

**Executive Summary – Enforcement Matter – Case No. 47760
SPA Pipe & Supply, L.P. dba Smith Pipe of Abilene
RN102054392
Docket No. 2013-1878-AIR-E**

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Smith Pipe of Abilene, 7435 U.S. Highway 277 South, Abilene, Taylor County

Type of Operation:

Tank manufacturing plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: May 16, 2014

Comments Received: No

Penalty Information

Total Penalty Assessed: \$27,600

Amount Deferred for Expedited Settlement: \$5,520

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$22,080

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - High

Site/RN - High

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: August 15, 2013

Date(s) of NOE(s): August 30, 2013

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RN102054392
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Violation Information

1. Failed to obtain authorization to construct and operate a source of air emissions. Specifically, the Respondent failed to obtain an authorization to construct and operate the Tank Coat/Paint Building 1 Process Area and to construct the Tank Coat/Paint Building 2 Process Area [30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b)].
2. Failed to comply with annual emissions limits. Specifically, the Respondent exceeded the annual volatile organic compound ("VOC") emissions limit of 23.66 tons per year ("tpy") based on a rolling 12-month period for Emission Point Number ("EPN") STACK-2 for the 12-month periods ending in November 2012, February 2013, and March 2013, resulting in the unauthorized release of 0.916 ton of VOC [30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), Federal Operating Permit ("FOP") No. O3407, Special Terms and Conditions ("STC") No. 5, and New Source Review ("NSR") Permit No. 92381, General Conditions No. 8].
3. Failed to submit a complete and accurate deviation report. Specifically, the deviation report for the January 12, 2013 through July 11, 2013 reporting period did not include a deviation for exceeding the annual VOC emission limit based on a rolling 12-month period ending in February 2013 [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), TEX. HEALTH & SAFETY CODE § 382.085(b), and FOP No. O3407, General Terms and Conditions].
4. Failed to comply with annual emissions limits. Specifically, the Respondent exceeded the annual particulate matter ("PM") emissions limit of 1.43 tpy and the annual PM equal to or less than 10 microns in diameter/PM equal to or less than 2.5 microns in diameter ("PM10/PM2.5") emissions limit of 0.17 tpy based on a rolling 12-month period for EPN BLAST-1 for the 12-month periods ending in July 2012, August 2012, September 2012, October 2012, November 2012, December 2012, January 2013, February 2013, March 2013, April 2013, and May 2013, resulting in the unauthorized release of 0.213 ton of PM and 0.025 ton of PM10/PM2.5 [30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), FOP No. O3407, STC No. 5, and NSR Permit No. 92381, General Conditions No. 8].
5. Failed to authorize the Tank Coat/Paint Building 1 and 2 Process Areas under FOP No. O3407 [30 TEX. ADMIN. CODE § 122.121 and TEX. HEALTH & SAFETY CODE §§ 382.054 and 382.085(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

By November 8, 2013, the Respondent obtained an amendment for NSR Permit No. 92381 to authorize the Tank Coat/Paint Building 1 and 2 Process Areas and enclosed the

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abrasive blasting and surface coating operations in order to facilitate more efficient manufacturing operations and to reduce VOC and PM emissions.

Technical Requirements:

The Order will require the Respondent to:

a. Within 30 days:

i. Implement measures to ensure the complete and accurate submittal of semi-annual deviation reports; and

ii. Submit an administratively complete application to amend FOP No. O3407.

b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the federal operating permit amendment application within 30 days after the date of such requests, or by any other deadline specified in writing.

c. Within 45 days, submit written certification to demonstrate compliance with Ordering Provision a.i.

d. Within 360 days, submit written certification that a permit amendment has been obtained or that operation has ceased until such time that appropriate authorization is obtained.

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: David K. Hill, Sr., Chief Financial Officer, SPA Pipe & Supply, L.P., P.O. Box 6291, Abilene, Texas 79608

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	3-Sep-2013
	PCW	3-Dec-2013
	Screening	27-Sep-2013
	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	SPA Pipe & Supply, L.P. dba Smith Pipe of Abilene	
Reg. Ent. Ref. No.	RN102054392	
Facility/Site Region	3-Abilene	Major/Minor Source Major

CASE INFORMATION

Enf./Case ID No.	47760	No. of Violations	5
Docket No.	2013-1878-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	\$34,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	-10.0% Enhancement	Subtotals 2, 3, & 7	-\$3,400
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Notes: Reduction for high performer classification.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$3,000
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$3,398
 Approx. Cost of Compliance: \$40,100
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$27,600
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$27,600
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$27,600
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DEFERRAL	20.0% Reduction	Adjustment	-\$5,520
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$22,080
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Screening Date 27-Sep-2013

Docket No. 2013-1878-AIR-E

PCW

Respondent SPA Pipe & Supply, L.P. dba Smith Pipe of Abilene

Policy Revision 3 (September 2011)

Case ID No. 47760

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102054392

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)

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

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 27-Sep-2013

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PCW

Respondent SPA Pipe & Supply, L.P. dba Smith Pipe of Abilene

Policy Revision 3 (September 2011)

Case ID No. 47760

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102054392

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 §§ 382.0518(a) and 382.085(b)

Violation Description

Failed to obtain authorization to construct and operate a source of air emissions. Specifically, the Respondent failed to obtain an authorization to construct and operate the Tank Coat/Paint Building 1 Process Area and to construct the Tank Coat/Paint Building 2 Process Area.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

>> Programmatic Matrix

Matrix Notes	Falsification				Percent
	Major	Moderate	Minor		
	X				15.0%
100% of the rule requirement was not met.					

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 2 Number of violation days 43

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

Violation Base Penalty \$7,500

Two monthly events are recommended from the investigation date of August 15, 2013 through the screening date of September 27, 2013.

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 November 8, 2013, after the August 30, 2013 NOE.

Violation Subtotal \$6,750

Economic Benefit (EB) for this violation

Estimated EB Amount \$2,519

Statutory Limit Test

Violation Final Penalty Total \$6,000

This violation Final Assessed Penalty (adjusted for limits) \$6,000

Economic Benefit Worksheet

Respondent SPA Pipe & Supply, L.P. dba Smith Pipe of Abilene

Case ID No. 47760

Reg. Ent. Reference No. RN102054392

Media Air

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description 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	\$20,000	12-Jul-2012	8-Nov-2013	1.33	\$88	\$1,768	\$1,856
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	\$10,000	12-Jul-2012	8-Nov-2013	1.33	\$663	n/a	\$663
Other (as needed)			0.00	\$0	n/a	\$0	

Notes for DELAYED costs

Estimated costs to amend NSR Permit No. 92381 to authorize the Tank Coat/Paint Building 1 and 2 Process Areas and to enclose the abrasive blasting and surface coating operations. The Date Required is the first date of non-compliance 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

\$30,000

TOTAL

\$2,519

Screening Date 27-Sep-2013

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PCW

Respondent SPA Pipe & Supply, L.P. dba Smith Pipe of Abilene

Policy Revision 3 (September 2011)

Case ID No. 47760

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102054392

Media [Statute] Air

Enf. Coordinator Amancio R. Gutierrez

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(b)(2)(F) and 122.143(4), Tex. Health & Safety Code § 382.085(b), Federal Operating Permit ("FOP") No. O3407, Special Terms and Conditions ("STC") No. 5, and New Source Review ("NSR") Permit No. 92381, General Conditions ("GC") No. 8

Violation Description Failed to comply with annual emissions limits. Specifically, the Respondent exceeded the annual volatile organic compound ("VOC") emissions limit of 23.66 tons per year ("tpy") based on a rolling 12-month period for Emission Point Number ("EPN") STACK-2 for the 12-month periods ending in November 2012, February 2013, and March 2013, resulting in the unauthorized release of 0.916 ton of VOC.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (15.0%). Includes 'OR' label.

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (0.0%).

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

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 2 Number of violation days 121

Table for frequency: daily, weekly, monthly, quarterly (marked with x), semiannual, annual, single event.

Violation Base Penalty \$7,500

Two quarterly events are recommended for the period of non-compliance that occurred from November 30, 2012 through March 31, 2013.

Good Faith Efforts to Comply

10.0% Reduction \$750

Table for Good Faith Efforts: Extraordinary, Ordinary (marked with x), N/A (marked with x).

Notes The Respondent completed corrective measures on November 8, 2013, after the August 30, 2013 NOE.

Violation Subtotal \$6,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$6,000

This violation Final Assessed Penalty (adjusted for limits) \$6,000

Economic Benefit Worksheet

Respondent SPA Pipe & Supply, L.P. dba Smith Pipe of Abilene

Case ID No. 47760

Reg. Ent. Reference No. RN102054392

Media Air

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Economic benefit included in Violation No. 1.

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 \$0

TOTAL \$0

Screening Date 27-Sep-2013

Docket No. 2013-1878-AIR-E

PCW

Respondent SPA Pipe & Supply, L.P. dba Smith Pipe of Abilene

Policy Revision 3 (September 2011)

Case ID No. 47760

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102054392

Media [Statute] Air

Enf. Coordinator Amancio R. Gutierrez

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code §§ 122.143(4) and 122.145(2)(A), Tex. Health & Safety Code § 382.085(b), and FOP No. O3407, General Terms and Conditions

Violation Description

Failed to submit a complete and accurate deviation report. Specifically, the deviation report for the January 12, 2013 through July 11, 2013 reporting period did not include a deviation for exceeding the annual VOC emission limit based on a rolling 12-month period ending in February 2013.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
			x

Percent 1.0%

Matrix Notes

At least 70% of the rule requirement was met.

Adjustment \$24,750

\$250

Violation Events

Number of Violation Events 1

63 Number of violation days

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

Violation Base Penalty \$250

One single event is recommended for the one incomplete report.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4

Violation Final Penalty Total \$225

This violation Final Assessed Penalty (adjusted for limits) \$225

Economic Benefit Worksheet

Respondent SPA Pipe & Supply, L.P. dba Smith Pipe of Abilene

Case ID No. 47760

Reg. Ent. Reference No. RN102054392

Media Air

Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<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				0.00	\$0	n/a	\$0
Other (as needed)	\$100	10-Aug-2013	26-Apr-2014	0.71	\$4	n/a	\$4

Notes for DELAYED costs

Estimated cost to implement measures to ensure the complete and accurate submittal of semi-annual deviation reports. The Date Required is the date of the deviation report was due and the Final Date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$4

Screening Date 27-Sep-2013

Docket No. 2013-1878-AIR-E

PCW

Respondent SPA Pipe & Supply, L.P. dba Smith Pipe of Abilene

Policy Revision 3 (September 2011)

Case ID No. 47760

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102054392

Media [Statute] Air

Enf. Coordinator Amancio R. Gutierrez

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code §§ 116.115(b)(2)(F) and 122.143(4), Tex. Health & Safety Code § 382.085(b), FOP No. O3407, STC No. 5, and NSR Permit No. 92381, GC No. 8

Violation Description

Failed to comply with annual emissions limits. Specifically, the Respondent exceeded the annual particulate matter ("PM") emissions limit of 1.43 tpy and the annual PM equal to or less than 10 microns in diameter/PM equal to or less than 2.5 microns in diameter ("PM10/PM2.5") emissions limit of 0.17 tpy based on a rolling 12-month period for EPN BLAST-1 for the 12-month periods ending in July 2012, August 2012, September 2012, October 2012, November 2012, December 2012, January 2013, February 2013, March 2013, April 2013, and May 2013, resulting in the unauthorized release of 0.213 ton of PM and 0.025 ton of PM10/PM2.5.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

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

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 4

304 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$15,000

Four quarterly events are recommended for the period of non-compliance that occurred from July 31, 2012 through May 31, 2013.

Good Faith Efforts to Comply

10.0% Reduction

\$1,500

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

Notes

The Respondent completed corrective measures on November 8, 2013, after the August 30, 2013 NOE.

Violation Subtotal \$13,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$12,000

This violation Final Assessed Penalty (adjusted for limits) \$12,000

Economic Benefit Worksheet

Respondent SPA Pipe & Supply, L.P. dba Smith Pipe of Abilene

Case ID No. 47760

Reg. Ent. Reference No. RN102054392

Media Air

Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				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

Economic benefit included in Violation No. 1.

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

\$0

TOTAL

\$0

Screening Date 27-Sep-2013

Docket No. 2013-1878-AIR-E

PCW

Respondent SPA Pipe & Supply, L.P. dba Smith Pipe of Abilene

Policy Revision 3 (September 2011)

Case ID No. 47760

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102054392

Media [Statute] Air

Enf. Coordinator Amancio R. Gutierrez

Violation Number 5

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

Violation Description Failed to authorize the Tank Coat/Paint Building 1 and 2 Process Areas under FOP No. O3407.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	x		

Percent 15.0%

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

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

442 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$3,750

One single event is recommended.

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 \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$875

Violation Final Penalty Total \$3,375

This violation Final Assessed Penalty (adjusted for limits) \$3,375

Economic Benefit Worksheet

Respondent SPA Pipe & Supply, L.P. dba Smith Pipe of Abilene

Case ID No. 47760

Reg. Ent. Reference No. RN102054392

Media Air

Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<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	\$10,000	12-Jul-2012	12-Apr-2014	1.75	\$875	n/a	\$875
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to obtain FOP authorization for the Tank Coat/Paint Building Process Area 1 and Process Area 2. The Date Required is the first date of non-compliance and the Final Date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$875



Compliance History Report

PUBLISHED Compliance History Report for CN602944647, RN102054392, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

Customer, Respondent, or Owner/Operator: CN602944647, SPA Pipe & Supply, L.P. **Classification:** HIGH **Rating:** 0.00

Regulated Entity: RN102054392, SMITH PIPE OF ABILENE **Classification:** HIGH **Rating:** 0.00

Complexity Points: 8 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 7435 US HIGHWAY 277 S ABILENE, TX 79606-6103, TAYLOR COUNTY

TCEQ Region: REGION 03 - ABILENE

ID Number(s):

AIR OPERATING PERMITS PERMIT 3407	AIR NEW SOURCE PERMITS PERMIT 92381
AIR NEW SOURCE PERMITS AFS NUM 4844100272	AIR EMISSIONS INVENTORY ACCOUNT NUMBER TBA006F
INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 80809	INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXD988019329

Compliance History Period: September 01, 2008 to August 31, 2013 **Rating Year:** 2013 **Rating Date:** 09/01/2013

Date Compliance History Report Prepared: January 23, 2014

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: January 23, 2009 to January 23, 2014

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.

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
SPA PIPE & SUPPLY, L.P. DBA
SMITH PIPE OF ABILENE
RN102054392

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

AGREED ORDER
DOCKET NO. 2013-1878-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 SPA Pipe & Supply, L.P. dba Smith Pipe of Abilene ("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 tank manufacturing plant located at 7435 United States Highway 277 South in Abilene, Taylor 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 4, 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-Seven Thousand Six Hundred Dollars (\$27,600) is assessed by the Commission in settlement of the violations alleged

in Section II ("Allegations"). The Respondent has paid Twenty-Two Thousand Eighty Dollars (\$22,080) of the administrative penalty and Five Thousand Five Hundred Twenty Dollars (\$5,520) 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 by November 8, 2013, the Respondent obtained an amendment for New Source Review ("NSR") Permit No. 92381 to authorize the Tank Coat/Paint Building 1 and 2 Process Areas and enclosed the abrasive blasting and surface coating operations in order to facilitate more efficient manufacturing operations and to reduce volatile organic compound ("VOC") and particulate matter ("PM") emissions.
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 obtain authorization to construct and operate a source of air emissions, in violation of 30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b), as documented during an investigation conducted on August 15, 2013. Specifically, the Respondent failed to obtain an authorization to construct and operate the Tank Coat/Paint Building 1 Process Area and to construct the Tank Coat/Paint Building 2 Process Area.
2. Failed to comply with annual emissions limits, in violation of 30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), Federal Operating Permit ("FOP") No. O3407, Special Terms and Conditions ("STC") No. 5, and NSR Permit No. 92381, General Conditions No. 8, as documented during an

investigation conducted on August 15, 2013. Specifically, the Respondent exceeded the annual VOC emissions limit of 23.66 tons per year ("tpy") based on a rolling 12-month period for Emission Point Number ("EPN") STACK-2 for the 12-month periods ending in November 2012, February 2013, and March 2013, resulting in the unauthorized release of 0.916 ton of VOC.

3. Failed to submit a complete and accurate deviation report, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), TEX. HEALTH & SAFETY CODE § 382.085(b), and FOP No. O3407, General Terms and Conditions, as documented during an investigation conducted on August 15, 2013. Specifically, the deviation report for the January 12, 2013 through July 11, 2013 reporting period did not include a deviation for exceeding the annual VOC emission limit based on a rolling 12-month period ending in February 2013.
4. Failed to comply with annual emissions limits, in violation of 30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), FOP No. O3407, STC No. 5, and NSR Permit No. 92381, General Conditions No. 8, as documented during an investigation conducted on August 15, 2013. Specifically, the Respondent exceeded the annual PM emissions limit of 1.43 tpy and the annual PM equal to or less than 10 microns in diameter/PM equal to or less than 2.5 microns in diameter ("PM10/PM2.5") emissions limit of 0.17 tpy based on a rolling 12-month period for EPN BLAST-1 for the 12-month periods ending in July 2012, August 2012, September 2012, October 2012, November 2012, December 2012, January 2013, February 2013, March 2013, April 2013, and May 2013, resulting in the unauthorized release of 0.213 ton of PM and 0.025 ton of PM10/PM2.5.
5. Failed to authorize the Tank Coat/Paint Building 1 and 2 Process Areas under FOP No. O3407, in violation of 30 TEX. ADMIN. CODE § 122.121 and TEX. HEALTH & SAFETY CODE §§ 382.054 and 382.085(b), as documented during an investigation conducted on August 15, 2013.

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: SPA Pipe & Supply, L.P. dba Smith Pipe of Abilene, Docket No. 2013-1878-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 to ensure the complete and accurate submittal of semi-annual deviation reports; and
 - ii. Submit an administratively complete application to amend FOP No. O3407, in accordance with 30 TEX. ADMIN. CODE § 122.130 to:

Air Permits Division, MC 162
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the federal operating permit amendment application within 30 days after the date of such requests, or by any other deadline specified in writing;
- c. Within 45 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.e., and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.i.;
- d. Within 360 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.e., that a permit amendment has been obtained or that operation has ceased until such time that appropriate authorization is obtained; and
- e. 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
Abilene Regional Office
Texas Commission on Environmental Quality
1977 Industrial Boulevard
Abilene, Texas 79602-7833

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature

could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

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

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

7/7/14
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.


Signature

3-26-2014
Date

David K. Hill, Sr.
Name (Printed or typed)
Authorized Representative of
SPA Pipe & Supply, L.P. dba Smith Pipe of Abilene

CEO
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.