

**Executive Summary – Enforcement Matter – Case No. 49311
Acme Brick Company
RN100225184
Docket No. 2014-1331-AIR-E**

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Acme Brick Bennet Plant, 2350 Bennett Road, Millsap, Parker County

Type of Operation:

Brick 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: December 26, 2014

Comments Received: No

Penalty Information

Total Penalty Assessed: \$23,668

Amount Deferred for Expedited Settlement: \$4,733

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$18,935

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: April 2014

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: March 19, 2014

Date(s) of NOE(s): August 20, 2014

Executive Summary – Enforcement Matter – Case No. 49311
Acme Brick Company
RN100225184
Docket No. 2014-1331-AIR-E

Violation Information

1. Failed to conduct monthly visible emissions observations. Specifically, Group ID Nos. 1, 3, and 14 were not monitored for opacity for the months of May, June, July, and August of 2013 [30 TEX. ADMIN. CODE § 122.143(4), Federal Operating Permit ("FOP") No. O1597, Special Terms and Conditions ("STC") No. 9, and TEX. HEALTH & SAFETY CODE § 382.085(b)].
2. Failed to comply with weekly monitoring requirements. Specifically, the Respondent failed to measure and record the pressure drop across the fabric filter for Group ID No. 14 at least once per week from April 1 to September 6, 2013 [30 TEX. ADMIN. CODE § 122.143(4), FOP No. O1597, STC No. 9, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent has implemented the following:

- a. On September 6, 2013, began measuring and recording the pressure drop across the fabric filter for Group ID No. 14 at least once per week; and
- b. On September 13, 2013, began conducting monthly visible emissions observations by a certified observer for Group ID Nos. 1, 3, and 14.

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: David Carney, Enforcement Division, Enforcement Team 5, MC 149, (512) 239-2583; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

TCEQ SEP Coordinator: N/A

Respondent: Jason Winner, EH&S Specialist, Acme Brick Company, 2350 Bennett Road, Millsap, Texas 76066

Ed Watson, Senior Vice President Production, Acme Brick Company, 2350 Bennett Road, Millsap, Texas 76066

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

| | | | | | | |
|--------------|-----------------|-------------|------------------|-------------|----------------|--|
| DATES | Assigned | 18-Aug-2014 | Screening | 12-Sep-2014 | EPA Due | |
| | PCW | 12-Sep-2014 | | | | |

| | | | |
|--|---------------------|---------------------------|-------|
| RESPONDENT/FACILITY INFORMATION | | | |
| Respondent | Acme Brick Company | | |
| Reg. Ent. Ref. No. | RN100225184 | | |
| Facility/Site Region | 4-Dallas/Fort Worth | Major/Minor Source | Major |

| | | | |
|--|-----------------|------------------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 49311 | No. of Violations | 2 |
| Docket No. | 2014-1331-AIR-E | Order Type | 1660 |
| Media Program(s) | Air | Government/Non-Profit | No |
| Multi-Media | | Enf. Coordinator | David Carney |
| | | 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 | \$870 |
| Estimated Cost of Compliance | \$2,814 |

*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 12-Sep-2014

Docket No. 2014-1331-AIR-E

PCW

Respondent Acme Brick Company

Policy Revision 4 (April 2014)

Case ID No. 49311

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100225184

Media [Statute] Air

Enf. Coordinator David Carney

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>) | 1 | 5% |
| | 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 judgments 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) 5%

>> 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 NOV with same/similar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 5%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 5%

Screening Date 12-Sep-2014
Respondent Acme Brick Company
Case ID No. 49311
Reg. Ent. Reference No. RN100225184
Media [Statute] Air
Enf. Coordinator David Carney

Docket No. 2014-1331-AIR-E

PCW

Policy Revision 4 (April 2014)
 PCW Revision March 26, 2014

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 122.143(4), Federal Operating Permit ("FOP") No. O1597,
 Special Terms and Conditions ("STC") No. 9, and Tex. Health & Safety Code §
 382.085(b)

Violation Description Failed to conduct monthly visible emissions observations. Specifically, Group ID
 Nos. 1, 3, and 14 were not monitored for opacity for the months of May, June, July,
 and August of 2013.

Base Penalty

>> **Environmental, Property and Human Health Matrix**

| OR | Release | Harm | | | Percent |
|----|-----------|----------------------|----------------------|-------------------------------------|-----------------------------------|
| | | Major | Moderate | Minor | |
| | Actual | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text" value="7.0%"/> |
| | Potential | <input type="text"/> | <input type="text"/> | <input checked="" type="checkbox"/> | |

>> **Programmatic Matrix**

| Falsification | Major | Moderate | Minor | Percent |
|----------------------|----------------------|----------------------|----------------------|-----------------------------------|
| <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text" value="0.0%"/> |

Matrix Notes

Human health or the environment will or could be exposed to insignificant amounts of pollutants that would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment

Violation Events

Number of Violation Events Number of violation days

| | | |
|-------------------------|-------------------------------------|----------------------|
| mark only one with an x | daily | <input type="text"/> |
| | weekly | <input type="text"/> |
| | monthly | <input type="text"/> |
| | quarterly | <input type="text"/> |
| | semiannual | <input type="text"/> |
| | annual | <input type="text"/> |
| single event | <input checked="" type="checkbox"/> | |

Violation Base Penalty

Twelve single events are recommended for the four monthly observations missed for three Group IDs.

Good Faith Efforts to Comply

Reduction

| | Before NOE/NOV | NOE/NOV to EDPRP/Settlement Offer |
|---------------|-------------------------------------|-----------------------------------|
| Extraordinary | <input type="text"/> | <input type="text"/> |
| Ordinary | <input checked="" type="checkbox"/> | <input type="text"/> |
| N/A | <input type="text"/> | (mark with x) |

Notes

The Respondent came into compliance on September 13, 2013, prior to the Notice of Enforcement ("NOE") dated August 20, 2014.

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Acme Brick Company
Case ID No. 49311
Req. Ent. Reference No. RN100225184
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) | \$1,000 | 1-Sep-2013 | 13-Sep-2013 | 0.03 | \$2 | n/a | \$2 |

Notes for DELAYED costs

Estimated cost to conduct monthly visible emissions observations. The Date Required is the first day of the first month that the observations could have been done and the Final Date is the compliance date.

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] | \$299 | 1-May-2013 | 31-Aug-2013 | 1.25 | \$19 | \$299 | \$318 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Estimated cost to conduct monthly visible emissions observations (\$299 for 4 monthly observation that were not conducted). The Date Required is the first day of the first month the observation could have been conducted. The Final Date is the last day of the last month that the observation should have been conducted.

Approx. Cost of Compliance

\$1,299

TOTAL

\$319

Screening Date 12-Sep-2014
Respondent Acme Brick Company
Case ID No. 49311
Reg. Ent. Reference No. RN100225184
Media [Statute] Air
Enf. Coordinator David Carney

Docket No. 2014-1331-AIR-E

PCW

Policy Revision 4 (April 2014)
 PCW Revision March 26, 2014

Violation Number

Rule Cite(s)

30 Tex. Admin. Code § 122.143(4), FOP No. 01597, STC No. 9, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to comply with weekly monitoring requirements. Specifically, the Respondent failed to measure and record the pressure drop across the fabric filter for Group ID No. 14 at least once per week from April 1 to September 6, 2013.

Base Penalty

>> Environmental, Property and Human Health Matrix

| OR | Release | Harm | | | Percent |
|----|-----------|----------------------|-------------------------------------|----------------------|------------------------------------|
| | | Major | Moderate | Minor | |
| | Actual | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text" value="15.0%"/> |
| | Potential | <input type="text"/> | <input checked="" type="checkbox"/> | <input type="text"/> | |

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor | Percent |
|----------------------|----------------------|----------------------|----------------------|-----------------------------------|
| <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text" value="0.0%"/> |

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants that would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment

Violation Events

Number of Violation Events Number of violation days

| | | |
|-------------------------|--------------|-------------------------------------|
| mark only one with an x | daily | <input type="text"/> |
| | weekly | <input type="text"/> |
| | monthly | <input type="text"/> |
| | quarterly | <input checked="" type="checkbox"/> |
| | semiannual | <input type="text"/> |
| | annual | <input type="text"/> |
| | single event | <input type="text"/> |

Violation Base Penalty

Two quarterly events are recommended for the period of non-compliance from April 1, 2013 to September 6, 2013.

Good Faith Efforts to Comply

Reduction

| | Before NOE/NOV | NOE/NOV to EDRP/Settlement Offer |
|---------------|-------------------------------------|----------------------------------|
| Extraordinary | <input type="text"/> | <input type="text"/> |
| Ordinary | <input checked="" type="checkbox"/> | <input type="text"/> |
| N/A | <input type="text"/> | (mark with x) |

Notes

The Respondent came into compliance on September 6, 2013, prior to the NOE dated August 20, 2014.

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Acme Brick Company
Case ID No. 49311
Reg. Ent. Reference No. RN100225184
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 | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | \$1,000 | 3-Sep-2013 | 6-Sep-2013 | 0.01 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Estimated cost to measure and record the pressure drop across the fabric filter at least once per week. The Date Required is the first day of the first week that the measurement could have been done and the Final Date is the compliance date.

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] | \$515 | 1-Apr-2013 | 6-Sep-2013 | 1.35 | \$35 | \$515 | \$550 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Estimated cost to measure and record the pressure drop across the fabric filter at least once per week (\$515 for 23 weeks that monitoring was not conducted). The Date Required is the first day of the first week that monitoring could have been conducted and the Final Date is the date of compliance.

Approx. Cost of Compliance

\$1,515

TOTAL

\$550



Compliance History Report

PUBLISHED Compliance History Report for CN600124549, RN100225184, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

| | | | | | |
|---|---|-------------------------|--------------|----------------|------|
| Customer, Respondent, or Owner/Operator: | CN600124549, Acme Brick Company | Classification: | SATISFACTORY | Rating: | 0.17 |
| Regulated Entity: | RN100225184, Acme Brick Bennet Plant | Classification: | SATISFACTORY | Rating: | 0.70 |
| Complexity Points: | 15 | Repeat Violator: | NO | | |
| CH Group: | 14 - Other | | | | |
| Location: | 2350 BENNETT ROAD, MILLSAP, TEXAS 76066-3023, PARKER COUNTY | | | | |
| TCEQ Region: | REGION 04 - DFW METROPLEX | | | | |

| | | | | | |
|---|------------|---|---------|--|--|
| ID Number(s): | | | | | |
| AIR OPERATING PERMITS ACCOUNT NUMBER | PC0001E | AIR OPERATING PERMITS PERMIT | 1597 | | |
| PETROLEUM STORAGE TANK REGISTRATION | 12716 | AIR NEW SOURCE PERMITS PERMIT | 25937 | | |
| AIR NEW SOURCE PERMITS REGISTRATION | 41752 | AIR NEW SOURCE PERMITS ACCOUNT NUMBER | PC0001E | | |
| AIR NEW SOURCE PERMITS AFS NUM | 4836700006 | AIR NEW SOURCE PERMITS REGISTRATION | 70950 | | |
| STORMWATER PERMIT | TXR05N880 | AIR EMISSIONS INVENTORY ACCOUNT NUMBER | PC0001E | | |

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

Date Compliance History Report Prepared: August 28, 2014

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: August 28, 2009 to August 28, 2014

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

Name: David Carney **Phone:** (512) 239-2583

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.):

| | | |
|--------|-----------------|-----------|
| Item 1 | July 19, 2010 | (801710) |
| Item 2 | August 19, 2011 | (943913) |
| Item 3 | June 28, 2012 | (1014502) |
| Item 4 | May 14, 2014 | (1166379) |

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: | 09/05/2013 (1114781) | CN600124549 |
| | Self Report? | NO | Classification: Moderate |
| | Citation: | 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THSC Chapter 382 382.085(b) Special Condition 9 OP | |
| | Description: | Failure to conduct weekly visible emissions observations required by the periodic monitoring requirements. | |
| | Self Report? | NO | Classification: Moderate |
| | Citation: | 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THSC Chapter 382 382.085(b) Special Condition 9 OP | |
| | Description: | Failure to conduct monthly opacity monitoring by a certified observer as required by the periodic monitoring requirements. | |
| | Self Report? | NO | Classification: Moderate |
| | Citation: | 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THSC Chapter 382 382.085(b) Special Condition 9 OP | |
| | Description: | Failure to measure and record the pressure drop across the fabric filter at least once per week as required by the periodic monitoring requirements. | |

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
ACME BRICK COMPANY
RN100225184**

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

**AGREED ORDER
DOCKET NO. 2014-1331-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 Acme Brick Company ("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 brick manufacturing plant at 2350 Bennett Road in Millsap, Parker 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 August 25, 2014.
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 Six Hundred Sixty-Eight Dollars (\$23,668) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Eighteen Thousand Nine Hundred Thirty-Five Dollars (\$18,935) of the administrative penalty and Four Thousand

Seven Hundred Thirty-Three Dollars (\$4,733) 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 the Respondent has implemented the following corrective measures at the Plant:
 - a. On September 6, 2013, began measuring and recording the pressure drop across the fabric filter for Group ID No. 14 at least once per week; and
 - b. On September 13, 2013, began conducting monthly visible emissions observations by a certified observer for Group ID Nos. 1, 3, and 14.
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 conduct monthly visible emissions observations, in violation of 30 TEX. ADMIN. CODE § 122.143(4), Federal Operating Permit ("FOP") No. O1597, Special Terms and Conditions ("STC") No. 9, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on March 19, 2014. Specifically, Group ID Nos. 1, 3, and 14 were not monitored for opacity for the months of May, June, July, and August of 2013.
2. Failed to comply with weekly monitoring requirements, in violation of 30 TEX. ADMIN. CODE § 122.143(4), FOP No. O1597, STC No. 9, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on March 19, 2014.

Specifically, the Respondent failed to measure and record the pressure drop across the fabric filter for Group ID No. 14 at least once per week from April 1 to September 6, 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: Acme Brick Company, Docket No. 2014-1331-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

Pamela Danua J
For the Executive Director

3/9/15
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.

Ed Watson
Signature

November 10, 2014
Date

Ed Watson
Name (Printed or typed)
Authorized Representative of
Acme Brick Company

Sr. VP-Production
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.