

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-0767-AIR-E **TCEQ ID:** RN100224468 **CASE NO.:** 33489

RESPONDENT NAME: Firestone Polymers, 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: Firestone Polymers Orange Plant, 5713 Farm-to-Market Road 1006, Orange, Orange County</p> <p>TYPE OF OPERATION: Synthetic rubber plant</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is one additional pending enforcement action regarding this facility location, Docket No. 2007-1598-AIR-E.</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 November 19, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Daniel Siringi, Enforcement Division, Enforcement Team 5, MC R-10, (409) 899-8799; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Greg Defrates, Factory Manager, Firestone Polymers, LLC, P.O. Box 1269, Orange, Texas 77631 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input 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: March 1, 2007 and March 20, 2007</p> <p>Date of NOV/NOE Relating to this Case: April 30, 2007 (NOE)</p> <p>Background Facts: This was a routine record review. Five violations were documented.</p> <p>AIR</p> <p>1) Failed to complete initial compliance testing for Flare M-600R within 180 days of the initial startup which occurred in December 2005. Specifically, the test report submitted on October 6, 2006, for the testing conducted on May 2, 2006 was due on July 1, 2006 and only stated that two headers were tested during the compliance testing which was not representative of the actual lay-out of the headers connecting to Flare M-600R [30 TEX. ADMIN. CODE §§ 113.100, 113.260, 116.115(c), 122.143(4), 40 CODE OF FEDERAL REGULATIONS ("CFR") § 63.504(a)(1) and 63.7(g), Federal Operating Permit ("FOP") No. O-1271, General Terms and Conditions, Special Condition ("SC") 1D, 8D and 10A, Air Permit No. 292, SC 8 and TEX. HEALTH & SAFETY CODE § 382.085(b)]</p> <p>2) Failed to notify the Administrator of the intent to conduct a performance test at least thirty days before scheduling a performance test. Specifically, TCEQ was never notified of the performance test conducted on May 2, 2006 on Flare M-600R and was not aware of it until a partial performance report was received with a semi-annual Maximum Achievable Control Technology ("MACT") report [30 TEX. ADMIN. CODE §§ 113.260, 122.143(4), 40 CFR § 63.504(a)(4), FOP No. O-1271,</p>	<p>Total Assessed: \$27,625</p> <p>Total Deferred: \$5,525 <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: \$22,100</p> <p>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>1) The Executive Director recognizes that Firestone has implemented the following corrective measures at the Plant:</p> <p>a. Developed a compliance calendar with regulatory compliance dates which includes due dates for the test reports and notification procedures prior to test dates as documented in a May 14, 2007 letter to TCEQ; and</p> <p>b. Re-testing of the Flare DM-801 and Flare M-600R was completed on November 17, 2006 and February 28, 2007, respectively and acceptable reports were submitted to Beaumont Regional Office on May 14, 2007.</p> <p>Ordering Provisions:</p> <p>2) The Order will require the Respondent to:</p> <p>a. Within 180 days after the effective date of this Agreed Order, conduct material balance and residual VOC in polymer emission testing utilizing proper sampling in accordance with SC 14 of Air Permit 292 or an alternate sampling method approved by the TCEQ for purposes of compliance with this Ordering Provision; and</p> <p>b. Within 195 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.</p>

General Terms and Conditions and SC 1D and TEX. HEALTH & SAFETY CODE § 382.085(b)].

3) Failed to re-determine compliance of the Regenerative Thermal Oxidizer ("RTO") within 150 days as required after a process change, the startup of Crumb Unit 3 on April 24, 2006. Specifically, RTO testing was completed on September 26, 2006, which was four days past the deadline for testing [30 TEX. ADMIN. CODE §§ 113.260, 122.143(4), 40 CFR §§ 63.496(G), 63.504(a)(5), FOP No. O-1271, General Terms and Conditions and SC 1D and TEX. HEALTH & SAFETY CODE § 382.085(b)].

4) Failed to establish the pattern and quantities of air contaminants emitted into the atmosphere from sources downstream of the last stage of stripping and demonstrate a closed material balance for Crumb Unit 3. Specifically, testing conducted for these requirements on September 26, 2006 was determined to be invalid because of incorrect sampling methods [30 TEX. ADMIN. CODE §§ 116.115(c), 122.143(4), FOP No. O-1271, General Terms and Conditions and SC 10A, Air Permit No. 292, SC 14 and TEX. HEALTH & SAFETY CODE § 382.085(b)].

5) Failed to re-determine compliance of Flare DM-801 within 150 days as required after a process change, the startup of Crumb Unit 3 on April 24, 2006. Specifically, Flare DM-801 was tested on November 17, 2006, which was fifty-six days past the deadline for testing [30 TEX. ADMIN. CODE §§ 113.260, 122.143(4) 40 CFR §§ 63.496(d), 63.504(a)(5), FOP No. O-1271, General Terms and Conditions and SC 1D and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Additional ID No(s): OC0010U



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision April 26, 2007

DATES	Assigned	7-May-2007	Screening	14-May-2007	EPA Due	9-Jan-2008
	PCW	16-Aug-2007				

RESPONDENT/FACILITY INFORMATION			
Respondent	Firestone Polymers LLC		
Reg. Ent. Ref. No.	RN100224468		
Facility/Site Region	10-Beaumont	Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	33489	No. of Violations	5
Docket No.	2007-0767-AIR-E	Order Type	1660
Media Program(s)	Air	Enf. Coordinator	Daniel Siringi
Multi-Media		EC's Team	EnforcementTeam 5
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: Enhancement for five (5) orders with denial of liability, one (1) NOV with same or similar violations, ten (10) NOVs without same or similar violations, including seven (7) self-reported effluent violations in the past five years at this plant. Penalty reduction due one (1) disclosure of violations and two (2) notices of intended audit.

Culpability Enhancement **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

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"/> X	(mark with x)

Notes: The Respondent does not meet the good faith criteria.

Total EB Amounts 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. (Enter number only; e.g. -30 for -30%.)

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 14-May-2007

Docket No. 2007-0767-AIR-E

PCW

Respondent Firestone Polymers LLC

Policy Revision 2 (September 2002)

Case ID No. 33489

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN100224468

Media [Statute] Air

Enf. Coordinator Daniel Siringi

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)	1	5%
	Other written NOVs	10	20%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	5	100%
	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 judgments 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)	2	-2%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	1	-2%
<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) 121%

>> 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 for five (5) orders with denial of liability, one (1) NOV with same or similar violations, ten (10) NOVs without same or similar violations, including seven (7) self-reported effluent violations in the past five years at this plant. Penalty reduction due one (1) disclosure of violations and two (2) notices of intended audit.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 121%

Screening Date 14-May-2007

Docket No. 2007-0767-AIR-E

PCW

Respondent Firestone Polymers LLC

Policy Revision 2 (September 2002)

Case ID No. 33489

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN100224468

Media [Statute] Air

Enf. Coordinator Daniel Siringi

Violation Number

Rule Cite(s) 30 Tex. Admin. Code §§ 113.100, 113.260, 116.115(c), 122.143(4), 40 Code of Federal Regulations ("CFR") § 63.504(a)(1) and 63.7(g), Federal Operating Permit ("FOP") No. O-1271, General Terms and Conditions, Special Condition ("SC") 1D, 8D and 10A, Air Permit No. 292, SC 8 and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to complete initial compliance testing for Flare M-600R within 180 days of the initial startup which occurred in December 2005. Specifically, the test report submitted on October 6, 2006, for the testing conducted on May 2, 2006 was due on July 1, 2006 and only stated that two headers were tested during the compliance testing which was not representative of the actual lay-out of the headers connecting to Flare M-600R.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

>> Programmatic Matrix

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

Percent

Matrix Notes

100% of the rule requirement was not met.

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

One single event is recommended.

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 Firestone Polymers LLC
Case ID No. 33489
Reg. Ent. Reference No. RN100224468
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
<small>No commas or \$</small>							

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)	\$2,750	2-May-2006	28-Feb-2007	0.8	\$114	n/a	\$114

Notes for DELAYED costs

Estimated cost of properly conducting testing at Flare M-600R and submitting a timely report. Date required is the date incomplete testing was done and the final date is the date re-testing was completed.

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	\$2,750	TOTAL	\$114
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Screening Date 14-May-2007

Docket No. 2007-0767-AIR-E

PCW

Respondent Firestone Polymers LLC

Policy Revision 2 (September 2002)

Case ID No. 33489

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN100224468

Media [Statute] Air

Enf. Coordinator Daniel Siringi

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code §§ 113.260, 122.143(4), 40 CFR § 63.504(a)(4), FOP No. O-1271, General Terms and Conditions and SC 1D and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to notify the Administrator of the intent to conduct a performance test at least thirty days before scheduling a performance test. Specifically, TCEQ was never notified of the performance test conducted on May 2, 2006 on Flare M-600R and was not aware of it until a partial performance report was received with a semi-annual Maximum Achievable Control Technology (MACT) report.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

1 Number of violation days

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$2,500

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$17

Violation Final Penalty Total \$5,525

This violation Final Assessed Penalty (adjusted for limits) \$5,525

Economic Benefit Worksheet

Respondent: Firestone Polymers LLC
Case ID No.: 33489
Reg. Ent. Reference No.: RN100224468
Media: Air
Violation No.: 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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)	\$300	2-Apr-2006	14-May-2007	1.1	\$17	n/a	\$17

Notes for DELAYED costs

Estimated cost of notifying the Regional Office of the Intent to conduct a performance test. Date required is the date notification was due and final date is the date corrective actions were documented.

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

\$300

TOTAL

\$17

Screening Date 14-May-2007

Docket No. 2007-0767-AIR-E

PCW

Respondent Firestone Polymers LLC

Policy Revision 2 (September 2002)

Case ID No. 33489

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN100224468

Media [Statute] Air

Enf. Coordinator Daniel Siringi

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code §§ 113.260, 122.143(4), 40 CFR §§ 63.496(G), 63.504(a)(5), FOP No. O-1271, General Terms and Conditions and SC 1D and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to re-determine compliance of the RTO within 150 days as required after a process change, the startup of Crumb Unit 3 on April 24, 2006. Specifically, RTO testing was completed on September 26, 2006, which was four days past the deadline for testing.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

4 Number of violation days

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$2,500

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$5,525

This violation Final Assessed Penalty (adjusted for limits) \$5,525

Economic Benefit Worksheet

Respondent: Firestone Polymers LLC
Case ID No.: 33489
Reg. Ent. Reference No.: RN10022468
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
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)	\$5,000	22-Sep-2006	26-Sep-2006	0.0	\$3	n/a	\$3

Notes for DELAYED costs

Estimated cost of conducting RTO compliance testing. Date required is the date testing was required to have been done and the final date is the date testing was completed.

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

\$5,000

TOTAL

\$3

Screening Date 14-May-2007

Docket No. 2007-0767-AIR-E

PCW

Respondent Firestone Polymers LLC

Policy Revision 2 (September 2002)

Case ID No. 33489

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN100224468

Media [Statute] Air

Enf. Coordinator Daniel Siringi

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code §§ 116.115(c), 122.143(4), FOP No. O-1271, General Terms and Conditions and SC 10A, Air Permit No. 292, SC 14 and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to establish the pattern and quantities of air contaminants emitted into the atmosphere from sources downstream of the last stage of stripping and demonstrate a closed material balance for Crumb Unit 3. Specifically, testing conducted for these requirements on September 26, 2006 was determined to be invalid because of incorrect sampling methods.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

230 Number of violation days

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$2,500

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$130

Violation Final Penalty Total \$5,525

This violation Final Assessed Penalty (adjusted for limits) \$5,525

Economic Benefit Worksheet

Respondent Firestone Polymers LLC
Case ID No. 33489
Reg. Ent. Reference No. RN100224468
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
<small>No commas or \$</small>							

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)	\$2,500	26-Sep-2006	11-Oct-2007	1.0	\$130	n/a	\$130

Notes for DELAYED costs

Estimated cost of using proper sampling procedures. Date required is the date of invalidated testing and the final date is the date the respondent is expected to complete all corrective actions.

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

\$2,500

TOTAL

\$130

Screening Date 14-May-2007

Docket No. 2007-0767-AIR-E

PCW

Respondent Firestone Polymers LLC

Policy Revision 2 (September 2002)

Case ID No. 33489

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN100224468

Media [Statute] Air

Enf. Coordinator Daniel Siringi

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code §§ 113.260, 122.143(4) 40 CFR §§ 63.496(d), 63.504(a)(5), FOP No. O-1271, General Terms and Conditions and SC 1D and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to re-determine compliance of Flare DM-801 within 150 days as required after a process change, the startup of Crumb Unit 3 on April 24, 2006. Specifically, Flare DM-801 was tested on November 17, 2006, which was fifty-six days past the deadline for testing.

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 1 Number of violation days 56

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$2,500

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$38

Violation Final Penalty Total \$5,525

This violation Final Assessed Penalty (adjusted for limits) \$5,525

Economic Benefit Worksheet

Respondent Firestone Polymers LLC
Case ID No. 33489
Reg. Ent. Reference No. RN100224468
Media Air
Violation No. 5

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				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)	\$5,000	22-Sep-2006	17-Nov-2006	0.2	\$38	n/a	\$38

Notes for DELAYED costs

Estimated cost of testing at Flare DM-801. Date required is the date testing was required to have been done and the final date is the date testing was completed.

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

\$5,000

TOTAL

\$38

Compliance History

Customer/Respondent/Owner-Operator:	CN601590789 Firestone Polymers, LLC	Classification: AVERAGE	Rating: 2.45
Regulated Entity:	RN100224468 FIRESTONE POLYMERS ORANGE PLANT	Classification: AVERAGE	Site Rating: 2.45
ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	OC0010U
	AIR OPERATING PERMITS	PERMIT	1271
	WASTEWATER	PERMIT	WQ0000454000
	WASTEWATER	PERMIT	TPDES0002968
	WASTEWATER	PERMIT	TX0002968
	AIR NEW SOURCE PERMITS	PERMIT	292
	AIR NEW SOURCE PERMITS	PERMIT	2565
	AIR NEW SOURCE PERMITS	PERMIT	46032
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	OC0010U
	AIR NEW SOURCE PERMITS	AFS NUM	4836100004
	AIR NEW SOURCE PERMITS	AFS NUM	4836100004
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	30581
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD008073538
	IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	30581
	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1810014
Location:	5713 FM 1006, ORANGE, TX, 77630	Rating Date: September 01 06	Repeat Violator: NO
TCEQ Region:	REGION 10 - BEAUMONT		
Date Compliance History Prepared:	May 14, 2007		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	May 14, 2002 to May 14, 2007		

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

Name: Daniel Siringi Phone: (409) 899-8799

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? | Yes |
| 3. If Yes, who is the current owner? | <u>Firestone Polymers, LLC</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>Bridgestone/Firestone, Inc.</u> |
| 5. When did the change(s) in ownership occur? | <u>12/02/2002</u> |

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: 09/23/2002	ADMINORDER 2001-1412-IWD-E
Classification: Moderate	
Citation: TWC Chapter 26 26.121	
Rqmt Prov: ELMR's PERMIT	
Description: Failure to comply with the daily average loading limit of total zinc of 1.08 lbs/day and the daily max loading limit of total zinc of 2.29 lbs/day for total from Outfall 001A for the months of November 2000 and January 2001.	
Effective Date: 09/25/2003	ADMINORDER 2003-0251-AIR-E
Classification: Moderate	
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)	
5C THC Chapter 382, SubChapter A 382.085(b)	
Rqmt Prov: 7B PERMIT	
Description: Failure to perform monthly monitoring of the VOC concentration associated with the facility cooling tower using the El Paso or equivalent TCEQ approved alternative method.	
Classification: Moderate	
Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)	
30 TAC Chapter 113, SubChapter C 113.260	
40 CFR Part 63, Subpart U 63.502(n)	
5C THC Chapter 382, SubChapter A 382.085(b)	
Description: Failure to properly monitor the cooling tower of representative substances to detect leaks.	

Effective Date: 12/20/2004

ADMINORDER 2003-1480-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 113, SubChapter C 113.260
30 TAC Chapter 116, SubChapter G 116.715(a)
30 TAC Chapter 116, SubChapter G 116.715(c)(9)
40 CFR Part 63, Subpart U 63.485(a)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: 292, Special Condition 4 PERMIT

Description: Failure to route all waste gas containing VOCs to the Direct-Fired Thermal Oxidizer during 54 events.

Effective Date: 02/05/2007

ADMINORDER 2006-0754-IHW-E

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter A 335.10(a)(1)
40 CFR Chapter 262, SubChapter I, PT 262, SubPT B 262.20(a)

Description: Failure to manifest hazardous waste.

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter A 335.2(b)

Description: Failure to properly dispose of an Industrial hazardous waste at an authorized facility.

Effective Date: 03/19/2007

ADMINORDER 2006-1308-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)(1)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: 1271/SC 10 OP

NSRP 2565 Special Condition 8 PERMIT

Description: Failure to operate Boiler E-B110 at a maximum rate of 2.3 gallons per minute. B18

Classification: Minor

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)(ii)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: FOP 1271/SC 1C OP

Description: Failure to keep daily log notations of operations of flare M-600. B18

Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(A)
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: FOP 1271 General Terms and Conditions OP

Description: Failure to report deviations from MACT U flare recording requirements. B18

Classification: Moderate

Citation: 30 TAC Chapter 113, SubChapter C 113.260
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT G 63.118(a)(1)
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: Federal Operating Permit 1271 SC 1D & 1H OP

Description: Failure to monitor Flares DM-801, M-600, and M-600R on an hourly basis. A,8,c,1,G

Classification: Minor

Citation: 30 TAC Chapter 113, SubChapter C 113.260
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT G 63.118(a)(1)
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: Federal Operating Permit 1271 SC 1D & 1H OP

Description: Failure to maintain records for the DFTO Unit. B18

Classification: Minor

Citation: 30 TAC Chapter 113, SubChapter C 113.260
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT G 63.118(a)(1)
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: Federal Operating Permit 1271 SC 1D & 1H OP

Description: Failure to maintain temperature records for RTO Can # 1 and RTO Can # 2. B18

Classification: Moderate

Citation: 30 TAC Chapter 113, SubChapter C 113.260
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT T 63.508(e)(6)(i)
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: Federal Operating Permit 1271 SC 1D & 1H OP

30	04/22/2004	(294485)
31	05/25/2004	(294487)
32	06/21/2004	(294489)
33	07/22/2004	(294491)
34	08/24/2004	(351781)
35	08/31/2004	(291657)
36	09/23/2004	(351782)
37	10/22/2004	(351783)
38	11/18/2004	(351784)
39	12/20/2004	(351785)
40	01/24/2005	(381680)
41	02/22/2005	(381678)
42	03/07/2005	(350860)
43	03/22/2005	(381679)
44	04/22/2005	(419476)
45	05/20/2005	(343356)
46	05/23/2005	(419477)
47	06/22/2005	(419478)
48	07/18/2005	(398318)
49	07/21/2005	(440627)
50	08/22/2005	(440628)
51	09/19/2005	(440629)
52	10/24/2005	(440630)
53	11/28/2005	(468107)
54	12/21/2005	(440251)
55	12/27/2005	(468108)
56	01/24/2006	(468109)
57	02/03/2006	(437331)
58	02/22/2006	(468103)
59	02/27/2006	(453985)
60	03/28/2006	(468104)
61	03/28/2006	(468105)
62	03/31/2006	(461289)
63	03/31/2006	(455452)
64	04/20/2006	(468106)
65	05/03/2006	(462716)
66	05/15/2006	(465053)
67	05/19/2006	(497977)
68	05/30/2006	(465287)
69	06/16/2006	(497978)
70	06/16/2006	(497979)
71	07/24/2006	(480227)
72	07/24/2006	(481733)
73	07/25/2006	(480474)
74	08/11/2006	(483260)
75	08/16/2006	(519993)
76	09/07/2006	(519995)
77	09/07/2006	(519996)
78	09/18/2006	(519994)
79	10/30/2006	(511039)
80	11/17/2006	(544240)
81	11/20/2006	(513938)
82	11/27/2006	(516300)
83	12/13/2006	(544241)
84	01/22/2007	(509446)
85	02/12/2007	(538872)
86	02/16/2007	(544239)
87	02/28/2007	(518614)
88	04/30/2007	(518508)
89	04/30/2007	(534862)
90	04/30/2007	(554420)
91	04/30/2007	(542628)
92	05/10/2007	(558294)

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

Date: 08/31/2002 (155847)

Self Report? YES

Classification: Moderate

Description: Failure to submit Maximum Achievable Control Technology Subpart U periodic report in a timely manner.

Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT G 63.118(a)(3)
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: FOP 1271 General Terms and Conditions OP

Description: Failure to maintain flow records for the DFTO Collection System and the RTO Collection System. A,8,c,2,B,i

Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(A)
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: FOP 1271 General Terms and Conditions OP

Description: Failure to report a deviation on a Six Month Deviation Report and an Annual Compliance Report.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)(1)
30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.144(1)(l)
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: Federal Operating Permit 1271, SC 10 OP
NSR Permit 292, SC 3 PERMIT

Description: Failure to maintain twelve month rolling emissions records. B18

Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.146(5)(C)(i)
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: FOP 1271 General Terms and Conditions OP

Description: Failure to report a deviation on an Annual Compliance Certification Report. B18

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	05/23/2002	(155832)
2	06/24/2002	(155836)
3	07/11/2002	(155840)
4	08/23/2002	(155844)
5	09/23/2002	(155847)
6	10/21/2002	(155850)
7	11/25/2002	(155854)
8	12/18/2002	(16622)
9	12/27/2002	(155858)
10	01/15/2003	(20074)
11	01/17/2003	(16568)
12	01/21/2003	(155862)
13	01/28/2003	(20087)
14	02/12/2003	(21064)
15	02/24/2003	(155821)
16	03/21/2003	(155824)
17	04/22/2003	(155829)
18	05/20/2003	(155833)
19	06/24/2003	(155837)
20	07/22/2003	(155841)
21	08/18/2003	(294493)
22	08/26/2003	(145622)
23	09/23/2003	(294495)
24	10/17/2003	(294497)
25	11/24/2003	(294498)
26	12/22/2003	(294499)
27	01/23/2004	(294500)
28	02/24/2004	(294482)
29	03/23/2004	(294484)

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 Date: 09/30/2003 (294497)
 Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 Date: 06/30/2004 (294491)
 Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 Date: 03/07/2005 (350860)
 Self Report? NO Classification: Minor
 Rqmt Prov: PERMIT OpR 1
 Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Minor
 Rqmt Prov: PERMIT OpR 1
 Description: Failure to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.
 Date: 05/20/2005 (343356)

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 113, SubChapter C 113.130
 5C THC Chapter 382, SubChapter A 382.085(b)
 Description: Failure to repair 10 leaking valves within 5 days.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 113, SubChapter C 113.130
 5C THC Chapter 382, SubChapter A 382.085(b)
 Description: Failure to complete repair of three leaking valves within 15 days.
 Date: 10/31/2005 (468107)

Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 Date: 11/30/2005 (468108)

Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 Date: 05/31/2006 (497978)

Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 Date: 07/26/2006 (480474)

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.7(d)(2)
 5C THC Chapter 382, SubChapter A 382.085(b)
 Description: Failure to submit an excess emissions report with the semi-annual nitrogen oxide emissions report.
 Date: 10/31/2006 (544240)

Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 Date: 01/19/2007 (509446)

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
 Description: Failure to maintain the pressure tank in Pressure Plane #1.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(i)(III)
 Description: Failure to maintain records of the amount of each chemical used each week.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(ii)(III)
 Description: Failure to maintain records of the amount of water treated each week.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(iv)
 Description: Failure to maintain records of the dates that dead ends were flushed.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)
 Description: Failure to perform the annual tank inspections on the pressure tanks.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.45(d)(2)(B)(ii)
 Description: Failure to provide a ground storage capacity which is equal to 50% of the maximum daily demand in Pressure Plane #1.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.45(d)(2)(B)(iii)
 Description: Failure to provide at least one service pump with a capacity of three times the maximum daily demand in Pressure Plane #1.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(d)(3)
 Description: Failure to install the facilities to maintain the air-water-volume at the design water level and working pressure on the pressure tank at Plant #1.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.45(d)(2)(A)(ii)
 Description: Failure to provide a pressure tank capacity of 220 gallons in Pressure Plane #2.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.39(j)(2)
 Description: Failure to submit plans and specifications to replace the pressure tank in Pressure Plane #1.

F. Environmental audits.

Notice of Intent Date: 04/04/2003 (33779)
 Disclosure Date: 10/08/2003

Viol. Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B
 Rqmt Prov: PERMIT 2656
 Description: failed to conduct quarterly cylinder gas audit and to report unscheduled CEMS downtime

Viol. Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B
 Rqmt Prov: PERMIT 2565
 Description: failed to submit or submitted incomplete records of CEMS adjustments and maintenance

Viol. Classification: Moderate
 Citation: 40 CFR Chapter 60, SubChapter C, PT 60, SubPT Db
 Description: failed to submit 30-day initial CEMS compliance test results to TCEQ

Viol. Classification: Moderate
 Citation: 40 CFR Chapter 60, SubChapter C, PT 60, SubPT A
 Description: failed to submit two NSPS Db and Subpart A semiannual reports

Notice of Intent Date: 03/17/2006 (462848)
 No DOV Associated

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
FIRESTONE POLYMERS, LLC
RN100224468**

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§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-0767-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 Firestone Polymers, LLC ("Firestone") 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 Firestone appear before the Commission and together stipulate that:

1. Firestone owns and operates a synthetic rubber plant at 5713 Farm-to-Market Road 1006 in Orange, Orange County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and Firestone agree that the Commission has jurisdiction to enter this Agreed Order, and that Firestone is subject to the Commission's jurisdiction.
4. Firestone received notice of the violations alleged in Section II ("Allegations") on or about May 5, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Firestone of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Twenty-Seven Thousand Six Hundred Twenty-Five Dollars (\$27,625) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Firestone has paid Twenty-Two Thousand One Hundred Dollars (\$22,100) of the administrative penalty and Five Thousand Five Hundred Twenty-Five Dollars (\$5,525) is deferred contingent upon Firestone'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 Firestone fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Firestone 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 Firestone 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 Firestone has implemented the following corrective measures at the Plant:
 - a. Developed a compliance calendar with regulatory compliance dates which includes due dates for the test reports and notification procedures prior to test dates as documented in a May 14, 2007 letter to TCEQ; and
 - b. Re-testing of the Flare DM-801 and Flare M-600R was completed on November 17, 2006 and February 28, 2007, respectively and acceptable reports were submitted to Beaumont Regional Office on May 14, 2007.
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 Firestone 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 Plant, Firestone is alleged to have:

1. Failed to complete initial compliance testing for Flare M-600R within 180 days of the initial startup which occurred in December 2005, in violation of 30 TEX. ADMIN. CODE §§ 113.100, 113.260, 116.115(c), 122.143(4), 40 CODE OF FEDERAL REGULATIONS ("CFR") § 63.504(a)(1) and 63.7(g), Federal Operating Permit ("FOP") No. O-1271, General Terms and Conditions, Special Condition ("SC") 1D, 8D and 10A, Air Permit No. 292, SC 8 and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on March 1, 2007. Specifically, the test report submitted on October 6, 2006, for the testing conducted on May 2, 2006 was due on July 1, 2006 and only stated that two headers were tested during the compliance testing which was not representative of the actual lay-out of the headers connecting to Flare M-600R.

2. Failed to notify the Administrator of the intent to conduct a performance test at least thirty days before scheduling a performance test, in violation of 30 TEX. ADMIN. CODE §§ 113.260, 122.143(4), 40 CFR § 63.504(a)(4), FOP No. O-1271, General Terms and Conditions and SC 1D and TEX. HEALTH & SAFETY CODE § 382.085(b) as documented during a record review conducted on March 1, 2007. Specifically, TCEQ was never notified of the performance test conducted on May 2, 2006 on Flare M-600R and was not aware of it until a partial performance report was received with a semi-annual Maximum Achievable Control Technology ("MACT") report.
3. Failed to re-determine compliance of the Regenerative Thermal Oxidizer ("RTO") within 150 days as required after a process change, the startup of Crumb Unit 3 on April 24, 2006, in violation of 30 TEX. ADMIN. CODE §§ 113.260, 122.143(4), 40 CFR §§ 63.496(G), 63.504(a)(5), FOP No. O-1271, General Terms and Conditions and SC 1D and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on March 1, 2007. Specifically, RTO testing was completed on September 26, 2006, which was four days past the deadline for testing.
4. Failed to establish the pattern and quantities of air contaminants emitted into the atmosphere from sources downstream of the last stage of stripping and demonstrate a closed material balance for Crumb Unit 3, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c), 122.143(4), FOP No. O-1271, General Terms and Conditions and SC 10A, Air Permit No. 292, SC 14 and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on March 1, 2007. Specifically, testing conducted for these requirements on September 26, 2006 was determined to be invalid because of incorrect sampling methods.
5. Failed to re-determine compliance of Flare DM-801 within 150 days as required after a process change, the startup of Crumb Unit 3 on April 24, 2006, in violation of 30 TEX. ADMIN. CODE §§ 113.260, 122.143(4) 40 CFR §§ 63.496(d), 63.504(a)(5), FOP No. O-1271, General Terms and Conditions and SC 1D and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on March 20, 2007. Specifically, Flare DM-801 was tested on November 17, 2006, which was fifty-six days past the deadline for testing.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Firestone pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Firestone'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: Firestone Polymers, LLC, Docket No. 2007-0767-AIR-E" to:

Financial Administration Division, Revenues Section

The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that proper record-keeping is essential for the success of any business and for the protection of the interests of all parties involved. The document outlines the various methods and procedures that should be followed to ensure the accuracy and reliability of the records.

The second part of the document provides a detailed description of the various types of records that should be maintained. It includes information on the format and content of these records, as well as the frequency and manner in which they should be updated. The document also discusses the importance of backing up records and the steps that should be taken to ensure their security and integrity.

The third part of the document discusses the various methods and procedures that should be followed to ensure the accuracy and reliability of the records. It includes information on the use of accounting software, the importance of regular audits, and the steps that should be taken to ensure the accuracy of the data. The document also discusses the importance of maintaining a clear and concise record of all transactions and the steps that should be taken to ensure the accuracy of the data.

The fourth part of the document discusses the various methods and procedures that should be followed to ensure the accuracy and reliability of the records. It includes information on the use of accounting software, the importance of regular audits, and the steps that should be taken to ensure the accuracy of the data. The document also discusses the importance of maintaining a clear and concise record of all transactions and the steps that should be taken to ensure the accuracy of the data.

The fifth part of the document discusses the various methods and procedures that should be followed to ensure the accuracy and reliability of the records. It includes information on the use of accounting software, the importance of regular audits, and the steps that should be taken to ensure the accuracy of the data. The document also discusses the importance of maintaining a clear and concise record of all transactions and the steps that should be taken to ensure the accuracy of the data.

The sixth part of the document discusses the various methods and procedures that should be followed to ensure the accuracy and reliability of the records. It includes information on the use of accounting software, the importance of regular audits, and the steps that should be taken to ensure the accuracy of the data. The document also discusses the importance of maintaining a clear and concise record of all transactions and the steps that should be taken to ensure the accuracy of the data.

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 Firestone shall undertake the following technical requirements:
- a. Within 180 days after the effective date of this Agreed Order, conduct material balance and residual VOC in polymer emission testing utilizing proper sampling in accordance with SC 14 of Air Permit 292 or an alternate sampling method approved by the TCEQ for purposes of compliance with this Ordering Provision; and
 - b. Within 195 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be 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
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1892

3. The provisions of this Agreed Order shall apply to and be binding upon Firestone. Firestone 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 Firestone 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, Firestone's failure to comply is not a violation of this Agreed Order. Firestone shall have the burden of establishing to the Executive Director's satisfaction that such an event has

occurred. Firestone shall notify the Executive Director within seven days after Firestone 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 Firestone shall be made in writing to the Executive Director. Extensions are not effective until Firestone 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 Firestone 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 Firestone, or three days after the date on which the Commission mails notice of the Order to Firestone, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Firestone Polymers, LLC
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Srdic
For the Executive Director

12/21/2007
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.

Gregory Defates
Signature

12/11/07
Date

Gregory Defates
Name (Printed or typed)
Authorized Representative of
Firestone Polymers, LLC

Factory Manager
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.

