

**Executive Summary – Enforcement Matter – Case No. 61157  
Owens-Brockway Glass Container Inc.  
RN100216969  
Docket No. 2021-1045-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:**

Owens-Brockway Glass Container, 5200 Beverly Drive, Waco, McLennan County

**Type of Operation:**

Glass manufacturing plant

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** January 14, 2022

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$6,973

**Total Paid to General Revenue:** \$6,973

**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:** April 7, 2021 through July 28, 2021

**Date(s) of NOE(s):** August 3, 2021

**Executive Summary – Enforcement Matter – Case No. 61157  
Owens-Brockway Glass Container Inc.  
RN100216969  
Docket No. 2021-1045-AIR-E**

***Violation Information***

Failed to conduct audio, olfactory, and visual checks for ammonia leaks within the operating area once per day [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), New Source Review Permit No. 2718, Special Conditions No. 20.A, Federal Operating Permit No. O2716, General Terms and Conditions and Special Terms and Conditions No. 5, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

The Order will require the Respondent to:

- a. Within 30 days, begin conducting audio, olfactory, and visual checks for ammonia leaks within the operating area once per day; and
- b. Within 45 days, submit written certification to demonstrate compliance with a.

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Kate Dacy, Enforcement Division, Enforcement Team 4, MC 219, (512) 239-4593; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

**Respondent:** Nandi Tissing, Environmental Engineer, Owens-Brockway Glass Container Inc., 5200 Beverly Drive, Waco, Texas 76710  
Isaac Guinand, Plant Manager, Owens-Brockway Glass Container Inc., 5200 Beverly Drive, Waco, Texas 76710

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

<b>DATES</b>	<b>Assigned</b>	9-Aug-2021	<b>Screening</b>	9-Aug-2021	<b>EPA Due</b>	
	<b>PCW</b>	28-Oct-2021				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Owens-Brockway Glass Container Inc.				
<b>Reg. Ent. Ref. No.</b>	RN100216969				
<b>Facility/Site Region</b>	9-Waco	<b>Major/Minor Source</b>	Major		

## CASE INFORMATION

<b>Enf./Case ID No.</b>	61157	<b>No. of Violations</b>	1
<b>Docket No.</b>	2021-1045-AIR-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Kate Dacy
		<b>EC's Team</b>	Enforcement Team 4
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$5,250
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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.

<b>Compliance History</b>	22.0% Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	\$1,155
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Notes: Enhancement for one NOV with dissimilar violations and one Agreed Order containing a denial of liability.

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts: \$716  
 Estimated Cost of Compliance: \$2,060  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$6,405
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	8.9% Adjustment	\$568
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement to capture the avoided cost of compliance associated with Violation No. 1.

<b>Final Penalty Amount</b>	\$6,973
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$6,973
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<b>DEFERRAL</b>	0.0% Reduction Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: No deferral is recommended for Findings Orders.

<b>PAYABLE PENALTY</b>	\$6,973
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**Screening Date** 9-Aug-2021

**Docket No.** 2021-1045-AIR-E

**PCW**

**Respondent** Owens-Brockway Glass Container Inc.

*Policy Revision 5 (January 28, 2021)*

**Case ID No.** 61157

*PCW Revision February 11, 2021*

**Reg. Ent. Reference No.** RN100216969

**Media** Air

**Enf. Coordinator** Kate Dacy

### 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	1	2%
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)** 22%

#### >> 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 dissimilar violations and one Agreed Order containing a denial of liability.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 22%

#### >> Final Compliance History Adjustment

**Final Adjustment Percentage \*capped at 100%** 22%

**Screening Date** 9-Aug-2021 **Docket No.** 2021-1045-AIR-E **PCW**  
**Respondent** Owens-Brockway Glass Container Inc. *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 61157 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN100216969  
**Media** Air  
**Enf. Coordinator** Kate Dacy

**Violation Number** 1  
**Rule Cite(s)** 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), New Source Review Permit No. 2718, Special Conditions No. 20.A, Federal Operating Permit No. O2716, General Terms and Conditions and Special Terms and Conditions No. 5, and Tex. Health & Safety Code § 382.085(b)  
**Violation Description** Failed to conduct audio, olfactory, and visual checks for ammonia ("NH3") leaks within the operating area once per day. Specifically, the Respondent did not conduct audio, olfactory, and visual checks for NH3 leaks within the operating area for a total of 22 days from May 9, 2020 to April 25, 2021.

**Base Penalty** \$25,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				7.0%
	Potential			x	

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
				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 the environmental receptors as a result of this violation.

**Adjustment** \$23,250

\$1,750

**Violation Events**

Number of Violation Events 3 22 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

**Violation Base Penalty** \$5,250

Three quarterly events are recommended for the instances of non-compliance that occurred from May 9, 2020 to May 25, 2020, from November 26, 2020 to February 21, 2021, and from April 18, 2021 to April 25, 2021.

**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** \$5,250

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

**Estimated EB Amount** \$716 **Violation Final Penalty Total** \$6,973

**This violation Final Assessed Penalty (adjusted for limits)** \$6,973

## Economic Benefit Worksheet

**Respondent** Owens-Brockway Glass Container Inc.  
**Case ID No.** 61157  
**Reg. Ent. Reference No.** RN100216969  
**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	\$1,500	9-May-2020	1-May-2022	1.98	\$148	n/a	\$148
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 begin conducting audio, olfactory, and visual checks for NH3 leaks within the operating area once per day. The Date Required is the first 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)	\$560	25-Apr-2021	9-Aug-2021	0.29	\$8	\$560	\$568

**Notes for AVOIDED costs**

Estimated avoided costs to conduct audio, olfactory, and visual checks for NH3 leaks within the operating area once per day (22 missed checks @ \$25/check plus \$10 interest that began accruing on May 9 and May 10, 2020, May 23 through May 25, 2020, November 26, 2020, November 28, 2020, December 12 and December 13, 2020, January 1 and January 2, 2021, February 13 through February 16, 2021, February 18 through February 21, 2021, April 18, 2021, and April 24, 2021 - the dates of the first 21 days when the checks for NH3 leaks were not conducted). The Date Required is the date of the 22nd day when the check for NH3 leaks was not conducted and the Final Date is the screening date.

Approx. Cost of Compliance \$2,060

**TOTAL** \$716

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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 CN600128904, RN100216969, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

**Customer, Respondent, or Owner/Operator:** CN600128904, Owens-Brockway Glass Container Inc. **Classification:** SATISFACTORY **Rating:** 2.58

**Regulated Entity:** RN100216969, OWENS BROCKWAY GLASS CONTAINER **Classification:** SATISFACTORY **Rating:** 2.58

**Complexity Points:** 11 **Repeat Violator:** NO

**CH Group:** 14 - Other

**Location:** 5200 BEVERLY DRIVE IN WACO, MCLENNAN COUNTY, TEXAS

**TCEQ Region:** REGION 09 - WACO

### ID Number(s):

**AIR OPERATING PERMITS** ACCOUNT NUMBER MB0095I  
**AIR NEW SOURCE PERMITS** ACCOUNT NUMBER MB0095I  
**AIR NEW SOURCE PERMITS** REGISTRATION 145665  
**AIR NEW SOURCE PERMITS** REGISTRATION 151906

**AIR OPERATING PERMITS** PERMIT 2716  
**AIR NEW SOURCE PERMITS** PERMIT 2718  
**AIR NEW SOURCE PERMITS** AFS NUM 4830900002  
**IHW CORRECTIVE ACTION** SOLID WASTE REGISTRATION # (SWR) 31496

**STORMWATER** PERMIT TXR05T737  
**AIR EMISSIONS INVENTORY** ACCOUNT NUMBER MB0095I

**STORMWATER** PERMIT TXR15816J  
**POLLUTION PREVENTION PLANNING** ID NUMBER P00495

**INDUSTRIAL AND HAZARDOUS WASTE** EPA ID TXD007327547

**INDUSTRIAL AND HAZARDOUS WASTE** SOLID WASTE REGISTRATION # (SWR) 31496

**TAX RELIEF** ID NUMBER 17754  
**TAX RELIEF** ID NUMBER 17675  
**TAX RELIEF** ID NUMBER 17679  
**TAX RELIEF** ID NUMBER 17752  
**TAX RELIEF** ID NUMBER 17747  
**TAX RELIEF** ID NUMBER 17748  
**TAX RELIEF** ID NUMBER 17750  
**TAX RELIEF** ID NUMBER 17674

**TAX RELIEF** ID NUMBER 17759  
**TAX RELIEF** ID NUMBER 17678  
**TAX RELIEF** ID NUMBER 17673  
**TAX RELIEF** ID NUMBER 17753  
**TAX RELIEF** ID NUMBER 17746  
**TAX RELIEF** ID NUMBER 17751  
**TAX RELIEF** ID NUMBER 17676  
**TAX RELIEF** ID NUMBER 17677

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

**Date Compliance History Report Prepared:** October 28, 2021

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** October 28, 2016 to October 28, 2021

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

**Name:** Kate Dacy

**Phone:** (512) 239-4593

### 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: 07/10/2018 ADMINORDER 2017-1329-AIR-E (1660 Order-Agreed Order With Denial)  
 Classification: Moderate  
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
 30 TAC Chapter 122, SubChapter B 122.146(2)  
 5C THSC Chapter 382 382.085(b)  
 Rqmt Prov: STC 9 OP

Description: Failure to submit a permit compliance certification no later than 30 days after the end of the certification period as required by 30 TAC 122.146(2).

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

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

Item 1	November 16, 2016	(1372130)
Item 2	January 11, 2017	(1382576)
Item 3	January 12, 2017	(1377670)
Item 4	January 19, 2017	(1383864)
Item 5	March 30, 2017	(1402643)
Item 6	June 28, 2017	(1420677)
Item 7	September 22, 2017	(1438005)
Item 8	November 14, 2017	(1449246)
Item 9	December 19, 2017	(1459441)
Item 10	March 26, 2018	(1478796)
Item 11	May 09, 2018	(1483699)
Item 12	June 05, 2018	(1486440)
Item 13	July 02, 2018	(1498905)
Item 14	July 25, 2018	(1504397)
Item 15	September 13, 2018	(1513535)
Item 16	December 17, 2018	(1532891)
Item 17	February 18, 2019	(1548918)
Item 18	March 20, 2019	(1551836)
Item 19	April 01, 2019	(1549303)
Item 20	April 30, 2019	(1556836)
Item 21	June 04, 2019	(1570749)
Item 22	June 26, 2019	(1576604)
Item 23	July 09, 2019	(1576298)
Item 24	July 23, 2019	(1579702)
Item 25	August 14, 2019	(1582048)
Item 26	September 10, 2019	(1591052)
Item 27	September 11, 2019	(1590933)
Item 28	November 18, 2019	(1605622)
Item 29	November 19, 2019	(1605453)
Item 30	November 26, 2019	(1610986)
Item 31	December 13, 2019	(1613109)
Item 32	January 03, 2020	(1617441)
Item 33	January 10, 2020	(1617662)
Item 34	January 17, 2020	(1618366)
Item 35	March 30, 2020	(1639523)
Item 36	May 06, 2020	(1644944)
Item 37	May 27, 2020	(1650790)
Item 38	June 17, 2020	(1657428)
Item 39	June 24, 2020	(1658217)
Item 40	August 05, 2020	(1665864)
Item 41	August 19, 2020	(1671113)
Item 42	September 23, 2020	(1673231)
Item 43	September 30, 2020	(1673333)
Item 44	November 04, 2020	(1683727)
Item 45	November 18, 2020	(1690332)
Item 46	January 27, 2021	(1699097)
Item 47	March 17, 2021	(1704183)
Item 48	March 31, 2021	(1706512)
Item 49	April 07, 2021	(1705879)
Item 50	June 09, 2021	(1724812)

Item 51 August 12, 2021 (1723943)  
Item 52 October 12, 2021 (1762557)

**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: 05/05/2021 (1705827)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)  
5C THSC Chapter 382 382.085(b)  
Description: Owens-Brockway Glass Container Inc. (Owens-Brockway) Failed to comply with the Title 30 of the Texas of the Administrative Code (TAC) Rule § 101.201(a)(1), which states as soon as practicable, but no later than 24 hours after the discovery of an emissions event, the owner or operator of a regulated entity shall notify the commission office for the region in which the regulated entity is located, and all appropriate local air pollution control agencies with jurisdiction, if the emissions event is  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.134(b)(4)  
Description: Failure to maintain opacity of emission from the boiler stack below 20 percent except during periods of routine MSS.

**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



Description: During the July 12, 2019 investigation, it was documented that Owens-Brockway Glass Container (Owens) failed to report STEERS Incident Nos. 283851, 285914, and 287940 on their May 5, 2018 through November 4, 2018 Deviation Report. Owens also failed to report STEERS Incident Nos. 300418, 304702, and 306649 on their November 5, 2018 through May 4, 2019 Deviation Report. A Notice of Violation is recommended.

Classification: Moderate

Self Report? NO

For Informational Purposes Only

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
Special Condition (36) (B) PERMIT

Description: During the July 12, 2019 investigation, it was documented that the May 5, 2018 through November 4, 2018 Deviation Report submitted by Owens-Brockway Glass Container (Owens) reported a deviation for failing to notify the TCEQ Regional Director within 24-hours of a CEMS malfunction that resulted in more than 24 hours of downtime for Furnace A; therefore, Owens failed to comply with 30 TAC §116.115(c). A Notice of Violation is recommended.

Classification: Moderate

Self Report? NO

For Informational Purposes Only

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
Special Condition (20) (A) PERMIT

Description: During the July 12, 2019 investigation, it was documented that the May 5, 2018 through November 4, 2018 Deviation Report submitted by Owens-Brockway Glass Container (Owens) reported a deviation for failure to perform the daily audio, olfactory, and visual checks for NH3 leaks within the operating area. A Notice of Violation is recommended.

Classification: Moderate

Self Report? NO

For Informational Purposes Only

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
Special Condition (36) (B) PERMIT

Description: During the July 12, 2019 investigation, it was documented that the May 5, 2018 through November 4, 2018 Deviation Report submitted by Owens-Brockway Glass Container (Owens) reported a deviation for failing to notify the TCEQ Regional Director within 24-hours of a CEMS malfunction that resulted in more than 24 hours of downtime for Furnace B; therefore, Owens failed to comply with 30 TAC §116.115(c). A Notice of Violation is recommended.

5 Date: 07/15/2020 (1658235)

Classification: Moderate

Self Report? NO

For Informational Purposes Only

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)

Description: During the July 8, 2020 investigation, it was documented that the May 5, 2019 through November 4, 2019 Deviation Report submitted by Owens-Brockway Glass Container (Owens) reported a deviation for failure to perform completely the daily audio, olfactory, and visual checks for NH3 leaks within the operating area. The deviation report showed a total of 54 daily recordings missed.

6\* Date: 09/09/2020 (1664801)

Classification: Moderate

Self Report? NO

For Informational Purposes Only

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)

Description: Owens-Brockway Glass Container Inc. failed to comply with the Title 30 of the Texas of the Administrative Code (TAC) Rule §101.201(a)(1), which states as soon as practicable, but no later than 24 hours after the discovery of an emissions event, the owner or operator of a regulated entity shall notify the commission office for the region in which the regulated entity is located, and all appropriate local air pollution control agencies with jurisdiction, if the emissions event is reportable.

Classification: Moderate

Self Report? NO For Informational Purposes Only  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
Description: Failure to maintain opacity of emission from the boiler stack below 20 percent except during periods of routine MSS.  
Classification: Moderate

Self Report? NO For Informational Purposes Only  
Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)  
Description: Owens-Brockway Glass Container Inc. failed to comply with the Title 30 of the Texas of the Administrative Code (TAC) Rule §101.201(a)(1), which states as soon as practicable, but no later than 24 hours after the discovery of an emissions event, the owner or operator of a regulated entity shall notify the commission office for the region in which the regulated entity is located, and all appropriate local air pollution control agencies with jurisdiction, if the emissions event is reportable.  
Classification: Moderate

Self Report? NO For Informational Purposes Only  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
Description: Failure to maintain opacity of emission from the boiler stack below 20 percent except during periods of routine MSS.

7\* Date: 05/05/2021 (1705827)  
Classification: Moderate

Self Report? NO For Informational Purposes Only  
Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)  
5C THSC Chapter 382 382.085(b)  
Description: Owens-Brockway Glass Container Inc. (Owens-Brockway) Failed to comply with the Title 30 of the Texas of the Administrative Code (TAC) Rule § 101.201(a)(1), which states as soon as practicable, but no later than 24 hours after the discovery of an emissions event, the owner or operator of a regulated entity shall notify the commission office for the region in which the regulated entity is located, and all appropriate local air pollution control agencies with jurisdiction, if the emissions event is  
Classification: Moderate

Self Report? NO For Informational Purposes Only  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.134(b)(4)  
Description: Failure to maintain opacity of emission from the boiler stack below 20 percent except during periods of routine MSS.

\* NOV's applicable for the Compliance History rating period 9/1/2016 to 8/31/2021

## Appendix B

### All Investigations Conducted During Component Period October 28, 2016 and October 28, 2021

Item 1*	November 16, 2016**	(1372130) For Informational Purposes Only
Item 2*	January 11, 2017**	(1382576) For Informational Purposes Only
Item 3*	January 12, 2017**	(1377670) For Informational Purposes Only
Item 4*	January 19, 2017**	(1383864) For Informational Purposes Only
Item 5*	March 30, 2017**	(1402643) For Informational Purposes Only
Item 6*	June 28, 2017**	(1420677) For Informational Purposes Only
Item 7	August 17, 2017**	(1425059) For Informational Purposes Only

Item 8*	September 22, 2017**	(1438005) For Informational Purposes Only
Item 9*	November 14, 2017**	(1449246) For Informational Purposes Only
Item 10*	December 19, 2017**	(1459441) For Informational Purposes Only
Item 11*	March 26, 2018**	(1478796) For Informational Purposes Only
Item 12*	May 09, 2018**	(1483699) For Informational Purposes Only
Item 13*	June 05, 2018**	(1486440) For Informational Purposes Only
Item 14*	July 02, 2018**	(1498905) For Informational Purposes Only
Item 15*	July 25, 2018**	(1504397) For Informational Purposes Only
Item 16	August 03, 2018**	(1505734) For Informational Purposes Only
Item 17*	September 13, 2018**	(1513535) For Informational Purposes Only
Item 18	October 10, 2018**	(1517982) For Informational Purposes Only
Item 19*	December 17, 2018**	(1532891) For Informational Purposes Only
Item 20*	February 18, 2019**	(1548918) For Informational Purposes Only
Item 21*	March 20, 2019**	(1551836) For Informational Purposes Only
Item 22*	April 01, 2019**	(1549303) For Informational Purposes Only
Item 23*	April 30, 2019**	(1556836) For Informational Purposes Only
Item 24*	June 04, 2019**	(1570749) For Informational Purposes Only
Item 25*	June 26, 2019**	(1576604) For Informational Purposes Only
Item 26*	July 09, 2019**	(1576298) For Informational Purposes Only
Item 27	July 23, 2019**	(1579191) For Informational Purposes Only
Item 28*	August 14, 2019**	(1582048) For Informational Purposes Only

(1591052)  
Item 29\* September 10, 2019\*\* For Informational Purposes Only

(1590933)  
Item 30\* September 11, 2019\*\* For Informational Purposes Only

(1605622)  
Item 31\* November 18, 2019\*\* For Informational Purposes Only

(1605453)  
Item 32\* November 19, 2019\*\* For Informational Purposes Only

(1610986)  
Item 33\* November 26, 2019\*\* For Informational Purposes Only

(1613109)  
Item 34\* December 13, 2019\*\* For Informational Purposes Only

(1617441)  
Item 35\* January 03, 2020\*\* For Informational Purposes Only

(1617662)  
Item 36\* January 10, 2020\*\* For Informational Purposes Only

(1618366)  
Item 37\* January 17, 2020\*\* For Informational Purposes Only

(1639523)  
Item 38\* March 30, 2020\*\* For Informational Purposes Only

(1644944)  
Item 39\* May 06, 2020\*\* For Informational Purposes Only

(1650790)  
Item 40\* May 27, 2020\*\* For Informational Purposes Only

(1657428)  
Item 41\* June 17, 2020\*\* For Informational Purposes Only

(1658217)  
Item 42\* June 24, 2020\*\* For Informational Purposes Only

(1658235)  
Item 43 July 15, 2020\*\* For Informational Purposes Only

(1665864)  
Item 44\* August 05, 2020\*\* For Informational Purposes Only

(1671113)  
Item 45\* August 19, 2020\*\* For Informational Purposes Only

(1664801)  
Item 46 September 09, 2020\*\* For Informational Purposes Only

(1673231)  
Item 47\* September 23, 2020\*\* For Informational Purposes Only

(1673333)  
Item 48\* September 30, 2020\*\* For Informational Purposes Only

(1683727)  
Item 49\* November 04, 2020\*\* For Informational Purposes Only

Item 50*	November 18, 2020**	(1690332) For Informational Purposes Only
Item 51*	January 27, 2021**	(1699097) For Informational Purposes Only
Item 52*	March 17, 2021**	(1704183) For Informational Purposes Only
Item 53*	March 31, 2021**	(1706512) For Informational Purposes Only
Item 54*	April 07, 2021**	(1705879) For Informational Purposes Only
Item 55	May 05, 2021**	(1705827) For Informational Purposes Only
Item 56*	June 09, 2021**	(1724812) For Informational Purposes Only
Item 57	August 03, 2021**	(1738157) For Informational Purposes Only
Item 58*	August 12, 2021**	(1723943) For Informational Purposes Only
Item 59*	October 12, 2021	(1762557) For Informational Purposes Only

\* No violations documented during this investigation

\*\*Investigation applicable for the Compliance History Rating period between 09/01/2016 and 08/31/2021.

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
OWENS-BROCKWAY GLASS  
CONTAINER INC.  
RN100216969**

§  
§  
§  
§  
§

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2021-1045-AIR-E**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Owens-Brockway Glass Container Inc. (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 glass manufacturing plant located at 5200 Beverly Drive in Waco, McLennan 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. During a record review conducted from April 7, 2021 through July 28, 2021, an investigator documented that the Respondent did not conduct audio, olfactory, and visual checks for ammonia ("NH<sub>3</sub>") leaks within the operating area for a total of 22 days from May 9, 2020 to April 25, 2021.

## 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 conduct audio, olfactory, and visual checks for NH<sub>3</sub> leaks within the operating area once per day, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), New Source Review Permit No. 2718, Special Conditions No. 20.A, Federal Operating Permit No. O2716, General Terms and Conditions and Special Terms and Conditions No. 5, and TEX. HEALTH & SAFETY CODE § 382.085(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 \$6,973 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 \$6,973 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: Owens-Brockway Glass Container Inc., Docket No. 2021-1045-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, begin conducting audio, olfactory, and visual checks for NH<sub>3</sub> leaks within the operating area once per day.

- 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  
Waco Regional Office  
Texas Commission on Environmental Quality  
6801 Sanger Avenue, Suite 2500  
Waco, Texas 76710-7826

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 Order Compliance Team at the address listed above.

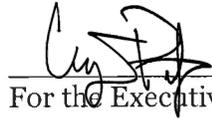
7. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms in this Order.
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



\_\_\_\_\_  
5/18/2022

\_\_\_\_\_  
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

\_\_\_\_\_  
ISAAC GOLWAND

\_\_\_\_\_  
12/3/21  
PLANT MANAGER

Name (Printed or typed)  
Authorized Representative of  
Owens-Brockway Glass Container Inc.

\_\_\_\_\_  
Title

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.