

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-0455-AIR-E **TCEQ ID:** RN100225036 and RN100225291 **CASE NO.:** 35561

RESPONDENT NAME: Owens Corning Roofing and Asphalt, LLC

ORDER TYPE:		
<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	
CASE TYPE:		
<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
<p>SITE WHERE VIOLATION(S) OCCURRED: Owens Corning Houston Roofing and Manufacturing Facility, 8360 Market Street Road, Houston, Harris County and Owens Corning Roofing and Asphalt Irving Facility, 201 North Nursery Road, Irving, Dallas County</p> <p>TYPE OF OPERATION: Roofing and asphalt manufacturing plants</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding these facility locations.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on September 1, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Samuel Short, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-5363; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Christopher Smith, Regional Environmental Health and Safety Leader, Owens Corning Roofing and Asphalt, LLC, 201 North Nursery Road, Irving, Texas 75061 Mr. Michael Burton, Vice President of Operations, Owens Corning Roofing and Asphalt, LLC, 201 North Nursery Road, Irving, Texas 75061 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

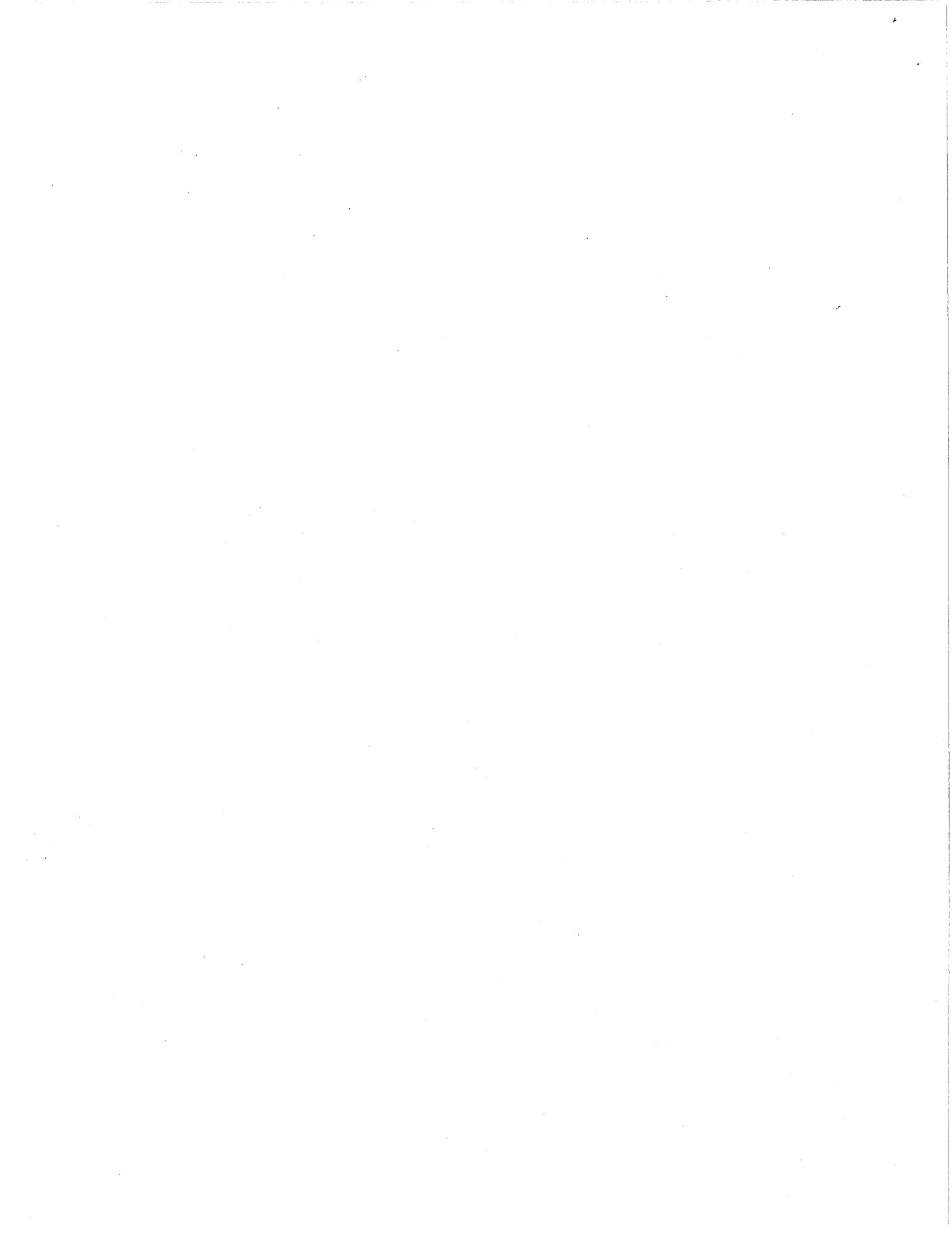
TEXAS
 COMMISSION
 ON ENVIRONMENTAL
 QUALITY
 2008 SEP 22 AM 11:21
 CHIEF CLERKS OFFICE

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: November 1, 2007 and March 19, 2008</p> <p>Date of NOV/NOE Relating to this Case: February 26, 2008 and March 24, 2008 (NOE)</p> <p>Background Facts: This was a routine investigation and a routine record review. AIR</p> <p>1) Failure to submit a permit revision to Federal Operating Permit ("FOP") No. O-01545 that lists Air Permit No. 81011 as the applicable 30 TEX. ADMIN. CODE § 116 authorization prior to Air Permit No. 81011 being issued at Plant 1 [30 TEX. ADMIN. CODE § 122.217(a)(2) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>2) Failure to maintain record of weekly and quarterly visible emissions observations at Plant 1. Specifically, the required records of weekly visible emissions observations for Units 4, 5, 10, 323, 330, and 331, and records of quarterly visible emissions observations for all vents, buildings, structures, and all other sources at the Plant were not being kept [30 TEX. ADMIN. CODE § 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), and FOP No. O-01545, Special Conditions 3 and 7].</p> <p>3) Failure to properly maintain and operate capture and control devices at Plant 1. Specifically, from August 15, 2007 to November 1, 2007 the investigator documented that instances occurred where the roofing plant regenerative thermal oxidizers ("RTOs") and/or the asphalt plant preheater/thermal oxidizer unexpectedly went down. When the RTOs went down, the butterfly valves automatically closed to the RTOs. There was approximately a fifteen minute period of time to bring down the roofing plant. During this time emissions were</p>	<p>Total Assessed: \$28,055</p> <p>Total Deferred: \$5,611 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$22,444</p> <p>RN100225291 and RN100225036 Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent submitted the annual PCC for the reporting period of November 10, 2006 to November 9, 2007 on January 9, 2008.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Immediately upon the effective date of this Agreed Order:</p> <p>i. Begin maintaining records of weekly and quarterly visible emissions observations; and</p> <p>ii. Begin maintaining records of the types and quantities of unauthorized emissions during emissions events.</p> <p>b. Within 15 days after the effective date of this Agreed Order, develop and implement procedures to ensure that capture and control devices are maintained and operated properly.</p> <p>c. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Submit an Operating Permit amendment for FOP No. O-01545 to list Air Permit No. 81011 as the applicable 30 TEX. ADMIN. CODE § 116 authorization; and</p> <p>ii. Submit the revised semi-annual deviation reports for the reporting periods of September 2, 2004 to March 1, 2005, March 2, 2005 to September 1, 2005, September 2, 2006 to March 1, 2007, and March 2, 2007 to September 1, 2007 to include all instances of deviation.</p> <p>d. With 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provisions a. through c.; and</p> <p>d. Within 180 days after the effective date of this Agreed Order, submit written certification of compliance that a permit amendment has been obtained that list Air</p>

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<p>being emitted through the building vents. Also, when the preheater/thermal oxidizer went down it took approximately 2 minutes to shut the valves leading to the preheater/thermal oxidizer resulting in the release of air emissions [30 TEX. ADMIN. CODE § 101.221(a), TEX. HEALTH & SAFETY CODE § 382.085(b), and Air Permit No. 81011 Special Conditions No. 14].</p> <p>4) Failure to maintain records of the types and quantities of unauthorized emissions during emissions events resulting from unexpected control device downtime at Plant 1. Specifically, from August 15, 2007 to November 1, 2007 the investigator documented that instances occurred where the RTOs and/or the asphalt plant preheater/thermal oxidizer unexpectedly went down. There are no records of the type or quantities of the unauthorized emissions that occurred during these times [30 TEX. ADMIN. CODE § 101.201(b) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>5) Failure to report all instances of deviation at Plant 1. Specifically, the semi-annual deviation reports for the reporting periods of September 2, 2004 to March 1, 2005, March 2, 2005 to September 1, 2005, September 2, 2006 to March 1, 2007, and March 2, 2007 to September 1, 2007 did not contain the deviation for failing to have permit authorization from September 2, 2004 to August 15, 2007. In addition, the semi-annual deviation report for the reporting period March 2, 2007 to September 1, 2007 was submitted on November 30, 2007, 59 days late [30 TEX. ADMIN. CODE §§ 122.145(2)(B) and (C) and 122.146(5)(C) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>6) Failure to submit an annual Permit Compliance Certification ("PCC") within 30 days after the end of the reporting period at Plant 2. Specifically, the PCC for the reporting period of November 10, 2006 to November 9, 2007 was submitted on January 9, 2008, 31 days late [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.146(2), FOP No. O-01543, General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>		<p>Permit No. 81011 as the applicable 30 TEX. ADMIN. CODE § 116 authorization in FOP No. O-01545.</p>
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Additional ID No(s): HG0750M





Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision February 29, 2008

TCEQ

DATES	Assigned	3-Mar-2008	Screening	18-Mar-2008	EPA Due	28-Jul-2008
	PCW	1-Apr-2008				

RESPONDENT/FACILITY INFORMATION	
Respondent	Owens Corning Roofing and Asphalt, LLC (Irving)
Reg. Ent. Ref. No.	RN100225291
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Major

CASE INFORMATION				
Enf./Case ID No.	35561	No. of Violations	5	
Docket No.	2008-0455-AIR-E	Order Type	1660	
Media Program(s)	Air	Enf. Coordinator	Samuel Short	
Multi-Media		EC's Team	Enforcement Team 3	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement **Subtotals 2, 3, & 7**

Notes

Culpability Enhancement **Subtotal 4**

Notes

Good Faith Effort to Comply Reduction **Subtotal 5**

	Before NOV	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"/>	(mark with x)

Notes

Total EB Amounts **Subtotal 6**
Approx. Cost of Compliance ***Capped at the Total EB \$ Amount**

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

PAYABLE PENALTY

Screening Date 18-Mar-2008

Docket No. 2008-0455-AIR-E

PCW

Owens Corning Roofing and Asphalt, LLC

Respondent (Irving)

Policy Revision 2 (September 2002)

Case ID No. 35561

PCW Revision February 29, 2008

Reg. Ent. Reference No. RN100225291

Media [Statute] Air

Enf. Coordinator Samuel Short

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 <i>(number of NOVs meeting criteria)</i>	2	10%
	Other written NOVs	0	0%
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	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%
<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) 30%

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

No

Adjustment Percentage (Subtotal 3) 0%

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

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

Enhancement recommended for having two NOVs for the same or similar violations and one Agreed Order with denial language within the last five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 30%

Screening Date 18-Mar-2008 **Docket No.** 2008-0455-AIR-E **PCW**
Respondent Owens Corning Roofing and Asphalt, LLC (Irving) *Policy Revision 2 (September 2002)*
Case ID No. 35561 *PCW Revision February 29, 2008*
Reg. Ent. Reference No. RN100225291
Media [Statute] Air
Enf. Coordinator Samuel Short
Violation Number
Rule Cite(s)
Violation Description
Base Penalty

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
		<input type="text"/>	<input type="text"/>	<input type="text"/>	
<input type="text" value="At least 70% of the rule requirement was met."/>					
Adjustment					<input type="text" value="\$9,900"/>

Violation Events

Number of Violation Events **Number of violation days**

<i>mark only one with an x</i>	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text" value="x"/>

Violation Base Penalty

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 Owens Corning Roofing and Asphalt, LLC (Irving)

Case ID No. 35561

Reg. Ent. Reference No. RN100225291

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
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	\$1,500	15-Aug-2007	3-Jan-2009	1.4	\$104	n/a	\$104
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs
 The estimated cost to submit a permit revision to FOP No. O-01545 that lists Air Permit No. 81011 as the applicable 30 Tex. Admin. Code § 116 authorization. Date required is when the revision application was due and the final date is the projected date of compliance.

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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/equipment				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

\$1,500		\$104
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Screening Date 18-Mar-2008

Docket No. 2008-0455-AIR-E

PCW

Respondent Owens Corning Roofing and Asphalt, LLC

(Irving)

Policy Revision 2 (September 2002)

Case ID No. 35561

PCW Revision February 29, 2008

Reg. Ent. Reference No. RN100225291

Media [Statute] Air

Enf. Coordinator Samuel Short

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 122.143(4), Tex. Health & Safety Code § 382.085(b), and FOP No. O-01545, Special Conditions 3 and 7

Violation Description Failed to maintain record of weekly and quarterly visible emissions observations. Specifically, the required records of weekly visible emissions observations for Units 4, 5, 10, 323, 330, and 331, and records of quarterly visible emissions observations for all vents, buildings, structures, and all other sources at the Plant were not being kept.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="25%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an 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"/>

Violation Base Penalty

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 Owens Corning Roofing and Asphalt, LLC (Irving)

Case ID No. 35561

Reg. Ent. Reference No. RN100225291

Media Air

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	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	\$1,000	24-Apr-2007	18-Nov-2008	1.6	\$79	n/a	\$79
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 estimated cost to maintain weekly and quarterly visible emissions observation records. The date required is the first date the records were unavailable. The final date is the projected date of compliance.

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/equipment				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

\$1,000

TOTAL

\$79

Screening Date 18-Mar-2008 **Docket No.** 2008-0455-AIR-E **PCW**
Respondent Owens Corning Roofing and Asphalt, LLC (Irving) *Policy Revision 2 (September 2002)*
Case ID No. 35561 *PCW Revision February 29, 2008*
Reg. Ent. Reference No. RN100225291

Media [Statute] Air
Enf. Coordinator Samuel Short
Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 101.221(a), Tex. Health & Safety Code § 382.085(b), and Air Permit No. 81011 Special Conditions No. 14

Violation Description Failed to properly maintain and operate capture and control devices. Specifically, from August 15, 2007 to November 1, 2007 the investigator documented that instances occurred where the roofing plant regenerative thermal oxidizers ("RTOs") and/or the asphalt plant preheater/thermal oxidizer unexpectedly went down. When the RTOs went down, the butterfly valves automatically closed to the RTOs. There was approximately a fifteen minute period of time to bring down the roofing plant. During this time emissions were being emitted through the building vents. Also, when the preheater/thermal oxidizer went down it took approximately 2 minutes to shut the valves leading to the preheater/thermal oxidizer resulting in the release of air emissions.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual				x	25%
Potential					

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0%

Matrix Notes Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 **Number of violation days** 78

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,500

One quarterly event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$63

Violation Final Penalty Total \$3,250

This violation Final Assessed Penalty (adjusted for limits) \$3,250

Economic Benefit Worksheet

Respondent Owens Corning Roofing and Asphalt, LLC (Irving)
 Case ID No. 35561

Reg. Ent. Reference No. RN100225291

Media Air
 Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

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)	\$1,000	15-Aug-2007	18-Nov-2008	1.3	\$63	n/a	\$63

Notes for DELAYED costs

The estimated cost to develop and implement procedures to ensure that capture and control devices are maintained and operated properly. The date required is the date the requirement began. The final date is the projected date of compliance.

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/equipment				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

\$1,000

TOTAL

\$63

Screening Date 18-Mar-2008 **Docket No.** 2008-0455-AIR-E **PCW**
Respondent Owens Corning Roofing and Asphalt, LLC (Irving) *Policy Revision 2 (September 2002)*
Case ID No. 35561 *PCW Revision February 29, 2008*

Reg. Ent. Reference No. RN100225291

Media [Statute] Air

Enf. Coordinator Samuel Short

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 101.201(b) and Tex. Health & Safety Code § 382.085(b)

Violation Description
 Failed to maintain records of the types and quantities of unauthorized emissions during emissions events resulting from unexpected control device downtime. Specifically, from August 15, 2007 to November 1, 2007 the investigator documented that instances occurred where the RTOs and/or the asphalt plant preheater/thermal oxidizer unexpectedly went down. There are no records of the type or quantities of the unauthorized emissions that occurred during these times.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="25%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events **Number of violation days**

mark only one with an 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="text" value="x"/>

Violation Base Penalty

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 Owens Corning Roofing and Asphalt, LLC (Irving)

Case ID No. 35561

Reg. Ent. Reference No. RN100225291

Media Air

Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

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

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	\$1,000	15-Aug-2007	18-Nov-2008	1.3	\$63	n/a	\$63
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 estimated cost to maintain records of the types and quantities of unauthorized emissions. The date required is the date the requirement began. The final date is the projected date of compliance.

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/equipment				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	\$1,000	TOTAL	\$63
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Screening Date 18-Mar-2008 **Docket No.** 2008-0455-AIR-E **PCW**
Respondent Owens Corning Roofing and Asphalt, LLC (Irving) *Policy Revision 2 (September 2002)*
Case ID No. 35561 *PCW Revision February 29, 2008*

Reg. Ent. Reference No. RN100225291
Media [Statute] Air

Enf. Coordinator Samuel Short

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code §§ 122.145(2)(B) and (C) and 122.146(5)(C) and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to report all instances of deviation. Specifically, the semi-annual deviation reports for the reporting periods of September 2, 2004 to March 1, 2005, March 2, 2005 to September 1, 2005, September 2, 2006 to March 1, 2007, and March 2, 2007 to September 1, 2007 did not contain the deviation for failing to have permit authorization from September 2, 2004 to August 15, 2007. In addition, the semi-annual deviation report for the reporting period March 2, 2007 to September 1, 2007 was submitted on November 30, 2007, 59 days late.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			25%

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 4 **Number of violation days** 1083

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$10,000

Four single events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$182

Violation Final Penalty Total \$13,000

This violation Final Assessed Penalty (adjusted for limits) \$13,000

Economic Benefit Worksheet

Respondent Owens Corning Roofing and Asphalt, LLC (Irving)

Case ID No. 35561

Reg. Ent. Reference No. RN100225291

Media Air

Violation No. 5

Percent Interest	Years of Depreciation
5.0	15
Onetime Costs	EB Amount

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

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	\$1,000	31-Mar-2005	18-Nov-2008	3.6	\$182	n/a	\$182
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 estimated cost to submit all instances of deviation. Date required is the date the first accurate semi-annual deviation report was due. The final date is the projected date of compliance.

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/equipment				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	\$1,000	TOTAL	\$182
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Compliance History

Customer/Respondent/Owner-Operator: CN602134488 Owens Corning Roofing and Asphalt, LLC Classification: AVERAGE Rating: 3.67

Regulated Entity: RN100225291 OWENS CORNING ROOFING AND ASPHALT IRVING FACILITY Classification: AVERAGE Site Rating: 10.63

ID Number(s):

AIR OPERATING PERMITS	ACCOUNT NUMBER	DB0632E
AIR OPERATING PERMITS	PERMIT	1545
INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD987969714
INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	31687
AIR NEW SOURCE PERMITS	PERMIT	6468
AIR NEW SOURCE PERMITS	PERMIT	11102
AIR NEW SOURCE PERMITS	PERMIT	11474
AIR NEW SOURCE PERMITS	PERMIT	12342
AIR NEW SOURCE PERMITS	PERMIT	13630
AIR NEW SOURCE PERMITS	PERMIT	14528
AIR NEW SOURCE PERMITS	PERMIT	22622
AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	DB0632E
AIR NEW SOURCE PERMITS	AFS NUM	4811300077
AIR NEW SOURCE PERMITS	PERMIT	81011
STORMWATER	PERMIT	TXR05O479
STORMWATER	PERMIT	TXR15EL43
STORMWATER	PERMIT	TXR05V434

Location: 201 NORTH NURSERY RD, IRVING, TX, 75061 Rating Date: 9/1/2007 Repeat Violator: NO

TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: March 18, 2008

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: March 18, 2003 to March 18, 2008

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

Name: Samuel Short Phone: (512) 239-5363

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.

Effective Date: 11/18/2006 ADMINORDER 2006-0591-AIR-E
 Classification: Major
 Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)
 30 TAC Chapter 116, SubChapter D 116.315(a)
 5C THC Chapter 382, SubChapter D 382.085(b)
 Description: Failure to submit a permit renewal application.

- 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 | 07/28/2004 | (277277) |
| 2 | 11/08/2004 | (337789) |
| 3 | 05/24/2005 | (381213) |
| 4 | 02/28/2006 | (456792) |
| 5 | 04/11/2006 | (462430) |
| 6 | 05/05/2006 | (465002) |
| 7 | 11/06/2006 | (516623) |
| 8 | 10/03/2007 | (573927) |
| 9 | 11/14/2007 | (599782) |

10 02/26/2008 (609700)

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

Date: 08/11/2004 (277277)

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to submit initial notification for an emissions event within 24 hours of discovery.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(2)(H)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to report estimated total quantities for air emissions event.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter F 101.201(g)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to submit emissions event report electronically using the State of Texas Environmental Emissions Reporting System (STEERS).

Date: 10/05/2007 (573927)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter F 101.201(g)
5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failure to demonstrate affirmative defense for a reportable emissions event that occurred on 07/16/07. The event was caused by human error, and the final notification was not submitted using the State of Texas Environmental Electronic Reporting System (STEERS). Since affirmative defense could not be met, emissions resulting from this event were considered to be unauthorized.

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



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision March 8, 2008

DATES	Assigned	14-Apr-2008	Screening	22-Apr-2008	EPA Due	14-Dec-2008
	PCW	23-Apr-2008				

RESPONDENT/FACILITY INFORMATION			
Respondent	Owens Corning Roofing and Asphalt, LLC		(Houston)
Reg. Ent. Ref. No.	RN100225036		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	35561	No. of Violations	1
Docket No.	2008-0455-AIR-E	Order Type	1660
Media Program(s)	Air	Enf. Coordinator	Samuel Short
Multi-Media		EC's Team	Enforcement Team 3
Admin. Penalty \$	Limit Minimum	\$0	Maximum
			\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 2% Enhancement Subtotals 2, 3, & 7

Notes: Enhancement recommended for having one NOV for nonsimilar violations within the last five years.

Culpability No 0% Enhancement Subtotal 4

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 25% Reduction Subtotal 5

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

Notes: The Respondent achieved compliance on January 9, 2008.

Total EB Amounts 0% Enhancement* Subtotal 6
 Approx. Cost of Compliance *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL Reduction Adjustment

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY

Screening Date 22-Apr-2008

Docket No. 2008-0455-AIR-E

PCW

Owens Corning Roofing and Asphalt, LLC

Respondent (Houston)

Policy Revision 2 (September 2002)

Case ID No. 35561

PCW Revision March 8, 2008

Reg. Ent. Reference No. RN100225036

Media [Statute] Air

Enf. Coordinator Samuel Short

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	1	2%
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%

Please Enter Yes or No

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) 2%

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

No

Adjustment Percentage (Subtotal 3) 0%

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

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

Enhancement recommended for having one NOV for nonsimilar violations within the last five years.

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

Screening Date 22-Apr-2008 **Docket No.** 2008-0455-AIR-E **PCW**
 Owens Corning Roofing and Asphalt, LLC
Respondent (Houston) *Policy Revision 2 (September 2002)*
Case ID No. 35561 *PCW Revision March 8, 2008*
Reg. Ent. Reference No. RN100225036
Media [Statute] Air
Enf. Coordinator Samuel Short
Violation Number
Rule Cite(s) 30 Tex. Admin. Code §§ 122.143(4) and 122.146(2), Federal Operating Permit No. O-01543, General Terms and Conditions, and Tex. Health & Safety Code § 382.085(b)
Violation Description Failed to submit an annual Permit Compliance Certification ("PCC") within 30 days after the end of the reporting period. Specifically, the PCC for the reporting period of November 10, 2006 to November 9, 2007 was submitted on January 9, 2008, 31 days late.
Base Penalty

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="25%"/>

Matrix Notes:

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an 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="text" value="x"/>

Violation Base Penalty

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 Owens Corning Roofing and Asphalt, LLC (Houston)
Case ID No. 35561

Reg. Ent. Reference No. RN100225036

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				0.0	\$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	\$1,000	9-Dec-2007	9-Jan-2008	0.1	\$4	n/a	\$4
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 estimated cost to prepare and submit the annual PCC. Date required is the date the PCC was due and the final date is the date in which it was submitted.

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/equipment				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

\$1,000

TOTAL

\$4

Compliance History

Customer/Respondent/Owner-Operator: CN602134488 Owens Corning Roofing and Asphalt, LLC Classification: AVERAGE Rating: 3.67

Regulated Entity: RN100225036 OWENS CORNING HOUSTON ROOFING AND MANUFACTURING FACILITY Classification: AVERAGE Site Rating: 0.38

ID Number(s):

AIR OPERATING PERMITS	ACCOUNT NUMBER	HG0750M
AIR OPERATING PERMITS	PERMIT	1543
AIR OPERATING PERMITS	PERMIT	21768
INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD097305304
INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	32491
AIR NEW SOURCE PERMITS	PERMIT	21768
AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG0750M
AIR NEW SOURCE PERMITS	AFS NUM	4820100135
AIR NEW SOURCE PERMITS	PERMIT	50359
STORMWATER	PERMIT	TXR05V215

Location: 8360 MARKET STREET RD, HOUSTON, TX, 77029 Rating Date: September 01 07 Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: April 18, 2008

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: April 18, 2003 to April 18, 2008

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

Name: Samuel Short Phone: (512) 239-5363

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

1	04/23/2003	(29072)
N/A		
2	08/27/2004	(284344)
3	12/29/2004	(341674)
4	02/22/2006	(453244)
5	05/23/2006	(455878)
6	01/31/2007	(517071)
7	08/30/2007	(543569)
8	04/09/2008	(637079)

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

Date: 05/24/2006 (455878)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: PERMIT No. 21768, Special Condition No. 1

Description: Owens Corning failed to prevent an avoidable emissions event.

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



TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

2008 SEP 22 AM 11: 21

CHIEF CLERKS OFFICE

IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
OWENS CORNING ROOFING AND
ASPHALT, LLC
RN100225291 AND RN100225036

§
§
§
§
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§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-0455-AIR-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Owens Corning Roofing and Asphalt, 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 appear before the Commission and together stipulate that:

1. The Respondent owns and operates roofing and asphalt manufacturing plants at the following locations (the "Plants");
 - a. 201 North Nursery Road in Irving, Dallas County, Texas ("Plant 1"); and
 - b. 8360 Market Street Road in Houston, Harris County, Texas ("Plant 2").
2. The Plants consist of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about March 3, 2008 and March 29, 2008.

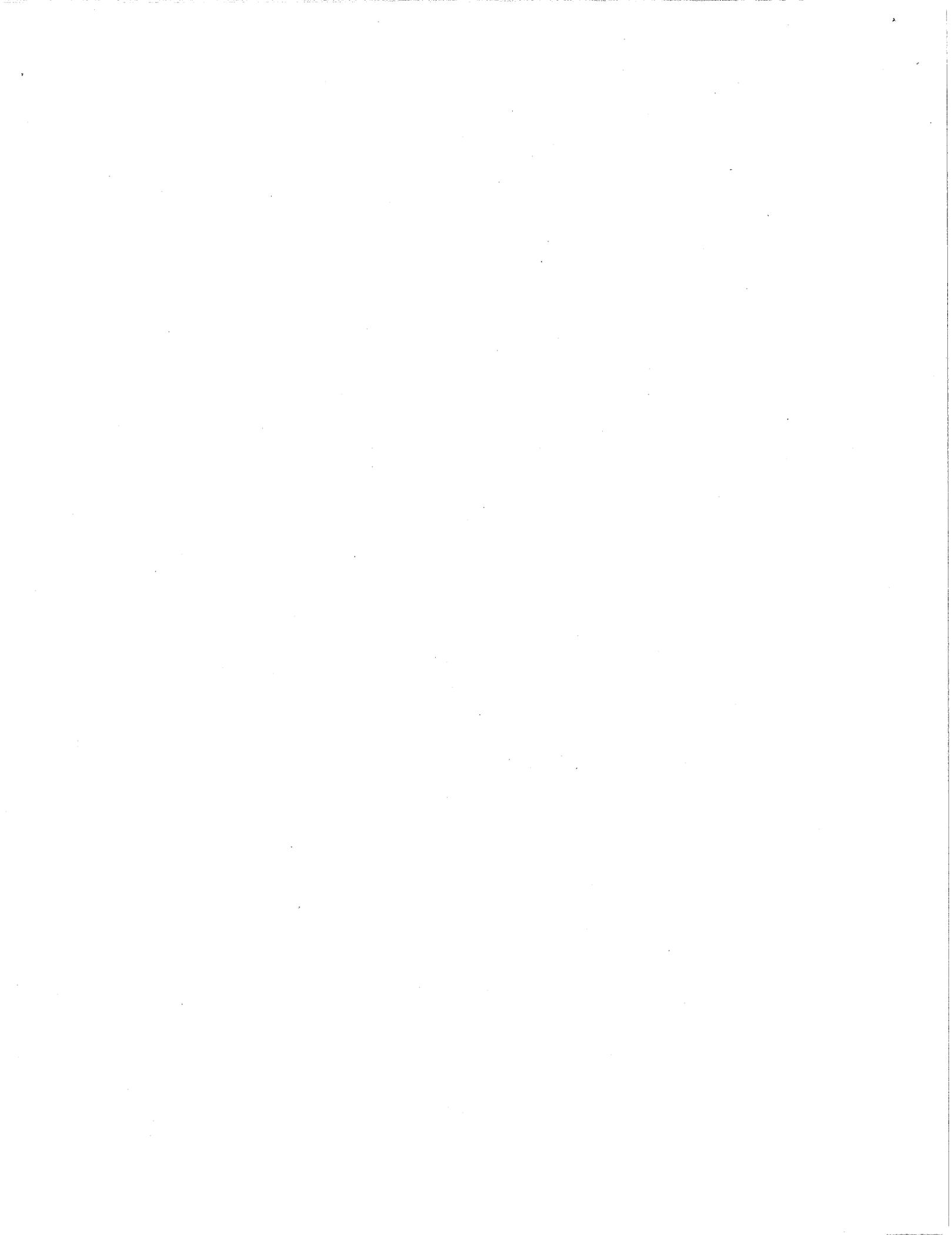


5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Twenty-Eight Thousand Fifty-Five Dollars (\$28,055) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Twenty-Two Thousand Four Hundred Forty-Four Dollars (\$22,444) of the administrative penalty and Five Thousand Six Hundred Eleven Dollars (\$5,611) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred 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 the Respondent 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 the Respondent submitted the annual Permit Compliance Certification ("PCC") for the reporting period of November 10, 2006 to November 9, 2007 on January 9, 2008.
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 the Respondent 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

As owner and operator of the Plants, the Respondent is alleged to have:

1. Failed to submit a permit revision to Federal Operating Permit ("FOP") No. O-01545 that lists Air Permit No. 81011 as the applicable 30 TEX. ADMIN. CODE § 116 authorization prior to Air Permit No. 81011 being issued at Plant 1, in violation of 30 TEX. ADMIN. CODE § 122.217(a)(2) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on November 1, 2007.
2. Failed to maintain record of weekly and quarterly visible emissions observations at Plant 1, in violation of 30 TEX. ADMIN. CODE § 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b),

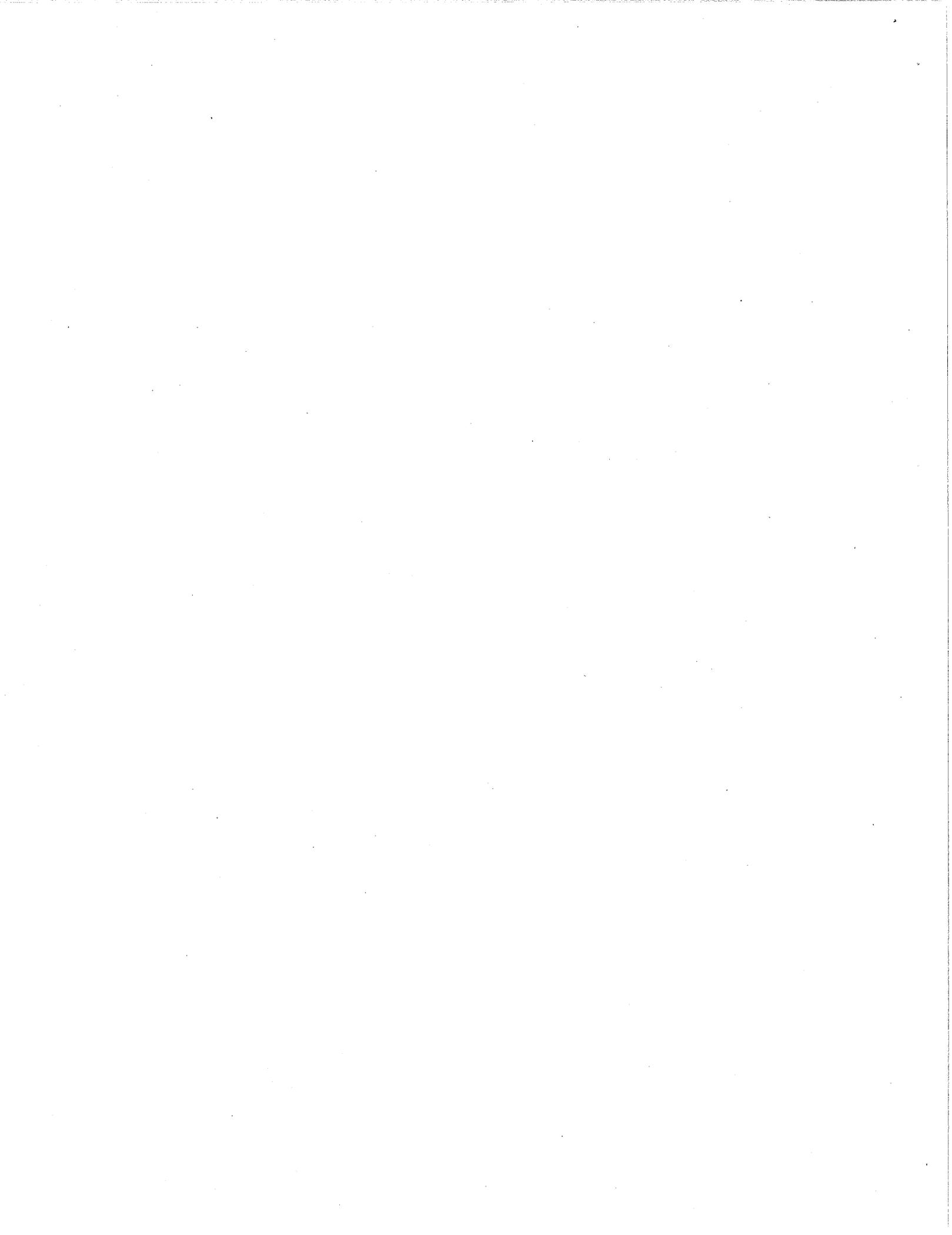


and FOP No. O-01545, Special Conditions 3 and 7, as documented during an investigation conducted on November 1, 2007. Specifically, the required records of weekly visible emissions observations for Units 4, 5, 10, 323, 330, and 331, and records of quarterly visible emissions observations for all vents, buildings, structures, and all other sources at the Plant were not being kept.

3. Failed to properly maintain and operate capture and control devices at Plant 1, in violation of 30 TEX. ADMIN. CODE § 101.221(a), TEX. HEALTH & SAFETY CODE § 382.085(b), and Air Permit No. 81011 Special Conditions No. 14, as documented during an investigation conducted on November 1, 2007. Specifically, from August 15, 2007 to November 1, 2007 the investigator documented that instances occurred where the roofing plant regenerative thermal oxidizers ("RTOs") and/or the asphalt plant preheater/thermal oxidizer unexpectedly went down. When the RTOs went down, the butterfly valves automatically closed to the RTOs. There was approximately a fifteen minute period of time to bring down the roofing plant. During this time emissions were being emitted through the building vents. Also, when the preheater/thermal oxidizer went down it took approximately 2 minutes to shut the valves leading to the preheater/thermal oxidizer resulting in the release of air emissions.
4. Failed to maintain records of the types and quantities of unauthorized emissions during emissions events resulting from unexpected control device downtime at Plant 1, in violation of 30 TEX. ADMIN. CODE § 101.201(b) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on November 1, 2007. Specifically, from August 15, 2007 to November 1, 2007 the investigator documented that instances occurred where the RTOs and/or the asphalt plant preheater/thermal oxidizer unexpectedly went down. There are no records of the type or quantities of the unauthorized emissions that occurred during these times.
5. Failed to report all instances of deviation at Plant 1, in violation of 30 TEX. ADMIN. CODE §§ 122.145(2)(B) and (C) and 122.146(5)(C) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on November 1, 2007. Specifically, the semi-annual deviation reports for the reporting periods of September 2, 2004 to March 1, 2005, March 2, 2005 to September 1, 2005, September 2, 2006 to March 1, 2007, and March 2, 2007 to September 1, 2007 did not contain the deviation for failing to have permit authorization from September 2, 2004 to August 15, 2007. In addition, the semi-annual deviation report for the reporting period March 2, 2007 to September 1, 2007 was submitted on November 30, 2007, 59 days late.
6. Failed to submit an annual PCC within 30 days after the end of the reporting period at Plant 2, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.146(2), Federal Operating Permit No. O-01543, General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on March 19, 2008. Specifically, the PCC for the reporting period of November 10, 2006 to November 9, 2007 was submitted on January 9, 2008, 31 days late.

III. DENIALS

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

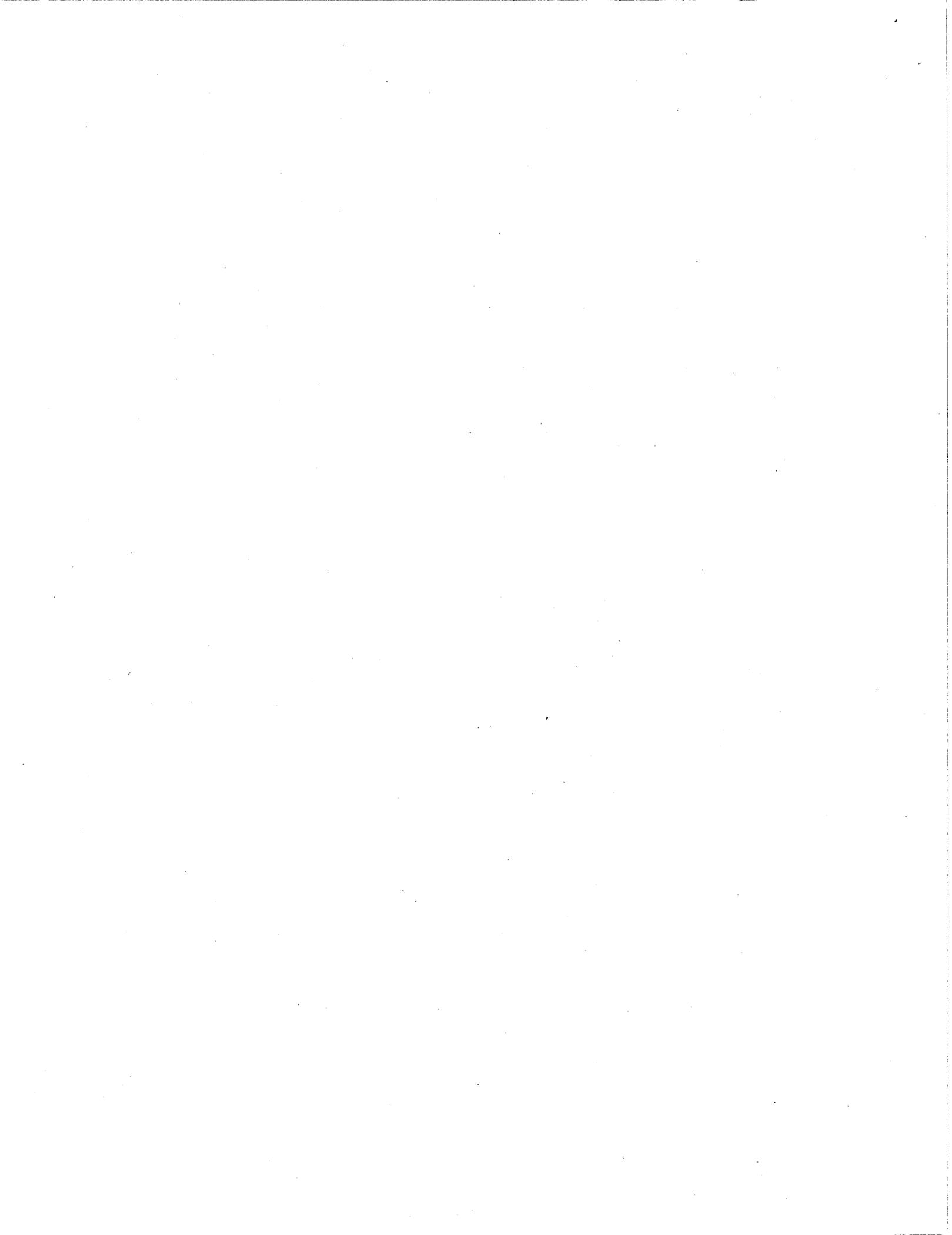


IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent'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 requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Owens Corning Roofing and Asphalt, LLC, Docket No. 2008-0455-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. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order:
 - i. Begin maintaining records of weekly and quarterly visible emissions observations, in accordance with FOP No. O-01545; and
 - ii. Begin maintaining records of the types and quantities of unauthorized emissions during emissions events, in accordance with 30 TEX. ADMIN. CODE § 122.201.
 - b. Within 15 days after the effective date of this Agreed Order, develop and implement procedures to ensure that capture and control devices are maintained and operated properly in accordance with 30 TEX. ADMIN. CODE § 101.221 and Air Permit No. 81011.
 - c. Within 30 days after the effective date of this Agreed Order:
 - i. Submit an Operating Permit amendment for FOP No. O-01545 to list Air Permit No. 81011 as the applicable 30 TEX. ADMIN. CODE § 116 authorization, in accordance with 30 TEX. ADMIN. CODE CH. 122; and
 - ii. Submit the revised semi-annual deviation reports for the reporting periods of September 2, 2004 to March 1, 2005, March 2, 2005 to September 1, 2005, September 2, 2006 to March 1, 2007, and March 2, 2007 to September 1, 2007 to include all instances of deviation.
 - d. With 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provisions Nos. 2.a. through 2.c., as described in Ordering Provisions No. 2.f.



- e. Within 180 days after the effective date of this Agreed Order, submit written certification of compliance that a permit amendment has been obtained that list Air Permit No. 81011 as the applicable 30 TEX. ADMIN. CODE § 116 authorization in FOP No. O-01545.
- f. The certifications required by Ordering Provisions Nos. 2.d. and 2.e. shall be notarized by a State of Texas Notary Public and 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."

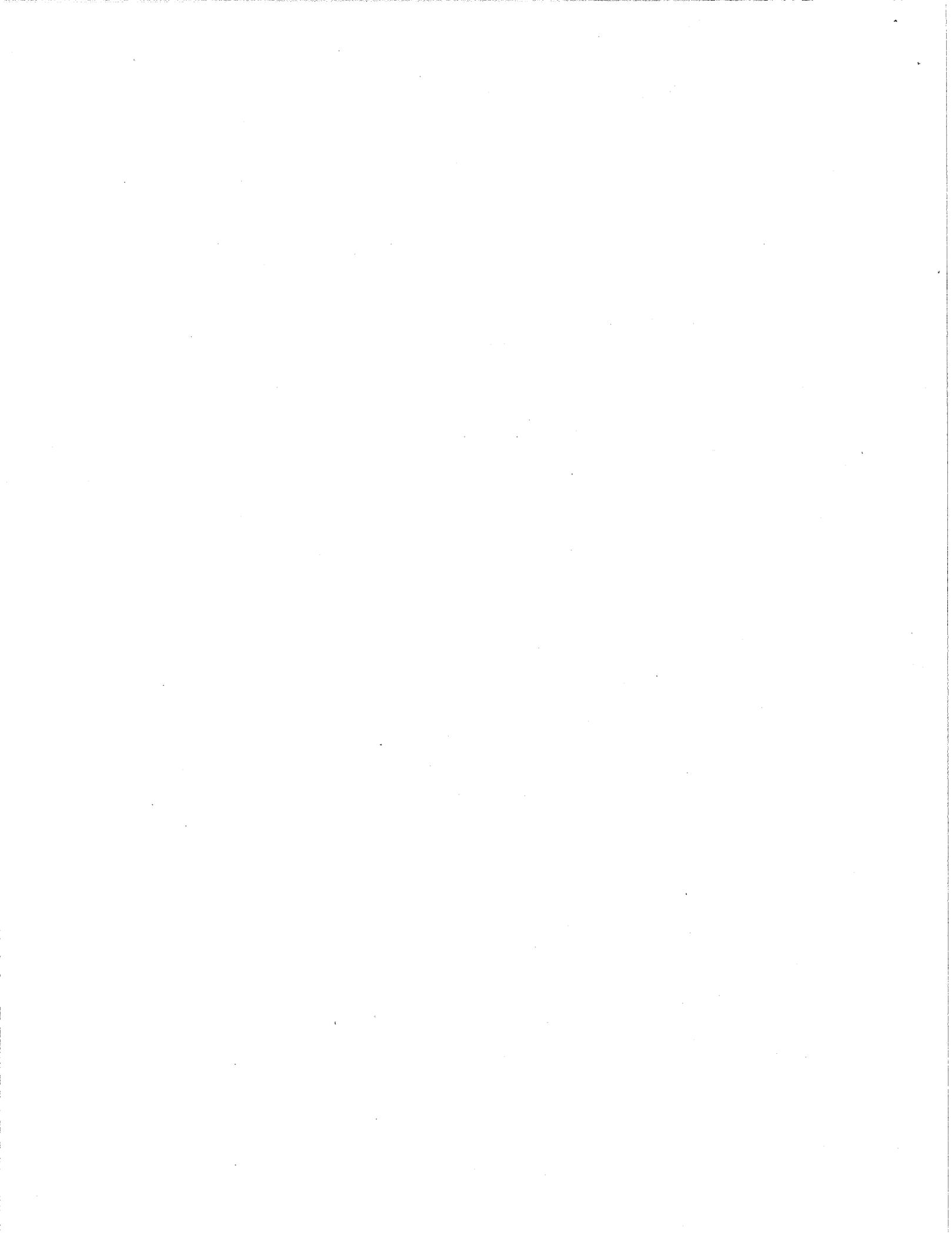
The certification shall be submitted to:

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

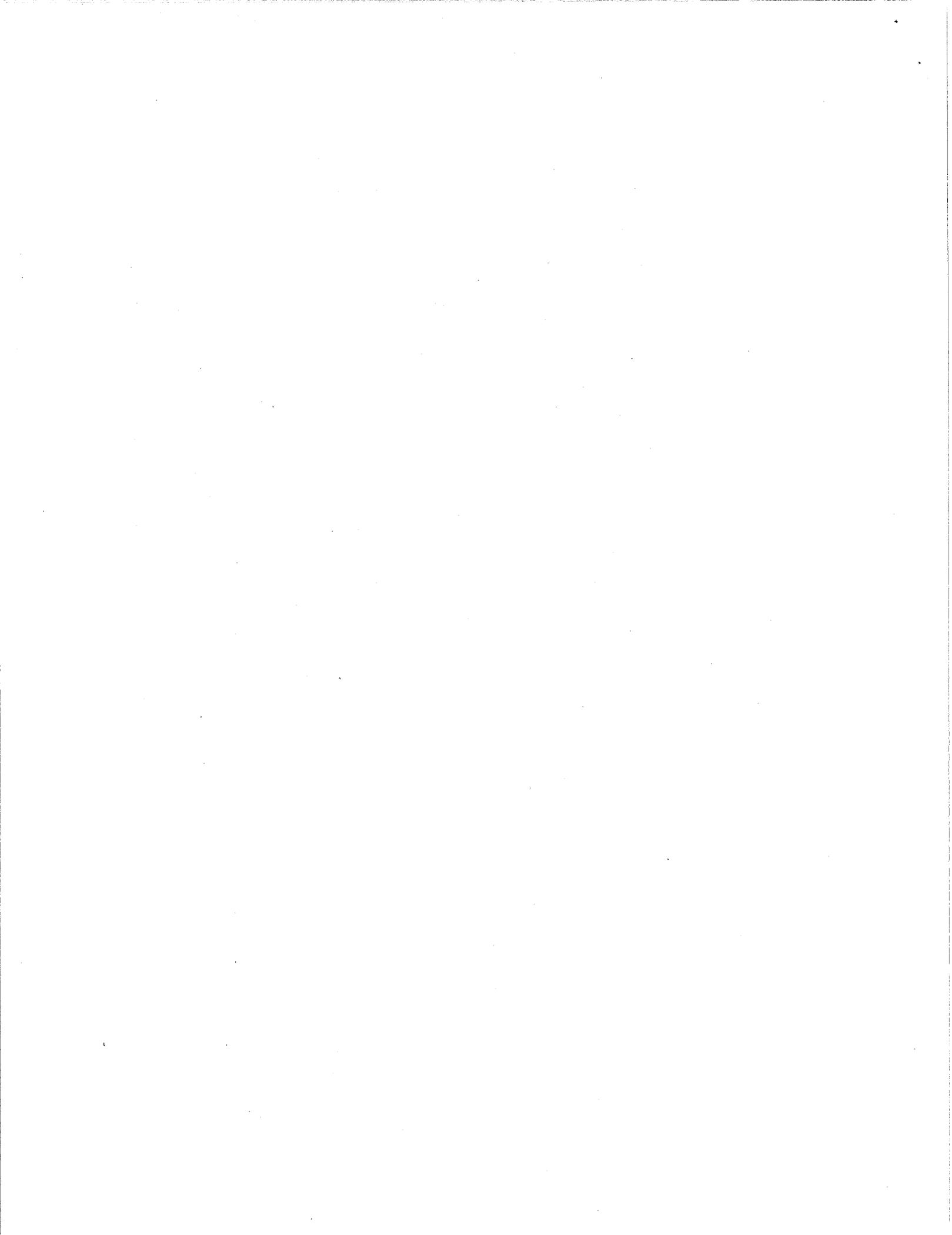
with a copy to:

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

- 3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plants' operations referenced in this Agreed Order.
- 4. If the 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, the Respondent's failure to comply is not a violation of this Agreed 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.
- 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 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.



6. This Agreed 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 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), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the 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

John Erdlin
For the Executive Director

9/12/2008
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity 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 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 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, any falsification of any compliance documents may result in criminal prosecution.

Michael Burt
Signature

09/16/08
Date

MICHAEL BURTON
Name (Printed or typed)
Authorized Representative of
Owens Corning Roofing and Asphalt, LLC

VP Operations
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

