

Executive Summary – Enforcement Matter – Case No. 40297
LEADING EDGE AVIATION SERVICES, INC.
RN100611201
Docket No. 2010-1408-AIR-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Indifference to legal duty based on violation of a previous order.

Media:

AIR

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

10801 Baker Street, Amarillo, Potter, County

Type of Operation:

aircraft painting facility

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: August 19, 2011

Comments Received: None

Penalty Information

Total Penalty Assessed: \$45,500

Amount Deferred for Expedited Settlement: N/A

Amount Deferred for Financial Inability to Pay: N/A

Total Paid to General Revenue: \$1,295

Total Due to General Revenue: \$44,205

Payment Plan: 35 payments of \$1,263 each

SEP Conditional Offset: N/A

Compliance History Classifications:

Person/CN – Poor
Site/RN – Poor

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: August 3, 2010
Date(s) of NOV(s): N/A
Date(s) of NOE(s): August 3, 2010

Violation Information

1. Failed to comply with the ordering provision of an agreed order and with permit conditions requiring exhaust stacks H-5A and H-5B to be 79 feet in height [TEX. HEALTH & SAFETY CODE § 382.085(b); 30 TEX. ADMIN. CODE § 116.115(c); NSRP No. 28896, Special Condition No. 6.E.; and Agreed Order Docket No. 2008-1459-AIR-E, Ordering Provision No. 2.f.i.].
2. Failed to comply with the ordering provision of an agreed order and with the permit representations for exhaust stacks H-606A, H-606B, H-608A, and H-608B to be tapered and have exhaust exit velocities of 715 feet per second [TEX. HEALTH & SAFETY CODE § 382.085(b); 30 TEX. ADMIN. CODE § 116.116(b)(1); and Agreed Order Docket No. 2008-1459-AIR-E, Ordering Provision No. 2.f.ii.].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

1. Within 125 days:
 - a. Either modify exhaust stacks H-5A and H-5B to comply with the exhaust stack height requirement of 79 feet specified in NSRP No. 28896 or any alternative height required through a permit amendment, or amend the permit to authorize the existing exhaust stack height; and
 - b. Either modify exhaust stacks H-606A, H-606B, H-608A, and H-608B to comply with permit representations to ensure the stacks are tapered and have an exit velocity of 715 feet per second, or amend the permit representations to reflect the current design and operation of the exhaust stacks.
2. Within 135 days, submit written certification demonstrating compliance.

Litigation Information

Date Petition(s) Filed: February 1, 2011
Date Answer(s) Filed: March 2, 2011
SOAH Referral Date: April 4, 2011
Hearing Date(s):
Preliminary hearing: June 2, 2011 (waived)
Evidentiary hearing: September 15, 2011
Settlement Date: July 11, 2011

Executive Summary – Enforcement Matter – Case No. 40297
LEADING EDGE AVIATION SERVICES, INC.
RN100611201
Docket No. 2010-1408-AIR-E

Contact Information

TCEQ Attorneys: Jeffrey Huhn, Litigation Division, MC R-13, (210) 403-4023
Lena Roberts, Litigation Division, MC 175, (512) 239-3400

TCEQ SEP Coordinator: N/A

TCEQ Enforcement Coordinator: Rebecca Johnson, Air Enforcement Section, (361) 825-3423

TCEQ Regional Contact: Eddy Vance, Amarillo Regional Office, (806) 468-0510

Respondent: Rory Martin, Environmental Safety Manager, Leading Edge Aviation Services, Inc.,
10801 Baker Street, Amarillo, Texas 79111

Respondent's Attorney: N/A

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Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	16-Aug-2010	Screening	26-Aug-2010	EPA Due	8-May-2011
	PCW	6-Jan-2011				

RESPONDENT/FACILITY INFORMATION	
Respondent	Leading Edge Aviation Services, Inc.
Reg. Ent. Ref. No.	RN100611201
Facility/Site Region	1-Amarillo
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	40297	No. of Violations	2
Docket No.	2010-1408-AIR-E	Order Type	Findings
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Rebecca Johnson
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$25,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	82.0% Enhancement	Subtotals 2, 3, & 7	\$20,500
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Notes: Enhancement for one dissimilar NOV, one agreed order with a denial of liability, two agreed orders without a denial of liability, and poor 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: \$1,812
 Approx. Cost of Compliance: \$13,200
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$45,500
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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	\$45,500
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$45,500
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$45,500
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Screening Date 26-Aug-2010

Docket No. 2010-1408-AIR-E

PCW

Respondent Leading Edge Aviation Services, Inc.

Policy Revision 2 (September 2002)

Case ID No. 40297

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100611201

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	2	50%
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 judgements 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%
<i>Please Enter Yes or No</i>			
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) 72%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Poor Performer

Adjustment Percentage (Subtotal 7) 10%

>> Compliance History Summary

Compliance History Notes

Enhancement for one dissimilar NOV, one agreed order with a denial of liability, two agreed orders without a denial of liability, and poor performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 82%

Screening Date 26-Aug-2010

Docket No. 2010-1408-AIR-E

PCW

Respondent Leading Edge Aviation Services, Inc.

Policy Revision 2 (September 2002)

Case ID No. 40297

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100611201

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

Violation Number 1

Rule Cite(s) Agreed Order Docket No. 2008-1459-AIR-E, Ordering Provision No. 2.f.i., New Source Review Permit ("NSRP") No. 28896, Special Condition No. 6.E., 30 Tex. Admin. Code § 116.115(c), and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to comply with the ordering provision of an agreed order and with permit conditions requiring exhaust stacks H-5A and H-5B to be 79 feet in height. Specifically, during the August 3, 2010 investigation, it was documented that the exhaust stacks are 70.5 feet in height and that NSRP No. 28896 has not been amended to reflect the current height of the stacks.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				5%
	Potential			x	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes Human health or the environment could be exposed to insignificant amounts of pollutants as a result of the violation.

Adjustment \$9,500

\$500

Violation Events

Number of Violation Events 2 480 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$1,000

Two single events are recommended (one event for each exhaust stack).

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

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

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,510

Violation Final Penalty Total \$1,820

This violation Final Assessed Penalty (adjusted for limits) \$1,820

Economic Benefit Worksheet

Respondent Leading Edge Aviation Services, Inc.
Case ID No. 40297
Req. Ent. Reference No. RN100611201
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$10,000	3-May-2009	8-May-2011	2.01	\$67	\$1,342	\$1,410
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	\$1,000	3-May-2009	8-May-2011	2.01	\$101	n/a	\$101
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to amend the permit or extend the two exhaust stacks. The date required is the effective date of the agreed order. The final date is the projected compliance date.

Avoided Costs

ANNUALIZE [1] 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 [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$11,000

TOTAL

\$1,510

Screening Date 26-Aug-2010

Docket No. 2010-1408-AIR-E

PCW

Respondent Leading Edge Aviation Services, Inc.

Policy Revision 2 (September 2002)

Case ID No. 40297

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100611201

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

Violation Number 2

Rule Cite(s) Agreed Order Docket No. 2008-1459-AIR-E, Ordering Provision No. 2.f.ii., 30 Tex. Admin. Code § 116.116(b)(1), and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to comply with the ordering provision of an agreed order and with the permit representations for exhaust stacks H-606A, H-606B, H-608A, and H-608B to be tapered and have exhaust exit velocities of 715 feet per second. Specifically, during the August 3, 2010 investigation, it was documented that the exhaust stacks are not tapered, have a maximum exhaust exit velocity of 43.78 feet per second, and permit representations have not been amended to reflect the current design and operation of the exhaust stacks.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			x	10%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Human health or the environment has been exposed to insignificant amounts of pollutants as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 24 480 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$24,000

Twenty-four quarterly events are recommended from the May 3, 2009 effective date of the agreed order to the August 26, 2010 screening date (six events for each stack).

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
	Extraordinary	
Ordinary		
N/A	x	(mark with x)

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

Violation Subtotal \$24,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$302

Violation Final Penalty Total \$43,680

This violation Final Assessed Penalty (adjusted for limits) \$43,680

Economic Benefit Worksheet

Respondent Leading Edge Aviation Services, Inc.
Case ID No. 40297
Req. Ent. Reference No. RN100611201
Media Air
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$2,000	3-May-2009	8-May-2011	2.01	\$13	\$268	\$282
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)	\$200	3-May-2009	8-May-2011	2.01	\$20	n/a	\$20

Notes for DELAYED costs

Estimated cost to revise representations made for the design and exit velocity of the exhaust stacks or make modifications to the exhaust stacks. The date required is the effective date of the agreed order. The final date is the projected compliance date.

Avoided Costs

ANNUALIZE [1] 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 [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,200

TOTAL

\$302

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600320519	Leading Edge Aviation Services, Inc.	Classification: POOR	Rating: 236.20
Regulated Entity:	RN100611201	LEADING EDGE AVIATION SERVICES AMARILLO	Classification: POOR	Site Rating: 236.20
ID Number(s):	INDUSTRIAL AND HAZARDOUS WASTE	EPA ID		TXD987992690
	INDUSTRIAL AND HAZARDOUS WASTE	SOLID WASTE REGISTRATION		83022
	AIR NEW SOURCE PERMITS	PERMIT		28896
	AIR NEW SOURCE PERMITS	REGISTRATION		40181
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER		PG0118H
	AIR NEW SOURCE PERMITS	AFS NUM		4837500678
	WATER QUALITY NON PERMITTED	ID NUMBER		R01ST0002
	STORMWATER	PERMIT		TXR05U037
	AIR EMISSIONS INVENTORY	ACCOUNT NUMBER		PG0118H
Location:	10801 BAKER ST, AMARILLO, TX, 79111			
TCEQ Region:	REGION 01 - AMARILLO			
Date Compliance History Prepared:	August 26, 2010			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	August 26, 2005 to August 26, 2010			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Rebecca Johnson	Phone:	(361) 825-3420	

Site Compliance History Components

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
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2009 Repeat Violator: NO

Components (Multimedia) for the Site:

A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

- | | | |
|---|---|-----------------------------------|
| 1 | Effective Date: 05/03/2009 | ADMINORDER 2008-1459-AIR-E |
| | Classification: Moderate | |
| | Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b) | |
| | Rqmt Prov: Special Cond. 8 PERMIT | |
| | Description: Failure to store waste paint in a closed container | |
| | Classification: Moderate | |
| | Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b) | |
| | Rqmt Prov: Special Cond 6E PERMIT | |
| | Description: Failure to maintain an exhaust stack free of restrictions or obstructions to vertical discharge. | |
| | Classification: Moderate | |
| | Citation: 30 TAC Chapter 116, SubChapter B 116.116(b)(1)
5C THSC Chapter 382 382.085(b) | |
| | Description: Failure to adhere to stack exit velocity representations contained in permit application | |
| | Classification: Moderate | |
| | Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(E)(ii)
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b) | |
| | Rqmt Prov: General Cond 7, Special Cond 7B1&B2,7C&D PERMIT | |
| | Description: Failure to maintain records at the plant. Specifically, hourly volatile organic compound ("VOC") emission rates ("ER"), ERs in tons per year based on a rolling 12-month period for each emission point number for VOCs and hazardous air pollutants ("HAP"), examples of methods of data reduction, and a record of procedures for following the manufacturer's recommended filter replacement, were not on file at the plant | |
| | Classification: Moderate | |
| | Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b) | |
| | Description: Failure to have required stack height | |
| | Classification: Moderate | |

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

Rqmt Prov: General Condition 1 PERMIT

Description: Failure to construct and/or operate a facility as specified in the application for the permit

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT GG 63.745(g)(2)(i)(A)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Cond 6B PERMIT

Description: Failure for filters to have required efficiency

Classification: Moderate

Citation: 40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.9(b)(2)
40 CFR Part 63, Subpart GG 63.753(a)(1)
5C THSC Chapter 382 382.085(b)

Description: Failure for an existing source to submit initial notification of compliance with 40 CFR 63 Subpart GG

Classification: Moderate

Citation: 40 CFR Chapter 63, SubChapter C, PT 63, SubPT GG 63.753(c)(1)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT GG 63.753(c)(2)
5C THSC Chapter 382 382.085(b)

Description: Failure to submit semiannual reports required by 40 CFR 63 Subpart GG and annual reports.

Classification: Moderate

Citation: 40 CFR Chapter 63, SubChapter C, PT 63, SubPT GG 63.745(g)(2)(iv)
5C THSC Chapter 382 382.085(b)

Description: Failure to install differential pressure gauges across the filter banks

Classification: Moderate

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

Rqmt Prov: Gen Cond 7, Spec Cond 7A1&B1 PERMIT

Description: Failure for MSDS or similar documentation to indicate the maximum composition of all constituents

2 Effective Date: 08/23/2009 ADMINORDER 2007-0516-IHW-E

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter H 335.262(c)(2)(B)
40 CFR Chapter 265, SubChapter I, PT 265, SubPT I 265.171

Rqmt Prov: 2004-0444-IHW-E; OP 2a.i. ORDER

Description: Failed to ensure that containers are structurally sound and compatible with the waste.

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter H 335.262(c)(2)(A)
40 CFR Chapter 265, SubChapter I, PT 265, SubPT I 265.173(a)
40 CFR Chapter 265, SubChapter I, PT 265, SubPT I 265.173(b)

Rqmt Prov: 2004-0444-IHW-E; OP 2.a.ii. ORDER

Description: Failed to keep waste containers closed, except when adding or removing waste.

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter H 335.262(c)(1)
40 CFR Chapter 273, SubChapter I, PT 273, SubPT C 273.35(a)

Rqmt Prov: 2004-0444-IHW-E; OP 2.a.iv. ORDER

Description: Failed to ship universal waste for disposal within one year of the date of accumulation.

Classification: Minor

Citation: 30 TAC Chapter 335, SubChapter H 335.262(c)(2)(F)
40 CFR Chapter 273, SubChapter I, PT 273, SubPT C 273.34

Rqmt Prov: 2004-0444-IHW-E; OP 2.a.iii. ORDER

Description: Failed to label waste containers with the words to identify contents

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter A 335.13(k)(1)
30 TAC Chapter 335, SubChapter A 335.13(k)(2)

Description: Failure to submit an exception report to the TCEQ within 45 days of not receiving a signed copy of the manifest from the disposal facility.

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)(4)(A)

Description: Failure to provide annual hazardous waste management procedures training to personnel

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter H 335.262(b)

Description: Failure to conduct a hazardous waste determination on universal paint waste stream.

3 **Effective Date: 04/11/2010**

ADMINORDER 2009-1427-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
30 TAC Chapter 116, SubChapter B 116.115(c)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.9(b)(2)
40 CFR Part 63, Subpart GG 63.753(a)(1)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Agreed Order Docket No. 2008-1459-AIR-E ORDER
Permit No. 28896 PERMIT

Description: Failed to comply with the ordering provision of an agreed order and to submit initial notification for existing sources not later than September 1, 1997

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(E)(i)
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Agreed Order Docket No. 2008-1459-AIR-E ORDER
Permit No. 28896 PERMIT

Description: Failed to comply with the ordering provision of an agreed order and to maintain information and data sufficient to demonstrate compliance with hazardous air pollutants ("HAP") limits.

Classification: Major

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(E)(ii)
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Agreed Order Docket No. 2008-1459-AIR-E ORDER
Permit No. 28896 PERMIT

Description: Failed to comply with the ordering provision of an agreed order and to maintain records at the plant

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(E)(i)
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Agreed Order Docket No. 2008-1459-AIR-E ORDER
Permit No. 28896 PERMIT

Description: Failed to comply with the ordering provision of an agreed order and to maintain information and data sufficient to demonstrate compliance with VOC limits

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

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

- 1 01/31/2007 (531609)
- 2 08/16/2008 (685104)
- 3 08/19/2008 (683936)
- 4 02/26/2009 (736357)
- 5 07/28/2009 (762882)
- 6 08/14/2009 (764312)
- 7 05/26/2010 (762988)
- 8 08/11/2010 (844783)

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

Date: 07/28/2009 (762882)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter H 335.262(c)(2)(A)

Description: Failure to keep containers closed except when adding or removing waste.

Self Report? NO

Classification: Moderate

Citation: 40 CFR Chapter 268, SubChapter I, PT 268, SubPT A 268.7(a)(7)

Description: Failure to make a one-time notification for process wastewater that is stored on site prior to pre-treatment and discharge to the City of Amarillo POTW in accordance with Federal Land Disposal Restriction requirements.

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

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
LEADING EDGE AVIATION
SERVICES, INC.;
RN100611201**

**§
§
§
§
§**

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2010-1408-AIR-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding Leading Edge Aviation Services, Inc. ("Respondent") under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE ch. 382. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent presented this Agreed Order to the Commission.

Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon Respondent.

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

FINDINGS OF FACT

1. Respondent owns and operates an aircraft painting facility located at 10801 Baker Street in Amarillo, Potter County, Texas (the "Plant"). The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. During an investigation conducted on August 3, 2010, a TCEQ Amarillo Regional Office investigator documented that Respondent:
 - a. Failed to comply with the ordering provision of an agreed order and with permit conditions requiring exhaust stacks H-5A and H-5B to be 79 feet in height. Specifically, exhaust stacks H-5A and H-5B are 70.5 feet in height and New Source Review Permit ("NSRP") No. 28896 has not been amended to reflect the current height of the stacks; and

- b. Failed to comply with the ordering provision of an agreed order and with the permit representations for exhaust stacks H-606A, H-606B, H-608A, and H-608B to be tapered and have exhaust exit velocities of 715 feet per second. Specifically, the exhaust stacks are not tapered, have a maximum exhaust exit velocity of 43.78 feet per second, and permit representations have not been amended to reflect the current design and operation of the exhaust stacks.
3. Respondent received notice of the violations on or about August 8, 2010.

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 Commission.
2. As evidenced by Finding of Fact No. 2.a., Respondent violated Agreed Order Docket No. 2008-1459-AIR-E, Ordering Provision No. 2.f.i.; NSRP No. 28896, Special Condition No. 6.E.; 30 TEX. ADMIN. CODE § 116.115(c); and TEX. HEALTH & SAFETY CODE § 382.085(b), by failing to comply with the ordering provision of an agreed order and with permit conditions requiring exhaust stacks H-5A and H-5B to be 79 feet in height.
3. As evidenced by Finding of Fact No. 2.b., Respondent violated Agreed Order Docket No. 2008-1459-AIR-E, Ordering Provision No. 2.f.ii.; 30 TEX. ADMIN. CODE § 116.116(b)(1); and TEX. HEALTH & SAFETY CODE § 382.085(b), by failing to comply with the ordering provision of an agreed order and with the permit representations for exhaust stacks H-606A, H-606B, H-608A, and H-608B to be tapered and have exhaust exit velocities of 715 feet per second.
4. 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 the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of forty-five thousand five hundred dollars (\$45,500.00) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Respondent paid one thousand two hundred ninety-five dollars (\$1,295.00) of the administrative penalty. The remaining amount of forty-four thousand two hundred five dollars (\$44,205.00) of the administrative penalty shall be payable in thirty-five (35) monthly payments of one thousand two hundred sixty-three dollars (\$1,263.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Respondent's failure to meet the payment schedule of this Agreed Order constitutes the failure by Respondent to timely and satisfactorily comply with all of the terms of this Agreed Order.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty as set forth in Conclusion of Law No. 5, above, for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the matters set forth by this Agreed Order in this action. The Commission shall not be constrained in any manner from considering or requiring corrective actions or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Leading Edge Aviation Services, Inc., Docket No. 2010-1408-AIR-E" to:

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

2. Respondent shall undertake the following technical requirements:
 - a. Within 125 days after the effective date of this Agreed Order, Respondent shall:
 - i. Either modify exhaust stacks H-5A and H-5B to comply with the exhaust stack height requirement of 79 feet specified in NSRP No. 28896 or any alternative height required through a permit amendment, or amend NSRP No. 28896 to authorize the existing exhaust stack height; and
 - ii. Either modify exhaust stacks H-606A, H-606B, H-608A, and H-608B to comply with the representations in NSRP No. 28896 to ensure the stacks are tapered and have an exit velocity of 715 feet per second, or amend the representations in NSRP No. 28896 to reflect the current design and operation of the exhaust stacks.
 - b. Within 135 days after the effective date of this Agreed Order, Respondent shall submit written certification and detailed supporting documentation, including photographs, receipts, and/or other records, to demonstrate compliance with Ordering Provision Nos. 2.a.i. and 2.a. ii. The certification shall be notarized by a State of Texas Notary Public 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 fine and imprisonment for knowing violations."

Respondent shall submit the written certification and copies of documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

Eddy Vance, Air Section Manager
Texas Commission on Environmental Quality
Amarillo Regional Office
3918 Canyon Drive
Amarillo, Texas 79109-4933

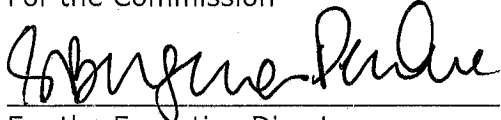
3. All relief not expressly granted in this Agreed Order is denied.
4. The duties and provisions imposed by this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If Respondent fails to comply with any of the Ordering Provisions in this Agreed 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 Agreed 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.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed 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.
7. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
8. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

9. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed 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 Agreed 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.
10. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails notice of this Agreed Order to Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

9/13/2011

Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of Leading Edge Aviation Services, Inc., 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 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;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

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

Kathryn Brewer
Signature

Kathryn Brewer
Name (Printed or typed)
Authorized representative of
Leading Edge Aviation Services, Inc

7/11/11
Date

CFO
Title