

Bowles Redi Mix, Inc.
RN106095573
Docket No. 2019-0235-AIR-E

Order Type:
 Default Order

Media:
 AIR

Small Business:
 Yes

Location(s) Where Violation(s) Occurred:
 200 Sandtown Road, Avalon, Ellis County (the “Plant”)

Type of Operation:
 concrete batch plant

Other Significant Matters:

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third Parties:	None

Texas Register Publication Date: February 18, 2022

Comments Received: None

Penalty Information

Total Penalty Assessed: \$4,724

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$4,724

Compliance History Classifications:

Person/CN - Satisfactory
 Site/RN - Satisfactory

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): May 15, 2018
Complaint Information: Alleged a problem with the air filter or dust collector.

Date(s) of Investigation: June 5, 2018; July 17, 2018 through September 21, 2018; October 12, 2018; November 15, 2018; January 11, 2019; November 13, 2019

Date(s) of NOV(s): July 24, 2018; October 12, 2018

Date(s) of NOE(s): December 5, 2018; January 18, 2019; November 21, 2019

Bowles Redi Mix, Inc.
RN106095573
Docket No. 2019-0235-AIR-E

Violation Information

1. Failed to submit the emissions/inspection fee basis form within 60 days after being provided the emissions/inspection fee information packet [TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 101.24(b)].
2. Failed to submit the emissions/inspection fee basis form within 60 days after being provided the emissions/inspection fee information packet [TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 101.24(b)].
3. Failed to pave each road, parking lot, or other area at the Plant used by vehicles with a cohesive hard surface to minimize dust emissions [[TEX. HEALTH & SAFETY CODE § 382.085(b), 30 TEX. ADMIN. CODE § 116.115(c), and Standard Permit Registration No. 95190, Air Quality Standard Permit for Concrete Batch Plants with Enhanced Controls, Special Condition (“SC”) Design and Operating Requirements No. (3)(E)].
4. Failed to install a warning device on each bulk storage silo [[TEX. HEALTH & SAFETY CODE § 382.085(b), 30 TEX. ADMIN. CODE § 116.115(c), and Standard Permit Registration No. 95190, Air Quality Standard Permit for Concrete Batch Plants with Enhanced Controls, SC Design and Operating Requirements No. (3)(D)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

None

Technical Requirements:

1. Within 30 days:
 - a. Pave areas used by vehicles at the Plant with a cohesive hard surface;
 - b. Install a warning device on each bulk storage silo at the Plant; and
 - c. Submit the emissions/inspection fee basis form for Fiscal Years 2019 and 2020.
2. Within 45 days, submit written certification to demonstrate compliance with Technical Requirements Nos. 1.a. through 1.c.

Litigation Information

Date Petition(s) Filed: September 26, 2019; May 1, 2020
Date Green Card(s) Signed: October 1, 2019; October 18, 2020; May 6, 2020; May 15, 2020
Date Answer(s) Filed: N/A

Contact Information

TCEQ Attorneys: Megan Grace, Litigation Division, (512) 239-3400
Garrett Arthur, Public Interest Counsel, (512) 239-6363
TCEQ Litigation Agenda Coordinator: Katherine McKenzie, Litigation Division, (512) 239-2575
TCEQ Enforcement Coordinator: Amanda Diaz, Enforcement, (512) 239-2601
TCEQ Regional Contact: Jaret Wessel, Dallas/Fort Worth Regional Office, (817) 588-5800
Respondent Contact: Walter Huerta, President, Bowles Redi Mix, Inc., 5139 Bryce Canyon, Dallas, Texas 75211
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	20-Feb-2019	Screening	26-Feb-2019	EPA Due	
	PCW	28-May-2019				

RESPONDENT/FACILITY INFORMATION

Respondent	Bowles Redi Mix, Inc.				
Reg. Ent. Ref. No.	RN106095573				
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor		

CASE INFORMATION

Enf./Case ID No.	57286	No. of Violations	3
Docket No.	2019-0235-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Amanda Diaz
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$3,250
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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	5.0% Adjustment	Subtotals 2, 3, & 7	\$162
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Notes: Enhancement for one NOV with the same or similar violations.

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	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$10,057
 Estimated Cost of Compliance: \$110,250
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$3,412
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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	\$3,412
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$3,412
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$3,412
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Screening Date	26-Feb-2019	Docket No.	2019-0235-AIR-E	PCW
Respondent	Bowles Redi Mix, Inc.			<i>Policy Revision 4 (April 2014)</i>
Case ID No.	57286			<i>PCW Revision March 26, 2014</i>
Reg. Ent. Reference No.	RN106095573			
Media	Air			
Enf. Coordinator	Amanda Diaz			

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

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

Adjustment Percentage (Subtotal 2)

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

Adjustment Percentage (Subtotal 3)

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

Adjustment Percentage (Subtotal 7)

>> **Compliance History Summary**

Compliance History Notes

Enhancement for one NOV with the same or similar violations.

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

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100%

Screening Date	26-Feb-2019	Docket No.	2019-0235-AIR-E	PCW
Respondent	Bowles Redi Mix, Inc.			<i>Policy Revision 4 (April 2014)</i>
Case ID No.	57286			<i>PCW Revision March 26, 2014</i>
Reg. Ent. Reference No.	RN106095573			
Media	Air			
Enf. Coordinator	Amanda Diaz			
Violation Number	1			
Rule Cite(s)	30 Tex. Admin. Code § 101.24(b) and Tex. Health & Safety Code § 382.085(b)			
Violation Description	Failed to submit the emissions/inspection fee basis form within 60 days after being provided the emissions/inspection fee information packet. Specifically, the emissions/inspection fee basis form for Fiscal Year 2019 was provided on April 2, 2018 and was due by June 1, 2018, but was not submitted.			
		Base Penalty	\$25,000	

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual				Percent 0.0%
Potential					

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
		x			Percent 5.0%
Matrix Notes	100% of the rule requirement was not met.				
			Adjustment	\$23,750	

\$1,250

Violation Events

Number of Violation Events	1	270	Number of violation days
	daily		
	weekly		
	monthly		
	quarterly		
	semiannual		
	annual		
	single event	x	
			Violation Base Penalty \$1,250
	One single event is recommended.		

Good Faith Efforts to Comply **0.0%** Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	
Notes	The Respondent does not meet the good faith criteria for this violation.	
		Violation Subtotal \$1,250

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount	\$16	Violation Final Penalty Total	\$1,313
This violation Final Assessed Penalty (adjusted for limits)		\$1,313	

Economic Benefit Worksheet

Respondent Bowles Redi Mix, Inc.
Case ID No. 57286
Reg. Ent. Reference No. RN106095573
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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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)	\$250	1-Jun-2018	24-Sep-2019	1.32	\$16	n/a	\$16

Notes for DELAYED costs
 Estimated cost to submit the emissions/inspection fee basis form for Fiscal Year 2019. The Date Required is the date the emissions/inspection fee basis form was due and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$250	TOTAL	\$16
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Screening Date	26-Feb-2019	Docket No.	2019-0235-AIR-E	PCW
Respondent	Bowles Redi Mix, Inc.			<i>Policy Revision 4 (April 2014)</i>
Case ID No.	57286			<i>PCW Revision March 26, 2014</i>
Reg. Ent. Reference No.	RN106095573			
Media	Air			
Enf. Coordinator	Amanda Diaz			
Violation Number	2			

Rule Cite(s) 30 Tex. Admin. Code § 116.115(c), Standard Permit Registration No. 95190, Air Quality Standard Permit for Concrete Batch Plants with Enhanced Controls, Special Condition ("SC") Design and Operating Requirement No. (3)(E), and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to pave each road, parking lot, or other area at the Plant used by vehicles with a cohesive hard surface to minimize dust emissions. Specifically, TCEQ staff observed that areas at the Plant with vehicle traffic were composed of gravel and were not paved.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Harm				
	Release	Major	Moderate		Minor
	Actual				
	Potential		x		
				Percent 5.0%	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent 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 \$23,750

\$1,250

Violation Events

Number of Violation Events Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$1,250

One quarterly event is recommended from the January 11, 2019 record review date to the February 26, 2019 screening date.

Good Faith Efforts to Comply

0.0% Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	

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

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$9,129 **Violation Final Penalty Total** \$1,313

This violation Final Assessed Penalty (adjusted for limits) \$1,313

Economic Benefit Worksheet

Respondent Bowles Redi Mix, Inc.
Case ID No. 57286
Reg. Ent. Reference No. RN106095573
Media Air
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$100,000	5-Jun-2018	24-Sep-2019	1.30	\$435	\$8,694	\$9,129
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 Estimated cost to pave areas at the Plant used by vehicles with a cohesive hard surface. The Date Required is the initial investigation date and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$100,000

TOTAL \$9,129

Screening Date	26-Feb-2019	Docket No.	2019-0235-AIR-E	PCW
Respondent	Bowles Redi Mix, Inc.			Policy Revision 4 (April 2014)
Case ID No.	57286			PCW Revision March 26, 2014
Reg. Ent. Reference No.	RN106095573			
Media	Air			
Enf. Coordinator	Amanda Diaz			
Violation Number	3			
Rule Cite(s)	30 Tex. Admin. Code § 116.115(c), Standard Permit Registration No. 95190, Air Quality Standard Permit for Concrete Batch Plants with Enhanced Controls, SC Design and Operating Requirement No. (3)(D), and Tex. Health & Safety Code § 382.085(b)			
Violation Description	Failed to install a warning device on each bulk storage silo. Specifically, TCEQ staff documented that a silo at the Plant was not equipped with a warning device.			

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Harm			
	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text" value="x"/>	Percent <input style="width: 50px;" type="text" value="3.0%"/>

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input style="width: 50px;" 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

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 type="text" value="x"/>

Violation Base Penalty

One single event is recommended.

Good Faith Efforts to Comply Reduction

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="x"/>	<input type="text"/>

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

Violation Subtotal

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input style="width: 100px;" type="text" value="\$912"/>	Violation Final Penalty Total <input style="width: 100px;" type="text" value="\$788"/>
This violation Final Assessed Penalty (adjusted for limits) <input style="width: 100px;" type="text" value="\$788"/>	

Economic Benefit Worksheet

Respondent Bowles Redi Mix, Inc.
Case ID No. 57286
Reg. Ent. Reference No. RN106095573
Media Air
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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Delayed Costs

Equipment	\$10,000	5-Jun-2018	24-Sep-2019	1.30	\$43	\$869	\$912
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 Estimated cost to install a warning device on the bulk storage silo. The Date Required is the initial investigation date and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$10,000

TOTAL \$912



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	2-Dec-2019	Screening	8-Jan-2020	EPA Due	
	PCW	9-Jan-2020				

RESPONDENT/FACILITY INFORMATION

Respondent	Bowles Redi Mix, Inc.		
Reg. Ent. Ref. No.	RN106095573		
Facility/Site Region	11-Austin	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	57286	No. of Violations	1
Docket No.	2019-0235-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Amanda Diaz
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$1,250
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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	5.0% Adjustment	Subtotals 2, 3, & 7	\$62
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Notes: Enhancement for one NOV with the same or similar violations.

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	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$15
 Estimated Cost of Compliance: \$250
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$1,312
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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	\$1,312
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$1,312
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$1,312
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Screening Date	8-Jan-2020	Docket No.	2019-0235-AIR-E	PCW
Respondent	Bowles Redi Mix, Inc.			<i>Policy Revision 4 (April 2014)</i>
Case ID No.	57286			<i>PCW Revision March 26, 2014</i>
Reg. Ent. Reference No.	RN106095573			
Media	Air			
Enf. Coordinator	Amanda Diaz			

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	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%
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 the same or 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 8-Jan-2020	Docket No. 2019-0235-AIR-E	PCW
Respondent Bowles Redi Mix, Inc.		<i>Policy Revision 4 (April 2014)</i>
Case ID No. 57286		<i>PCW Revision March 26, 2014</i>
Reg. Ent. Reference No. RN106095573		
Media Air		
Enf. Coordinator Amanda Diaz		

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

		Harm			
		Major	Moderate	Minor	
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	x	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="5.0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

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	x

Violation Base Penalty

Good Faith Efforts to Comply

Reduction

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	x	<input type="text"/>

Notes

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 Bowles Redi Mix, Inc.
Case ID No. 57286
Reg. Ent. Reference No. RN106095573
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

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)	\$250	1-Jun-2019	5-Aug-2020	1.18	\$15	n/a	\$15

Notes for DELAYED costs
 Estimated cost to submit the emissions/inspection fee basis form for Fiscal Year 2020. The Date Required is the date the emissions/inspection fee basis form was due and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$250

TOTAL \$15



Compliance History Report

Compliance History Report for CN603818113, RN106095573, Rating Year 2018 which includes Compliance History (CH) components from September 1, 2013, through August 31, 2018.

Customer, Respondent, or Owner/Operator:	CN603818113, Bowles Redi Mix, Inc.	Classification:	SATISFACTORY	Rating:	3.20
Regulated Entity:	RN106095573, AVALON CONCRETE BATCH PLANT 1	Classification:	SATISFACTORY	Rating:	3.20
Complexity Points:	5	Repeat Violator:	NO		
CH Group:	04 - Mining				
Location:	200 SANDTOWN ROAD AVALON, ELLIS COUNTY, TEXAS				
TCEQ Region:	REGION 04 - DFW METROPLEX				
ID Number(s):	AIR NEW SOURCE PERMITS REGISTRATION 95190 AIR NEW SOURCE PERMITS ACCOUNT NUMBER 960852X				
Compliance History Period:	September 01, 2013 to August 31, 2018	Rating Year:	2018	Rating Date:	09/01/2018
Date Compliance History Report Prepared:	February 26, 2019				
Agency Decision Requiring Compliance History:	Enforcement				
Component Period Selected:	February 26, 2014 to February 26, 2019				
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.					
Name:	Amanda Diaz			Phone:	(512) 239-2601

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 |

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: | 10/12/2018 | (1519795) | | |
| | Self Report? | NO | | Classification: | Moderate |
| | Citation: | 30 TAC Chapter 101, SubChapter A 101.24(b)
5C THSC Chapter 382 382.085(b) | | | |
| | Description: | Failed to submit a FY2019 Fee Basis Form. CATEGORY B18(g)(11). | | | |

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

Component Appendices

Appendix A

All NOVs Issued During Component Period 2/26/2014 and 2/26/2019

1 Date: 10/12/2018 (1519795)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.24(b)
5C THSC Chapter 382 382.085(b)
Description: Failed to submit a FY2019 Fee Basis Form. CATEGORY B18(g)(11).

* NOVs applicable for the Compliance History rating period 9/1/2013 to 8/31/2018

Appendix B

All Investigations Conducted During Component Period February 26, 2014 and February 26, 2019

Item 1 October 12, 2018 (1517540)
Item 2 December 04, 2018 (1530554)
Item 3 January 17, 2019 (1538608)

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2013 and 08/31/2018.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
BOWLES REDI MIX, INC.;
RN106095573**

**§
§
§
§
§
§**

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2019-0235-AIR-E

On _____, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's First Amended Report and Petition, filed pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE ch. 382, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Bowles Redi Mix, Inc. ("Respondent").

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Respondent owns and operates a concrete batch plant located at 200 Sandtown Road in Avalon, Ellis County, Texas (the "Plant"). The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. During record reviews conducted on July 17, 2018 through September 21, 2018 and on November 15, 2018, an investigator documented that Respondent failed to submit the emissions/inspection fee basis form within 60 days after being provided the emissions/inspection fee information packet. Specifically, the emissions/inspection fee basis form for Fiscal Year 2019 was provided on April 2, 2018 and was due by June 1, 2018, but was not submitted.
3. During a record review conducted on November 13, 2019, an investigator documented that Respondent failed to submit the emissions/inspection fee basis form within 60 days after being provided the emissions/inspection fee information packet. Specifically, the emissions/inspection fee basis form for Fiscal Year 2020 was provided on April 2, 2019 and was due by June 1, 2019, but was not submitted.
4. During an investigation opened on June 5, 2018 and record reviews conducted on October 12, 2018 and January 11, 2019, an investigator documented that Respondent:
 - a. Failed to pave each road, parking lot, or other area at the Plant used by vehicles with a cohesive hard surface to minimize dust emissions. Specifically, areas at the Plant with vehicle traffic were composed of gravel and were not paved; and
 - b. Failed to install a warning device on each bulk storage silo. Specifically, a silo at the Plant was not equipped with a warning device.
5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Bowles Redi Mix, Inc." (the "EDPRP") in the TCEQ Chief Clerk's office on September 26, 2019.

6. By letter dated September 26, 2019, sent to Respondent's last known address via certified mail, return receipt requested, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to the return receipt "green cards," Respondent received notice of the EDPRP on October 1, 2019 and October 18, 2019.
7. The Executive Director filed the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Bowles Redi Mix, Inc." (the EDFARP") in the TCEQ Chief Clerk's office on May 1, 2020.
8. By letter dated May 1, 2020, sent to Respondent's last known address via certified mail, return receipt requested, postage prepaid, the Executive Director served Respondent with notice of the EDFARP. According to the return receipt "green cards," Respondent received notice of the EDFARP on May 6, 2020 and May 15, 2020, as evidenced by the signatures on the cards.
9. More than 20 days have elapsed since Respondent received notice of the EDFARP. Respondent failed to file an answer and failed to request a hearing.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2, Respondent failed to submit the emissions/inspection fee basis form within 60 days after being provided the emissions/inspection fee information packet, in violation of TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 101.24(b).
3. As evidenced by Finding of Fact No. 3, Respondent failed to submit the emissions/inspection fee basis form within 60 days after being provided the emissions/inspection fee information packet, in violation of TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 101.24(b).
4. As evidenced by Findings of Fact No. 4.a., Respondent failed to pave each road, parking lot, or other area at the Plant used by vehicles with a cohesive hard surface to minimize dust emissions, in violation of TEX. HEALTH & SAFETY CODE § 382.085(b), 30 TEX. ADMIN. CODE § 116.115(c), and Standard Permit Registration No. 95190, Air Quality Standard Permit for Concrete Batch Plants with Enhanced Controls, Special Condition ("SC") Design and Operating Requirements No. (3)(E).
5. As evidenced by Findings of Fact No. 4.b., Respondent failed to install a warning device on each bulk storage silo, in violation of TEX. HEALTH & SAFETY CODE § 382.085(b), 30 TEX. ADMIN. CODE § 116.115(c), and Standard Permit Registration No. 95190, Air Quality Standard Permit for Concrete Batch Plants with Enhanced Controls, SC Design and Operating Requirements No. (3)(D).
6. As evidenced by Findings of Fact Nos. 5 and 6, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(b)(1).
7. As evidenced by Findings of Fact Nos. 7 and 8, the Executive Director timely served Respondent with proper notice of the EDFARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(b)(1).
8. As evidenced by Finding of Fact No. 9, Respondent failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE

§ 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.

9. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
10. An administrative penalty in the amount of four thousand seven hundred twenty-four dollars (\$4,724.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
11. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Respondent is assessed an administrative penalty in the amount of four thousand seven hundred twenty-four dollars (\$4,724.00) for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations which are not raised here.
2. The penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to TCEQ and shall be sent with the notation "Re: Bowles Redi Mix, Inc.; Docket No. 2019-0235-AIR-E" to:

Financial Administration Division
Revenue Operations Section
Texas Commission on Environmental Quality
Attention: Cashier's Office, MC 214
P.O. Box 13088
Austin, Texas 78711-3088
3. Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order:
 - i. Pave areas used by vehicles at the Plant with a cohesive hard surface, in accordance with Standard Permit Registration No. 95190;
 - ii. Install a warning device on each bulk storage silo at the Plant, in accordance with Standard Permit Registration No. 95190; and
 - iii. Submit the emissions/inspection fee basis form for Fiscal Years 2019 and 2020 to:

Air Quality Division, MC 170
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
 - b. Within 45 days after the effective date of this Order, submit written certification to demonstrate compliance with Ordering Provisions Nos. 3.a.i. through 3.a.iii. The certification shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by Respondent, and shall 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 fine and imprisonment for knowing violations.”

The written certification and supporting documentation necessary to demonstrate compliance with these Ordering Provisions shall be sent to:

Order Compliance Team
Texas Commission on Environmental Quality
Enforcement Division, MC 149A
P.O. Box 13087
Austin, Texas 78711-3087

and:

Air Section Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon Respondent.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Order Compliance Team at the address listed above.
7. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
8. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
9. The provisions of this Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
10. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
11. The Chief Clerk shall provide a copy of this fully executed Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



UNSWORN DECLARATION OF MEGAN GRACE

"On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Bowles Redi Mix, Inc." (the "EDFARP") was filed in the TCEQ Chief Clerk's office on May 1, 2020.

The EDFARP was mailed to each Respondent's last known address on May 1, 2020, via certified mail, return receipt requested, postage prepaid. According to the return receipt "green cards," Respondent received notice of the EDFARP on May 6, 2020 and May 15, 2020, as evidenced by the signatures on the cards.

More than 20 days have elapsed since each Respondent received notice of the EDFARP. Respondent failed to file an answer and failed to request a hearing."

"My name is Megan Grace, and I am an employee of the following governmental agency: Texas Commission on Environmental Quality. I am executing this declaration as part of my assigned duties and responsibilities. I declare under penalty of perjury that the foregoing is true and correct."

Executed in Travis County,
State of Texas,
on the 31st day of January, 2022

A handwritten signature in cursive script, appearing to read "Megan J. Grace".

Declarant