

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 61597  
Pro-Crete Ready Mix, LLC  
RN102390051  
Docket No. 2021-1518-WQ-E

Page 1 of 2

**Order Type:**

Default Order (SOAH preliminary hearing)

**Media:**

WQ

**Small Business:**

N/A

**Location Where Violations Occurred:**

4500 Great Trinity Forest Way, Dallas, Dallas County

**Type of Operation:**

concrete batch plant

**Other Significant Matters:**

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

**Texas Register Publication Date:** October 18, 2024

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$12,500

**Total Paid to General Revenue:** \$0

**Total Due to General Revenue:** \$12,500

**Compliance History Classifications:**

Person/CN – High  
Site/RN – High

**Major Source:** No

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** January 28, 2021

**Investigation Information**

**Complaint Date:** N/A

**Date of Investigation:** September 7, 2021

**Date of NOV:** N/A

**Date of NOE:** November 5, 2021

**Pro-Crete Ready Mix, LLC  
RN102390051  
Docket No. 2021-1518-WQ-E**

**Violation Information**

1. Failed to submit monitoring results at the intervals specified in the permit [30 TEX. ADMIN. CODE §§ 305.125(1) and (17) and 319.7(d), and the Texas Pollutant Discharge Elimination System (“TPDES”) General Permit No. TXG112472, Part III, Section A, Permit Requirements No. 1, and Part IV, Standard Permit Conditions No. 7.f].
2. Failed to submit monitoring results at the intervals specified in the permit [30 TEX. ADMIN. CODE §§ 305.125(1) and (17) and 319.7(d), and TPDES General Permit No. TXG112472, Part III, Section A, Permit Requirements No. 2, and Part IV, Standard Permit Conditions No. 7.f].
3. Failed to submit monitoring results at the intervals specified in the permit [30 TEX. ADMIN. CODE §§ 305.125(1) and (17) and 319.7(d), and TPDES General Permit No. TXG112472, Part III, Section A, Permit Requirements No. 5, and Part IV, Standard Permit Conditions No. 7.f].

**Corrective Actions/Technical Requirements**

**Corrective Action(s) Completed:**

None

**Technical Requirements:**

Respondent no longer owns or operates the Facility as of June 21, 2021.

**Litigation Information**

**Date Petition Filed:** April 8, 2024  
**Date of Service:** April 13, 2024  
**Date Answer Filed:** May 7, 2024  
**SOAH Referral Date:** July 10, 2024  
**Hearing Date:**  
Preliminary hearing: September 12, 2024

**Contact Information**

**TCEQ Attorneys:** Casey Kurnath, Litigation Division, (512) 239-3400  
Sheldon Wayne, Public Interest Counsel, (512) 239-6363  
**TCEQ Litigation Agenda Coordinator:** Katherine McKenzie, Litigation Division, (512) 239-2575  
**TCEQ Enforcement Coordinator:** Harley Hobson, Enforcement Division, (512) 239-1337  
**TCEQ Regional Contact:** Brent Candler, Dallas/Fort Worth Regional Office, (817) 588-5800  
**Respondent Contact:** Terry Daniel, Manager, Pro-Crete Ready Mix, LLC, 120 W Avenue K, Midlothian, Texas 76065  
**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>	23-Nov-2021	<b>Screening</b>	23-Nov-2021	<b>EPA Due</b>	
	<b>PCW</b>	24-Nov-2021				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Pro-Crete Ready Mix, LLC				
<b>Reg. Ent. Ref. No.</b>	RN102390051				
<b>Facility/Site Region</b>	4-Dallas/Fort Worth	<b>Major/Minor Source</b>	Minor		

## CASE INFORMATION

<b>Enf./Case ID No.</b>	61597	<b>No. of Violations</b>	3
<b>Docket No.</b>	2021-1518-WQ-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Harley Hobson
		<b>EC's Team</b>	Enforcement Team 1
<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>	\$12,500
---	-------------------	----------

## 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>	-10.0%	<b>Adjustment</b>	<b>Subtotals 2, 3, &amp; 7</b>	-\$1,250
---------------------------	--------	-------------------	--------------------------------	----------

Notes Reduction for High Performer classification.

<b>Culpability</b>	No	0.0%	<b>Enhancement</b>	<b>Subtotal 4</b>	\$0
--------------------	----	------	--------------------	-------------------	-----

Notes The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
--	-------------------	-----

<b>Economic Benefit</b>	0.0%	<b>Enhancement*</b>	<b>Subtotal 6</b>	\$0
-------------------------	------	---------------------	-------------------	-----

Total EB Amounts \$396  
Estimated Cost of Compliance \$2,000  
\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$11,250
-----------------------------	-----------------------	----------

<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	11.1%	<b>Adjustment</b>	\$1,250
---	-------	-------------------	---------

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Recommended enhancement to offset the High Performer reduction (\$1,250).

<b>Final Penalty Amount</b>	\$12,500
-----------------------------	----------

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$12,500
-----------------------------------	-------------------------------	----------

<b>DEFERRAL</b>	0.0%	<b>Reduction</b>	<b>Adjustment</b>	\$0
-----------------	------	------------------	-------------------	-----

Reduces the Final Assessed Penalty by the indicated percentage.

Notes Deferral not offered for non-expedited settlement.

<b>PAYABLE PENALTY</b>	\$12,500
------------------------	----------

<b>Screening Date</b>	23-Nov-2021	<b>Docket No.</b>	2021-1518-WQ-E	<b>PCW</b>
<b>Respondent</b>	Pro-Crete Ready Mix, LLC			<i>Policy Revision 5 (January 28, 2021)</i>
<b>Case ID No.</b>	61597			<i>PCW Revision February 11, 2021</i>
<b>Reg. Ent. Reference No.</b>	RN102390051			
<b>Media</b>	Water Quality			
<b>Enf. Coordinator</b>	Harley Hobson			

### 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)

High Performer

**Adjustment Percentage (Subtotal 7)** -10%

#### >> Compliance History Summary

**Compliance History Notes**

Reduction for High Performer classification.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** -10%

#### >> Final Compliance History Adjustment

**Final Adjustment Percentage \*capped at 100%** -10%

<b>Screening Date</b>	23-Nov-2021	<b>Docket No.</b>	2021-1518-WQ-E	<b>PCW</b>
<b>Respondent</b>	Pro-Crete Ready Mix, LLC			Policy Revision 5 (January 28, 2021)
<b>Case ID No.</b>	61597			PCW Revision February 11, 2021
<b>Reg. Ent. Reference No.</b>	RN102390051			
<b>Media</b>	Water Quality			
<b>Enf. Coordinator</b>	Harley Hobson			
<b>Violation Number</b>	1			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code §§ 305.125(1) and (17) and 319.7(d) and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG112472, Part III, Section A, Permit Requirements No. 1; and Part IV, Standard Permit Conditions No. 7.f			
<b>Violation Description</b>	Failed to submit monitoring results at the intervals specified in the permit. Specifically, the monthly conventional pollutants discharge monitoring reports ("DMRs") were not submitted for the monthly monitoring periods of April 2019, December 2020, and January 2021 by the 20th day of the following month.			
		<b>Base Penalty</b>	\$25,000	

>> Environmental, Property and Human Health Matrix

OR

		<b>Harm</b>	
<b>Release</b>	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor
		x		

Percent 10.0%

Matrix Notes

100% of the rule requirements were not met.

Adjustment \$22,500

\$2,500

Violation Events

Number of Violation Events 3

92

Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$7,500

Three single events are recommended, one for each missed report.

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 \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount	\$396	Violation Final Penalty Total	\$7,500
This violation Final Assessed Penalty (adjusted for limits)		\$7,500	

## Economic Benefit Worksheet

**Respondent** Pro-Crete Ready Mix, LLC  
**Case ID No.** 61597  
**Reg. Ent. Reference No.** RN102390051  
**Media** Water Quality  
**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
<b>Delayed Costs</b>							
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)	\$2,000	20-May-2019	3-May-2023	3.96	\$396	n/a	\$396
Notes for DELAYED costs	Estimated cost to submit the DMRs for the missed monitoring periods, update the Plant's operational guidance, and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified monthly and annual DMRs. The Date Required is the earliest DMR due date, and the Final Date is the estimated date of compliance.						
<b>Avoided Costs</b>							
<b>ANNUALIZE avoided costs before entering item (except for one-time avoided costs)</b>							
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	\$2,000			<b>TOTAL</b>		\$396	

<b>Screening Date</b>	23-Nov-2021	<b>Docket No.</b>	2021-1518-WQ-E	<b>PCW</b>	
<b>Respondent</b>	Pro-Crete Ready Mix, LLC				<i>Policy Revision 5 (January 28, 2021)</i>
<b>Case ID No.</b>	61597				<i>PCW Revision February 11, 2021</i>
<b>Reg. Ent. Reference No.</b>	RN102390051				
<b>Media</b>	Water Quality				
<b>Enf. Coordinator</b>	Harley Hobson				
<b>Violation Number</b>	2				
<b>Rule Cite(s)</b>	30 Tex. Admin. Code §§ 305.125(1) and (17) and 319.7(d) and TPDES General Permit No. TXG112472, Part III, Section A, Permit Requirements No. 2; and Part IV, Standard Permit Conditions No. 7.f				
<b>Violation Description</b>	Failed to submit monitoring results at the intervals specified in the permit. Specifically, the annual hazardous metals DMRs were not submitted for the annual monitoring period of 2020 by March 31st of the following year.				
		<b>Base Penalty</b>	\$25,000		

  

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

<b>OR</b>		<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor	
	Actual				
	Potential				<b>Percent</b> 0.0%

  

**>> Programmatic Matrix**

	<b>Falsification</b>	Major	Moderate	Minor	
		x			<b>Percent</b> 10.0%
<b>Matrix Notes</b>	100% of the rule requirements were not met.				
					<b>Adjustment</b> \$22,500

\$2,500

  

**Violation Events**

Number of Violation Events	1	Number of violation days	237														
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td>daily</td><td></td></tr> <tr><td>weekly</td><td></td></tr> <tr><td>monthly</td><td></td></tr> <tr><td>quarterly</td><td></td></tr> <tr><td>semiannual</td><td></td></tr> <tr><td>annual</td><td></td></tr> <tr><td>single event</td><td style="text-align: center;">x</td></tr> </table>	daily		weekly		monthly		quarterly		semiannual		annual		single event	x		
daily																	
weekly																	
monthly																	
quarterly																	
semiannual																	
annual																	
single event	x																
		<b>Violation Base Penalty</b>	\$2,500														
	One single event is recommended.																

  

**Good Faith Efforts to Comply**

	<b>0.0%</b>			
	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer		
Extraordinary				
Ordinary				
N/A	x			
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.			
		<b>Violation Subtotal</b>	\$2,500	

  

**Economic Benefit (EB) for this violation**

	<b>Statutory Limit Test</b>
<b>Estimated EB Amount</b>	\$0
<b>Violation Final Penalty Total</b>	\$2,500
<b>This violation Final Assessed Penalty (adjusted for limits)</b>	
\$2,500	

# Economic Benefit Worksheet

**Respondent** Pro-Crete Ready Mix, LLC  
**Case ID No.** 61597  
**Reg. Ent. Reference No.** RN102390051  
**Media** Water Quality  
**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
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

## 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)				0.00	\$0	n/a	\$0
Notes for DELAYED costs	See Economic Benefit Worksheet for Violation No. 1.						

## 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

\$0

**TOTAL**

\$0

<b>Screening Date</b> 23-Nov-2021 <b>Respondent</b> Pro-Crete Ready Mix, LLC <b>Case ID No.</b> 61597 <b>Reg. Ent. Reference No.</b> RN102390051 <b>Media</b> Water Quality <b>Enf. Coordinator</b> Harley Hobson	<b>Docket No.</b> 2021-1518-WQ-E	<b>PCW</b> <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>
<b>Violation Number</b> <span style="border: 1px solid black; padding: 2px;">3</span>		
<b>Rule Cite(s)</b> 30 Tex. Admin. Code §§ 305.125(1) and (17) and 319.7(d) and TPDES General Permit No. TXG112472, Part III, Section A, Permit Requirements No. 5; and Part IV, Standard Permit Conditions No. 7.f		
<b>Violation Description</b> Failed to submit monitoring results at the intervals specified in the permit. Specifically, the annual whole effluent toxicity DMRs for the water flea and fathead minnow were not submitted for the annual monitoring period of 2020 by March 31st of the following year.		
<b>Base Penalty</b>		\$25,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
		Actual	Potential	Potential	
					0.0%

**>> Programmatic Matrix**

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
		x			
	100% of the rule requirements were not met.				
<b>Adjustment</b>					\$22,500

\$2,500

**Violation Events**

Number of Violation Events	1	Number of violation days	237
----------------------------	---	--------------------------	-----

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

**Violation Base Penalty** \$2,500

One single event is recommended.

**Good Faith Efforts to Comply**

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer	
Extraordinary			Reduction <span style="border: 1px solid black; padding: 2px;">\$0</span>
Ordinary			
N/A	x		

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

**Violation Subtotal** \$2,500

**Economic Benefit (EB) for this violation**

<b>Estimated EB Amount</b>	\$0	<b>Statutory Limit Test</b>
		<b>Violation Final Penalty Total</b> <span style="border: 1px solid black; padding: 2px;">\$2,500</span>
		<b>This violation Final Assessed Penalty (adjusted for limits)</b> <span style="border: 1px solid black; padding: 2px;">\$2,500</span>

# Economic Benefit Worksheet

**Respondent** Pro-Crete Ready Mix, LLC  
**Case ID No.** 61597  
**Reg. Ent. Reference No.** RN102390051  
**Media** Water Quality  
**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

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

## 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)				0.00	\$0	n/a	\$0
Notes for DELAYED costs	See Economic Benefit Worksheet for Violation No. 1.						

## 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

**TOTAL**

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 CN605640861, RN102390051, Rating Year 2022 which includes Compliance History (CH) components from September 1, 2017, through August 31, 2022.

**Customer, Respondent, or Owner/Operator:** CN605640861, Pro-Crete Ready Mix, LLC **Classification:** HIGH **Rating:** 0.00

**Regulated Entity:** RN102390051, TEXAS STAR READY MIX **Classification:** HIGH **Rating:** 0.00

**Complexity Points:** 8 **Repeat Violator:** NO

**CH Group:** 10 - Cement and Concrete Product Manufacturing

**Location:** 4500 Great Trinity Forest Way, in Dallas, Dallas County, Texas

**TCEQ Region:** REGION 04 - DFW METROPLEX

**ID Number(s):**

**AIR NEW SOURCE PERMITS** REGISTRATION 39039

**AIR NEW SOURCE PERMITS** AFS NUM 4811300957

**STORMWATER** PERMIT TXR1549KU

**AIR EMISSIONS INVENTORY** ACCOUNT NUMBER DB04150

**AIR NEW SOURCE PERMITS** ACCOUNT NUMBER DB04150

**PETROLEUM STORAGE TANK REGISTRATION** REGISTRATION 1239

**WASTEWATER** PERMIT TXG113001

**Compliance History Period:** September 01, 2017 to August 31, 2022 **Rating Year:** 2022 **Rating Date:** 09/01/2022

**Date Compliance History Report Prepared:** November 18, 2022

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** November 18, 2017 to November 18, 2022

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

**Name:** Ellen Ojeda **Phone:** (512) 239-2581

**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.):**

Item 1	August 26, 2019	(1596307)
Item 2	September 03, 2019	(1609467)
Item 3	October 14, 2019	(1616318)
Item 4	November 07, 2019	(1622098)
Item 5	December 17, 2019	(1629434)
Item 6	January 16, 2020	(1637086)
Item 7	February 19, 2020	(1643649)
Item 8	March 28, 2020	(1650265)
Item 9	April 18, 2020	(1656617)

Item 10	May 15, 2020	(1663095)
Item 11	June 11, 2020	(1669658)
Item 12	July 09, 2020	(1676649)
Item 13	August 17, 2020	(1683406)
Item 14	September 02, 2020	(1689982)
Item 15	October 05, 2020	(1696290)
Item 16	November 03, 2020	(1721533)
Item 17	December 01, 2020	(1721534)

**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 NOV's Issued During Component Period 11/18/2017 and 11/18/2022**

1	Date:	08/23/2021	(1773023)		
	Self Report?	NO		Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)			
	Description:	NON-RPT VIOS FOR MONIT PER OR PIPE			
	Self Report?	NO		Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)			
	Description:	NON-RPT VIOS FOR MONIT PER OR PIPE			
	Self Report?	NO		Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)			
	Description:	NON-RPT VIOS FOR MONIT PER OR PIPE			
	Self Report?	NO		Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)			
	Description:	NON-RPT VIOS FOR MONIT PER OR PIPE			
	Self Report?	NO		Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)			
	Description:	NON-RPT VIOS FOR MONIT PER OR PIPE			

Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		

\* NOV's applicable for the Compliance History rating period 9/1/2017 to 8/31/2022

## Appendix B

### All Investigations Conducted During Component Period November 18, 2017 and November 18, 2022

Item 1*	August 26, 2019**	(1596307)
Item 2*	September 03, 2019**	(1609467)
Item 3*	October 14, 2019**	(1616318)
Item 4*	November 07, 2019**	(1622098)
Item 5*	December 17, 2019**	(1629434)
Item 6*	January 16, 2020**	(1637086)
Item 7*	February 19, 2020**	(1643649)
Item 8*	March 28, 2020**	(1650265)
Item 9*	April 18, 2020**	(1656617)
Item 10*	May 15, 2020**	(1663095)
Item 11*	June 11, 2020**	(1669658)
Item 12*	July 09, 2020**	(1676649)
Item 13*	August 17, 2020**	(1683406)
Item 14*	September 02, 2020**	(1689982)
Item 15*	October 05, 2020**	(1696290)
Item 16*	November 03, 2020**	(1721533)
Item 17*	December 01, 2020**	(1721534)
Item 18	August 23, 2021**	(1773023)
Item 19	November 15, 2021**	(1761680)
Item 20	October 12, 2022	(1846525)

\* No violations documented during this investigation

\*\*Investigation applicable for the Compliance History Rating period between 09/01/2017 and 08/31/2022.

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
PRO-CRETE READY MIX, LLC;  
RN102390051

§  
§  
§  
§  
§  
§

BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

## DEFAULT ORDER

DOCKET NO. 2021-1518-WQ-E

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition, filed pursuant to TEX. WATER CODE chs. 7 and 26, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty. The respondent made the subject of this Order is Pro-Crete Ready Mix, LLC ("Respondent").

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

### FINDINGS OF FACT

1. Respondent owned and operated a concrete batch plant located at 4500 Great Trinity Forest Way in Dallas, Dallas County, Texas (the "Facility"). The Facility is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001.
2. During a record review conducted on September 7, 2021, an investigator documented that Respondent:
  - a. Failed to submit monitoring results at the intervals specified in the permit. Specifically, the monthly conventional pollutants discharge monitoring reports ("DMRs") were not submitted for the monthly monitoring periods of April 2019, December 2020, and January 2021 by the 20<sup>th</sup> day of the following month;
  - b. Failed to submit monitoring results at the intervals specified in the permit. Specifically, the annual hazardous metals DMRs were not submitted for the annual monitoring period of 2020 by March 31<sup>st</sup> of the following year; and
  - c. Failed to submit monitoring results at the intervals specified in the permit. Specifically, the annual whole effluent toxicity DMRs for the water flea and fathead minnow were not submitted for the annual monitoring period of 2020 by March 31<sup>st</sup> of the following year.
3. The Executive Director recognizes that Respondent no longer owns or operates the Facility as of June 21, 2021.
4. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against Pro-Crete Ready Mix, LLC" (the "EDPRP") in the TCEQ Chief Clerk's office on April 8, 2024.
5. Respondent filed an answer requesting a hearing on May 7, 2024, and the matter was referred to the State Office of Administrative Hearings ("SOAH") on July 10, 2024.
6. On August 22, 2024, the TCEQ Chief Clerk mailed notice of the preliminary hearing via certified mail, return receipt requested, and via first class mail, postage prepaid to Respondent.

7. On September 12, 2024, the Administrative Law Judge ("ALJ") convened the preliminary hearing. Respondent failed to appear, and the Executive Director requested that the ALJ enter a finding that Respondent was served with proper notice of the hearing and the matter be dismissed from the SOAH Docket and remanded to the Executive Director so that a Default Order may be entered by the Commission.
8. On September 16, 2024, the ALJ entered a finding that Respondent was served with proper notice of the hearing and remanded the matter to the Executive Director by SOAH Order No. 2 so that TCEQ may dispose of this case on a default basis.

#### CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to submit monitoring results at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and (17) and 319.7(d), and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG112472, Part III, Section A, Permit Requirements No. 1, and Part IV, Standard Permit Conditions No. 7.f.
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to submit monitoring results at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and (17) and 319.7(d), and TPDES General Permit No. TXG112472, Part III, Section A, Permit Requirements No. 2, and Part IV, Standard Permit Conditions No. 7.f.
4. As evidenced by Findings of Fact No. 2.c., Respondent failed to submit monitoring results at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and (17) and 319.7(d), and TPDES General Permit No. TXG112472, Part III, Section A, Permit Requirements No. 5, and Part IV, Standard Permit Conditions No. 7.f.
5. As evidenced by Finding of Fact No. 5, Respondent filed an answer requesting a hearing as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105, and the matter was referred to SOAH pursuant to 1 TEX. ADMIN. CODE §§ 155.53(b) and 155.101(d) and 30 TEX. ADMIN. CODE § 70.109.
6. As evidenced by Finding of Fact No. 6, Respondent was provided proper notice of the preliminary hearing in accordance with TEX. GOV'T CODE §§ 2001.051(1) and 2001.052, TEX. WATER CODE § 7.058, 1 TEX. ADMIN. CODE §§ 155.105(b), 155.401, and 155.501, and 30 TEX. ADMIN. CODE §§ 1.11, 1.12, 39.405, 39.413, 39.423, and 80.6.
7. As evidenced by Findings of Fact Nos. 7 and 8, Respondent failed to appear for the preliminary hearing, and pursuant to TEX. GOV'T CODE § 2001.056(4) and 1 TEX. ADMIN. CODE 155.501(e), the ALJ dismissed the case from the SOAH docket so that the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE 70.106(b).
8. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
9. An administrative penalty in the amount of \$12,500 is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
10. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

### ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty in the amount of \$12,500 for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations which are not raised here.
2. The penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to TCEQ and shall be sent with the notation "Re: Pro-Crete Ready Mix, LLC; Docket No. 2021-1518-WQ-E" to:

Financial Administration Division, Revenue Operations Section  
Texas Commission on Environmental Quality  
Attention: Cashier's Office, MC 214  
P.O. Box 13088  
Austin, Texas 78711-3088
3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Respondent.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
8. 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.
9. 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.
10. The Chief Clerk shall provide a copy of this fully executed Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

**S I G N A T U R E   P A G E**

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

\_\_\_\_\_  
For the Commission

\_\_\_\_\_  
Date

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



## UNSWORN DECLARATION OF CASEY KURNATH

"On behalf of the Executive Director of the Texas Commission on Environmental Quality, the 'Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against Pro-Crete Ready Mix, LLC' (the "EDPRP") was filed in the TCEQ Chief Clerk's office on April 8, 2024.

Respondent filed an answer requesting a hearing on May 7, 2024, and the matter was referred to the State Office of Administrative Hearings ("SOAH") on July 10, 2024. On August 22, 2024, the TCEQ Chief Clerk mailed notice of the preliminary hearing via certified mail, return receipt requested, and via first class mail, postage prepaid to Respondent.

Respondent failed to appear at the hearing on September 12, 2024. At that hearing, I requested that the ALJ enter a finding that Respondent was served with proper notice of the hearing and the matter be remanded to the Executive Director pursuant to 1 TEX. ADMIN. CODE § 155.501(e), which gives an ALJ the authority to remand the case back to the TCEQ for informal disposition on a default basis in accordance with TEX. GOV'T CODE § 2001.056.

The ALJ remanded the matter to the Executive Director by SOAH Order No. 2, issued on September 16, 2024, so that TCEQ may dispose of this case on a default basis."

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

Executed in Austin County,  
State of Texas,  
on the 27th day of September, 2024

*Casey Kurnath*

---

Declarant