

Mark Alvarez
 RN105809016
 Docket No. 2022-0444-AIR-E

Order Type:
 Default Order

Media:
 AIR

Small Business:
 Yes

Location(s) Where Violation(s) Occurred:
 1421 North Lee Trevino Drive, Suite C1, El Paso, El Paso County

Type of Operation:
 auto body repair and refinishing facility (the “Site”)

Other Significant Matters:

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	\$2,000
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

Texas Register Publication Date: September 29, 2023

Comments Received: None

Penalty Information

Total Penalty Assessed: \$50,625

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$50,625

Compliance History Classifications:

Person/CN - unsatisfactory
 Site/RN - unsatisfactory

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: January 28, 2021

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: March 25, 2022

Date(s) of NOV(s): N/A

Date(s) of NOE(s): April 8, 2022

Mark Alvarez
RN105809016
Docket No. 2022-0444-AIR-E

Violation Information

1. Failed to obtain authorization prior to constructing or modifying a source of air contaminants [TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b), 30 TEX. ADMIN. CODE § 116.110(a), and TCEQ Default Order Docket No. 2019-1234-AIR-E, Ordering Provision No. 3.a.i.].
2. Caused, suffered, allowed, or permitted volatile organic compound emissions to exceed the coatings and solvents emissions limit as delivered to the application system [TEX. HEALTH & SAFETY CODE § 382.085(b), 30 TEX. ADMIN. CODE § 115.421(12), and TCEQ Default Order Docket No. 2019-1234-AIR-E, Ordering Provision No. 3.a.ii.].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

None

Technical Requirements:

Respondent no longer owns or operates the Site as of September 19, 2022.

Litigation Information

Date Petition(s) Filed: March 23, 2023

Date(s) of Service: March 27, 2023

Date Answer(s) Filed: N/A

Contact Information

TCEQ Attorneys: William Hogan, 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: Desmond Martin, Enforcement Division, (512) 239-1704

TCEQ Regional Contact: Kent Waggoner, P.G., El Paso Regional Office, (915) 834-4949

Respondent Contact: Mark Alvarez, 1434 Lomaland Drive, El Paso, Texas 79935

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	12-Apr-2022	Screening	18-Apr-2022	EPA Due	
	PCW	29-Apr-2022				

RESPONDENT/FACILITY INFORMATION	
Respondent	Mark Alvarez
Reg. Ent. Ref. No.	RN105809016
Facility/Site Region	6-El Paso
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	58218	No. of Violations	2
Docket No.	2022-0444-AIR-E	Order Type	Findings
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Toni Red
		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	\$37,500
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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	35.0%	Adjustment	Subtotals 2, 3, & 7	\$13,125
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Notes: Enhancement for one default order and Unsatisfactory Performer classification.

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: \$619
 Estimated Cost of Compliance: \$5,500
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$50,625
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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	\$50,625
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$50,625
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DEFERRAL	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.

PAYABLE PENALTY	\$50,625
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Screening Date 18-Apr-2022

Docket No. 2022-0444-AIR-E

PCW

Respondent Mark Alvarez

Policy Revision 5 (January 28, 2021)

Case ID No. 58218

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN105809016

Media Air

Enf. Coordinator Toni Red

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	1	25%
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) 25%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Unsatisfactory Performer

Adjustment Percentage (Subtotal 7) 10%

>> Compliance History Summary

Compliance History Notes

Enhancement for one default order and Unsatisfactory Performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 35%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 35%

Screening Date 18-Apr-2022
Respondent Mark Alvarez
Case ID No. 58218
Reg. Ent. Reference No. RN105809016
Media Air
Enf. Coordinator Toni Red

Docket No. 2022-0444-AIR-E

PCW

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 116.110(a), Tex. Health & Safety Code §§ 382.0518(a) and 382.085(b), and TCEQ Default Order Docket No. 2019-1234-AIR-E, Ordering Provision No. 3.a.i

Violation Description Failed to obtain authorization prior to constructing or modifying a source of air contaminants. Specifically, the Respondent constructed and operated an auto body repair and refinishing facility prior to obtaining the proper authorization.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
			x		

100% of the rule requirements were not met.

Adjustment \$22,500

\$2,500

Violation Events

Number of Violation Events 6 Number of violation days 457

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$15,000

Six quarterly events are recommended from the January 16, 2021 effective date of TCEQ Default Order Docket No. 2019-1234-AIR-E to the April 18, 2022 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 \$15,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$572

Violation Final Penalty Total \$20,250

This violation Final Assessed Penalty (adjusted for limits) \$20,250

Economic Benefit Worksheet

Respondent Mark Alvarez
Case ID No. 58218
Reg. Ent. Reference No. RN105809016
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$5,000	16-Jan-2021	1-May-2023	2.29	\$572	n/a	\$572
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to obtain authorization for the auto body repair and refinishing facility and the associated emissions at the Site. The Date Required is the effective date of TCEQ Default Order Docket No. 2019-1234-AIR-E 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

\$5,000

TOTAL

\$572

Screening Date 18-Apr-2022 **Docket No.** 2022-0444-AIR-E **PCW**
Respondent Mark Alvarez *Policy Revision 5 (January 28, 2021)*
Case ID No. 58218 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN105809016
Media Air
Enf. Coordinator Toni Red

Violation Number

Rule Cite(s)
 30 Tex. Admin. Code § 115.421(12), Tex. Health & Safety Code § 382.085(b), and TCEQ Default Order Docket No. 2019-1234-AIR-E, Ordering Provision No. 3.a.ii

Violation Description
 Caused, suffered, allowed, or permitted volatile organic compound ("VOC") emissions to exceed the coatings and solvents emissions limit as delivered to the application system. Specifically, the Respondent exceeded the wipe-down solutions emissions limit of 1.4 pounds ("lbs") of VOC per gallon of coating for auto body shops by using wipe-down solutions that had 6.25 lbs or more of VOC per gallon of coating.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text" value="15.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

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

Violation Events

Number of Violation Events Number of violation days

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input checked="" type="checkbox"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

Six quarterly events are recommended from the January 16, 2021 effective date of TCEQ Default Order Docket No. 2019-1234-AIR-E to the April 18, 2022 screening date.

Good Faith Efforts to Comply Reduction

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

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

Violation Subtotal

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

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Mark Alvarez
Case ID No. 58218
Reg. Ent. Reference No. RN105809016
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)	\$500	16-Jan-2021	1-Dec-2022	1.87	\$47	n/a	\$47

Notes for DELAYED costs

Estimated cost to begin using wipe-down solutions that contain 1.4 lbs of VOC or less per gallon of coating as delivered to the application system. The Date Required is the effective date of TCEQ Default Order Docket No. 2019-1234-AIR-E 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

\$500

TOTAL

\$47

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 CN605380559, RN105809016, Rating Year 2022 which includes Compliance History (CH) components from September 1, 2017, through August 31, 2022.

Customer, Respondent, or Owner/Operator: CN605380559, ALVAREZ, MARK **Classification:** UNSATISFACTORY **Rating:** 150.00

Regulated Entity: RN105809016, EXTREME CONCEPTS CUSTOM BODY & PAINT **Classification:** UNSATISFACTORY **Rating:** 150.00

Complexity Points: 1 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 1421 NORTH LEE TREVINO DRIVE, SUITE C1, IN EL PASO, EL PASO COUNTY, TEXAS

TCEQ Region: REGION 06 - EL PASO

ID Number(s):
AIR QUALITY NON PERMITTED ID NUMBER
R06105809016

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

Date Compliance History Report Prepared: October 04, 2022

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: October 04, 2017 to October 04, 2022

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.
Name: Toni Red **Phone:** (512) 239-1704

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: 01/16/2021 ADMINORDER 2019-1234-AIR-E (Findings Order-Default)
 Classification: Moderate
 Citation: 30 TAC Chapter 115, SubChapter E 115.421(12)
 5C THSC Chapter 382 382.085(b)
 Description: Caused, suffered, allowed, or permitted volatile organic compound ("VOC") emissions to exceed the coatings and solvents emissions limit as delivered to the application system. Specifically, the Respondent exceeded the wipe-down solutions emissions limit of 1.4 pounds of VOC per gallon of coating for auto body shops by using a wipe-down solution that had 6.25 pounds of VOC per gallon of coating.
 Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)
 5C THSC Chapter 382 382.0518(a)
 5C THSC Chapter 382 382.085(b)
 Description: Failed to obtain authorization prior to constructing or modifying a source of air contaminants. Specifically, the Respondent constructed and operated an auto refinishing and body shop prior to obtaining the proper authorization.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

N/A

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

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

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

Component Appendices

Appendix A

All NOVs Issued During Component Period 10/4/2017 and 10/4/2022

1	Date: 02/28/2019 (1545130)		
	Self Report? NO	Classification: Moderate	
	Citation:		
		30 TAC Chapter 115, SubChapter E 115.421(12)	
		5C THSC Chapter 382 382.085(b)	
	Description:	Caused, suffered, allowed, or permitted volatile organic compound ("VOC") emissions to exceed the coatings and solvents emissions limit as delivered to the application system. Specifically, the Respondent exceeded the wipe-down solutions emissions limit of 1.4 pounds of VOC per gallon of coating for auto body shops by using a wipe-down solution that had 6.25 pounds of VOC per gallon of coating.	
	Self Report? NO	Classification: Moderate	
	Citation:		
		30 TAC Chapter 116, SubChapter B 116.110(a)	
		5C THSC Chapter 382 382.0518(a)	
		5C THSC Chapter 382 382.085(b)	
	Description:	Failed to obtain authorization prior to constructing or modifying a source of air contaminants. Specifically, the Respondent constructed and operated an auto refinishing and body shop prior to obtaining the proper authorization.	

* NOVs applicable for the Compliance History rating period 9/1/2017 to 8/31/2022

Appendix B

All Investigations Conducted During Component Period October 04, 2017 and October 04, 2022

Item 1	February 28, 2019**	(1545130)
Item 2	August 14, 2019**	(1582773)
Item 3	April 08, 2022**	(1805211)

* 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
MARK ALVAREZ;
RN105809016**

**§
§
§
§
§**

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2022-0444-AIR-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 ch. 7, TEX. HEALTH & SAFETY CODE ch. 382, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty, of the respondent. The respondent made the subject of this Order is Mark Alvarez ("Respondent").

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

FINDINGS OF FACT

1. Respondent owned and operated an auto body repair and refinishing facility located at 1421 North Lee Trevino Drive, Suite C1, in El Paso, El Paso County, Texas (the "Site"). The Site consisted of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. During an investigation conducted on and around March 25, 2022, an investigator documented that Respondent:
 - a. Failed to obtain authorization prior to constructing or modifying a source of air contaminants. Specifically, Respondent constructed and operated an auto body repair and refinishing facility prior to obtaining the proper authorization; and
 - b. Caused, suffered, allowed, or permitted volatile organic compound ("VOC") emissions to exceed the coatings and solvents emissions limit as delivered to the application system. Specifically, Respondent exceeded the wipe-down solutions emissions limit of 1.4 pounds ("lbs.") of VOC per gallon of coating for auto body shops by using wipe-down solutions that had 6.25 lbs. or more of VOC per gallon of coating.
3. The Executive Director recognizes that Respondent no longer owns or operates the Site as of September 19, 2022.
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 and Requiring Certain Actions of Mark Alvarez" (the "EDPRP") in the TCEQ Chief Clerk's office on March 23, 2023.
5. By letter March 23, 2023, sent to Respondent's last known address via certified mail, return receipt requested, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to the return receipt "green card," Respondent received notice of the EDPRP on March 27, 2023, as evidenced by the signature on the card.
6. More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to obtain authorization prior to constructing or modifying a source of air contaminants, in violation of TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b), 30 TEX. ADMIN. CODE § 116.110(a), and TCEQ Default Order Docket No. 2019-1234-AIR-E, Ordering Provision No. 3.a.i.
3. As evidenced by Finding of Fact No. 2.b., Respondent caused, suffered, allowed, or permitted VOC emissions to exceed the coatings and solvents emissions limit as delivered to the application system, in violation of TEX. HEALTH & SAFETY CODE § 382.085(b), 30 TEX. ADMIN. CODE § 115.421(12), and TCEQ Default Order Docket No. 2019-1234-AIR-E, Ordering Provision No. 3.a.ii.
4. As evidenced by Findings of Fact Nos. 4 and 5, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(b)(1).
5. As evidenced by Finding of Fact No. 6, Respondent failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.
6. 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.
7. An administrative penalty in the amount of fifty thousand six hundred twenty-five dollars (\$50,625.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
8. 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 fifty thousand six hundred twenty-five dollars (\$50,625.00) for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations which are not raised here.
2. The penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to TCEQ and shall be sent with the notation "Re: Mark Alvarez; Docket No. 2022-0444-AIR-E" to:

Financial Administration Division
Revenue Operations Section
Texas Commission on Environmental Quality
Attention: Cashier's Office, MC 214
P.O. Box 13088
Austin, Texas 78711-3088
3. 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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



UNSWORN DECLARATION OF WILLIAM HOGAN

"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 and Requiring Certain Actions of Mark Alvarez' (the "EDPRP") was filed in the TCEQ Chief Clerk's office on March 23, 2023.

The EDPRP was mailed to Respondent's last known address on March 23, 2023, via certified mail, return receipt requested, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on March 27, 2023, as evidenced by the signature on the card.

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

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

Executed in Travis County,
State of Texas,
on the 17th day of August, 2023

A handwritten signature in black ink that reads "William Hogan".

Declarant