

Executive Summary – Enforcement Matter – Case No. 60524

Aquatic Co.

RN100219104

Docket No. 2021-0373-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

Aquatic, 151 Industrial Street, Lancaster, Dallas County

Type of Operation:

Plastic composite bath products 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 23, 2022

Comments Received: No

Penalty Information

Total Penalty Assessed: \$42,000

Amount Deferred for Expedited Settlement: \$8,400

Total Paid to General Revenue: \$33,600

Total Due to General Revenue: \$0

Payment Plan: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: January 2021

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: March 4, 2021

Date(s) of NOE(s): March 5, 2021

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Aquatic Co.
RN100219104
Docket No. 2021-0373-AIR-E

Violation Information

1. Failed to reduce the total organic hazardous air pollutants ("o-HAP") emissions by at least 95 percent ("%") by weight and failed to comply with the maximum allowable emissions rate ("MAER"). Specifically, during the stack test conducted on June 16, 2020, the Respondent reduced the total o-HAP emissions from the Rotary Concentrator/Regenerative Thermal Oxidizer ("RTO") System by 86.8% by weight and exceeded the volatile organic compounds ("VOC") plus HAP MAER of 13.11 pounds per hour ("lbs/hr") by 3.50 lbs/hr for the A-1 to A-5 and A-9 Concentrator Stacks, Emissions Point Number ("EPN") S-101, resulting in approximately 7,950 lbs of unauthorized VOC [30 TEX. ADMIN. CODE §§ 101.20(2), 113.1060, 116.115(b)(2)(F) and (c), and 122.143(4), 40 CODE OF FEDERAL REGULATIONS ("CFR") § 63.5805(a)(1), New Source Review ("NSR") Permit No. 9519, Special Conditions ("SC") Nos. 1 and 8.B, Federal Operating Permit ("FOP") No. O1063, General Terms and Conditions ("GTC") and Special Terms and Conditions ("STC") Nos. 1.A and 8, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

2. Failed to notify the Administrator in writing at least 60 calendar days before the performance test is scheduled. Specifically, the notification for the performance test that was scheduled for June 16, 2020 for the Rotary Concentrator/RTO System was due to the TCEQ Dallas/Fort Worth Regional Office no later than April 17, 2020, but the notification was submitted on May 1, 2020 [30 TEX. ADMIN. CODE §§ 101.20(2), 113.100, 116.115(c), and 122.143(4), 40 CFR § 63.9(e), NSR Permit No. 9519, SC No. 8.A, FOP No. O1063, GTC and STC Nos. 1.A and 8, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

By August 14, 2022, the Respondent installed the zeolite wheels for the Rotary Concentrator/RTO System at the Plant.

Technical Requirements:

The Order will require the Respondent to:

a. Within 15 days, submit a notification to the Air Section Manager to schedule a pretest meeting prior to conducting stack sampling for the A-1 to A-5 and A-9 Concentrator Stacks and the Rotary Concentrator/RTO System.

b. Within 30 days:

i. Submit written certification to demonstrate compliance with a.; and

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Aquatic Co.
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Docket No. 2021-0373-AIR-E

- ii. Implement measures and/or procedures designed to ensure that stack test notifications are submitted in a timely manner.
- c. Within 45 days, submit written certification to demonstrate compliance with b.ii.
- d. Within 60 days, hold a pretest meeting with the TCEQ Dallas/Fort Worth Regional Office to review the test details that include sampling and measuring procedures to be used, the forms required for recordkeeping the pertinent data, and the format and content of the test report as outlined in Chapter 14 of the TCEQ Sampling and Procedures Manual.
- e. Within 75 days, submit written certification to demonstrate compliance with d.
- f. Within 150 days, conduct a stack test to determine the VOC plus HAP hourly MAER for the A-1 to A-5 and A-9 Concentrator Stacks, EPN S-101, and the reduction of total o-HAP emissions for the Rotary Concentrator/RTO System.
- g. Within 165 days, submit written certification to demonstrate compliance with f.
- h. Within 210 days, submit the stack test report to the TCEQ Dallas/Fort Worth Regional Office.
- i. Within 225 days, submit written certification to demonstrate compliance with h.
- j. Within 240 days, submit an administratively complete application for NSR Permit No. 9519 to increase the VOC plus HAP hourly MAER for the A-1 to A-5 and A-9 Concentrator Stacks, EPN S-101, and to establish the reduction of total o-HAP emissions for the Rotary Concentrator/RTO System.
- k. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the amendment application for NSR Permit No. 9519 by any deadline specified in writing.
- l. Within 390 days, submit written certification that either the amendment for NSR Permit No. 9519 has been obtained or operations have ceased until the proper authorization is obtained to demonstrate compliance.

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Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Amanda Diaz, Enforcement Division, Enforcement Team 2, MC 219, (713) 422-8912; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: Tracy Donoho, Manager, Aquatic Co., 151 Industrial Street, Lancaster, Texas 75134

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	8-Mar-2021	Screening	17-Mar-2021	EPA Due	1-Sep-2021
	PCW	27-Oct-2022				

RESPONDENT/FACILITY INFORMATION	
Respondent	Aquatic Co.
Reg. Ent. Ref. No.	RN100219104
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	60524	No. of Violations	2
Docket No.	2021-0373-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	\$35,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	20.0% Adjustment	Subtotals 2, 3, & 7	\$7,000
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Notes: Enhancement for one order containing a denial of liability.

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: \$5,372
 Estimated Cost of Compliance: \$33,250
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$42,000
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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	\$42,000
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$42,000
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DEFERRAL	20.0% Reduction	Adjustment	-\$8,400
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$33,600
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Screening Date 17-Mar-2021

Docket No. 2021-0373-AIR-E

PCW

Respondent Aquatic Co.

Policy Revision 5 (January 28, 2021)

Case ID No. 60524

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN100219104

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>)	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>)	1	20%
	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) 20%

>> 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 order containing a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 20%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 20%

Screening Date 17-Mar-2021
Respondent Aquatic Co.
Case ID No. 60524
Reg. Ent. Reference No. RN100219104
Media Air
Enf. Coordinator Amanda Diaz

Docket No. 2021-0373-AIR-E

PCW

Policy Revision 5 (January 28, 2021)
PCW Revision February 11, 2021

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 101.20(2), 113.1060, 116.115(b)(2)(F) and (c), and 122.143(4), 40 Code of Federal Regulations ("CFR") § 63.5805(a)(1), New Source Review ("NSR") Permit No. 9519, Special Conditions ("SC") Nos. 1 and 8.B, Federal Operating Permit ("FOP") No. O1063, General Terms and Conditions ("GTC") and Special Terms and Conditions ("STC") Nos. 1.A and 8, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to reduce the total organic hazardous air pollutants ("o-HAP") emissions by at least 95 percent ("%") by weight and failed to comply with the maximum allowable emissions rate ("MAER"). Specifically, during the stack test conducted on June 16, 2020, the Respondent reduced the total o-HAP emissions from the Rotary Concentrator/Regenerative Thermal Oxidizer ("RTO") System by 86.8% by weight and exceeded the volatile organic compounds ("VOC") plus HAP MAER of 13.11 pounds per hour ("lbs/hr") by 3.50 lbs/hr for the A-1 to A-5 and A-9 Concentrator Stacks, Emissions Point Number ("EPN") S-101, resulting in approximately 7,950.11 lbs of unauthorized VOC.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 30.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

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

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 4 274 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$30,000

Four quarterly events are recommended from the June 16, 2020 stack test date to the March 17, 2021 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 \$30,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$5,333

Violation Final Penalty Total \$36,000

This violation Final Assessed Penalty (adjusted for limits) \$36,000

Economic Benefit Worksheet

Respondent Aquatic Co.
Case ID No. 60524
Reg. Ent. Reference No. RN100219104
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)	\$20,000	16-Jun-2020	14-Aug-2022	2.16	\$144	\$2,882	\$3,026
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$5,000	16-Jun-2020	1-Jun-2024	3.96	\$990	n/a	\$990
Other (as needed)	\$8,000	16-Jun-2020	1-Oct-2023	3.29	\$1,317	n/a	\$1,317

Notes for DELAYED costs

Estimated costs to install the zeolite wheels for the Rotary Concentrator/RTO System (\$20,000), to conduct a stack test to determine the VOC plus HAP hourly MAER for the A-1 to A-5 and A-9 Concentrator Stacks, EPN S-101, and the reduction of total o-HAP emissions for the Rotary Concentrator/RTO System (\$8,000), and to obtain an amendment for NSR Permit No. 9519 to increase the VOC plus HAP hourly MAER for the A-1 to A-5 and A-9 Concentrator Stacks, EPN S-101, and to establish the reduction of total o-HAP emissions for the Rotary Concentrator/RTO System (\$5,000). The Date Required is the initial date of non-compliance and the Final Dates are the date of compliance and the estimated dates 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 \$33,000

TOTAL \$5,333

Screening Date 17-Mar-2021 **Docket No.** 2021-0373-AIR-E **PCW**
Respondent Aquatic Co. *Policy Revision 5 (January 28, 2021)*
Case ID No. 60524 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN100219104
Media Air
Enf. Coordinator Amanda Diaz

Violation Number 2
Rule Cite(s) 30 Tex. Admin. Code §§ 101.20(2), 113.100, 116.115(c), and 122.143(4), 40 CFR § 63.9(e), NSR Permit No. 9519, SC No. 8.A, FOP No. O1063, GTC and STC Nos. 1.A and 8, and Tex. Health & Safety Code § 382.085(b)
Violation Description Failed to notify the Administrator in writing at least 60 calendar days before the performance test is scheduled. Specifically, the notification for the performance test that was scheduled for June 16, 2020 for the Rotary Concentrator/RTO System was due to the TCEQ Dallas/Fort Worth Regional Office no later than April 17, 2020, but the notification was submitted on May 1, 2020.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
		x			20.0%

Matrix Notes: 100% of the rule requirements were not met.

Adjustment \$20,000

\$5,000

Violation Events

Number of Violation Events: 1 14 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$5,000

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 \$5,000

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount \$39 **Violation Final Penalty Total** \$6,000

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

Economic Benefit Worksheet

Respondent Aquatic Co.
Case ID No. 60524
Reg. Ent. Reference No. RN100219104
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)				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	17-Apr-2020	1-Jun-2023	3.12	\$39	n/a	\$39

Notes for DELAYED costs
 Estimated cost to implement measures and/or procedures designed to ensure that stack test notifications are submitted in a timely manner. The Date Required is the date that the notification 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 \$39

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

Compliance History Report for CN601683733, RN100219104, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

Customer, Respondent, or Owner/Operator: CN601683733, Aquatic Co. **Classification:** SATISFACTORY **Rating:** 1.25

Regulated Entity: RN100219104, AQUATIC **Classification:** SATISFACTORY **Rating:** 1.25

Complexity Points: 16 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 151 INDUSTRIAL STREET, LANCASTER, DALLAS COUNTY, TEXAS

TCEQ Region: REGION 04 - DFW METROPLEX

ID Number(s):

AIR OPERATING PERMITS ACCOUNT NUMBER DB0976P

AIR NEW SOURCE PERMITS ACCOUNT NUMBER DB0976P

AIR NEW SOURCE PERMITS AFS NUM 4811300320

STORMWATER PERMIT TXR05AS30

POLLUTION PREVENTION PLANNING ID NUMBER P00382

INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 33158

AIR OPERATING PERMITS PERMIT 1063

AIR NEW SOURCE PERMITS REGISTRATION 151859

PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 21994

AIR EMISSIONS INVENTORY ACCOUNT NUMBER DB0976P

INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXD096817242

Compliance History Period: September 01, 2016 to August 31, 2021 **Rating Year:** 2021 **Rating Date:** 09/01/2021

Date Compliance History Report Prepared: March 25, 2022

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: March 25, 2017 to March 25, 2022

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

Name: Amanda Diaz

Phone: (713) 422-8912

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:

1 Effective Date: 07/12/2017 ADMINORDER 2016-1764-AIR-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(E)

30 TAC Chapter 116, SubChapter B 116.115(c)

5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Condition No. 16(I) PERMIT

Description: Failed to maintain records of the monthly leak checks for the rotary concentrator's pressure connections.

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)

30 TAC Chapter 122, SubChapter B 122.145(2)(C)

5C THSC Chapter 382 382.085(b)

Rqmt Prov: GTC OP

Description: Failed to submit deviation reports within 30 days after the end of the reporting periods. Specifically, the deviation reports for the March 1, 2014 through August 31, 2014, September 1, 2014 through February 28, 2015, March 1, 2015 through August 31, 2015, and September 1, 2015 through February 29, 2016 reporting periods were due by September 30, 2014, March 30, 2015, September 30, 2015, and March 30, 2016, respectively, but were not submitted.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	May 18, 2017	(1410476)
Item 2	May 30, 2017	(1414712)
Item 3	June 27, 2018	(1483623)
Item 4	March 29, 2019	(1552694)
Item 5	May 20, 2019	(1559304)
Item 6	February 28, 2020	(1632456)
Item 7	August 06, 2020	(1663881)
Item 8	February 22, 2021	(1700619)
Item 9	May 06, 2021	(1710963)

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
AQUATIC CO.
RN100219104

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2021-0373-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 Aquatic Co. (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 together stipulate that:

1. The Respondent owns and operates a plastic composite bath products plant located at 151 Industrial Street in Lancaster, Dallas County, Texas (the "Plant"). The Plant consists or consisted of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$42,000 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$33,600 of the penalty and \$8,400 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order. The deferred amount shall be waived only upon full compliance with all the terms and conditions contained in this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms or requirements contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.
5. 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). 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.

6. 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 Order.
7. 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.
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. The Executive Director recognizes that by August 14, 2022, the Respondent installed the zeolite wheels for the Rotary Concentrator/Regenerative Thermal Oxidizer ("RTO") System at the Plant.

II. ALLEGATIONS

During a record review for the Plant conducted on March 4, 2021, an investigator documented that the Respondent:

1. Failed to reduce the total organic hazardous air pollutants ("o-HAP") emissions by at least 95 percent ("%") by weight and failed to comply with the maximum allowable emissions rate ("MAER"), in violation of 30 TEX. ADMIN. CODE §§ 101.20(2), 113.1060, 116.115(b)(2)(F) and (c), and 122.143(4), 40 CODE OF FEDERAL REGULATIONS ("CFR") § 63.5805(a)(1), New Source Review ("NSR") Permit No. 9519, Special Conditions ("SC") Nos. 1 and 8.B, Federal Operating Permit ("FOP") No. O1063, General Terms and Conditions ("GTC") and Special Terms and Conditions ("STC") Nos. 1.A and 8, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, during the stack test conducted on June 16, 2020, the Respondent reduced the total o-HAP emissions from the Rotary Concentrator/RTO System by 86.8% by weight and exceeded the volatile organic compounds ("VOC") plus HAP MAER of 13.11 pounds per hour ("lbs/hr") by 3.50 lbs/hr for the A-1 to A-5 and A-9 Concentrator Stacks, Emissions Point Number ("EPN") S-101, resulting in approximately 7,950 lbs of unauthorized VOC.
2. Failed to notify the Administrator in writing at least 60 calendar days before the performance test is scheduled, in violation of 30 TEX. ADMIN. CODE §§ 101.20(2), 113.100, 116.115(c), and 122.143(4), 40 CFR § 63.9(e), NSR Permit No. 9519, SC No. 8.A, FOP No. O1063, GTC and STC Nos. 1.A and 8, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the notification for the performance test that was scheduled for June 16, 2020 for the Rotary Concentrator/RTO System was due to the TCEQ Dallas/Fort Worth Regional Office no later than April 17, 2020, but the notification was submitted on May 1, 2020.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this 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. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Aquatic Co., Docket No. 2021-0373-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 at the Plant:
 - a. Within 15 days after the effective date of this Order, submit a notification to the Air Section Manager at the address in Ordering Provision No. 2.1 to schedule a pretest meeting prior to conducting stack sampling for the A-1 to A-5 and A-9 Concentrator Stacks and the Rotary Concentrator/RTO System, in accordance with NSR Permit No. 9519.
 - b. Within 30 days after the effective date of this Order:
 - i. Submit written certification to demonstrate compliance with Ordering Provision No. 2.a, as described in Ordering Provision No. 2.1; and
 - ii. Implement measures and/or procedures designed to ensure that stack test notifications are submitted in a timely manner.
 - c. Within 45 days after the effective date of this Order, submit written certification to demonstrate compliance with Ordering Provision No. 2.b.ii, as described in Ordering Provision No. 2.1.
 - d. Within 60 days after the effective date of this Order, hold a pretest meeting with the TCEQ Dallas/Fort Worth Regional Office to review the test details that include sampling and measuring procedures to be used, the forms required for recordkeeping the pertinent data, and the format and content of the test report as outlined in Chapter 14 of the TCEQ Sampling and Procedures Manual.
 - e. Within 75 days after the effective date of this Order, submit written certification to demonstrate compliance with Ordering Provision No. 2.d, as described in Ordering Provision No. 2.1.
 - f. Within 150 days after the effective date of this Order, conduct a stack test to determine the VOC plus HAP hourly MAER for the A-1 to A-5 and A-9 Concentrator Stacks, EPN S-101, and the reduction of total o-HAP emissions for the Rotary Concentrator/RTO System.

- g. Within 165 days after the effective date of this Order, submit written certification to demonstrate compliance with Ordering Provision No. 2.f, as described in Ordering Provision No. 2.l.
- h. Within 210 days after the effective date of this Order, submit the stack test report to the TCEQ Dallas/Fort Worth Regional Office at the address in Ordering Provision No. 2.l.
- i. Within 225 days after the effective date of this Order, submit written certification to demonstrate compliance with Ordering Provision No. 2.h, as described in Ordering Provision No. 2.l.
- j. Within 240 days after the effective date of this Order, submit an administratively complete application for NSR Permit No. 9519 to increase the VOC plus HAP hourly MAER for the A-1 to A-5 and A-9 Concentrator Stacks, EPN S-101, and to establish the reduction of total o-HAP emissions for the Rotary Concentrator/RTO System, in accordance with 30 TEX. ADMIN. CODE § 116.111, to:

Air Permits Division, MC 163
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- k. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the amendment application for NSR Permit No. 9519 by any deadline specified in writing.
- l. Within 390 days after the effective date of this Order, submit written certification that either the amendment for NSR Permit No. 9519 has been obtained or operations have ceased until the proper authorization is obtained, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. 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:

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

with a copy to:

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

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 Plant 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 Enforcement Division at the address listed above.
7. 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.
8. 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.

9. 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



3/10/2023

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 OAG 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 OAG 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

2-28-23

Date

Tracy Donoho

Name (Printed or typed)

Manager

Title

Authorized Representative of
Aquatic Co.

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.