

Executive Summary – Enforcement Matter – Case No. 47078
Arnold Crushed Stone, Inc.
RN105601439 and RN100835222
Docket No. 2013-1183-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Arnold Crushed Stone CAT C13 Rock Crushing Facility No. 1, 5310 Coleman Ranch Road, Tolar, Hood County (“Site 1”); and

Arnold Industries, 1476 County Road 1104 Loop, Blum, Hill County (“Site 2”)

Type of Operation:

Portable rock crusher

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: May 23, 2014

Comments Received: No

Penalty Information

Total Penalty Assessed: \$23,222

Amount Deferred for Expedited Settlement: \$4,644

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$518

Total Due to General Revenue: \$18,060

Payment Plan: 35 payments of \$516 each

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - High

Site 1/RN – N/A

Site 2/RN - Unclassified

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

**Executive Summary – Enforcement Matter – Case No. 47078
Arnold Crushed Stone, Inc.
RN105601439 and RN100835222
Docket No. 2013-1183-AIR-E**

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: April 4, 2013, April 12, 2013 and August 16, 2013

Date(s) of NOE(s): May 31, 2013, June 4, 2013 and October 11, 2013

Violation Information

1. Failed to submit a change of location request prior to relocating a rock crusher. Specifically, the Respondent moved a Terex Pegson Crusher, Serial No. 140149DA, from Site 1 six times in 2012 without submitting a change of location request [30 TEX. ADMIN. CODE § 116.115(c), TEX. HEALTH & SAFETY CODE § 382.085(b), and Air Quality Permit No. 83568L001, Special Conditions No. 12].
2. Failed to obtain authorization prior to operating a rock crusher. Specifically, the Respondent operated a Terex Pegson Crusher, Serial No. 140149DA, at Site 2 in January, February, March, April, June, July, August, September, November, and December of 2012 for a total of 114 days without proper authorization [30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.085(b) and 382.0518(a)].
3. Failed to obtain authorization prior to operating a rock crusher. Specifically, the Respondent operated a Terex Pegson Crusher, Serial No. 140205ED, at Site 2 in May, June, July, and August of 2013 for a total of 31 days without proper authorization [30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.085(b) and 382.0518(a)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent completed the following corrective measures:

- a. On July 8, 2013, voided Air Quality Permit No. 83568L001 and obtained authorization to operate Site 1 under Standard Permit Registration No. 109592; and
- b. On January 24, 2014, obtained a permit amendment for New Source Review (“NSR”) Permit No. 41292 to authorize the Terex Pegson Crusher, Serial No. 140205ED at Site 2.

Technical Requirements:

N/A

**Executive Summary – Enforcement Matter – Case No. 47078
Arnold Crushed Stone, Inc.
RN105601439 and RN100835222
Docket No. 2013-1183-AIR-E**

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: Amancio R. Gutierrez, Enforcement Division, Enforcement Team 5, MC 149, (512) 239-3921; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456
TCEQ SEP Coordinator: N/A
Respondent: Cindy Arnold, Vice President/Secretary, Arnold Crushed Stone, Inc., P.O. Box 632, Blum, Texas 76627
Miles Arnold, Operations Manager, Arnold Crushed Stone, Inc., P.O. Box 632, Blum, Texas 76627
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	3-Jun-2013	Screening	17-Jun-2013	EPA Due	
	PCW	19-Nov-2013				

RESPONDENT/FACILITY INFORMATION

Respondent	Arnold Crushed Stone, Inc. (Site 1)		
Reg. Ent. Ref. No.	RN105601439		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	47078	No. of Violations	1
Docket No.	2013-1183-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Amancio R. Gutierrez
		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	-10.0% Enhancement	Subtotals 2, 3, & 7	-\$750
---------------------------	---------------------------	--------------------------------	---------------

Notes: Reduction for high performer classification.

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	\$1,181	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$6,000		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$6,000
-----------------------------	-----------------------	----------------

OTHER FACTORS AS JUSTICE MAY REQUIRE	18.7%	Adjustment	\$1,122
---	--------------	-------------------	----------------

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement to capture the avoided cost of compliance for the Violation.

Final Penalty Amount	\$7,122
-----------------------------	----------------

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$7,122
-----------------------------------	-------------------------------	----------------

DEFERRAL	20.0% Reduction	Adjustment	-\$1,424
-----------------	------------------------	-------------------	-----------------

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	\$5,698
------------------------	----------------

Screening Date 17-Jun-2013

Docket No. 2013-1183-AIR-E

PCW

Respondent Arnold Crushed Stone, Inc. (Site 1)

Policy Revision 3 (September 2011)

Case ID No. 47078

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN105601439

Media [Statute] Air

Enf. Coordinator Amancio R. Gutierrez

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>)	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%

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) 0%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance History Notes

Reduction for high performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) -10%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% -10%

Screening Date 17-Jun-2013

Docket No. 2013-1183-AIR-E

PCW

Respondent Arnold Crushed Stone, Inc. (Site 1)

Policy Revision 3 (September 2011)

Case ID No. 47078

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN105601439

Media [Statute] Air

Enf. Coordinator Amancio R. Gutierrez

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 116.115(c), Tex. Health & Safety Code § 382.085(b), and Air Quality Permit No. 83568L001, Special Conditions No. 12

Violation Description Failed to submit a change of location request prior to relocating a rock crusher. Specifically, the Respondent moved a Terex Pegson Crusher, Serial No. 140149DA, from Site 1 six times in 2012 without submitting a change of location request.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			5.0%

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

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 6 Number of violation days 6

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

Violation Base Penalty \$7,500

Six single events are recommended for the six relocations to the Blum site.

Good Faith Efforts to Comply

10.0% Reduction \$750

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

Notes The Respondent completed corrective measures on July 8, 2013, after the May 31, 2013 NOE.

Violation Subtotal \$6,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,181

Violation Final Penalty Total \$7,122

This violation Final Assessed Penalty (adjusted for limits) \$7,122

Economic Benefit Worksheet

Respondent Arnold Crushed Stone, Inc. (Site 1)
Case ID No. 47078
Reg. Ent. Reference No. RN105601439
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	12-Apr-2013	8-Jul-2013	0.24	\$60	n/a	\$60
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to obtain authorization for Site 1. The Date Required is the investigation date 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]	\$1,000	3-Jan-2012	8-Jul-2013	2.43	\$122	\$1,000	\$1,122
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to implement measures and procedures to ensure that Form PI-1's are submitted when required. The Date Required is the first date the crusher was relocated and the Final Date is the date the permit was voided.

Approx. Cost of Compliance \$6,000

TOTAL \$1,181



Compliance History Report

PUBLISHED Compliance History Report for CN602496069, RN105601439, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator:	CN602496069, ARNOLD CRUSHED STONE, INC.	Classification: HIGH	Rating: 0.00
Regulated Entity:	RN105601439, ARNOLD CRUSHED STONE CAT C13 ROCK CRUSHING SITE 1	Classification: NOT APPLICABLE	Rating: N/A
Complexity Points:	N/A	Repeat Violator: N/A	
CH Group:	04 - Mining		
Location:	5310 COLEMAN RANCH RD TOLAR, TX 76476-6675, HOOD COUNTY		
TCEQ Region:	REGION 04 - DFW METROPLEX		

ID Number(s):

STORMWATER PERMIT TXR05Y349

AIR NEW SOURCE PERMITS PERMIT 83568L001

AIR NEW SOURCE PERMITS ACCOUNT NUMBER 960366J

AIR NEW SOURCE PERMITS AFS NUM 4877702058

AIR EMISSIONS INVENTORY ACCOUNT NUMBER 960366J

AGGREGATES REGISTRATION AP0000556

AIR NEW SOURCE PERMITS REGISTRATION 109592

Compliance History Period: September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

Date Compliance History Report Prepared: June 17, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: June 17, 2008 to June 17, 2013

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

Name: Amancio R. Gutierrez **Phone:** (512) 239-3921

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? NO
- 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:
N/A

B. Criminal convictions:
N/A

C. Chronic excessive emissions events:
N/A

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

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



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ
DATES

Assigned PCW	3-Jun-2013	Screening	17-Jun-2013	EPA Due	
	26-Mar-2014				

RESPONDENT/FACILITY INFORMATION

Respondent	Arnold Crushed Stone, Inc. (Site 2)		
Reg. Ent. Ref. No.	RN100835222		
Facility/Site Region	9-Waco	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	47078	No. of Violations	2
Docket No.	2013-1183-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Amancio R. Gutierrez
		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**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement **Subtotals 2, 3, & 7**

Notes

Culpability Enhancement **Subtotal 4**

Notes

Good Faith Effort to Comply Total Adjustments **Subtotal 5**

Economic Benefit Enhancement* **Subtotal 6**

Total EB Amounts	\$175
Approx. Cost of Compliance	\$5,000

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Notes

PAYABLE PENALTY

Screening Date 17-Jun-2013

Docket No. 2013-1183-AIR-E

PCW

Respondent Arnold Crushed Stone, Inc. (Site 2)

Policy Revision 3 (September 2011)

Case ID No. 47078

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100835222

Media [Statute] Air

Enf. Coordinator Amancio R. Gutierrez

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	1	2%
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%

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) 2%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with dissimilar violations. Reduction for high performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) -8%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% -8%

Screening Date 17-Jun-2013

Docket No. 2013-1183-AIR-E

PCW

Respondent Arnold Crushed Stone, Inc. (Site 2)

Policy Revision 3 (September 2011)

Case ID No. 47078

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100835222

Media [Statute] Air

Enf. Coordinator Amancio R. Gutierrez

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 116.110(a) and Tex. Health & Safety Code §§ 382.085(b) and 382.0518(a)

Violation Description Failed to obtain authorization prior to operating a rock crusher. Specifically, the Respondent operated a Terex Pegson Crusher, Serial No. 140149DA, at Site 2 in January, February, March, April, June, July, August, September, November, and December of 2012 for a total of 114 days without proper authorization.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					0.0%
Potential					

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
	x			5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 10 Number of violation days 114

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

Violation Base Penalty \$12,500

Ten monthly events are recommended for each month the rock crusher was operated without authorization.

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 \$12,500

Economic Benefit (EB) for this violation

Estimated EB Amount \$0

Statutory Limit Test

Violation Final Penalty Total \$11,500

This violation Final Assessed Penalty (adjusted for limits) \$11,500

Economic Benefit Worksheet

Respondent Arnold Crushed Stone, Inc. (Site 2)
Case ID No. 47078
Reg. Ent. Reference No. RN100835222
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				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

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

The economic benefit is reflected in the accompanying PCW.

Approx. Cost of Compliance \$0

TOTAL \$0

Screening Date 17-Jun-2013

Docket No. 2013-1183-AIR-E

PCW

Respondent Arnold Crushed Stone, Inc. (Site 2)

Policy Revision 3 (September 2011)

Case ID No. 47078

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100835222

Media [Statute] Air

Enf. Coordinator Amancio R. Gutierrez

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 116.110(a) and Tex. Health & Safety Code §§ 382.085(b) and 382.0518(a)

Violation Description

Failed to obtain authorization prior to operating a rock crusher. Specifically, the Respondent operated a Terex Pegson Crusher, Serial No. 140205ED, at Site 2 in May, June, July, and August of 2013 for a total of 31 days without proper authorization.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 4

31 Number of violation days

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

Violation Base Penalty \$5,000

Four monthly events are recommended for each month the rock crusher was operated without authorization.

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 \$175

Violation Final Penalty Total \$4,600

This violation Final Assessed Penalty (adjusted for limits) \$4,600

Economic Benefit Worksheet

Respondent Arnold Crushed Stone, Inc. (Site 2)

Case ID No. 47078

Reg. Ent. Reference No. RN100835222

Media Air

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$5,000	13-May-2013	24-Jan-2014	0.70	\$175	n/a	\$175
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to obtain the proper authorization. The Date Required is the first date the crusher was operated 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

\$175



Compliance History Report

PUBLISHED Compliance History Report for CN602496069, RN100835222, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN602496069, ARNOLD CRUSHED STONE, INC. **Classification:** HIGH **Rating:** 0.00

Regulated Entity: RN100835222, ARNOLD INDUSTRIES SITE 2 **Classification:** UNCLASSIFIED **Rating:** -----

Complexity Points: 4 **Repeat Violator:** NO

CH Group: 04 - Mining

Location: 1476 HCR 1104 LOOP HILL, TX, HILL COUNTY

TCEQ Region: REGION 09 - WACO

ID Number(s):

AIR NEW SOURCE PERMITS PERMIT 41292 **AIR NEW SOURCE PERMITS ACCOUNT NUMBER HO0003T**
AIR NEW SOURCE PERMITS AFS NUM 4821700003 **AIR NEW SOURCE PERMITS REGISTRATION 109781**
AIR EMISSIONS INVENTORY ACCOUNT NUMBER HO0003T

Compliance History Period: September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

Date Compliance History Report Prepared: June 17, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: June 17, 2008 to June 17, 2013

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

Name: Amancio R. Gutierrez **Phone:** (512) 239-3921

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:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

N/A

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.

1 Date: 02/08/2013 (1052058) CN602496069

Self Report? NO

Classification: Moderate

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

Description: Failure to maintain a copy of the permit, along with records containing the information and data sufficient to demonstrate compliance with the permit, at the facility site as required by Title 30 of the Texas Administrative Code (TAC), Rule §116.115(b)(2)(E).

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	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
ARNOLD CRUSHED STONE, INC.	§	
RN105601439 and RN100835222	§	ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2013-1183-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 Arnold Crushed Stone, Inc. ("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 portable rock crusher operated at the following locations (collectively the "Sites"):
 - a. 5310 Coleman Ranch Road in Tolar, Hood County, Texas ("Site 1"); and
 - b. 1476 County Road 1104 Loop in Blum, Hill County, Texas ("Site 2").
2. The Sites consist 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 notices of the violations alleged in Section II ("Allegations") on or about June 5, June 9, and October 16, 2013.
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 Twenty-Three Thousand Two Hundred Twenty-Two Dollars (\$23,222) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Five Hundred Eighteen Dollars (\$518) of the administrative penalty and Four Thousand Six Hundred Forty-Four Dollars (\$4,644) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Eighteen Thousand Sixty Dollars (\$18,060) of the administrative penalty shall be payable in 35 monthly payments of Five Hundred Sixteen Dollars (\$516) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's 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, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent completed the following corrective measures:
 - a. On July 8, 2013, voided Air Quality Permit No. 83568L001 and obtained authorization to operate Site 1 under Standard Permit Registration No. 109592; and
 - b. On January 24, 2014, obtained a permit amendment for New Source Review ("NSR") Permit No. 41292 to authorize the Terex Pegson Crusher, Serial No. 140205ED at Site 2.
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 Sites, the Respondent is alleged to have:

1. Failed to submit a change of location request prior to relocating a rock crusher, in violation of 30 TEX. ADMIN. CODE § 116.115(c), TEX. HEALTH & SAFETY CODE § 382.085(b), and Air Quality Permit No. 83568L001, Special Conditions No. 12, as documented during an investigation conducted on April 12, 2013. Specifically, the Respondent moved a Terex Pegson Crusher, Serial No. 140149DA, from Site 1 six times in 2012 without submitting a change of location request.
2. Failed to obtain authorization prior to operating a rock crusher, in violation of 30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.085(b) and 382.0518(a), as documented during an investigation conducted on April 4, 2013. Specifically, the Respondent operated a Terex Pegson Crusher, Serial No. 140149DA, at Site 2 in January, February, March, April, June, July, August, September, November, and December of 2012 for a total of 114 days without proper authorization.
3. Failed to obtain authorization prior to operating a rock crusher, in violation of 30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.085(b) and 382.0518(a), as documented during an investigation conducted on August 16, 2013. Specifically, the Respondent operated a Terex Pegson Crusher, Serial No. 140205ED, at Site 2 in May, June, July, and August of 2013 for a total of 31 days without proper authorization.

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: Arnold Crushed Stone, Inc., Docket No. 2013-1183-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 operations of the Sites referenced in this Agreed Order.
3. 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.
4. 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.
5. 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.
6. 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.

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

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Pam Jones
For the Executive Director

7/18/14
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.

Cindy Arnold
Signature

6/17/14
Date

CINDY ARNOLD
Name (Printed or typed)
Authorized Representative of
Arnold Crushed Stone, Inc.

VP/SEC
Title

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.