

Executive Summary – Enforcement Matter – Case No. 60349

Hi-Pro Feeds LLC

RN102387453

Docket No. 2021-0204-AIR-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

Hi-Pro Feeds Comanche Mill, 1300 East Mill Avenue, Comanche, Comanche County

Type of Operation:

Feed mill

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

Texas Register Publication Date: October 1, 2021

Comments Received: No

Penalty Information

Total Penalty Assessed: \$3,750

Total Paid to General Revenue: \$3,750

Total Due to General Revenue: \$0

Payment Plan: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): November 12, 2020 and December 7, 2020

Complaint Information: Alleged concerns about the nuisance dust conditions at the Respondent's facility.

Date(s) of Investigation: November 23, 2020

Date(s) of NOE(s): January 8, 2021

Executive Summary – Enforcement Matter – Case No. 60349
Hi-Pro Feeds LLC
RN102387453
Docket No. 2021-0204-AIR-E

Violation Information

Failed to prevent nuisance conditions [30 TEX. ADMIN. CODE §§ 101.4 and 116.115(b)(2)(H)(i), New Source Review Permit No. 1913, General Conditions No. 10, and TEX. HEALTH & SAFETY CODE § 382.085(a) and (b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

- a. Within 30 days, implement measures and/or procedures designed to minimize dust emissions from causing nuisance dust conditions that impact off-site receptors; and
- b. Within 45 days, submit written certification to demonstrate compliance with a.

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Toni Red, Enforcement Division, Enforcement Team 4, MC 219, (512) 239-1704; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: John Ingram, Director of Operations, Hi-Pro Feeds LLC, P.O. Box 519, Friona, Texas 79305-0519

Respondent's Attorney: N/A

Associated Check List

Checklist Name

AIR COMPLAINT INVESTIGATION

Unit Name

Hi-Pro Feeds

Investigation Comments:

INVESTIGATION

This air complaint investigation was conducted in response to a citizen's complaint, Incident No. 346152, received by the Texas Commission on Environmental Quality (TCEQ) Abilene Region Office, via phone on November 12, 2020. The complainant alleged that a local business, Hi-Pro Feeds, LLC, Hi-Pro Feeds Comanche Mill (Hi-Pro Feeds), was generating excessive dust emissions, which were impacting their property. Hi-Pro Feeds is located at 1300 East Mill Road, Comanche, Comanche County, Texas. The facility operates under the provisions of Air Permit No. 1913, last amended on February 6, 2019.

Daily Narrative

On November 12, 2020, Mr. Matthew Rosta, Environmental Investigator, Abilene Region Office called the complainant to discuss their concerns and to schedule an investigation. It was agreed that an onsite investigation would be conducted on November 23, 2020.

On November 23, 2020 at 11:00 a.m., Mr. Rosta conducted an onsite complaint investigation at Hi-Pro Feeds. An area survey was conducted upon arrival near the complainant's property. The weather was as follows: the temperature was 50°F, winds were out of the southeast at approximately 3-5 mph and the sky was clear.

At 11:15 am, Mr. Rosta met with the complainant, who escorted Mr. Rosta and on a walk-through of the property. Mr. Rosta observed what appeared to be particles of grain mixed with dust on several items at the complainant's property. The particles of grain covered vehicles, collected at the bottom of door openings, and in the grass. There was one vehicle observed, which was covered with particles of grain. The complainant stated that the vehicle had been cleaned and detailed a few days prior. (See Attachment 1: Site Photos).

The complainant showed Mr. Rosta a video of dust coming out of one of the grain elevator distribution legs (elevator leg) at Hi-Pro Feeds. The complainant stated that they took the video the day before the complaint; November 11, 2020. Mr. Rosta informed the complainant that there was sufficient evidence observed of grain and dust from Hi-Pro Feeds impacting the complainant's property to substantiate the alleged nuisance conditions. Therefore, the complainant chose not to submit the video as Citizen Collected Evidence but would retain the video in case it was later deemed necessary.

At 11:30 a.m., Mr. Rosta drove to an area north of Hi-Pro Feeds to observe the operations, which were producing minimal dust emissions. A water truck was observed driving through the facility and watering the in-plant roads.

At 11:35 a.m., Mr. Rosta entered Hi-Pro Feeds and met with Mr. Lonnie Holland, Plant Manager. Mr. Rosta explained that a complaint had been received in the Abilene Region Office alleging that emissions from the facility were impacting an off-property receptor. Mr. Rosta informed Mr. Holland that prior to entering Hi-Pro Feeds, accumulations of what appeared to be grain particles were observed on off-site property. Based upon observations from previous investigations, the grain particles appeared to be a corn feed product processed at Hi-Pro Feeds. Mr. Holland stated that he was aware of an incident that occurred recently when a cap on one of the elevator legs was inadvertently left open. Once facility personnel observed the plume of dust, the elevator cap was closed.

Mr. Rosta recommended that Mr. Holland have each elevator leg inspected for openings or defects, since dust or grain particles emitted from the elevated elevator legs would likely travel off-site. Mr. Rosta suggested that perhaps there were openings or defects in the elevator legs that had not been identified. Since the elevator legs were the tallest structures at the facility, with the correct wind speed and direction, these may be the emission points allowing grain and dust to migrate off-site. Mr. Holland agreed to have maintenance personnel inspect the elevator legs and repair any defects.

Mr. Holland was informed that based upon observations of the complainant's property, failure to control dust

HI-PRO FEEDS COMANCHE MILL - COMANCHE

11/23/2020 Inv. # - 1692168

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emissions from Hi-Pro Feeds was confirmed. The alleged violation was a repeat of a Category B violation identified during a July 26, 2019 onsite complaint investigation (See Investigation No. 1582954). Therefore, in accordance with the Enforcement Initiation Criteria (EIC) Revision No. 17 effective August 25, 2020, formal enforcement was warranted.

Exit Interview

An exit interview was conducted on November 23, 2020, at the facility with Mr. Holland, who was informed that current emissions from the facility appeared to be controlled, however, based upon the accumulation of grain particles observed on the complainant's property, the complaint of nuisance dust conditions was confirmed. Since this was a repeat nuisance violation, a Notice of Enforcement (NOE) would be issued to Hi-Pro Feeds for the alleged violation. Mr. Holland stated that he would communicate the information to the Corporate Office. A written Exit Interview Form was sent to Mr. Holland on December 8, 2020.

Second Complaint

A second air complaint regarding nuisance dust from Hi-Pro Feeds, Incident No. 347181, was received by the Abilene Region Office, via phone on December 7, 2020. The complainant alleged that on December 3 and 4, 2020, Hi-Pro Feeds was generating excessive dust emissions, which obscured Highway 36 and "left dust on everything in its path."

On December 7, 2020, Mr. Rosta called the complainant to discuss their concerns. The complainant reiterated that dust from operations at Hi-Pro Feeds obscured the road and they had seen no actions taken to reduce the dust emissions. There are residential properties near the Hi-Pro Feeds facility, and the complainant was concerned that the inattention to dust control could impact the health of those residences and create conditions for an explosion. The complainant stated that the dust was not impacting them or their property.

Mr. Rosta informed the complainant that a dust complaint investigation of Hi-Pro Feeds was currently in progress. If necessary, another investigation would be scheduled; however, there was sufficient information gathered during the November 23, 2020 investigation to confirm a nuisance violation. Mr. Rosta informed the complainant that their observations would be included in the final investigation report and a copy of the report would be provided to them.

GENERAL FACILITY AND PROCESS INFORMATION

Process Description

Hi-Pro Feeds is located at 1300 East Mill Ave., in Comanche, Comanche County, Texas. The facility receives grain and commodities into one of six receiving areas. Material is transported via truck and rail cars. The material is stored, processed, and incorporated into a feed product. (See Process Description located in the Region Permit File). The facility operates under the provisions of Air Permit No. 1913, which was last renewed on February 17, 2015.

BACKGROUND

Compliance History

As of the date of this investigation the compliance history rating and performance classification were listed as follows: Customer: 0.57, Satisfactory; Regulated Entity: 0.57, Satisfactory.

Agreed Orders, Court Orders, and Other Compliance Agreements

In the past five years, there have been no Agreed Orders, Court Orders, or other Compliance Agreements for the facility.

Prior Enforcement Issues

On September 12, 2019, a Notice of Violation (NOV) was issued to Hi-Pro Feeds as a result of a July 26, 2019, complaint investigation for failure to prevent nuisance conditions and failure to maintain an emission control

HI-PRO FEEDS COMANCHE MILL - COMANCHE

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device. (See Investigation No. 1582954.) The NOV was resolved on October 23, 2019. (See Investigation No. 1603571.)

On October 1, 2018, an NOV was issued to Hi-Pro Feeds as a result of an August 9, 2018, complaint investigation for failure to prevent nuisance conditions. (See Investigation No. 1507525.) The NOV was resolved on November 26, 2018. (See Investigation No. 1526916.)

On April 23, 2018, an NOV was issued to Hi-Pro Feeds as a result of a March 9, 2018 complaint investigation, for failure to comply with the maximum annual throughput limits for the Total Receiving Operations (TRO) and for the Mineral Mixer Tank (MMT), as authorized by Air Permit No. 1913. (See Investigation No. 1478469.) The NOV was resolved on June 27, 2018. (See Investigation No. 1486534.)

On December 29, 2016, an NOV was issued to Hi-Pro Feeds as a result of an October 31, 2016 complaint investigation, for failure to prevent nuisance conditions. (See Investigation No. 1370588.) The NOV was resolved on March 27, 2017. (See Investigation No. 1394357.)

Complaints

A complaint received on November 12, 2020, alleged that Hi-Pro Feeds was causing nuisance dust conditions. An investigation conducted at Hi-Pro Feeds on November 23, 2020, confirmed nuisance conditions. (Refer to Incident No. 346152.) A second complaint received on December 7, 2020, alleged that on December 3 and 4, 2020, excessive dust emissions from Hi-Pro Feeds were obscuring Highway 36 and being deposited off-site. (Refer to Incident No. 347181). The current investigation is in response to both complaints.

A complaint received on July 24, 2019, alleged that Hi-Pro Feeds was causing nuisance dust conditions. Analysis of bulk samples collected at the complainant's property and at Hi-Pro Feeds confirmed nuisance conditions. It was also determined that Hi-Pro Feeds failed to maintain an emission control device in good working order, as required by Air Permit No. 1913. An NOV was issued to Hi-Pro Feeds on September 12, 2019. (Refer to Incident No. 317282.)

A complaint received on January 28, 2019, alleged that Hi-Pro Feeds was causing nuisance dust conditions. An investigation conducted on February 21, 2019, did not confirm nuisance dust conditions.

A complaint received on July 17, 2018, alleged that Hi-Pro Feeds was causing nuisance dust conditions. Analysis of bulk samples collected at the complainant's property and at Hi-Pro Feeds confirmed nuisance conditions. An NOV was issued to Hi-Pro Feeds on October 1, 2018. (See Investigation No. 1507525.)

A complaint received on February 14, 2018, alleged that Hi-Pro Feeds was causing nuisance dust conditions. An investigation of the facility and the complainant's property on March 9, 2018, could not confirm nuisance dust conditions; however, it was determined that Hi-Pro Feeds failed to comply with the maximum annual throughput limits for the TRO and for the MMT, as authorized by Air Permit No. 1913. An NOV was issued to Hi-Pro Feeds on April 23, 2018. (See Investigation No. 1478469.)

A complaint received on September 8, 2017, alleged that Hi-Pro Feeds was causing nuisance dust conditions. An investigation of the facility and complainant's property on October 4, 2017, did not confirm nuisance dust conditions. (See Investigation No. 1443364.)

A complaint received on October 31, 2016, alleged that Hi-Pro Feeds was causing nuisance dust conditions. Analysis of tape lift samples collected at the complainant's property and at Hi-Pro Feeds confirmed nuisance conditions. An NOV was issued to Hi-Pro Feeds on December 29, 2016. (See Investigation No. 1370588.)

ADDITIONAL INFORMATION

Conclusions, Recommendations, and Current Enforcement Issues

As a result of the November 23, 2020, investigation, nuisance conditions were confirmed. Since an NOV was issued to Hi-Pro Feeds on September 12, 2019, for the same alleged violation, in accordance with the TCEQ EIC, this is considered a repeat Category B violation and formal enforcement has been initiated. A NOE will be issued to Hi-Pro Feeds for the alleged violation. A copy of the investigation report will be sent to the complainants.

Additional Issues

None

NOE Date: 1/8/2021

**OUTSTANDING ALLEGED VIOLATION(S)
ASSOCIATED TO A NOTICE OF ENFORCEMENT**

Track Number: 766030

Compliance Due Date: To Be Determined

Violation Start Date: Unknown

30 TAC Chapter 101.4
30 TAC Chapter 116.115(b)(2)(H)
5C THSC Chapter 382.085(b)

PERMIT 1913, General Condition 10

Comply with commission rules.

Alleged Violation:

Investigation: 1692168

Comment Date: 01/07/2021

Hi-Pro Feeds, LLC, failed to prevent nuisance conditions by allowing grain particles to leave the facility and impact an off-property receptor.

During the November 23, 2020 investigation, observations confirmed that an off-property receptor had been negatively impacted by grain particles from operations at the Hi-Pro Feeds, LLC, Hi-Pro Feeds Comanche Mill. The grain particles observed at the off-property receptor were consistent in appearance with particles of corn feed from the Hi-Pro Feeds Comanche Mill, found at off-property receptors during previous complaint investigations conducted in 2019, 2018 and 2016.

Recommended Corrective Action: Demonstrate that measures have been implemented, which ensure that emissions from the facility are controlled so that off-property receptors are not impacted.

Signed 
Environmental Investigator

Date 1/8/21

Signed 
Supervisor

Date 1/8/21

Attachments: (in order of final report submittal)

- Enforcement Action Request (EAR)
- Letter to Facility (specify type) : NOE
- Investigation Report
- Sample Analysis Results
- Manifests
- Notice of Registration

- Maps, Plans, Sketches
 - Photographs
 - Correspondence from the facility
 - Other (specify) :
EXIT INTERVIEW
-



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

DATES	Assigned	22-Jan-2021			
	PCW	18-Jun-2021	Screening	1-Feb-2021	EPA Due

RESPONDENT/FACILITY INFORMATION	
Respondent	Hi-Pro Feeds LLC
Reg. Ent. Ref. No.	RN102387453
Facility/Site Region	3-Abilene
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	60349	No. of Violations	1
Docket No.	2021-0204-AIR-E	Order Type	Findings
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Richard Garza
		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	\$3,750
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ADJUSTMENTS (+/-) TO SUBTOTAL 1		
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>		

Compliance History	0.0% Adjustment	Subtotals 2, 3, & 7	\$0
Notes	No adjustment for compliance history.		

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
<small>Total EB Amounts</small>	\$634	<small>*Capped at the Total EB \$ Amount</small>	
<small>Estimated Cost of Compliance</small>	\$10,000		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$3,750
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
<small>Reduces or enhances the Final Subtotal by the indicated percentage.</small>			
Notes			
	Final Penalty Amount	\$3,750	

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$3,750
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
<small>Reduces the Final Assessed Penalty by the indicated percentage.</small>				
Notes	No deferral is recommended for Findings Orders.			

PAYABLE PENALTY	\$3,750
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Screening Date 1-Feb-2021

Docket No. 2021-0204-AIR-E

PCW

Respondent Hi-Pro Feeds LLC

Policy Revision 4 (April 2014)

Case ID No. 60349

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102387453

Media Air

Enf. Coordinator Richard Garza

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>)	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 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) 0%

>> 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

No adjustment for compliance history.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date 1-Feb-2021

Docket No. 2021-0204-AIR-E

PCW

Respondent Hi-Pro Feeds LLC

Policy Revision 4 (April 2014)

Case ID No. 60349

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102387453

Media Air

Enf. Coordinator Richard Garza

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 101.4 and 116.115(b)(2)(H)(i), New Source Review Permit No. 1913, General Conditions No. 10, and Tex. Health & Safety Code § 382.085(a) and (b)

Violation Description Failed to prevent nuisance conditions. Specifically, on November 23, 2020, TCEQ staff observed grain particles mixed with dust that covered vehicles, collected at the bottom of doorways, and accumulated in the grass at off-site receptors, resulting in the confirmation of nuisance dust conditions.

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 significant 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 1

1 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$3,750

One single event is recommended for the nuisance dust conditions that were confirmed on November 23, 2020.

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 \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$634

Violation Final Penalty Total \$3,750

This violation Final Assessed Penalty (adjusted for limits) \$3,750

Economic Benefit Worksheet

Respondent Hi-Pro Feeds LLC
Case ID No. 60349
Reg. Ent. Reference No. RN102387453
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)	\$10,000	23-Nov-2020	1-Mar-2022	1.27	\$634	n/a	\$634

Notes for DELAYED costs

Estimated cost to implement measures and/or procedures designed to minimize dust emissions from causing nuisance dust conditions that impact off-site receptors. The Date Required is the date of non-compliance 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

\$634



Compliance History Report

Compliance History Report for CN604079798, RN102387453, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

Customer, Respondent, or Owner/Operator:	CN604079798, Hi-Pro Feeds LLC	Classification:	SATISFACTORY	Rating:	1.00
Regulated Entity:	RN102387453, HI-PRO FEEDS COMANCHE MILL	Classification:	SATISFACTORY	Rating:	1.00
Complexity Points:	7	Repeat Violator:	NO		
CH Group:	14 - Other				
Location:	1300 E MILL AVE, COMANCHE, COMANCHE COUNTY, TEXAS 76442-2824				
TCEQ Region:	REGION 03 - ABILENE				
ID Number(s):					
AIR NEW SOURCE PERMITS PERMIT 1913		AIR NEW SOURCE PERMITS ACCOUNT NUMBER CT0011J			
AIR NEW SOURCE PERMITS REGISTRATION 160159		STORMWATER PERMIT TXR05CY96			
Compliance History Period:	September 01, 2015 to August 31, 2020	Rating Year:	2020	Rating Date:	09/01/2020
Date Compliance History Report Prepared:	June 18, 2021				
Agency Decision Requiring Compliance History:	Enforcement				
Component Period Selected:	June 18, 2016 to June 18, 2021				
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.					
Name:	Richard Garza			Phone:	(512) 239-2697

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.

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

Component Appendices

Appendix A

All NOVs Issued During Component Period 6/18/2016 and 6/18/2021

- 1 Date: 12/29/2016 (1370588)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.4
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(H)
5C THSC Chapter 382 382.085(b)
General Condition 10 PERMIT
Description: Hi-Pro Feeds, Inc. failed to prevent nuisance conditions by allowing corn feed particles (starch grains and grain chaff) to leave property boundaries and impact an off-property receptor.
- 2 Date: 04/23/2018 (1478469)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)
Special Condition 7 PERMIT
Description: Hi-Pro Feeds, Inc., failed to comply with the maximum annual throughput limits for Total Receiving Operations and for the Mineral Mixer Tank, as authorized by Air Permit No. 1913.
- 3 Date: 10/01/2018 (1507525)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.4
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(H)
5C THSC Chapter 382 382.085(b)
General Condition 10 PERMIT
Description: Hi-Pro Feeds, LLC failed to prevent nuisance conditions by allowing grain chaff to leave property boundaries and impact an off-property receptor.
- 4* Date: 09/12/2019 (1582954)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)
Special Condition 12 PERMIT
Description: Failure to properly install and maintain in good working order, the drop sock at the ground corn loadout area.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.4
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(H)
5C THSC Chapter 382 382.085(b)
General Condition 10 PERMIT
Description: Failure to prevent nuisance conditions by allowing starch grains and grain chaff to leave property boundaries, which impacted an off-property receptor.

* NOVs applicable for the Compliance History rating period 9/1/2015 to 8/31/2020

Appendix B

All Investigations Conducted During Component Period June 18, 2016 and June 18, 2021

- Item 1 March 27, 2017** (1394357)
Item 2 June 27, 2018** (1486534)
Item 3 November 26, 2018** (1526916)
Item 4 October 23, 2019** (1603571)

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2015 and 08/31/2020.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
HI-PRO FEEDS LLC
RN102387453**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2021-0204-AIR-E**

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Hi-Pro Feeds LLC (the "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 presented this Order to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated agreement of the parties. 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. The duties and responsibilities imposed by this Order are binding upon the Respondent.

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

I. FINDINGS OF FACT

1. The Respondent owns and operates a feed mill located at 1300 East Mill Avenue in Comanche, Comanche County, Texas (the "Site"). The Site consists or consisted of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. During an investigation conducted on November 23, 2020, TCEQ staff observed grain particles mixed with dust that covered vehicles, collected at the bottom of doorways, and accumulated in the grass at off-site receptors, resulting in the confirmation of nuisance dust conditions.

II. CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, the 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, the Respondent failed to prevent nuisance conditions, in violation of 30 TEX. ADMIN. CODE §§ 101.4 and 116.115(b)(2)(H)(i), New Source Review Permit No. 1913, General Conditions No. 10, and TEX. HEALTH & SAFETY CODE § 382.085(a) and (b).
3. Pursuant to TEX. WATER CODE § 7.051, the TCEQ has the authority to assess an administrative penalty against the Respondent for violations of state statutes within the TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of \$3,750 is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent paid the \$3,750 penalty.

III. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Conclusion of Law No. 4 for violations of state statutes and rules of the TCEQ. The payment of this penalty and the 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 that are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Hi-Pro Feeds LLC, Docket No. 2021-0204-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 Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order, implement measures and/or procedures designed to minimize dust emissions from causing nuisance dust conditions that impact off-site receptors.
 - b. Within 45 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No.

2.a. The certification shall be signed by the 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 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. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Site operations referenced in this Order.
5. If the 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, the Respondent's failure to comply is not a violation of this 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.
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 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. Extension requests shall be sent to the Order Compliance Team at the address listed above.

7. 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 in this Order.
8. 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.
9. This 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 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.
10. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this 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 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.
11. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

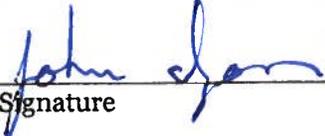
_____	_____
For the Commission	Date
	3/16/2022
_____	_____
For the Executive Director	Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, 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	Date

	
Name (Printed or typed)	Title
Authorized Representative of	
Hi-Pro Feeds LLC	

If mailing address has changed, please check this box and provide the new address below:

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