

Executive Summary – Enforcement Matter – Case No. 45003
Texas A&M University
RN100216274
Docket No. 2012-1897-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

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

Type of Operation:

University with a utilities plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: February 8, 2013

Comments Received: No

Penalty Information

Total Penalty Assessed: \$8,250

Amount Deferred for Expedited Settlement: \$1,650

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$6,600

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

Executive Summary – Enforcement Matter – Case No. 45003

Texas A&M University

RN100216274

Docket No. 2012-1897-AIR-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: June 27, 2012

Date(s) of NOE(s): August 28, 2012

Violation Information

Failed to submit semi-annual deviation reports. Specifically, deviations were documented to have occurred during the reporting periods from May 1, 2011 through October 31, 2011 and November 1, 2011 through April 30, 2012; however, semi-annual deviation reports were not submitted for these periods [Federal Operating Permit No. O1624, General Terms and Conditions, 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

On October 10, 2012, Respondent implemented procedural changes to ensure that semi-annual deviation reports are submitted in accordance with 30 TEX. ADMIN. CODE § 122.145.

Technical Requirements:

N/A

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Rebecca Johnson, Enforcement Division, Enforcement Team 5, MC R-14, (361) 825-3423; Debra Barber, Enforcement Division, MC 219, (512) 239-0412

TCEQ SEP Coordinator: N/A

Respondent: Ray Bonilla, General Counsel, Texas A&M University, 1584 Texas A&M University, College Station, Texas 77843-1584

James Riley, Director of Utilities, Texas A&M University, 1584 Texas A&M University, College Station, Texas 77843-1584

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	4-Sep-2012	Screening	14-Sep-2012	EPA Due	
	PCW	14-Sep-2012				

RESPONDENT/FACILITY INFORMATION

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

CASE INFORMATION

Enf./Case ID No.	45003	No. of Violations	1
Docket No.	2012-1897-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Rebecca Johnson
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$7,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **20.0%** Enhancement **Subtotals 2, 3, & 7** **\$1,500**

Notes: Enhancement for one order with denial of liability.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$750**

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

Total EB Amounts: \$65
 Approx. Cost of Compliance: \$1,500
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$8,250**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$8,250**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$8,250**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$1,650**

Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY **\$6,600**

Screening Date 14-Sep-2012

Docket No. 2012-1897-AIR-E

PCW

Respondent Texas A&M University

Policy Revision 3 (September 2011)

Case ID No. 45003

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100216274

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

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	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%

Please Enter Yes or No

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

Adjustment Percentage (Subtotal 2) 20%

>> **Repeat Violator (Subtotal 3)**

No

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

Enhancement for one order with denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 20%

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 20%

Screening Date 14-Sep-2012

Docket No. 2012-1897-AIR-E

PCW

Respondent Texas A&M University

Policy Revision 3 (September 2011)

Case ID No. 45003

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100216274

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

Violation Number 1

Rule Cite(s) Federal Operating Permit No. O1624, General Terms and Conditions, 30 Tex. Admin. Code §§ 122.143(4) and 122.145(2)(A), and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to submit semi-annual deviation reports. Specifically, deviations were documented to have occurred during the reporting periods from May 1, 2011 through October 31, 2011 and November 1, 2011 through April 30, 2012; however, deviation reports were not submitted for these periods.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
100% of the rule requirements were not met.					

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 2 Number of violation days 289

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

Violation Base Penalty \$7,500

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

Good Faith Efforts to Comply

	10.0% Reduction	
	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		x
N/A		(mark with x)

\$750

Notes The Respondent completed corrective actions on October 10, 2012, after the August 28, 2012 NOE.

Violation Subtotal \$6,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$65

Violation Final Penalty Total \$8,250

This violation Final Assessed Penalty (adjusted for limits) \$8,250

Economic Benefit Worksheet

Respondent Texas A&M University

Case ID No. 45003

Reg. Ent. Reference No. RN100216274

Media Air

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$1,500	30-Nov-2011	10-Oct-2012	0.86	\$65	n/a	\$65
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 expense to implement training measures and procedures designed to ensure that semi-annual deviation reports are submitted. The Date Required is the date the initial deviation report was due. The Final Date is the date corrective actions were completed.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

TOTAL

\$65



Compliance History Report

PENDING Compliance History Report for CN600307623, RN100216274, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator:	CN600307623, Texas A&M University	Classification: SATISFACTORY	Rating: 2.98
Regulated Entity:	RN100216274, TEXAS A&M UNIVERSITY COLLEGE STATION CAMPUS	Classification: SATISFACTORY	Rating: 7.50
Complexity Points:	4	Repeat Violator:	NO
CH Group:	14 - Other		
Location:	1111 RESEARCH PKWY COLLEGE STATION, TX 77845-9511, BRAZOS COUNTY		
TCEQ Region:	REGION 09 - WACO		

ID Number(s):

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

Compliance History Period:	September 01, 2007 to August 31, 2012	Rating Year:	2012	Rating Date:	09/01/2012
Date Compliance History Report Prepared:	September 20, 2012				
Agency Decision Requiring Compliance History:	Enforcement				
Component Period Selected:	September 14, 2007 to September 14, 2012				

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Rebecca Johnson **Phone:** (361) 825-3423

Site and Owner/Operator History:

- 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 for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

- 1 Effective Date: 01/30/2009 ADMINORDER 2008-0903-AIR-E (1660 Order)
Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Rqmt Prov Special Condition 10F PERMIT
Special Terms and Conditions 6A OP
Description: Failed to comply with the 90% system reliability requirement for the Nitrogen oxides ("NOx") Continuous Emission Monitoring System
Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)

Rqmt Prov Special Condition 3 PERMIT
Special Terms and Conditions 6 OP

Description: Failure to comply with their NOx emission limits, for 81 hours, as required by SC 3 of NSR Permit No. 44762 and SC 6 of FOP O-01624.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	November 01, 2007	(598935)
Item 2	January 14, 2008	(613390)
Item 3	July 15, 2008	(685524)
Item 4	September 03, 2008	(700865)
Item 5	October 09, 2008	(700874)
Item 6	January 08, 2009	(721481)
Item 7	February 06, 2009	(724987)
Item 8	April 03, 2009	(738510)
Item 9	June 12, 2009	(747436)
Item 10	August 10, 2009	(765039)
Item 11	December 16, 2009	(786002)
Item 12	January 06, 2010	(787349)
Item 13	May 28, 2010	(794765)
Item 14	June 16, 2010	(826623)
Item 15	June 18, 2010	(827742)
Item 16	July 06, 2010	(828737)
Item 17	December 16, 2010	(880178)
Item 18	June 14, 2011	(932992)

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
TEXAS A&M UNIVERSITY
RN100216274

§ BEFORE THE
§ TEXAS COMMISSION ON
§ ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2012-1897-AIR-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Texas A&M University ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a university with a utilities plant at 1111 Research Parkway in College Station, Brazos County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about September 2, 2012.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Eight Thousand Two Hundred Fifty Dollars (\$8,250) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Six Thousand Six Hundred Dollars (\$6,600) of the administrative penalty and One Thousand Six Hundred Fifty Dollars (\$1,650) is

deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that on October 10, 2012, the Respondent implemented procedural changes to ensure that semi-annual deviation reports are submitted in accordance with 30 TEX. ADMIN. CODE § 122.145.
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 failed to submit semi-annual deviation reports, in violation of Federal Operating Permit No. O1624, General Terms and Conditions, 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on June 27, 2012. Specifically, deviations were documented to have occurred during the reporting periods from May 1, 2011 through October 31, 2011 and November 1, 2011 through April 30, 2012; however, semi-annual deviation reports were not submitted for these periods.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Texas A&M University, Docket No. 2012-1897-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. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Patricia Rowan J
For the Executive Director

2/22/13
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.

Ray Bonilla
Signature

12/20/12
Date

Ray Bonilla
Authorized Representative of
Texas A&M University

Title: General Counsel
The Texas A&M University System

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