

**Executive Summary – Enforcement Matter – Case No. 43347
American Marazzi Tile, Inc.
RN100218080
Docket No. 2012-0216-AIR-E**

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

American Marazzi Tile Sunnyvale Facility, 359 Clay Road, Sunnyvale, Dallas County

Type of Operation:

Tile manufacturing plant

Other Significant Matters:

Additional Pending Enforcement Actions: Yes, Docket No. 2012-1795-AIR-E

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: November 23, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$136,010

Amount Deferred for Expedited Settlement: \$27,202

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$108,808

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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RN100218080
Docket No. 2012-0216-AIR-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: October 24 through 27, 2011

Date(s) of NOE(s): December 13, 2011

Violation Information

1. Failed to submit written notification within 15 days after testing was completed. Specifically, testing was performed from February 2 through 26, 2010 and Respondent did not submit a written notification by March 13, 2010 [30 TEX. ADMIN. CODE § 117.445(b)(1)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b)].
2. Failed to report test results in the units of the applicable emission specifications and to include a log of process operating levels (production rates) in the test results submitted on July 19, 2011 for EPNs KS-A1, KS-A2, KS-1, KS-3, and KS-4. Specifically, compliance with the emissions limit of 0.27 pound of nitrogen oxides (“NOx”) per ton of product produced was unable to be determined due to the insufficient information provided in the test report [30 TEX. ADMIN. CODE §§ 117.435(b) and (f) and 117.8010(5)(B) and TEX. HEALTH & SAFETY CODE § 382.085(b)].
3. Failed to meet the carbon monoxide (“CO”) emissions specification of 400 dry parts per million (“ppm”) corrected to three percent oxygen at Emission Point Number (“EPN”) BP-4. Specifically, the CO emissions were measured to be 416.77 dry ppm corrected to three percent oxygen on February 4, 2010, resulting in an exceedance of the permitted NOx emission rate of 3.89 pounds (“lbs”) per hour [30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and (c), 117.410(d)(1)(B), and 122.143(4), New Source Review Permit No. 19841, Special Conditions No. 1, Federal Operating Permit (“FOP”) No. O1147, Special Terms and Conditions No. 1.A., and TEX. HEALTH & SAFETY CODE § 382.085(b)].
4. Failed to meet the CO emissions specification of 400 dry ppm corrected to three percent oxygen at EPNs KS-A1, KS-A2, and KD-A and to meet the NOx emissions limit of 0.150 lb/Million British thermal units (“MMBtu”) at EPN BP-3. Specifically, the CO emissions were measured to be 665.44 dry ppm corrected to three percent oxygen from EPN KS-A1 on February 2, 2010, 457.16 dry ppm corrected to three percent oxygen from EPN KS-A2 on February 4, 2010, and 3,932.00 dry ppm corrected to three percent oxygen from KD-A on February 26, 2010, and the NOx emissions were measured to be 0.161 lb/MMBtu from EPN BP-3 on February 18, 2010 [30 TEX. ADMIN. CODE §§ 117.410(b)(13)(B) and (d)(1)(B) and 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b)].

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Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent has implemented the following corrective measures at the Plant:

- a. On July 19, 2011, submitted test results of carbon monoxide (“CO”) and nitrogen oxides (“NOx”) emissions rates from Emission Point Numbers (“EPNs”) KD-A, KS-A1, KS-A2, KS-1, KS-3, KS-4, BP-3, BP-4, and BP-5;
- b. On February 23, 2012, obtained an alternative case specific emission specification for CO emissions for EPNs KS-A1, KS-A2, and KD-A;
- c. On October 17, 2012, obtained an alternative case specific emission specification for CO emissions for EPNs BP-3, BP-4, BP-5; and
- d. On or about November 14, 2012, obtained confirmation that the stack test results dated March 14, 2012 demonstrated compliance with the NOx emissions limit for BP-3.

Technical Requirements:

The Order will require Respondent to:

- a. Within 30 days:
 - i. Implement measures designed to ensure that test notifications are submitted as required; and
 - ii. Implement measures designed to ensure that test results are reported in the units of the applicable emission specification.
- b. Within 45 days, submit written certification demonstrating compliance with Ordering Provision 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

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RN100218080
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Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Heather Podlipny, Enforcement Division,
Enforcement Team 4, MC 149, (512) 239-2603; Debra Barber, Enforcement Division,
MC 219, (512) 239-0412

TCEQ SEP Coordinatr: N/A

Respondent: Gianni Mattoli, President & Chief Executive Officer, American Marazzi
Tile, Inc., 359 Clay Road, Sunnyvale, Texas 75182-9710

Steven T. Wiederwax, Safety and Environmental Manager, American Marazzi Tile, Inc.,
359 Clay Road, Sunnyvale, Texas 75182-9710

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	12-Dec-2011	Screening	12-Jan-2012	EPA Due	8-Sep-2012
	PCW	29-Aug-2012				

RESPONDENT/FACILITY INFORMATION

Respondent	American Marazzi Tile, Inc.		
Reg. Ent. Ref. No.	RN100218080		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	43347	No. of Violations	4
Docket No.	2012-0216-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Heather Podlipny
		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** **\$103,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **32.0%** Enhancement **Subtotals 2, 3, & 7** **\$32,960**

Notes: Enhancement for two NOVs with same/similar violations, two NOVs with dissimilar violations, and one order with denial of liability. Reduction for two Notice of Audit letters submitted.

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** **\$0**

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

Total EB Amounts **\$1,299**
Approx. Cost of Compliance **\$9,650**
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$135,960**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.04%** **Adjustment** **\$50**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement to capture the avoided cost of compliance associated with Violation 1.

Final Penalty Amount **\$136,010**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$136,010**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$27,202**

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 **\$108,808**

Screening Date 12-Jan-2012

Docket No. 2012-0216-AIR-E

PCW

Respondent American Marazzi Tile, Inc.

Policy Revision 2 (September 2002)

Case ID No. 43347

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100218080

Media [Statute] Air

Enf. Coordinator Heather Podlipny

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>)	2	-2%
	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)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> 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. Reduction for two Notice of Audit letters submitted.

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

Screening Date 12-Jan-2012

Docket No. 2012-0216-AIR-E

PCW

Respondent American Marazzi Tile, Inc.

Policy Revision 2 (September 2002)

Case ID No. 43347

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100218080

Media [Statute] Air

Enf. Coordinator Heather Podlipny

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 117.445(b)(1)(A) and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to submit written notification within 15 days after testing was completed. Specifically, testing was performed from February 2 through 26, 2010 and the Respondent did not submit a written notification by March 13, 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					0%
Potential					

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			25%

Matrix Notes 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 1

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$2,500

One single event is recommended for the written notification that was not submitted.

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 \$65

Violation Final Penalty Total \$3,301

This violation Final Assessed Penalty (adjusted for limits) \$3,301

Economic Benefit Worksheet

Respondent American Marazzi Tile, Inc.
Case ID No. 43347
Reg. Ent. Reference No. RN100218080
Media Air
Violation No. 1

Percent Interest 5.0
Years of Depreciation 15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$100	13-Mar-2010	1-Apr-2013	3.05	\$15	n/a	\$15

Notes for DELAYED costs Estimated expense to implement measures designed to ensure that test notifications are submitted as required. The Date Required is the date the notification was due. The Final Date is the date corrective actions are projected to be completed.

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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
Other (as needed)				0.00	\$0	\$0	\$0
Other (as needed)	\$50	13-Mar-2010	13-Mar-2010	0.00	\$0	\$50	\$50

Notes for AVOIDED costs Estimated avoided costs for submitting one notification. The Date Required and Final Date is the date the notification was due.

Approx. Cost of Compliance \$150 **TOTAL** \$65

Screening Date 12-Jan-2012

Docket No. 2012-0216-AIR-E

PCW

Respondent American Marazzi Tile, Inc.

Policy Revision 2 (September 2002)

Case ID No. 43347

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100218080

Media [Statute] Air

Enf. Coordinator Heather Podlipny

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code §§ 117.435(b) and (f) and 117.8010(5)(B) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to report test results in the units of the applicable emission specifications and to include a log of process operating levels (production rates) in the test results submitted on July 19, 2011 for Emission Point Numbers ("EPNs") KS-A1, KS-A2, KS-1, KS-3, and KS-4. Specifically, compliance with the emissions limit of 0.27 pound of nitrogen oxides ("NOx") per ton of product produced was unable to be determined due to the insufficient information provided in the test report.

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 1%

Matrix Notes

The Respondent failed to comply with approximately four percent (one of 25) of the rule requirements.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 5

177 Number of violation days

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

Violation Base Penalty \$500

Five single events are recommended for the five EPNs with deficient test results.

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 \$500

Economic Benefit (EB) for this violation

Estimated EB Amount \$43

Statutory Limit Test

Violation Final Penalty Total \$660

This violation Final Assessed Penalty (adjusted for limits) \$660

Economic Benefit Worksheet

Respondent American Marazzi Tile, Inc.

Case ID No. 43347

Reg. Ent. Reference No. RN100218080

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				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	19-Jul-2011	1-Apr-2013	1.70	\$43	n/a	\$43

Notes for DELAYED costs Estimated expense to implement measures designed to ensure that test results are reported in the units of the applicable emissions specification. The Date Required is the date the deficient test results were submitted. The Final Date is the date corrective actions are projected 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 \$500

TOTAL \$43

Screening Date 12-Jan-2012

Docket No. 2012-0216-AIR-E

PCW

Respondent American Marazzi Tile, Inc.

Policy Revision 2 (September 2002)

Case ID No. 43347

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100218080

Media [Statute] Air

Enf. Coordinator Heather Podlipny

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code §§ 116.115(b)(2)(F) and (c), 117.410(d)(1)(B), and 122.143(4), New Source Review Permit No. 19841, Special Conditions No. 1, Federal Operating Permit ("FOP") No. O1147, Special Terms and Conditions No. 1.A., and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to meet the carbon monoxide ("CO") emissions specification of 400 dry parts per million ("ppm") corrected to three percent oxygen at EPN BP-4. Specifically, the CO emissions were measured to be 416.77 dry ppm corrected to three percent oxygen on February 4, 2010, resulting in an exceedance of the permitted NOx emission rate of 3.89 pounds ("lbs") per hour.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Based on the stack test results, it has been estimated that 80,258.64 lbs of unauthorized CO were released into the atmosphere. 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 8

707 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$20,000

Eight quarterly events are recommended from the stack test on February 4, 2010 to the screening date of January 12, 2012.

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 \$540

Violation Final Penalty Total \$26,410

This violation Final Assessed Penalty (adjusted for limits) \$26,410

Economic Benefit Worksheet

Respondent American Marazzi Tile, Inc.
Case ID No. 43347
Reg. Ent. Reference No. RN100218080
Media Air
Violation No. 3

Percent Interest 5.0 | **Years of Depreciation** 15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$4,000	4-Feb-2010	17-Oct-2012	2.70	\$540	n/a	\$540

Notes for DELAYED costs

Estimated expense to obtain an alternative case specific emission specification for CO emissions for EPN BP 4. The estimated cost includes the alternative case specific emission specification as well as the cost to retest to ensure the EPN was operating within permitted limits. The Date Required is the date of the stack test. 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)

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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** \$540

Screening Date 12-Jan-2012

Docket No. 2012-0216-AIR-E

PCW

Respondent American Marazzi Tile, Inc.

Policy Revision 2 (September 2002)

Case ID No. 43347

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100218080

Media [Statute] Air

Enf. Coordinator Heather Podlipny

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code §§ 117.410(b)(13)(B) and (d)(1)(B) and 122.143(4), and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to meet the CO emissions specification of 400 dry ppm corrected to three percent oxygen at EPNs KS-A1, KS-A2, and KD-A and to meet the NOx emissions specification of 0.150 lb/Million British thermal units ("MMBtu") at EPN BP-3. Specifically, the CO emissions were measured to be 665.44 dry ppm corrected to three percent oxygen from EPN KS-A1 on February 2, 2010, 457.16 dry ppm corrected to three percent oxygen from EPN KS-A2 on February 4, 2010, and 3,932.00 dry ppm corrected to three percent oxygen from KD-A on February 26, 2010, and the NOx emissions were measured to be 0.161 lb/MMBtu from EPN BP-3 on February 18, 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

The Respondent demonstrated that the CO and NOx emissions were below the hourly permitted emissions rates. Human health or the environment has been exposed to insignificant amounts of pollutants that did not exceed protective levels as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 32

709 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$80,000

Thirty-two quarterly events are recommended (eight per EPN) from the stack test on February 2, 2010 to the screening date of January 12, 2012.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Reduction	
	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 \$80,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$651

Violation Final Penalty Total \$105,639

This violation Final Assessed Penalty (adjusted for limits) \$105,639

Economic Benefit Worksheet

Respondent American Marazzi Tile, Inc.
Case ID No. 43347
Reg. Ent. Reference No. RN100218080
Media Air
Violation No. 4

Percent Interest 5.0
Years of Depreciation 15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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
Other (as needed)	\$1,000	2-Feb-2010	23-Feb-2012	2.06	\$103	n/a	\$103
Other (as needed)	\$4,000	18-Feb-2010	14-Nov-2012	2.74	\$548	n/a	\$548

Notes for DELAYED costs

Estimated expense to obtain Alternate Case Specific Specification ("ACSS") approval for EPNs KS-A1, KS-A2, and KD-1 (\$1,000) and for test result submission demonstrating compliance with the NOx emission limits for BP-3 (\$4,000). The Dates Required are the dates of the stack tests. The Final Dates are the date corrective actions were completed: on February 23, 2012 the ACSS was obtained, and on or about November 14, 2012, stack test result confirmation was obtained, demonstrating the EPN was operating within permitted NOx limits for BP-3.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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 \$651

Compliance History Report

Customer/Respondent/Owner-Operator: CN600129522 American Marazzi Tile, Inc. Classification: AVERAGE Rating: 3.48
Regulated Entity: RN100218080 AMERICAN MARAZZI TILE Classification: AVERAGE Site Rating: 4.43
SUNNYVALE FACILITY

ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	DB1073N
	AIR OPERATING PERMITS	PERMIT	1147
	POLLUTION PREVENTION PLANNING	ID NUMBER	P01948
	AIR NEW SOURCE PERMITS	PERMIT	19841
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	DB1073N
	AIR NEW SOURCE PERMITS	AFS NUM	4811300737
	INDUSTRIAL AND HAZARDOUS WASTE	EPA ID	TXD039718796
	INDUSTRIAL AND HAZARDOUS WASTE	SOLID WASTE REGISTRATION # (SWR)	33665
	IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	33665
AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	DB1073N	

Location: 359 CLAY RD, SUNNYVALE, TX, 75182

TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: January 26, 2012

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: January 26, 2007 to January 26, 2012

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

Name: Trina Grleco 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? NO
3. If YES, who is the current owner/operator? American Marazzi Tile, Inc.
4. If YES, who was/were the prior owner(s)/operator(s)? MARAZZI, FILIPPO, OWNER OPERATOR, 11/4/2010 to 12/31/3000
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: 05/08/2011

ADMINORDER 2010-1613-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Condition No. 1 PERMIT

Description: Failed to comply with the MAERs for the Kiln A Pre-Dryer Stack [Emission Point No. ("EPN") KD-A] and Kiln A Layer 1 and 2 Stacks (EPNs KS-A1 and KS-A2, respectively) based on stack tests conducted on October 27, 2008. Specifically, the MAERs for particulate matter, CO, VOC, and SO2 were exceeded, resulting in the unauthorized release of 4.39 tons of particulate matter, 36.18 tons of CO,

21.56 tons of VOC, and 33.31 tons of SO2 from October 27, 2008 through February 10, 2010.

- 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 08/29/2007 (557782)
2 07/29/2008 (683034)
3 11/20/2008 (707438)
4 03/10/2009 (737299)
5 05/29/2009 (746359)
6 08/03/2009 (763229)
7 10/06/2009 (777173)
8 08/31/2010 (824614)
9 11/10/2010 (870481)
10 12/14/2010 (871942)
11 08/19/2011 (934738)
12 12/08/2011 (948800)

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

Date: 08/30/2007 (557782)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 122, SubChapter B 122.146(2)
5C THC Chapter 382, SubChapter D 382.085(b)
Description: Failure to submit permit compliance certification in a timely manner.

Date: 07/31/2008 (683034)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)
Permit No. 19841, Special Condition 17 PERMIT
Description: Failure to physically identify and mark in a conspicuous location all equipment that has the potential of emitting air contaminants, as required by special condition 17 of Permit No. 19841.

Date: 09/01/2010 (824614)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)
Special Condition No. 7 PERMIT
Description: Failure to comply with the requirements of 30 TAC 116.115(c) and Permit No. 19841 Special Condition No. 7, by exceeding the hourly throughput rate for EPNs KS-A1, KS-A2, and KD-A.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter F 101.221(a)
5C THSC Chapter 382 382.085(b)
Description: Failure to comply with the requirements of 30 TAC 101.221(a), by failing to install the control panel for the dust collectors at units CIN BP-2D and CIN P2-CSA prior to the time of startup of new facilities.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20
40 CFR Chapter 60, SubChapter C, PT 60, SubPT OOO 60.672(e)(1)
5C THSC Chapter 382 382.085(b)
Description: Failure to comply with the requirements of 30 TAC 60.672(e)(1), by failing to maintain the control device for affected facilities operational.

Date: 08/29/2011 (934738)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 117, SubChapter B 117.454(c)
30 TAC Chapter 117, SubChapter H 117.9030(b)(1)(B)(ii)
5C THSC Chapter 382 382.085(b)
Description: Failure to demonstrate compliance with the requirements of 30 TAC Chapter 117 no later than March 1, 2010.

Self Report? NO Classification: Moderate

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

Description: Failure to submit a deviation report within 30 days of the last day of the reporting period.

F. Environmental audits.

Notice of Intent Date: 06/08/2007 (565545)

No DOV Associated

Notice of Intent Date: 05/13/2010 (825658)

No DOV Associated

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
AMERICAN MARAZZI TILE, INC.
RN100218080**

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

**AGREED ORDER
DOCKET NO. 2012-0216-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 American Marazzi Tile, 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 a tile manufacturing plant at 359 Clay Road in Sunnyvale, Dallas 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 December 18, 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 One Hundred Thirty-Six Thousand Ten Dollars (\$136,010) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Hundred Eight Thousand

Eight Hundred Eight Dollars (\$108,808) of the administrative penalty and Twenty-Seven Thousand Two Hundred Two Dollars (\$27,202) 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. On July 19, 2011, submitted test results of carbon monoxide ("CO") and nitrogen oxides ("NOx") emissions rates from Emission Point Numbers ("EPNs") KD-A, KS-A1, KS-A2, KS-1, KS-3, KS-4, BP-3, BP-4, and BP-5;
 - b. On February 23, 2012, obtained an alternative case specific emission specification for CO emissions for EPNs KS-1, KS-2, KS-3, KS-4, KS-5, KS-A1, KS-A2, and KD-A;
 - c. On October 17, 2012, obtained an alternative case specific emission specification for CO emissions for EPNs BP-3, BP-4, and BP-5; and
 - d. On or about November 14, 2012, obtained confirmation that the stack test results dated March 14, 2012 demonstrated compliance with the NOx emissions limit for BP-3.
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 written notification within 15 days after testing was completed, in violation of 30 TEX. ADMIN. CODE § 117.445(b)(1)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted October 24 through 27, 2011. Specifically, testing was performed from February 2 through 26, 2010 and the Respondent did not submit a written notification by March 13, 2010.
2. Failed to report test results in the units of the applicable emission specifications and to include a log of process operating levels (production rates) in the test results submitted on July 19, 2011 for EPNs KS-A1, KS-A2, KS-1, KS-3, and KS-4, in violation of 30 TEX. ADMIN. CODE §§ 117.435(b) and (f) and 117.8010(5)(B) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted October 24 through 27, 2011. Specifically, compliance with the emissions limit of 0.27 pound of NOx per ton of product produced was unable to be determined due to the insufficient information provided in the test report.
3. Failed to meet the CO emissions specification of 400 dry parts per million ("ppm") corrected to three percent oxygen at EPN BP-4, in violation of 30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and (c), 117.410(d)(1)(B), and 122.143(4), New Source Review Permit No. 19841, Special Conditions No. 1, Federal Operating Permit ("FOP") No. O1147, Special Terms and Conditions No. 1.A., and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted October 24 through 27, 2011. Specifically, the CO emissions were measured to be 416.77 dry ppm corrected to three percent oxygen on February 4, 2010, resulting in an exceedance of the permitted NOx emission rate of 3.89 pounds ("lbs") per hour.
4. Failed to meet the CO emissions specification of 400 dry ppm corrected to three percent oxygen at EPNs KS-A1, KS-A2, and KD-A and to meet the NOx emissions limit of 0.150 lb/Million British thermal units ("MMBtu") at EPN BP-3, in violation of 30 TEX. ADMIN. CODE §§ 117.410(b)(13)(B) and (d)(1)(B) and 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted October 24 through 27, 2011. Specifically, the CO emissions were measured to be 665.44 dry ppm corrected to three percent oxygen from EPN KS-A1 on February 2, 2010, 457.16 dry ppm corrected to three percent oxygen from EPN KS-A2 on February 4, 2010, and 3,932.00 dry ppm corrected to three percent oxygen from KD-A on February 26, 2010, and the NOx emissions were measured to be 0.161 lb/MMBtu from EPN BP-3 on February 18, 2010.

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: American Marazzi Tile, Inc., Docket No. 2012-0216-AIR-E" to:

Financial Administration Division, Revenue Operations 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:
 - i. Implement measures designed to ensure that test notifications are submitted as required, in accordance with 30 TEX. ADMIN. CODE § 117.445; and
 - ii. Implement measures designed to ensure that test results are reported in the units of the applicable emission specification, in accordance with 30 TEX. ADMIN. CODE § 117.8010(5)(B).
 - 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
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

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. 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

Pam Sowa Jr
For the Executive Director

2/18/13
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.

Gianni Nottoli
Signature

11/19/12
Date

GIANNI NOTTOLI
Name (Printed or typed)
Authorized Representative of
American Marazzi Tile, Inc.

PRESIDENT & CEO
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.