

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2003-1544-AIR-E TCEQ ID: RN100637909 CASE NO.: 11244**  
**RESPONDENT NAME: SHINTECH INCORPORATED**

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

**SITE WHERE VIOLATION(S) OCCURRED:** 5618 East Highway 332, Freeport, Brazoria County

**TYPE OF OPERATION:** Synthetic resin plant

**SMALL BUSINESS:**  Yes  No

**OTHER SIGNIFICANT MATTERS:** There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

**INTERESTED PARTIES:** No one other than the ED and the Respondent has expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired on July 9, 2007. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Mr. Justin Lannen, Litigation Division, MC R-4, (817) 588-5927;  
 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873

**TCEQ Enforcement Coordinator:** Ms. Pamela Campbell, Enforcement Division, Section I, MC 169, (512) 239-4493

**TCEQ Regional Contact:** Ms. Linda Vasse, Houston Regional Office, MC R-12, (713) 767-3637

**Respondent:** Mr. James L. Hodges, Site Manager, Shintech Incorporated, 5618 East Highway 332, Freeport, Texas 77541

**Respondent's Attorney:** Mr. Jon Niermann, Baker Botts L.L.P., 1500 San Jacinto Center, 98 San Jacinto Blvd., Austin, Texas 78701-4078

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date of Complaints Relating to this Case:</b>                      None</p> <p><b>Dates of Investigation Relating to this Case:</b>                      March 13, 2003 and March 19, 2003</p> <p><b>Date of NOE Relating to this Case:</b>                      May 13, 2003 and March 19, 2003</p> <p><b>Background Facts:</b>                      From the start of this enforcement case, the Respondent expressed its desire to settle the matter without the need to go to a hearing. Due to the complexity of the alleged violations, as well as the Respondent's good faith negotiating efforts, the Litigation Division and the Respondent engaged in extended settlement negotiations, which resulted in a resolution. The Respondent submitted a signed Agreed Order in April 2007 and has paid the total assessed penalty of \$25,000 in full.</p> <p><b>AIR:</b></p> <p>1. Failed to prepare and submit the semiannual reports required by 40 C.F.R. 61, Subpart V for fugitive emissions monitoring for 2001 through 2002 [30 TEX. ADMIN. CODE §§ 101.20(2) and 116.115(c); TEX. HEALTH &amp; SAFETY CODE § 382.085(b); Permit No. 9347 Special Condition No. 3, Permit No. 9628 Special Condition No. 3, and Permit No. 20014 Special Condition No. 3; and 40 C.F.R. § 61.247(b)].</p> <p>2. Failed to perform the quarterly fugitive emissions monitoring for the transfer pumps servicing the methanol, ethanol, and isobutanol storage tanks for 2002 [30 TEX. ADMIN. CODE § 116.115(c); TEX. HEALTH &amp; SAFETY CODE § 382.085(b); and Permit No. 9347 Special Condition No. 5.g., Permit No. 9628 Special Condition No. 27.g., and Permit No. 20014 Special Condition No. 1.g.].</p>	<p><b>Initial Penalty:</b> \$29,640*</p> <p><b>Total Assessed:</b> \$25,000</p> <p><b>Total Deferred:</b> \$0</p> <p><input type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$25,000</p> <p>The Respondent has paid the administrative penalty in full.</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> <p><b>*Explanation of Initial Calculated Penalty Reduction:</b>                      The penalty was reduced in consideration of litigation risk.</p>	<p><b>Corrective Actions Taken</b></p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:</p> <ol style="list-style-type: none"> <li>1. Began keeping and maintaining records of monthly natural gas analysis in March, 2003.</li> <li>2. Installed the correct gasket on Reactor D on March 19, 2003 in response to the March 17, 2003 VCM emissions event.</li> <li>3. Provided documentation on June 22, 2006 that all records of equipment leaks and repairs are being maintained pursuant to the applicable fugitive emissions monitoring requirements.</li> </ol> <p><b>Technical Requirements</b></p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>1. Within 45 days, submit a copy of the results of the Respondent's most recent quarterly fugitive emissions monitoring of the transfer pumps servicing the methanol, ethanol, and isobutanol storage tanks.</li> <li>2. Within 45 days, submit a copy of the Respondent's most recent annual performance test.</li> <li>3. Within 45 days, submit written certification of compliance with Ordering Provisions No. 1 and 2.</li> <li>4. If the performance test submitted pursuant to Ordering Provision No. 2 shows that the percentage of leaking valves in any process unit is greater than 2.0 percent, then the Respondent shall, within 90 days of the completion of the performance test:                         <ol style="list-style-type: none"> <li>a. Comply with all applicable provisions of 40 C.F.R. Part 61, Subpart V, as to that process unit, and</li> <li>b. Submit written certification of compliance with Ordering Provision No. 4.a.</li> </ol> </li> </ol>

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>3. Failed to keep and maintain records of monthly natural gas analysis from March 2001 to February 2003 [30 TEX. ADMIN. CODE § 116.115(c); TEX. HEALTH &amp; SAFETY CODE § 382.085(b); and Permit No. 9347 Special Condition No. 25, Permit No. 9628 Special Condition No. 24, and Permit No. 20014 Special Condition No. 31].</p> <p>4. Failed to maintain complete records for equipment leaks for fugitive emissions monitoring for 2002 [30 TEX. ADMIN. CODE §§ 101.20(2) and 116.115(c); TEX. HEALTH &amp; SAFETY CODE § 382.085(b); Permit No. 9347 Special Condition No. 3, Permit No. 9628 Special Condition No. 3, and Permit No. 20014 Special Condition No. 3; and 40 C.F.R. § 61.246(c)(5), (6), (7), (8), and (9)].</p> <p>5. Failed to meet the exemption criteria for an emissions event which exceeded the maximum allowed emissions rate of 0.33 lbs/hr for vinyl chloride monomer ("VCM"). Specifically, 11 lbs of VCM were released during the emissions event on March 17, 2003 [30 TEX. ADMIN. CODE §§ 116.115(b)(2) and (c), TEX. HEALTH &amp; SAFETY CODE § 382.085(b), and Permit No. 9628 Special Condition No. 1].</p>		

<b>Penalty Calculation Worksheet (PCW)</b>		PCW Revision 6/12/2003
TCEQ Policy Revision 2 (09/02)		
<b>DATES</b>		
PCW	5-Apr-2007	
Screening	8-Dec-2003	
Priority Due	6-Apr-2004	
EPA Due		
<b>RESPONDENT INFORMATION</b>		
Respondent	Shintech Incorporated	
Respondent/Site ID No(s)	RN100637909, CN600128425, BL-0051-F	
Facility/Site Region	12 - Houston	Major/Minor Source
		Major
<b>CASE INFORMATION</b>		
Enf./Case ID No(s)	CCEDS Case No. 11244	
Docket No.	2003-1544-AIR-E	No. Violations
		5
Case Priority	3	Order Type
		1660 with deferral
Enf. Coordinator	Pamela Campbell	EC's Team
		Enforcement Team 5
Media Program(s)	Air Quality	
Admin. Penalty \$ Limit	Minimum \$0	Maximum \$10,000

<b>Penalty Calculation Section</b>			
<b>TOTAL BASE PENALTY</b> ( <i>Sum of violation base penalties</i> )		<b>Subtotal 1</b>	\$28,500
<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>			
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage. <span style="float: right;">+</span>			
<b>Compliance History</b>		4% Enhancement	<b>Subtotals 2, 3 &amp; 7</b>
			\$1,140
Notes	The respondent received two NOVs dated July 20, 2000 and July 24, 2001 for unrelated violations.		+
<b>Culpability</b>		0% Enhancement	<b>Subtotal 4</b>
			\$0
Notes	No <input type="checkbox"/> Select Yes/No The Respondent does not meet the culpability criteria.		+
<b>Good Faith Effort to Comply</b>		0% Reduction	<b>Subtotal 5</b>
			\$0
Extraordinary	Before NOV	NOV to EDRP/Settlement Offer	
Ordinary			
None of the above	X	<i>(mark with small x)</i>	+
Notes	The good faith effort criteria was not met.		
<b>Economic Benefit</b>		0% Enhancement*	<b>Subtotal 6</b>
			\$0
	\$326	Total EB Amounts	*
	\$5,280	Approx. Cost of Compliance	=
<b>SUM OF SUBTOTALS 1-7</b>		<b>Final Subtotal</b>	\$29,640
<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>		<b>Adjustment</b>	\$0
Reduces or enhances the Final Subtotal by the indicated percentage. <i>(enter number only; e.g. -30 for -30%)</i>			
Notes			=
		<b>Final Penalty Amount</b>	\$29,640
<b>STATUTORY LIMIT ADJUSTMENT</b>		<b>Final Assessed Penalty</b>	\$29,640
<b>DEFERRAL</b>		<b>Adjustment</b>	\$0
Reduces the Final Assessed Penalty by the indicated percentage. <i>(enter number only; e.g. 20 for 20% reduction)</i>			
Notes	This is not an expedited case.		=
<b>PAYABLE PENALTY</b>			<b>\$29,640</b>

<b>Screening Date</b>	8-Dec-2003	<b>Docket Number</b>	2003-1544-AIR-E	<b>PCW</b>
<b>Respondent</b>	Shintech Incorporated	<b>Policy Revision 2 (09/02)</b>		
<b>Case ID No.</b>	CCEDS Case No. 11244	<b>PCW Revision 6/12/2003</b>		
<b>Respondent/Site ID No.</b>	RN100637909, CN600128425, BL-0051-F			
<b>Media [Statute]</b>	Air Quality			
<b>Enf. Coordinator</b>	Pamela Campbell			
<b>Site Address</b>	5618 East Highway 332, Freeport, Texas			

**Compliance History Worksheet**

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	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 (number of judgements or consent decrees meeting criteria)	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 (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	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 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	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)**

>> **Repeat Violator (Subtotal 3)**

Select Yes/No **Adjustment Percentage (Subtotal 3)**

>> **Compliance History Person Classification (Subtotal 7)**

Select High, Average or Poor **Adjustment Percentage (Subtotal 7)**

**Compliance History Summary**

**Compliance History Notes** The respondent received two NOVs dated July 20, 2000 and July 24, 2001 for unrelated violations.

**Total Adjustment Percentage (Subtotals 2, 3 & 7)**

<b>Screening Date</b>	08-Dec-03	<b>Docket Number</b>	2003-1544-AIR-E	<b>PCW</b>
<b>Respondent</b>	Shintech Incorporated	Policy Revision 2 (09/02)		
<b>Case ID No.</b>	CCEDS Case No. 11244	PCW Revision 6/12/2003		
<b>Respondent/Site ID No.</b>	RN100637909, CN600128425, BL-0051-F			
<b>Media [Statute]</b>	Air Quality			
<b>Enf. Coordinator</b>	Pamela Campbell			
<b>Violation Number</b>	1			
<b>Primary Rule Cite</b>	30 Tex. Admin. Code §§ 101.20(2) and 116.115(c), Permit No. 9347 Special Condition No. 3, Permit No. 9628 Special Condition No. 3, Permit No. 20014 Special Condition No. 3, and 40 Code of Federal Regulations (CFR) § 61.247(b)			
<b>Secondary Cite(s)</b>	Tex. Health & Safety Code § 382.085(b)			
<b>Violation Description</b>	Failure to prepare and submit the semiannual reports required by 40 CFR 61, Subpart V for fugitive emissions monitoring for 2001 through 2002, as documented during the March 13, 2003 investigation.			
<b>Base Penalty</b>				\$10,000
» Environmental, Property and Human Health Matrix				
OR	<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
<b>Percent</b>				<input type="text"/>
» Programmatic Matrix				
OR	<b>Falsification</b>	Major	Moderate	Minor
	<input type="text"/>	x	<input type="text"/>	<input type="text"/>
<b>Percent</b>				25%
<b>Matrix Notes</b>	Failure to prepare and submit the reports negates 100% of the intent of these rules.			
<b>Adjustment</b>				-\$7,500
<b>Base Penalty Subtotal</b>				\$2,500
<b>Violation Events</b>				
<b>Number of Violation Events</b>		4		
<i>mark only one; use small x</i>	daily	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semiannual	x		
	annual	<input type="text"/>		
	single event	<input type="text"/>		
<b>Violation Base Penalty</b>				\$10,000
<b>Events Notes</b>	Two reports were required each year; therefore, 6 semiannual events are recommended.			
<b>Economic Benefit (EB) for this violation</b>				
<b>Estimated EB Amount (\$)</b>		\$8		
<b>Violation Final Penalty total</b>				\$10,400
<b>This Violation Final Assessed Penalty (adjusted for limits)</b>				\$10,400

**Economic Benefit Worksheet**

<b>Respondent</b>	Shintech Incorporated		
<b>ID Number(s)</b>	CCEDS Case No. 11244		
<b>Media (Statute)</b>	Air Quality		
<b>Violation Number</b>	1	<b>Percent Interest</b>	<b>Years of Depreciation</b>
		5.0	15

<b>Item Description</b>	<b>Item Cost</b> <small>No commas or \$</small>	<b>Date Required</b>	<b>Final Date</b>	<b>Yrs</b>	<b>Interest Saved</b>	<b>Onetime Costs</b>	<b>EB Amount</b>
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**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$50	1-Jun-2001	30-Sep-2004	3.3	\$8	n/a	\$8
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

The first 2001 semiannual report was due on or about June 1, 2001 and every six months thereafter; therefore, this is the estimated cost to prepare and submit the semiannual reports.

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx Cost of Compliance

**TOTAL**

<b>Screening Date</b>	08-Dec-03	<b>Docket Number</b>	2003-1544-AIR-E	<b>PCW</b>
<b>Respondent</b>	Shintech Incorporated			Policy Revision 2 (09/02)
<b>Case ID No.</b>	CCEDS Case No. 11244			PCW Revision 6/12/2003
<b>Respondent/Site ID No.</b>	RN100637909, CN600128425, BL-0051-F			
<b>Media [Statute]</b>	Air Quality			
<b>Enf. Coordinator</b>	Pamela Campbell			
<b>Violation Number</b>	2			
<b>Primary Rule Cite</b>	30 Tex. Admin. Code § 116.115(c), Permit No. 9347 Special Condition No. 5g, Permit No. 9628 Special Condition No. 27g, and Permit No. 20014 Special Condition No. 1g			
<b>Secondary Cite(s)</b>	Tex. Health & Safety Code § 382.085(b)			
<b>Violation Description</b>	Failure to perform the quarterly fugitive emissions monitoring for the transfer pumps servicing the methanol, ethanol, and isobutanol storage tanks for 2002, as documented during the March 13, 2003 investigation. From January 1, 2002 until December 31, 2002, the estimated quantity of emissions of VOCs from the transfer pumps were 5768 lbs.			

**Base Penalty** \$10,000

» Environmental, Property and Human Health Matrix				
<b>Harm</b>				
	<b>Release</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>
<b>OR</b>	Actual			x
	Potential			
				<b>Percent</b> 25%
» Programmatic Matrix				
	<b>Falsification</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>
<b>OR</b>				
				<b>Percent</b>

**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 the violation.

**Adjustment** -\$7,500

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

<b>Violation Events</b>				
	<b>Number of Violation Events</b>	4		
<i>mark only one; use small x</i>	<b>daily</b>			
	<b>monthly</b>			
	<b>quarterly</b>	x		
	<b>semiannual</b>			
	<b>annual</b>			
	<b>single event</b>			
				<b>Violation Base Penalty</b> \$10,000

**Events Notes**

The quarterly fugitive emissions monitoring were not performed in 2002; therefore, four quarterly events are recommended.

<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>	
<b>Estimated EB Amount (\$)</b>	\$29	<b>Violation Final Penalty total</b>	\$10,400
		<b>This Violation Final Assessed Penalty (adjusted for limits)</b>	\$10,400

### Economic Benefit Worksheet

Respondent: Shintech Incorporated  
 ID Number(s): CCEDS Case No. 11244  
 Media [Statute]: Air Quality  
 Violation Number: 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item. (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$30	31-Jan-2002	31-Dec-2002	0.9	\$1	\$27	\$29
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

This is the estimated cost of monitoring.

Approx Cost of Compliance \$30

**TOTAL** \$29

<b>Screening Date</b>	08-Dec-03	<b>Docket Number</b>	2003-1544-AIR-E	<b>PCW</b>
<b>Respondent</b>	Shintech Incorporated			Policy Revision 2 (09/02)
<b>Case ID No.</b>	CCEDS Case No. 11244			PCW Revision 6/12/2003
<b>Respondent/Site ID No.</b>	RN100637909, CN600128425, BL-0051-F			
<b>Media [Statute]</b>	Air Quality			
<b>Enf. Coordinator</b>	Pamela Campbell			
<b>Violation Number</b>	3			
<b>Primary Rule Cite</b>	30 Tex. Admin. Code § 116.115(c), Permit No. 9347 Special Condition No. 25, Permit No. 9628 Special Condition No. 24, and Permit No. 20014 Special Condition No. 31			
<b>Secondary Cite(s)</b>	Tex. Health & Safety Code § 382.085(b)			
<b>Violation Description</b>	Failure to keep and maintain records of monthly natural gas analysis from March 2001 to February 2003, as documented during the March 13, 2003 investigation.			
		<b>Base Penalty</b>	\$10,000	

» Environmental, Property and Human Health Matrix				
	<b>Harm</b>			
	<b>Release</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>
<b>OR</b>	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
				<b>Percent</b> <input type="text"/>
» Programmatic Matrix				
	<b>Falsification</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>
<b>OR</b>	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text"/>
				<b>Percent</b> 25%
<b>Matrix Notes</b>	Failure to keep and maintain records of monthly natural gas analysis negates 100% of the intent of this rule.			
		<b>Adjustment</b>	-\$7,500	
		<b>Base Penalty Subtotal</b>	\$2,500	

<b>Violation Events</b>				
	<b>Number of Violation Events</b>	<input type="text" value="1"/>		
<i>mark only one; use small x</i>	<b>daily</b>	<input type="text"/>		
	<b>monthly</b>	<input type="text"/>		
	<b>quarterly</b>	<input type="text"/>		
	<b>semiannual</b>	<input type="text"/>		
	<b>annual</b>	<input type="text"/>		
	<b>single event</b>	<input checked="" type="checkbox"/>		
			<b>Violation Base Penalty</b>	\$2,500
<b>Events Notes</b>	One single event is recommended based on the investigation date of March 13, 2003.			

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
<b>Estimated EB Amount (\$)</b> <input type="text" value="\$5"/>	<b>Violation Final Penalty total</b> <input type="text" value="\$2,600"/>
<b>This Violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$2,600"/>	

### Economic Benefit Worksheet

<b>Respondent</b>	Shintech Incorporated						
<b>ID Number(s)</b>	CCEDS Case No. 11244						
<b>Media [Statute]</b>	Air Quality						
<b>Violation Number:</b>	3						
					Percent Interest	Years of Depreciation	
					5.0	15	
<b>Item Description</b>	<b>Item Cost</b> <small>No commas or \$</small>	<b>Date Required</b>	<b>Final Date</b>	<b>Yrs</b>	<b>Interest Saved</b>	<b>Onetime Costs</b>	<b>EB Amount</b>

#### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$50	31-Mar-2001	28-Feb-2003	1.9	\$5	n/a	\$5
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

This is the estimated cost to prepare and maintain monthly natural gas analysis records.

#### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx Cost of Compliance \$50

**TOTAL** \$5

<b>Screening Date</b>	08-Dec-03	<b>Docket Number</b>	2003-1544-AIR-E	<b>PCW</b>	
<b>Respondent</b>	Shintech Incorporated	Policy Revision 2 (09/02)			
<b>Case ID No.</b>	CCEDS Case No. 11244	PCW Revision 6/12/2003			
<b>Respondent/Site ID No.</b>	RN100637909, CN600128425, BL-0051-F				
<b>Media [Statute]</b>	Air Quality				
<b>Enf. Coordinator</b>	Pamela Campbell				
<b>Violation Number</b>	4				
<b>Primary Rule Cite</b>	30 Tex. Admin. Code §§ 101.20(2), 116.115(c), Permit No. 9347 Special Condition No. 3, Permit No. 9628 Special Condition No. 3, Permit No. 20014 Special Condition No. 3, and 40 CFR § 61.246(c)(5), (6), (7), (8), and (9)				
<b>Secondary Cite(s)</b>	Tex. Health & Safety Code § 382.085(b)				
<b>Violation Description</b>	Failure to maintain complete records for equipment leaks for fugitive emissions monitoring for 2002. During the March 13, 2003 investigation it was documented that the Respondent failed to have records for equipment detected to have leaks, the repair history, and justification/authorization for delay of repair.				
<b>Base Penalty</b>				<b>\$10,000</b>	
» Environmental, Property and Human Health Matrix					
<b>Harm</b>					
	<b>Release</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>	
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
» Programmatic Matrix					
	<b>Falsification</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>	
OR	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="10%"/>
<b>Matrix Notes</b>	Failure to maintain complete records negates 30-70% of the intent of these rules.				
<b>Adjustment</b>				<input type="text" value="-9,000"/>	
<b>Base Penalty Subtotal</b>				<b>\$1,000</b>	
<b>Violation Events</b>					
<b>Number of Violation Events</b>		<input type="text" value="1"/>			
mark only one; use small x	daily	<input type="text"/>			
	monthly	<input type="text"/>			
	quarterly	<input type="text"/>			
	semiannual	<input type="text"/>			
	annual	<input type="text"/>			
	single event	<input checked="" type="checkbox"/>			<b>Violation Base Penalty</b> <input type="text" value="\$1,000"/>
<b>Events Notes</b>	One single event is recommended based on the investigation date of March 13, 2003.				
<b>Economic Benefit (EB) for this violation</b>					
<b>Estimated EB Amount (\$)</b>		<input type="text" value="\$2"/>			
<b>Violation Final Penalty total</b>				<b>\$1,040</b>	
<b>This Violation Final Assessed Penalty (adjusted for limits)</b>				<b>\$1,040</b>	

### Economic Benefit Worksheet

<b>Respondent</b>	Shintech Incorporated						
<b>ID Number(s)</b>	CCEDS Case No. 11244					<b>Percent Interest</b>	<b>Years of Depreciation</b>
<b>Media [Statute]</b>	Air Quality					5.0	15
<b>Violation Number</b>	4						

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$50	1-Jan-2002	31-Dec-2002	1.0	\$2	n/a	\$2
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

This is the estimated cost to maintain complete records of equipment leaks and repair monitoring.

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx Cost of Compliance \$50

**TOTAL** \$2

<b>Screening Date</b>	08-Dec-03	<b>Docket Number</b>	2003-1544-AIR-E	<b>PCW</b>
<b>Respondent</b>	Shintech Incorporated	Policy Revision 2 (09/02)		
<b>Case ID No.</b>	CCEDS Case No. 11244	PCW Revision 6/12/2003		
<b>Respondent/Site ID No.</b>	RN100637909, CN600128425, BL-0051-F			
<b>Media [Statute]</b>	Air Quality			
<b>Enf. Coordinator</b>	Pamela Campbell			
<b>Violation Number</b>	5			
<b>Primary Rule Cite</b>	30 Tex. Admin. Code §§ 116.115(b)(2) and 116.115(c), and Permit No. 9628 Special Condition No. 1			
<b>Secondary Cite(s)</b>	Tex. Health & Safety Code § 382.085(b)			
<b>Violation Description</b>	Failure to meet the exemption criteria for an emissions event which exceeded the maximum allowed emissions rate of 0.33 lbs/hr for vinyl chloride monomer ("VCM"). The respondent released 11 lbs of VCM during the emissions event on March 17, 2003, as documented during an investigation on March 19, 2003.			
			<b>Base Penalty</b>	\$10,000
<b>» Environmental, Property and Human Health Matrix</b>				
<b>Harm</b>				
<b>Release</b>		<b>Major</b>	<b>Moderate</b>	<b>Minor</b>
Actual	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<b>Percent</b>	50%
<b>» Programmatic Matrix</b>				
<b>Falsification</b>		<b>Major</b>	<b>Moderate</b>	<b>Minor</b>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<b>Percent</b>	<input type="text"/>
<b>Matrix Notes</b>	As a result of this violation, human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of this violation.			
			<b>Adjustment</b>	-\$5,000
			<b>Base Penalty Subtotal</b>	\$5,000
<b>Violation Events</b>				
<b>Number of Violation Events</b>		1		
<i>mark only one; use small x</i>				
	daily	<input type="checkbox"/>		
	monthly	<input type="checkbox"/>		
	quarterly	<input type="checkbox"/>		
	semiannual	<input type="checkbox"/>		
	annual	<input type="checkbox"/>		
	single event	<input checked="" type="checkbox"/>		
			<b>Violation Base Penalty</b>	\$5,000
<b>Events Notes</b>	One single event is recommended based on the inspection date of March 19, 2003.			
<b>Economic Benefit (EB) for this violation</b>				
<b>Estimated EB Amount (\$)</b>		\$282	<b>Violation Final Penalty total</b>	
			\$5,200	
<b>This Violation Final Assessed Penalty (adjusted for limits)</b>			\$5,200	

**Economic Benefit Worksheet**

<b>Respondent</b>	Shintech Incorporated		<b>Percent Interest</b>	<b>Years of Depreciation</b>
<b>ID Number(s)</b>	CCEDS Case No. 11244			
<b>Media [Statute]</b>	Air Quality		5.0	15
<b>Violation Number</b>	5			

<b>Item Description</b>	<b>Item Cost</b> <small>No commas or \$</small>	<b>Date Required</b>	<b>Final Date</b>	<b>Yrs</b>	<b>Interest Saved</b>	<b>Onetime Costs</b>	<b>EB Amount</b>
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**Delayed Costs**

Equipment	\$100	17-Mar-2003	17-Mar-2003	0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling	\$5,000	17-Mar-2003	1-May-2004	1.1	\$282	n/a	\$282
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

This is the estimated cost to install the correct gasket, to prepare Standard Operating Procedures ("SOP") for proper maintenance and repair of Plant equipment, and conduct employee training on the SOP.

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx Cost of Compliance

**TOTAL**

## Compliance History

Customer/Respondent/Owner-Operator:	CN600128425    Shintech Incorporated	Classification: AVERAGE	Rating: 0.24
Regulated Entity:	RN100637909    SHINTECH PLANT 1	Classification: AVERAGE	Site Rating: 0.24
ID Number(s):	AIR OPERATING PERMITS	PERMIT	1361
	AIR OPERATING PERMITS	ACCOUNT NUMBER	BL0051F
	AIR NEW SOURCE PERMITS	AFS NUM	0012
	AIR NEW SOURCE PERMITS	EPA ID	PSD-TX-285
	AIR NEW SOURCE PERMITS	EPA ID	PSD-TX-285M5
	AIR NEW SOURCE PERMITS	EPA ID	PSD-TX-671
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	BL0051F
	AIR NEW SOURCE PERMITS	PERMIT	26583
	AIR NEW SOURCE PERMITS	PERMIT	20014
	AIR NEW SOURCE PERMITS	PERMIT	682E
	AIR NEW SOURCE PERMITS	PERMIT	9347
	AIR NEW SOURCE PERMITS	PERMIT	8299
	AIR NEW SOURCE PERMITS	PERMIT	9840
	AIR NEW SOURCE PERMITS	PERMIT	9628
	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	0200598
Location:	5618 E HIGHWAY 332, FREEPORT, TX, 77541		Rating Date: 9/1/03 Repeat Violator: NO
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	December 05, 2003		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	December 05, 1998 to December 05, 2003		

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Pam Campbell Phone: 239-4493

### 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 of the site during the compliance period?    | No  |
| 3. If Yes, who is the current owner?   | N/A |
| 4. If Yes, who was/were the prior owner(s)?  | N/A |
| 5. When did the change(s) in ownership occur?  | N/A |

### Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

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

N/A

C. Chronic excessive emissions events.

N/A

D. The dates of investigations.

- 1 08/21/2002
- 2 05/13/2003
- 3 11/22/1999
- 4 11/22/1999
- 5 12/30/1999
- 6 04/12/2000
- 7 06/20/2000

- 8 06/20/2000
- 9 07/14/2000
- 10 08/18/2000
- 11 08/18/2000
- 12 08/21/2000
- 13 05/13/2003
- 14 08/21/2000
- 15 08/28/2000
- 16 08/28/2000
- 17 08/28/2000
- 18 08/28/2000
- 19 08/28/2000
- 20 01/10/2001
- 21 08/21/2002
- 22 05/29/2001
- 23 01/02/2002
- 24 02/27/2002

E. Written notices of violations (NOV).

Date: 07/20/2000

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.10(e)  
Description: NON-SUBMITTAL OF EI.

Date: 07/24/2001

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.10(e)  
Description: NON-SUBMITTAL OF EIQ.

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  
SHINTECH INCORPORATED,  
RN100637909

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2003-1544-AIR-E

I. JURISDICTION AND STIPULATIONS

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Shintech Incorporated ("Shintech") 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 Shintech, represented by Jon Niermann of the law firm of Baker Botts L.L.P., appear before the Commission and together stipulate that:

1. Shintech owns and operates a synthetic resin plant located at 5618 East Highway 332, Freeport, Brazoria County, Texas (the "Plant").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 382 and TCEQ rules.
3. The Commission and Shintech agree that the Commission has jurisdiction to enter this Agreed Order, and that Shintech is subject to the Commission's jurisdiction.
4. Shintech received notice of the violations alleged in Section II ("Allegations") on or about May 18, 2003.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Shintech of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of twenty-five thousand dollars (\$25,000.00) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). Shintech has paid twenty-five thousand dollars (\$25,000.00) of the administrative penalty.

7. 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.
8. The Executive Director of the TCEQ and Shintech have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that Shintech has implemented the following corrective measures at the Plant:
  - a. Began keeping and maintaining records of monthly natural gas analysis in March, 2003.
  - b. Installed the correct gasket on Reactor D on March 19, 2003.
  - c. Provided documentation on June 22, 2006 that all records of equipment leaks and repairs are being maintained pursuant to the applicable fugitive emissions monitoring requirements.
10. 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 Shintech has not complied with one or more of the terms or conditions in this Agreed Order.
11. 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.
12. 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.

## II. ALLEGATIONS

Shintech is alleged to have violated:

1. 30 TEX. ADMIN. CODE §§ 101.20(2) and 116.115(c); TEX. HEALTH & SAFETY CODE § 382.085(b); Permit No. 9347 Special Condition No. 3, Permit No. 9628 Special Condition No. 3, and Permit No. 20014 Special Condition No. 3; and 40 C.F.R. § 61.247(b) by failing to prepare and submit the semiannual reports required by 40 C.F.R. 61, Subpart V for fugitive

emissions monitoring for 2001 through 2002, as documented during the March 13, 2003 investigation.

2. 30 TEX. ADMIN. CODE § 116.115(c); TEX. HEALTH & SAFETY CODE § 382.085(b); and Permit No. 9347 Special Condition No. 5.g., Permit No. 9628 Special Condition No. 27.g., and Permit No. 20014 Special Condition No. 1.g. by failing to perform the quarterly fugitive emissions monitoring for the transfer pumps servicing the methanol, ethanol, and isobutanol storage tanks for 2002, as documented during the March 13, 2003 investigation. From January 1, 2002 until December 31, 2002, the estimated quantity of emissions of VOCs from the transfer pumps were 5768 lbs.
3. 30 TEX. ADMIN. CODE § 116.115(c); TEX. HEALTH & SAFETY CODE § 382.085(b); and Permit No. 9347 Special Condition No. 25, Permit No. 9628 Special Condition No. 24, and Permit No. 20014 Special Condition No. 31 by failing to keep and maintain records of monthly natural gas analysis from March 2001 to February 2003, as documented during the March 13, 2003 investigation.
4. 30 TEX. ADMIN. CODE §§ 101.20(2) and 116.115(c); TEX. HEALTH & SAFETY CODE § 382.085(b); Permit No. 9347 Special Condition No. 3, Permit No. 9628 Special Condition No. 3, and Permit No. 20014 Special Condition No. 3; and 40 C.F.R. § 61.246(c)(5), (6), (7), (8), and (9) by failing to maintain complete records for equipment leaks for fugitive emissions monitoring for 2002. During the March 13, 2003 investigation, it was documented that the following records were not maintained: equipment detected to have leaks, the repair history, and justification/authorization for delay of repair.
5. 30 TEX. ADMIN. CODE §§ 116.115(b)(2) and (c), TEX. HEALTH & SAFETY CODE § 382.085(b), and Permit No. 9628 Special Condition No. 1 by failing to meet the exemption criteria for an emissions event which exceeded the maximum allowed emissions rate of 0.33 lbs/hr for vinyl chloride monomer ("VCM"). Specifically, 11 lbs of VCM were released during the emissions event on March 17, 2003, as documented during an investigation on March 19, 2003.

### III. DENIALS

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

### IV. ORDER

1. It is, therefore, ordered by the TCEQ that Shintech pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Shintech's

compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action 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: Shintech Incorporated, Docket No. 2003-1544-AIR-E" to:

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

2. Shintech shall undertake the following technical requirements:

- a. Within 45 days after the effective date of this Agreed Order, submit a copy of the results of Shintech's most recent quarterly fugitive emissions monitoring of the transfer pumps servicing the methanol, ethanol, and isobutanol storage tanks conducted in accordance with Shintech's consolidated permit, Permit Nos. 9347 and PSD-TX-285M5.
- b. Within 45 days of the effective date of this Agreed Order, submit a copy of Shintech's most recent annual performance test conducted pursuant to 40 C.F.R. § 61.65(b)(8)(ii).
- c. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with above Ordering Provisions No. 2.a. and 2.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, 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."

- d. If the performance test submitted pursuant to Ordering Provision No. 2.b. shows that the percentage of leaking valves in any process unit is greater than 2.0 percent, then Shintech shall, within 90 days of the completion of the performance test:

- i. Comply with all applicable provisions of 40 C.F.R. Part 61, Subpart V, as to that process unit, and
  - ii. Submit written certification of compliance with Ordering Provision No. 2.d.i., as described in Ordering Provision No. 2.c., above.
- e. The documentation and written certification required by the above Ordering Provisions shall be submitted to:

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

and

Air Section Manager  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Avenue, Suite H  
Houston, Texas 77023-1452

3. The provisions of this Agreed Order shall apply to and be binding upon Shintech. Shintech is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If Shintech 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, Shintech's failure to comply is not a violation of this Agreed Order. Shintech shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Shintech shall notify the Executive Director within seven days after Shintech becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. 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 Shintech shall be made in writing to the Executive Director. Extensions are not effective until Shintech receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against Shintech in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed 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.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 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 the Order to Shintech, or three days after the date on which the Commission mails notice of the Order to Shintech, 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

6/20/07

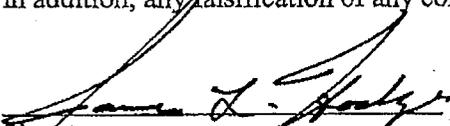
\_\_\_\_\_  
Date

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 the entity, if any, indicated below my signature, 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 my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- 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 against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

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

  
\_\_\_\_\_  
Signature

4/11/07  
\_\_\_\_\_  
Date

JAMES L. HODGES

\_\_\_\_\_  
Name (Printed or typed)

Authorized representative of  
Shintech Incorporated

SITE MANAGER

\_\_\_\_\_  
Title