

Executive Summary – Enforcement Matter – Case No. 62802
AmeriTex Pipe & Products, LLC
RN110780335
Docket No. 2022-1037-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

AmeriTex Dallas, located at approximately 2,200 feet southeast of the McDonald Road and Wall Street Road intersection, Gunter, Grayson County

Type of Operation:

Concrete batch plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: September 29, 2023

Comments Received: No

Penalty Information

Total Penalty Assessed: \$21,750

Amount Deferred for Expedited Settlement: \$4,350

Total Paid to General Revenue: \$17,400

Total Due to General Revenue: \$0

Payment Plan: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: January 2021

Investigation Information

Complaint Date(s): May 17, 2022 and October 26, 2022

Complaint Information: Alleged dust from the Facility was impacting a nearby farm and property; the Respondent may be operating without authorization.

Date(s) of Investigation: May 20, 2022 and November 16, 2022

Date(s) of NOE(s): August 4, 2022 and February 16, 2023

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Docket No. 2022-1037-AIR-E

Violation Information

1. Failed to control emissions from in-plant roads and traffic areas at all times and failed to pave all entry and exit roads and main traffic routes associated with the operation of the concrete batch plant with a cohesive hard surface that can be maintained intact and shall be cleaned. Specifically, on May 20, 2022, TCEQ staff observed a large amount of dust that was being generated by the vehicles for material delivery and other operational functions on the Plant's unpaved main traffic routes [30 TEX. ADMIN. CODE §§ 116.115(c) and 116.615(2), Standard Permit Registration No. 159336, Amendments to the Air Quality Standard Permit for Concrete Batch Plants, General Requirements No. (5)(E) and Additional Requirements for Permanent Concrete Plants No. (9)(F), and TEX. HEALTH & SAFETY CODE § 385.085(b)].
2. Failed to maintain the records of the hours of fuel oil firing and fuel oil purchases on-site on a two-year rolling retention period and made available upon request to the Commission. Specifically, on May 20, 2022, TCEQ staff requested to view the records for the hours of fuel oil firing for the temporary boiler, but the Respondent was not able to provide the records of the hours of fuel oil firing [30 TEX. ADMIN. CODE §§ 106.8(c)(2) and 106.183(5) and TEX. HEALTH & SAFETY CODE § 382.085(b)].
3. Failed to obtain authorization prior to constructing or modifying a source of air contaminants. Specifically, on November 16, 2022, TCEQ staff observed a portable rock crusher (Serial Number QI341-10077) in operation prior to obtaining the proper authorization [30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent implemented the following corrective measures:

- a. On June 9, 2022, provided the records for the hours of fuel oil firing for the temporary boiler;
- b. On June 15, 2022, decommissioned the temporary boiler; and
- c. On January 12, 2023, obtained the Air Quality Standard Permit for Temporary Rock and Concrete Crushers for the portable rock crusher (Serial Number QI341-10077).

Technical Requirements:

The Order will require the Respondent to:

- a. Within 30 days:

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- i. Pave all entry and exit roads and main traffic routes associated with the operation of the concrete batch plant with a cohesive hard surface that can be maintained intact and shall be cleaned; and
 - ii. Control the emissions from the in-plant roads and traffic areas at all times by watering them; treating them with dust-suppressant chemicals as described in the application of aqueous detergents, surfactants, and other cleaning solutions in the de minimis list; covering them with a material such as, but not limit to, roofing shingles or tire chips; or paving them with a cohesive hard surface that is maintained intact and cleaned.
- b. Within 45 days, submit written certification to demonstrate compliance with a.

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Desmond Martin, Enforcement Division, Enforcement Team 2, MC 219, (512) 239-2814; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: Jason Kupferschmid, Plant Manager, AmeriTex Pipe & Products, LLC, P.O. Box 150, Seguin, Texas 78156
Mario Olmos, Director of Environment, Health, and Safety, AmeriTex Pipe & Products, LLC, P.O. Box 150, Seguin, Texas 78156

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	8-Aug-2022	Screening	23-Aug-2022	EPA Due	
	PCW	15-Jun-2023				

RESPONDENT/FACILITY INFORMATION	
Respondent	AmeriTex Pipe & Products, LLC
Reg. Ent. Ref. No.	RN110780335
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	62802	No. of Violations	3
Docket No.	2022-1037-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Desmond Martin
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$22,500
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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	5.0% Adjustment	Subtotals 2, 3, & 7	\$1,125
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Notes: Enhancement for one NOV with same/similar violations.

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	-\$1,875
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$7,061
 Estimated Cost of Compliance: \$75,500
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$21,750
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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	\$21,750
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$21,750
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DEFERRAL	20.0%	Reduction	Adjustment	-\$4,350
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$17,400
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Screening Date 23-Aug-2022

Docket No. 2022-1037-AIR-E

PCW

Respondent AmeriTex Pipe & Products, LLC

Policy Revision 5 (January 28, 2021)

Case ID No. 62802

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN110780335

Media Air

Enf. Coordinator Desmond Martin

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>)	1	5%
	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) 5%

>> 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 same/similar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 5%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 5%

Screening Date 23-Aug-2022 **Docket No.** 2022-1037-AIR-E **PCW**
Respondent AmeriTex Pipe & Products, LLC *Policy Revision 5 (January 28, 2021)*
Case ID No. 62802 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN110780335
Media Air
Enf. Coordinator Desmond Martin

Violation Number

Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(c) and 116.615(2), Standard Permit Registration No. 159336, Amendments to the Air Quality Standard Permit for Concrete Batch Plants, General Requirements No. (5)(E) and Additional Requirements for Permanent Concrete Plants No. (9)(F), and Tex. Health & Safety Code § 385.085(b)

Violation Description Failed to control emissions from in-plant roads and traffic areas at all times and failed to pave all entry and exit roads and main traffic routes associated with the operation of the concrete batch plant with a cohesive hard surface that can be maintained intact and shall be cleaned. Specifically, on May 20, 2022, TCEQ staff observed a large amount of dust that was being generated by the vehicles for material delivery and other operational functions on the Plant's unpaved main traffic routes.

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 that 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 checked="" type="checkbox"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

Four monthly events are recommended from the May 20, 2022 investigation date to the August 23, 2022 screening date.

Good Faith Efforts to Comply Reduction

	Before NOE/NOV	NOE/NOV to EDRP/ 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 AmeriTex Pipe & Products, LLC
Case ID No. 62802
Reg. Ent. Reference No. RN110780335
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$75,000	16-Mar-2022	1-Feb-2024	1.88	\$7,058	n/a	\$7,058

Notes for DELAYED costs

Estimated cost to pave all entry and exit roads and main traffic routes associated with the operation of the concrete batch plant with a cohesive hard surface that can be maintained intact and shall be cleaned and to control the emissions from the in-plant roads and traffic areas at all times by watering them; treating them with dust-suppressant chemicals as described in the application of aqueous detergents, surfactants, and other cleaning solutions in the de minimis list; covering them with a material such as, but not limit to, roofing shingles or tire chips; or paving them with a cohesive hard surface that is maintained intact and cleaned. The Date Required is the initial investigation date 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

\$75,000

TOTAL

\$7,058

Screening Date	23-Aug-2022	Docket No.	2022-1037-AIR-E	PCW
Respondent	AmeriTex Pipe & Products, LLC			<i>Policy Revision 5 (January 28, 2021)</i>
Case ID No.	62802			<i>PCW Revision February 11, 2021</i>
Reg. Ent. Reference No.	RN110780335			
Media	Air			
Enf. Coordinator	Desmond Martin			
Violation Number	2			
Rule Cite(s)	30 Tex. Admin. Code §§ 106.8(c)(2) and 106.183(5) and Tex. Health & Safety Code § 382.085(b)			
Violation Description	Failed to maintain the records of the hours of fuel oil firing and fuel oil purchases on-site on a two-year rolling retention period and made available upon request to the Commission. Specifically, on May 20, 2022, TCEQ staff requested to view the records for the hours of fuel oil firing for the temporary boiler, but the Respondent was not able to provide the records of the hours of fuel oil firing.			
		Base Penalty	\$25,000	

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual				Percent 0.0%
Potential					

>> 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: 1 20 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$2,500

One single event is recommended.

Good Faith Efforts to Comply 25.0% Reduction \$625

	Before NOE/NOV	NOE/NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		
Notes	The Respondent completed the corrective measures on June 9, 2022, prior to the Notice of Enforcement ("NOE") dated August 4, 2022.	
	Violation Subtotal	\$1,875

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount \$1	Violation Final Penalty Total \$2,000
This violation Final Assessed Penalty (adjusted for limits) \$2,000	

Economic Benefit Worksheet

Respondent AmeriTex Pipe & Products, LLC
Case ID No. 62802
Reg. Ent. Reference No. RN110780335
Media Air
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$250	20-May-2022	9-Jun-2022	0.05	\$1	n/a	\$1

Notes for DELAYED costs

Estimated cost to provide the records for the hours of fuel oil firing for the temporary boiler. The Date Required is the investigation date and the Final Date is the date of compliance.

Avoided Costs

ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$250

TOTAL

\$1

Screening Date	23-Aug-2022	Docket No.	2022-1037-AIR-E	PCW
Respondent	AmeriTex Pipe & Products, LLC			<i>Policy Revision 5 (January 28, 2021)</i>
Case ID No.	62802			<i>PCW Revision February 11, 2021</i>
Reg. Ent. Reference No.	RN110780335			
Media	Air			
Enf. Coordinator	Desmond Martin			
Violation Number	3			
Rule Cite(s)	30 Tex. Admin. Code § 116.110(a) and Tex. Health & Safety Code §§ 382.0518(a) and 382.085(b)			
Violation Description	Failed to obtain authorization prior to constructing or modifying a source of air contaminants. Specifically, on November 16, 2022, TCEQ staff observed a portable rock crusher (Serial Number QI341-10077) in operation prior to obtaining the proper authorization.			
	Base Penalty	\$25,000		

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual				Percent 0.0%
	Potential				

>> 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: 2 57 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$5,000

Two monthly events are recommended from the November 16, 2022 investigation date to the January 12, 2023 compliance date.

Good Faith Efforts to Comply 25.0% Reduction \$1,250

	Before NOE/NOV	NOE/NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		

Notes: The Respondent completed the corrective measures on January 12, 2023, prior to the NOE dated February 16, 2023.

Violation Subtotal \$3,750

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

Estimated EB Amount \$2 **Violation Final Penalty Total** \$4,000

This violation Final Assessed Penalty (adjusted for limits) \$4,000

Economic Benefit Worksheet

Respondent AmeriTex Pipe & Products, LLC
Case ID No. 62802
Reg. Ent. Reference No. RN110780335
Media Air
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
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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	\$250	16-Nov-2022	12-Jan-2023	0.16	\$2	n/a	\$2
Other (as needed)				0.00	\$0	n/a	\$0
Notes for DELAYED costs	Estimated cost to obtain the Air Quality Standard Permit for Temporary Rock and Concrete Crushers for the portable rock crusher (Serial Number Q1341-10077). The Date Required is the investigation date and the Final Date is the date of compliance.						

Avoided Costs

ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Notes for AVOIDED costs							

Approx. Cost of Compliance	\$250	TOTAL	\$2
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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 CN604263251, RN110780335, Rating Year 2022 which includes Compliance History (CH) components from September 1, 2017, through August 31, 2022.

Customer, Respondent, or Owner/Operator: CN604263251, AmeriTex Pipe & Products, LLC **Classification:** SATISFACTORY **Rating:** 0.44
Regulated Entity: RN110780335, AmeriTex Dallas **Classification:** SATISFACTORY **Rating:** 4.00
Complexity Points: 1 **Repeat Violator:** NO
CH Group: 10 - Cement and Concrete Product Manufacturing
Location: Approximately 2,200 feet southeast of the McDonald Road and Wall Street Road intersection, Gunter, Grayson County, Texas
TCEQ Region: REGION 04 - DFW METROPLEX

ID Number(s):
AIR NEW SOURCE PERMITS REGISTRATION 159336 **AIR NEW SOURCE PERMITS REGISTRATION** 157053
Compliance History Period: September 01, 2017 to August 31, 2022 **Rating Year:** 2022 **Rating Date:** 09/01/2022
Date Compliance History Report Prepared: May 28, 2023
Agency Decision Requiring Compliance History: Enforcement
Component Period Selected: May 28, 2018 to May 28, 2023

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

Name: Desmond Martin **Phone:** (512) 239-2814

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? NO
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

N/A

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

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

- 1 Date: 11/03/2022 (1840705)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)
Condition (5)(C) PERMIT
Description: Failure to totally enclose and properly operate cement transfer conveying systems to storage silos with no leaks.

F.Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
AMERITEX PIPE & PRODUCTS, LLC
RN110780335

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2022-1037-AIR-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding AmeriTex Pipe & Products, LLC (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a concrete batch plant located at approximately 2,200 feet southeast of the McDonald Road and Wall Street Road intersection in Gunter, Grayson County, Texas (the "Plant"). The Plant consists or consisted of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$21,750 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$17,400 of the penalty and \$4,350 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order. The deferred amount shall be waived only upon full compliance with all the terms and conditions contained in this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms or requirements contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.
5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.

6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Order.
7. This Order represents the complete and fully integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Executive Director recognizes that the Respondent implemented the following corrective measures at the Plant:
 - a. On June 9, 2022, provided the records for the hours of fuel oil firing for the temporary boiler;
 - b. On June 15, 2022, decommissioned the temporary boiler; and
 - c. On January 12, 2023, obtained the Air Quality Standard Permit for Temporary Rock and Concrete Crushers for the portable rock crusher (Serial Number QI341-10077).

II. ALLEGATIONS

1. During an investigation at the Plant conducted on May 20, 2022, an investigator documented that the Respondent:
 - a. Failed to control emissions from in-plant roads and traffic areas at all times and failed to pave all entry and exit roads and main traffic routes associated with the operation of the concrete batch plant with a cohesive hard surface that can be maintained intact and shall be cleaned, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 116.615(2), Standard Permit Registration No. 159336, Amendments to the Air Quality Standard Permit for Concrete Batch Plants, General Requirements No. (5)(E) and Additional Requirements for Permanent Concrete Plants No. (9)(F), and TEX. HEALTH & SAFETY CODE § 385.085(b). Specifically, on May 20, 2022, TCEQ staff observed a large amount of dust that was being generated by the vehicles for material delivery and other operational functions on the Plant's unpaved main traffic routes.
 - b. Failed to maintain the records of the hours of fuel oil firing and fuel oil purchases on-site on a two-year rolling retention period and made available upon request to the Commission, in violation of 30 TEX. ADMIN. CODE §§ 106.8(c)(2) and 106.183(5) and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, on May 20, 2022, TCEQ staff requested to view the records for the hours of fuel oil firing for the temporary boiler, but the Respondent was not able to provide the records of the hours of fuel oil firing.
2. During an investigation at the Plant conducted on November 16, 2022, an investigator documented that the Respondent failed to obtain authorization prior to constructing or

modifying a source of air contaminants, in violation of 30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b). Specifically, on November 16, 2022, TCEQ staff observed a portable rock crusher (Serial Number QI341-10077) in operation prior to obtaining the proper authorization.

III. DENIALS

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

IV. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: AmeriTex Pipe & Products, LLC, Docket No. 2022-1037-AIR-E" to:

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

2. The Respondent shall undertake the following technical requirements at the Plant:
 - a. Within 30 days after the effective date of this Order:
 - i. Pave all entry and exit roads and main traffic routes associated with the operation of the concrete batch plant with a cohesive hard surface that can be maintained intact and shall be cleaned; and
 - ii. Control the emissions from the in-plant roads and traffic areas at all times by watering them; treating them with dust-suppressant chemicals as described in the application of aqueous detergents, surfactants, and other cleaning solutions in the de minimis list; covering them with a material such as, but not limit to, roofing shingles or tire chips; or paving them with a cohesive hard surface that is maintained intact and cleaned.
 - 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:

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

with a copy to:

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

3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Plant operations referenced in this Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Enforcement Division at the address listed above.
7. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but

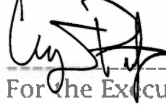
not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

9. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

Date

12/30/2024

Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this Order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the OAG for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the OAG of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

Date

10/19/2023

MARIO OLMOS

Name (Printed or typed)
Authorized Representative of
AmeriTex Pipe & Products, LLC

EHS DIRECTOR

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.