six months prior to expiration of a Federal Operating Permit ("FOP") and continued to operate the Plant after the permit expired. Specifically, the Respondent failed to renew FOP No. O-2765 before the permit expiration date of June 15, 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
	x			25%

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 8 Number of violation days 219

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$20,000

Eight monthly events are recommended based on the permit expiration date of June 15, 2010 to the date operations ceased, January 20, 2011.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDRP/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 \$20,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$725

Violation Final Penalty Total \$22,800

This violation Final Assessed Penalty (adjusted for limits) \$22,800

Economic Benefit Worksheet

Respondent Gardner Glass Products, Inc.
Case ID No. 41530
Req. Ent. Reference No. RN100242973
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	\$5,000	17-Dec-2009	10-Nov-2012	2.90	\$725	n/a	\$725
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost for the preparation and submittal of a new FOP application. The date required is six months prior to the date the permit expired and the final date is the expected 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

\$5,000

TOTAL

\$725

Screening Date 25-Apr-2011

Docket No. 2011-0621-AIR-E

PCW

Respondent Gardner Glass Products, Inc.

Policy Revision 2 (September 2002)

Case ID No. 41530

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100242973

Media [Statute] Air

Enf. Coordinator James Nolan

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 116.715(a), Tex. Health & Safety Code § 382.085(b), and Flexible Permit No. 18495 Special Condition No. 5.C.(4)

Violation Description Failed to operate the regenerative thermal oxidizer ("RTO") at a temperature of no less than 1400°F at all times when volatile organic compounds are routed to the RTO. Specifically, records indicated that the RTO was operated below the minimum allowed temperature on April 20, 2009, April 22, 2009, and April 27, 2009 with temperatures ranging between 1025°F and 1275°F.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			x	25%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
				0%

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

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 3 Number of violation days

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

Violation Base Penalty \$2,500

One quarterly event is recommended based on the three days of non-compliance.

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 \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$136

Violation Final Penalty Total \$2,850

This violation Final Assessed Penalty (adjusted for limits) \$2,850

Economic Benefit Worksheet

Respondent Gardner Glass Products, Inc.
Case ID No. 41530
Req. Ent. Reference No. RN100242973
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				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)	\$1,000	20-Apr-2009	10-Jan-2012	2.73	\$136	n/a	\$136

Notes for DELAYED costs

Estimated costs for modifications to policies and procedures to ensure that the RTO required minimum operating temperature is maintained. The date required is the first day of non-compliance and the final date is the estimated 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

\$1,000

TOTAL

\$136

Screening Date 25-Apr-2011

Docket No. 2011-0621-AIR-E

PCW

Respondent Gardner Glass Products, Inc.

Policy Revision 2 (September 2002)

Case ID No. 41530

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100242973

Media [Statute] Air

Enf. Coordinator James Nolan

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code §§ 122.143(4) and 122.145(2)(A), Tex. Health & Safety Code § 382.085(b), and FOP No. O-2765 General Terms and Conditions

Violation Description

Failed to include all deviations in deviation reports. Specifically, the deviation report for the period of December 16, 2008 through June 15, 2009 did not contain deviations for the failure to maintain the RTO minimum operating temperature in April of 2009 and the deviation report for the period of June 16, 2009 through December 15, 2009 did not contain deviations for the failure to perform quarterly emissions evaluations.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2

649 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$5,000

Two single events are recommended, one for each deviation report.

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 \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$62

Violation Final Penalty Total \$5,700

This violation Final Assessed Penalty (adjusted for limits) \$5,700

Economic Benefit Worksheet

Respondent Gardner Glass Products, Inc.
Case ID No. 41530
Req. Ent. Reference No. RN100242973
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	15-Jul-2009	10-Jan-2012	2.49	\$62	n/a	\$62
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 provide additional FOP reporting oversight. The date required is the date the first deviation report was due and the final date is the estimated 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

\$500

TOTAL

\$62

Screening Date 25-Apr-2011

Docket No. 2011-0621-AIR-E

PCW

Respondent Gardner Glass Products, Inc.

Policy Revision 2 (September 2002)

Case ID No. 41530

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100242973

Media [Statute] Air

Enf. Coordinator James Nolan

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code §§ 116.715(a) and 122.143(4), Tex. Health & Safety Code § 382.085(b), Flexible Permit No. 18495 General Condition No. 3.B., and FOP No. O-2765 Special Terms and Conditions No. 3

Violation Description

Failed to perform required quarterly visible emissions monitoring. Specifically, quarterly visible emissions monitoring was not conducted at the Silvering (Ammonia) Process Stack [Emission Point No. ("EPN") 1] and the Activating Process Stack (EPN 2).

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

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 1 147 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$1,000

One single event is recommended.

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 \$28

Violation Final Penalty Total \$1,140

This violation Final Assessed Penalty (adjusted for limits) \$1,140

Economic Benefit Worksheet

Respondent Gardner Glass Products, Inc.
Case ID No. 41530
Req. Ent. Reference No. RN100242973
Media Air
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	29-Nov-2010	10-Jan-2012	1.12	\$28	n/a	\$28
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 of implementing visible emissions documentation procedures. The date required is the date of investigation and the final date is the estimated 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 \$500

TOTAL \$28

Screening Date 25-Apr-2011

Docket No. 2011-0621-AIR-E

PCW

Respondent Gardner Glass Products, Inc.

Policy Revision 2 (September 2002)

Case ID No. 41530

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100242973

Media [Statute] Air

Enf. Coordinator James Nolan

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code §§ 116.715(a) and 122.143(4), Tex. Health & Safety Code § 382.085(b), Flexible Permit No. 18495 General Condition No. 9, and FOP No. O-2765 Special Terms and Conditions No. 3

Violation Description Failed to properly maintain and operate a control device. Specifically, a routine annual inspection was conducted on the RTO on January 22, 2010 which identified a damaged thermocouple and the Respondent was unable to provide documentation that the repairs had been completed.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			x	25%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
				0%

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

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 3

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

Violation Base Penalty \$2,500

One quarterly event is recommended based upon the date of the RTO inspection (January 22, 2010) to the date of compliance (January 25, 2010).

Good Faith Efforts to Comply

0.0% Reduction \$0

	Reduction	
	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 \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$2,850

This violation Final Assessed Penalty (adjusted for limits) \$2,850

Economic Benefit Worksheet

Respondent Gardner Glass Products, Inc.
Case ID No. 41530
Req. Ent. Reference No. RN100242973
Media Air
Violation No. 5

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)	\$5,000	22-Jan-2010	25-Jan-2010	0.01	\$2	n/a	\$2

Notes for DELAYED costs

Estimated costs for repairs to the RTO and modifications to policies and procedures to ensure that the RTO is maintained. The date required is the date of the RTO inspection and 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

\$5,000

TOTAL

\$2

Compliance History

Customer/Respondent/Owner-Operator:	CN600135008	Gardner Glass Products, Inc.	Classification: AVERAGE	Rating: 3.75
Regulated Entity:	RN100242973	TEXAS MIRROR	Classification: AVERAGE	Site Rating: 3.75
ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	WA0041A	
	AIR OPERATING PERMITS	PERMIT	2765	
	IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	34627	
	WASTEWATER	EPA ID	TX0102121	
	AIR NEW SOURCE PERMITS	PERMIT	18495	
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	WA0041A	
	AIR NEW SOURCE PERMITS	AFS NUM	4847100017	
	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	9387	
	POLLUTION PREVENTION PLANNING	ID NUMBER	P02045	
	STORMWATER	PERMIT	TXR05W417	
	AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	WA0041A	

Location: 7553 STATE HIGHWAY 75 S, HUNTSVILLE, TX, 77340

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: 4/25/2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: April 25, 2006 to April 25, 2011

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

Name: James Nolan Phone: (512) 239-6634

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.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	07/07/2006	(465646)	10	10/30/2006	(551038)
2	05/25/2006	(504931)	11	12/04/2006	(551039)
3	02/23/2007	(512691)	12	12/27/2006	(551040)
4	07/03/2006	(527230)	13	06/20/2007	(562764)
5	08/14/2006	(527231)	14	01/10/2007	(587585)
6	08/18/2006	(527232)	15	08/27/2008	(687866)
7	09/29/2006	(527233)	16	10/12/2009	(767426)
8	08/14/2006	(527234)	17	07/09/2010	(802778)
9	12/08/2006	(533658)	18	07/03/2006	(816796)
			19	04/15/2011	(858124)

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

- 1 Date: 04/30/2006 (504931) CN600135008
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
- 2 Date: 05/30/2006 (527230) CN600135008
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
- 3 Date: 05/31/2006 (816796) CN600135008
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
- 4 Date: 07/07/2006 (465646) CN600135008
 Self Report? NO Classification: Moderate
 Citation: 02919-000 PERMIT
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to calibrate the flow meter annually, as required.

Self Report? NO Classification: Moderate
Citation: 02919-000 PERMIT
30 TAC Chapter 319, SubChapter A 319.5(b)
Description: Failure to collect daily grab samples for pH, chemical oxygen demand (COD), and oil & grease (O&G) at Outfall 002.

5 Date: 07/31/2006 (527232) CN600135008
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter
6 Date: 10/31/2006 (551039) CN600135008
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter
7 Date: 11/30/2006 (551040) CN600135008
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

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
GARDNER GLASS PRODUCTS, INC.;
RN100242973**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2011-0621-AIR-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding Gardner Glass Products, Inc. ("Respondent") under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE ch. 382. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent together stipulate that:

1. Respondent owns and operates a glass mirror manufacturing plant located at 7553 State Highway 75 South in Huntsville, Walker County, Texas (the "Plant"). The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 382 and TCEQ rules.
3. The Executive Director and Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondent is subject to the Commission's jurisdiction.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of thirty-five thousand three hundred forty dollars (\$35,340.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid one thousand five dollars (\$1,005.00) of the administrative penalty. The remaining amount of thirty-four thousand three hundred thirty-five dollars (\$34,335.00) of the administrative penalty shall be payable in thirty-five (35) monthly payments of nine hundred eighty-one dollars (\$981.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his

- option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Respondent's failure to meet the payment schedule of this Agreed Order constitutes the failure by Respondent to timely and satisfactorily comply with all of the terms of this Agreed Order.
6. 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.
 7. The Executive Director and Respondent agree on a settlement of the matters addressed in this Agreed Order, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
 8. The Executive Director recognizes that on December 22, 2011, Respondent received authorization to operate under Federal Operating Permit ("FOP") O-2765 (Allegation 1.a.).
 9. 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 Respondent has not complied with one or more of the terms or conditions contained in this Agreed Order.
 10. 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.
 11. 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

1. During an investigation conducted on November 29, 2010, a TCEQ Houston Regional Office investigator documented that Respondent:
 - a. Failed to submit an application for renewal at least six months prior to expiration of a FOP and continued to operate the Plant after the permit expired, in violation of 30 TEX. ADMIN. CODE §§ 122.121 and 122.241(b) and TEX. HEALTH & SAFETY CODE §§ 382.054 and 382.085(b). Specifically, Respondent failed to renew FOP No. O-2765 before the permit expiration date of June 15, 2010;
 - b. Failed to operate the regenerative thermal oxidizer ("RTO") at a temperature of no less than 1400°F at all times when volatile organic compounds are routed to the RTO, in violation of 30 TEX. ADMIN. CODE § 116.715(a), TEX. HEALTH & SAFETY CODE § 382.085(b), and Flexible Permit No. 18495 Special Condition No. 5.C.(4). Specifically, records indicated that the RTO was operated below the minimum allowed temperature on April 20, 2009, April 22, 2009, and April 27, 2009, with temperatures ranging between 1025°F and 1275°F;

- c. Failed to include all deviations in deviation reports, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), TEX. HEALTH & SAFETY CODE § 382.085(b), and FOP No. O-2765 General Terms and Conditions. Specifically, the deviation report for the period of December 16, 2008 through June 15, 2009 did not contain deviations for the failure to maintain the RTO minimum operating temperature in April of 2009, and the deviation report for the period of June 16, 2009 through December 15, 2009 did not contain deviations for the failure to perform quarterly emissions evaluations;
 - d. Failed to perform required quarterly visible emissions monitoring, in violation of 30 TEX. ADMIN. CODE §§ 116.715(a) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), Flexible Permit No. 18495 General Condition No. 3.B., and FOP No. O-2765 Special Terms and Conditions No. 3. Specifically, quarterly visible emissions monitoring was not conducted at the Silvering (Ammonia) Process Stack [Emission Point No. ("EPN") 1] and the Activating Process Stack (EPN 2); and
 - e. Failed to properly maintain and operate a control device, in violation of 30 TEX. ADMIN. CODE §§ 116.715(a) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), Flexible Permit No. 18495 General Condition No. 9, and FOP No. O-2765 Special Terms and Conditions No. 3. Specifically, a routine annual inspection was conducted on the RTO on January 22, 2010, which identified a damaged thermocouple and Respondent was unable to provide documentation that the repairs had been completed.
2. Respondent received notice of the violations on or about April 20, 2011.

III. DENIALS

Respondent generally denies each Allegation in Section II.

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Respondent pay an administrative penalty as set forth in Section I, Paragraph 5, above. The payment of this administrative penalty and 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 considering or requiring corrective actions or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Gardner Glass Products, Inc., Docket No. 2011-0621-AIR-E" to:

Financial Administration Division, Revenues Section
Texas Commission on Environmental Quality
Attention: Cashier's Office, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

2. Respondent shall undertake the following technical requirements:
- a. Within 30 days after the effective date of this Agreed Order, Respondent shall:
 - i. Implement improvements to training, design, operation, and/or maintenance procedures, in order to operate the RTO at a temperature of no less than 1400°F at all times when volatile organic compounds are routed to the RTO, and to prevent the reoccurrence of same or similar incidents (Allegation No. 1.b.);
 - ii. Implement procedures designed to ensure semi-annual deviation reports are complete, accurate, and submitted within 30 days after the end of each deviation reporting period (Allegation No. 1.c.);
 - iii. Implement improvements to training and operation in order to ensure that quarterly visible emissions monitoring is conducted at the Silvering (Ammonia) Process Stack and the Activating Process Stack (Violation No. 1.d.); and
 - iv. Implement improvements to training, design, operation, and/or maintenance procedures in order to ensure that the RTO is properly maintained (Allegation 1.e.).
 - b. Within 45 days after the effective date of this Agreed Order, Respondent shall submit written certification to demonstrate compliance with Ordering Provisions Nos. 2.a.i. through 2.a.iv. The certification shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall 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 fine and imprisonment for knowing violations."

Respondent shall submit the written certification and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

Jason Harris, Air Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Street, Ste. H.
Houston, Texas 77023-1452

3. All relief not expressly granted in this Agreed Order is denied.
4. The provisions of this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
5. If 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, Respondent's failure to comply is not a violation of this Agreed Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. 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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against 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.
8. 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.

9. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails a copy of the fully executed Agreed Order to Respondent, whichever is earlier.

S I G N A T U R E P A G E

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

July 9, 2012
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of Gardner Glass Products, Inc., 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 in this Agreed 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;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.


Kim Theodorsen, Operations Manager
Gardner Glass Products, Inc.

5/7/2012
Date