# EXECUTIVE SUMMARY - ENFORCEMENT MATTER



**DOCKET NO.:** 2008-1056-AIR-E **TCEQ ID:** RN100678440 **CASE NO.:** 36131

**RESPONDENT NAME:** Ameron International Corporation

| ORDER TYPE: | | |
|---|---|---|
| X 1660 AGREED ORDER | __FINDINGS AGREED ORDER | __FINDINGS ORDER FOLLOWING SOAH HEARING |
| __FINDINGS DEFAULT ORDER | __SHUTDOWN ORDER | __IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER |
| __AMENDED ORDER | __EMERGENCY ORDER | |
| **CASE TYPE:** | | |
| X AIR | __MULTI-MEDIA (check all that apply) | __INDUSTRIAL AND HAZARDOUS WASTE |
| __PUBLIC WATER SUPPLY | __PETROLEUM STORAGE TANKS | __OCCUPATIONAL CERTIFICATION |
| __WATER QUALITY | __SEWAGE SLUDGE | __UNDERGROUND INJECTION CONTROL |
| __MUNICIPAL SOLID WASTE | __RADIOACTIVE WASTE | __DRY CLEANER REGISTRATION |

**SITE WHERE VIOLATION(S) OCCURRED:** Ameron Fiberglass Composite Pipe Division USA, 1004 Ameron Road, Burkburnett, Wichita County

**TYPE OF OPERATION:** Fiberglass pipe and fittings manufacturing plant

**SMALL BUSINESS:** ___ Yes _X_ No

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

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

**COMMENTS RECEIVED:** The *Texas Register* comment period expired on December 15, 2008. No comments were received.

**CONTACTS AND MAILING LIST:**

**SEP Coordinator:** Ms. Sharon Blue, SEP Coordinator, Litigation Division, MC 175
**TCEQ Enforcement Coordinator:** Mr. Bryan Elliott, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-6162; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171
**Respondent:** Mr. David Jones, Vice President-Operations, Ameron FCPD-USA, P.O. Box 878, Burkburnett, Texas 76354
Mr. Mark Wolf, Safety Manager, Ameron International Corporation, P.O. Box 878, Burkburnett, Texas 76354
**Respondent's Attorney:** Not represented by counsel on this enforcement matter

## VIOLATION SUMMARY CHART:

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|---|---|---|
| **Type of Investigation:**<br>___ Complaint<br>_X_ Routine<br>___ Enforcement Follow-up<br>___ Records Review<br><br>**Date(s) of Complaints Relating to this Case:** None<br><br>**Date of Record Review Relating to this Case:** April 9, 2008<br><br>**Date of NOE Relating to this Case:** May 29, 2008 (NOE)<br><br>**Background Facts:** This was a routine investigation.<br><br>**AIR**<br><br>1) Failure to submit the 40 Code of Federal Regulations ("CFR") Part 63 Subpart WWWW compliance status notification. Specifically, the Respondent failed to submit the required compliance status notification by May 21, 2007 [30 TEX. ADMIN. CODE §§ 113.1060, 116.115(c), and 122.143(4), 40 CFR § 63.5905(a), TEX. HEALTH & SAFETY CODE § 382.085(b), New Source Review ("NSR") Permit No. 1967B, Special Condition ("SC") 8H, and Title V Site Operating Permit ("SOP") No. O-02908, Special Terms and Conditions ("STC") 5 and 6].<br><br>2) Failure to submit the 40 CFR Part 63 Subpart WWWW semi-annual compliance reports. Specifically, the first semi-annual compliance report was due on January 31, 2007 for the period April 21, 2006 through December 31, 2006. The second semi-annual compliance report was due July 31, 2007 for the period January 1, 2007 through June 30, 2007. The third semi-annual compliance report was due January 31, 2008 for the period July 1, 2007 through December 31, 2007 [30 TEX. ADMIN. CODE §§ 113.1060, 116.115(c), and 122.143(4). 40 CFR § 63.5910(b), TEX. HEALTH & SAFETY CODE § 382.085(b), NSR Permit No. 1967B, SC 8H, and Title V SOP No. O-02908, STC 5 and 6]. | **Total Assessed:** $19,500<br><br>**Total Deferred:** $3,900<br>_X_ Expedited Settlement<br><br>__Financial Inability to Pay<br><br>**SEP Conditional Offset:** $7,800<br><br>**Total Paid to General Revenue:** $7,800<br><br>**Site Compliance History Classification**<br>___ **High** _X_ **Average** ___ **Poor**<br><br>**Person Compliance History Classification**<br>___ **High** _X_ **Average** ___ **Poor**<br><br>**Major Source:** _X_ Yes ___ No<br><br>**Applicable Penalty Policy:** September 2002 | **Corrective Actions Taken:**<br><br>1) The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:<br><br>a) On July 31, 2008, submitted the 40 CFR Part 63 Subpart WWWW compliance status notification and semi-annual compliance reports; and<br><br>b) On August 14, 2008, submitted the semi-annual deviation reports for the reporting periods February 21, 2007 through August 20, 2007 and August 21, 2007 through February 20, 2008 containing deviations for not submitting the 40 CFR Part 63 Subpart WWWW compliance status notification and semi-annual compliance reports.<br><br>**Ordering Provisions:**<br><br>2) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP) (See SEP Attachment A). |

| | | |
|---|---|---|
| 3) Failure to submit semi-annual deviation reports within 30 days after the reporting periods. Specifically, the Respondent failed to submit semi-annual deviation reports for the reporting periods February 21, 2007 through August 20, 2007 and August 21, 2007 through February 20, 2008 [30 TEX. ADMIN. CODE § 122.145(2)(C) and TEX. HEALTH & SAFETY CODE § 382.085(b)]. | | |

Additional ID No(s).: WH0015Q

**Attachment A**
**Docket Number: 2008-1056-AIR-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

| | |
|---|---|
| **Respondent:** | **Ameron International Corporation** |
| **Penalty Amount:** | **Fifteen Thousand Six Hundred Dollars ($15,600)** |
| **SEP Offset Amount:** | **Seven Thousand Eight Hundred Dollars ($7,800)** |
| **Type of SEP:** | **Pre-approved** |
| **Third-Party Recipient:** | **Texas PTA – *Clean School Bus Program*** |
| **Location of SEP:** | **Wichita County** |

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

A. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to ***Texas PTA*** for the *Clean School Bus Program* in Wichita County as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to reimburse local school districts for the cost of the following activities to reduce emissions: 1) replacing older diesel buses with alternative fuelled or clean diesel buses; or 2) retrofitting older diesel buses with new, cleaner technology. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

The Respondent certifies that it has no prior commitment to make this contribution and that it is being done solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing particulate emissions on buses by more than 90% below today's level and reducing hydrocarbons below measurement capability.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

## 2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Recipient. The Respondent shall mail a copy of the Agreed Order with the contribution to:

Texas Congress of Parents and Teachers dba Texas PTA
Clean School Bus Program
Suzy Swan, Director of Finance
408 West 11th Street
Austin, Texas 78707

## 3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

## 4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Offset Amount.

In the event of incomplete performance, the Respondent shall include on the check the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. The Respondent shall make the payment for the amount due to "Texas Commission on Environmental Quality" and mail it to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

## 5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

## 6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

## 7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

# Penalty Calculation Worksheet (PCW)

*Policy Revision 2 (September 2002)* — *PCW Revision June 12, 2008*

TCEQ

| DATES | | | | | |
|---|---|---|---|---|---|
| Assigned | 2-Jun-2008 | | | | |
| PCW | 1-Jul-2008 | Screening | 25-Jun-2008 | EPA Due | 22-Feb-2009 |

**RESPONDENT/FACILITY INFORMATION**

| | | | |
|---|---|---|---|
| Respondent | Ameron International Corporation | | |
| Reg. Ent. Ref. No. | RN100678440 | | |
| Facility/Site Region | 3-Abilene | Major/Minor Source | Major |

**CASE INFORMATION**

| | | | |
|---|---|---|---|
| Enf./Case ID No. | 36131 | No. of Violations | 3 |
| Docket No. | 2008-1056-AIR-E | Order Type | 1660 |
| Media Program(s) | Air | Government/Non-Profit | No |
| Multi-Media | | Enf. Coordinator | Bryan Elliott |
| | | EC's Team | Enforcement Team 4 |

Admin. Penalty $ Limit Minimum $0 Maximum $10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** — *Subtotal 1* $15,000

**ADJUSTMENTS (+/-) TO SUBTOTAL 1**

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

**Compliance History** 40.0% Enhancement — *Subtotals 2, 3, & 7* $6,000

Notes: Enhancement due to two 1660-styled orders.

**Culpability** No 0.0% Enhancement — *Subtotal 4* $0

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** — *Subtotal 5* $1,500

**Economic Benefit** 0.0% Enhancement* — *Subtotal 6* $0

Total EB Amounts $188
Approx. Cost of Compliance $3,000
**Capped at the Total EB $ Amount*

**SUM OF SUBTOTALS 1-7** — *Final Subtotal* $19,500

**OTHER FACTORS AS JUSTICE MAY REQUIRE** 0.0% — *Adjustment* $0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

*Final Penalty Amount* $19,500

**STATUTORY LIMIT ADJUSTMENT** — *Final Assessed Penalty* $19,500

**DEFERRAL** 20.0% Reduction — *Adjustment* -$3,900

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

Notes: Deferral offered for expedited settlement.

**PAYABLE PENALTY** $15,600

**Screening Date** 25-Jun-2008 **Docket No.** 2008-1056-AIR-E **PCW**

**Respondent** Ameron International Corporation *Policy Revision 2 (September 2002)*

**Case ID No.** 36131 *PCW Revision June 12, 2008*

**Reg. Ent. Reference No.** RN100678440

**Media [Statute]** Air

**Enf. Coordinator** Bryan Elliott

# 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 | 0 | 0% |
| Orders | Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*) | 2 | 40% |
| | 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)*** 40%

## >> 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 due to two 1660-styled orders.

***Total Adjustment Percentage (Subtotals 2, 3, & 7)*** 40%

**Screening Date** 25-Jun-2008 **Docket No.** 2008-1056-AIR-E **PCW**

**Respondent** Ameron International Corporation *Policy Revision 2 (September 2002)*

**Case ID No.** 36131 *PCW Revision June 12, 2008*

**Reg. Ent. Reference No.** RN100678440

**Media [Statute]** Air

**Enf. Coordinator** Bryan Elliott

**Violation Number** 1

**Rule Cite(s)** 30 Tex. Admin. Code §§ 113.1060, 116.115(c), and 122.143(4) and 40 Code of Federal Regulations ("CFR") § 63.5905(a), Tex. Health & Safety Code § 382.085(b), New Source Review ("NSR") Permit No. 1967B, Special Condition ("SC") 8H, and Title V Site Operating Permit ("SOP") No. O-02908, Special Terms and Conditions ("STC") 5 and 6

**Violation Description** Failed to submit the 40 CFR Part 63 Subpart WWWW compliance status notification. Specifically, the Respondent failed to submit the required compliance status notification by May 21, 2007.

**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 was not met.

**Adjustment** $7,500

$2,500

## Violation Events

Number of Violation Events 1 401 Number of violation days

*mark only one with an x*

| | |
|---|---|
| daily | |
| monthly | |
| quarterly | |
| semiannual | |
| annual | |
| single event | x |

**Violation Base Penalty** $2,500

One single event is recommended.

## Good Faith Efforts to Comply

10.0% Reduction $250

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

Notes: The Respondent submitted the report on July 31, 2008.

**Violation Subtotal** $2,250

## Economic Benefit (EB) for this violation

**Estimated EB Amount** $30

## Statutory Limit Test

**Violation Final Penalty Total** $3,250

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

# Economic Benefit Worksheet

**Respondent** Ameron International Corporation
**Case ID No.** 36131
**Reg. Ent. Reference No.** RN100678440
**Media** Air
**Violation No.** 1

| Percent Interest | Years of Depreciation |
|---|---|
| 5.0 | 15 |

| Item Description (No commas or $) | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|---|---|---|---|---|---|---|---|
| **Delayed Costs** | | | | | | | |
| Equipment | | | | 0.00 | $0 | $0 | $0 |
| Buildings | | | | 0.00 | $0 | $0 | $0 |
| Other (as needed) | | | | 0.00 | $0 | $0 | $0 |
| Engineering/construction | | | | 0.00 | $0 | $0 | $0 |
| Land | | | | 0.00 | $0 | n/a | $0 |
| Record Keeping System | | | | 0.00 | $0 | n/a | $0 |
| Training/Sampling | | | | 0.00 | $0 | n/a | $0 |
| Remediation/Disposal | | | | 0.00 | $0 | n/a | $0 |
| Permit Costs | | | | 0.00 | $0 | n/a | $0 |
| Other (as needed) | $500 | 21-May-2007 | 31-Jul-2008 | 1.20 | $30 | n/a | $30 |

Notes for DELAYED costs: Item cost is an estimate for submitting the report. Date required is the date the report was due and the final date is the 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 | | | | 0.00 | $0 | $0 | $0 |
| Personnel | | | | 0.00 | $0 | $0 | $0 |
| Inspection/Reporting/Sampling | | | | 0.00 | $0 | $0 | $0 |
| Supplies/equipment | | | | 0.00 | $0 | $0 | $0 |
| Financial Assurance [2] | | | | 0.00 | $0 | $0 | $0 |
| ONE-TIME avoided costs [3] | | | | 0.00 | $0 | $0 | $0 |
| Other (as needed) | | | | 0.00 | $0 | $0 | $0 |

Notes for AVOIDED costs:

Approx. Cost of Compliance: $500

TOTAL: $30

**Screening Date** 25-Jun-2008 **Docket No.** 2008-1056-AIR-E **PCW**

**Respondent** Ameron International Corporation *Policy Revision 2 (September 2002)*

**Case ID No.** 36131 *PCW Revision June 12, 2008*

**Reg. Ent. Reference No.** RN100678440

**Media [Statute]** Air

**Enf. Coordinator** Bryan Elliott

**Violation Number** 2

**Rule Cite(s)** 30 Tex. Admin. Code §§ 113.1060, 116.115(c), and 122.143(4) and 40 CFR § 63.5910(b), Tex. Health & Safety Code § 382.085(b), NSR Permit No. 1967B, SC 8H, and Title V SOP No. O-02908, STC 5 and 6

**Violation Description** Failed to submit the 40 CFR Part 63 Subpart WWWW semi-annual compliance reports. Specifically, the first semi-annual compliance report was due on January 31, 2007 for the period April 21, 2006 through December 31, 2006. The second semi-annual compliance report was due July 31, 2007 for the period January 1, 2007 through June 30, 2007. The third semi-annual compliance report was due January 31, 2008 for the period July 1, 2007 through December 31, 2007.

**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 was not met.

**Adjustment** $7,500

$2,500

## Violation Events

Number of Violation Events: 3 — 511 Number of violation days

*mark only one with an x*

| | |
|---|---|
| daily | |
| monthly | |
| quarterly | |
| semiannual | |
| annual | |
| single event | x |

**Violation Base Penalty** $7,500

Three single events are recommended (one for each report).

## Good Faith Efforts to Comply

10.0% Reduction $750

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

Notes: The Respondent submitted the reports on July 31, 2008.

**Violation Subtotal** $6,750

## Economic Benefit (EB) for this violation

**Estimated EB Amount** $112

## Statutory Limit Test

**Violation Final Penalty Total** $9,750

**This violation Final Assessed Penalty (adjusted for limits)** $9,750

# Economic Benefit Worksheet

**Respondent** Ameron International Corporation
**Case ID No.** 36131
**Reg. Ent. Reference No.** RN100678440
**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 |
|---|---|---|---|---|---|---|---|
| **Delayed Costs** | | | | | | | |
| Equipment | | | | 0.00 | $0 | $0 | $0 |
| Buildings | | | | 0.00 | $0 | $0 | $0 |
| Other (as needed) | | | | 0.00 | $0 | $0 | $0 |
| Engineering/construction | | | | 0.00 | $0 | $0 | $0 |
| Land | | | | 0.00 | $0 | n/a | $0 |
| Record Keeping System | | | | 0.00 | $0 | n/a | $0 |
| Training/Sampling | | | | 0.00 | $0 | n/a | $0 |
| Remediation/Disposal | | | | 0.00 | $0 | n/a | $0 |
| Permit Costs | | | | 0.00 | $0 | n/a | $0 |
| Other (as needed) | $1,500 | 31-Jan-2007 | 31-Jul-2008 | 1.50 | $112 | n/a | $112 |

Notes for DELAYED costs: Item cost is an estimate for submitting the reports. Date required is the date the reports were due and the final date is the date of compliance.

| Avoided Costs | ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs) | | | | | | |
|---|---|---|---|---|---|---|---|
| Disposal | | | | 0.00 | $0 | $0 | $0 |
| Personnel | | | | 0.00 | $0 | $0 | $0 |
| Inspection/Reporting/Sampling | | | | 0.00 | $0 | $0 | $0 |
| Supplies/equipment | | | | 0.00 | $0 | $0 | $0 |
| Financial Assurance [2] | | | | 0.00 | $0 | $0 | $0 |
| ONE-TIME avoided costs [3] | | | | 0.00 | $0 | $0 | $0 |
| Other (as needed) | | | | 0.00 | $0 | $0 | $0 |

Notes for AVOIDED costs:

Approx. Cost of Compliance: $1,500

TOTAL: $112

**Screening Date** 25-Jun-2008 **Docket No.** 2008-1056-AIR-E **PCW**

**Respondent** Ameron International Corporation *Policy Revision 2 (September 2002)*

**Case ID No.** 36131 *PCW Revision June 12, 2008*

**Reg. Ent. Reference No.** RN100678440

**Media [Statute]** Air

**Enf. Coordinator** Bryan Elliott

**Violation Number** 3

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

**Violation Description** Failed to submit semi-annual deviation reports within 30 days after the reporting periods. Specifically, the Respondent failed to submit semi-annual deviation reports for the reporting periods February 21, 2007 through August 20, 2007 and August 21, 2007 through February 20, 2008.

**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 was not met.

**Adjustment** $7,500

$2,500

## Violation Events

Number of Violation Events: 2 — 280 Number of violation days

*mark only one with an x*

| | |
|---|---|
| daily | |
| monthly | |
| quarterly | |
| semiannual | |
| annual | |
| single event | x |

**Violation Base Penalty** $5,000

Two single events are recommended (one for each report).

## Good Faith Efforts to Comply

10.0% Reduction — $500

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

Notes: The Respondent submitted the reports on August 14, 2008.

**Violation Subtotal** $4,500

## Economic Benefit (EB) for this violation

**Estimated EB Amount** $45

## Statutory Limit Test

**Violation Final Penalty Total** $6,500

**This violation Final Assessed Penalty (adjusted for limits)** $6,500

# Economic Benefit Worksheet

**Respondent** Ameron International Corporation
**Case ID No.** 36131
**Reg. Ent. Reference No.** RN100678440
**Media** Air
**Violation No.** 3

| Percent Interest | Years of Depreciation |
|---|---|
| 5.0 | 15 |

| Item Description (No commas or $) | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|---|---|---|---|---|---|---|---|
| **Delayed Costs** | | | | | | | |
| Equipment | | | | 0.00 | $0 | $0 | $0 |
| Buildings | | | | 0.00 | $0 | $0 | $0 |
| Other (as needed) | | | | 0.00 | $0 | $0 | $0 |
| Engineering/construction | | | | 0.00 | $0 | $0 | $0 |
| Land | | | | 0.00 | $0 | n/a | $0 |
| Record Keeping System | | | | 0.00 | $0 | n/a | $0 |
| Training/Sampling | | | | 0.00 | $0 | n/a | $0 |
| Remediation/Disposal | | | | 0.00 | $0 | n/a | $0 |
| Permit Costs | | | | 0.00 | $0 | n/a | $0 |
| Other (as needed) | $1,000 | 19-Sep-2007 | 14-Aug-2008 | 0.90 | $45 | n/a | $45 |

Notes for DELAYED costs: Estimated cost to submit the semi-annual deviation reports. Date required is the date the first semi-annual deviation report was due. Final date is the date of compliance.

| Avoided Costs | | | | | | | |
|---|---|---|---|---|---|---|---|
| ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs) | | | | | | | |
| Disposal | | | | 0.00 | $0 | $0 | $0 |
| Personnel | | | | 0.00 | $0 | $0 | $0 |
| Inspection/Reporting/Sampling | | | | 0.00 | $0 | $0 | $0 |
| Supplies/equipment | | | | 0.00 | $0 | $0 | $0 |
| Financial Assurance [2] | | | | 0.00 | $0 | $0 | $0 |
| ONE-TIME avoided costs [3] | | | | 0.00 | $0 | $0 | $0 |
| Other (as needed) | | | | 0.00 | $0 | $0 | $0 |

Notes for AVOIDED costs:

Approx. Cost of Compliance: $1,000

TOTAL: $45

# Compliance History

| | | | | |
|---|---|---|---|---|
| Customer/Respondent/Owner-Operator: | CN600127732 | Ameron International Corporation | Classification: AVERAGE | Rating: 42.13 |
| Regulated Entity: | RN100678440 | AMERON FIBERGLASS COMPOSITE PIPE DIVISION USA | Classification: AVERAGE | Site Rating: 42.13 |

ID Number(s):

| | | |
|---|---|---|
| AIR OPERATING PERMITS | ACCOUNT NUMBER | WH0015Q |
| AIR OPERATING PERMITS | PERMIT | 1017 |
| AIR OPERATING PERMITS | PERMIT | 2908 |
| INDUSTRIAL AND HAZARDOUS WASTE GENERATION | EPA ID | TXD042733782 |
| INDUSTRIAL AND HAZARDOUS WASTE GENERATION | SOLID WASTE REGISTRATION # (SWR) | 30604 |
| AIR NEW SOURCE PERMITS | PERMIT | 16804 |
| AIR NEW SOURCE PERMITS | PERMIT | 1967B |
| AIR NEW SOURCE PERMITS | PERMIT | 5173 |
| AIR NEW SOURCE PERMITS | PERMIT | 27940 |
| AIR NEW SOURCE PERMITS | PERMIT | 35683 |
| AIR NEW SOURCE PERMITS | PERMIT | 45250 |
| AIR NEW SOURCE PERMITS | ACCOUNT NUMBER | WH0015Q |
| AIR NEW SOURCE PERMITS | AFS NUM | 4848500005 |
| STORMWATER | PERMIT | TXR05L779 |

| | | | |
|---|---|---|---|
| Location: | 1004 AMERON RD, BURKBURNETT, TX, 76354 | Rating Date: September 01 07 | Repeat Violator: NO |

| | |
|---|---|
| TCEQ Region: | REGION 03 - ABILENE |
| Date Compliance History Prepared: | June 25, 2008 |
| Agency Decision Requiring Compliance History: | Enforcement |
| Compliance Period: | June 25, 2003 to June 25, 2008 |

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

Name: Sidney Wheeler Phone: (512) 239-4969

## 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 judgments, and consent decrees of the state of Texas and the federal government.

Effective Date: 11/16/2003 1660-Styled ADMINORDER 2002-0964-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(G)

Description: Failure to comply with the emission limits published in Permit 1967B. During the investigation the investigator documented that the facility exceeded limits published in the MAERT, P1967B, for the pollutant CO at Emission Point 70G/H.

Effective Date: 03/19/2007 1660-Styled ADMINORDER 2006-1396-AIR-E

Classification: Major

Citation: 30 TAC Chapter 122, SubChapter B 122.121
30 TAC Chapter 122, SubChapter C 122.241(b)
5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failure to obtain a Federal Operating Permit prior to operation of emission sources at the Ameron Fiberglass Composite Pipe Division. The company failed to renew Site Operating Permit (SOP) No. O-01017 prior to its expiration and has continued to operate without authorization.

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 | 08/25/2003 | (152136) |
| 2 | 09/09/2003 | (152874) |
| 3 | 11/12/2003 | (254319) |
| 4 | 05/20/2004 | (272972) |
| 5 | 05/27/2004 | (270769) |
| 6 | 07/27/2004 | (283479) |
| 7 | 01/26/2005 | (347913) |
| 8 | 07/25/2005 | (400032) |
| 9 | 07/26/2005 | (400596) |
| 10 | 08/04/2006 | (487174) |
| 11 | 08/22/2007 | (567514) |
| 12 | 05/29/2008 | (656877) |

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

F. Environmental audits.
N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.
N/A

Sites Outside of Texas

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

| | | |
|---|---|---|
| **IN THE MATTER OF AN ENFORCEMENT ACTION CONCERNING AMERON INTERNATIONAL CORPORATION RN100678440** | §<br>§<br>§<br>§<br>§<br>§ | **BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY** |

**AGREED ORDER**
**DOCKET NO. 2008-1056-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 Ameron International Corporation ("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 a fiberglass pipe and fittings manufacturing plant at 1004 Ameron Road in Burkburnett, Wichita 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 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 June 3, 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 Nineteen Thousand Five Hundred Dollars ($19,500) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Seven Thousand Eight Hundred Dollars ($7,800) of the administrative

penalty and Three Thousand Nine Hundred Dollars ($3,900) 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. Seven Thousand Eight Hundred Dollars ($7,800) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project.

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 has implemented the following corrective measures at the Plant:

   a. On July 31, 2008, submitted the 40 CODE OF FEDERAL REGULATIONS ("CFR") Part 63 Subpart WWWW compliance status notification and semi-annual compliance reports; and

   b. On August 14, 2008, submitted the semi-annual deviation reports for the reporting periods February 21, 2007 through August 20, 2007 and August 21, 2007 through February 20, 2008 containing deviations for not submitting the 40 CFR Part 63 Subpart WWWW compliance status notification and semi-annual compliance reports.

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 Plant, the Respondent is alleged to have:

1. Failed to submit the 40 CFR Part 63 Subpart WWWW compliance status notification, in violation of 30 TEX. ADMIN. CODE §§ 113.1060, 116.115(c), and 122.143(4) and 40 CFR § 63.5905(a), TEX. HEALTH & SAFETY CODE § 382.085(b), New Source Review ("NSR") Permit No. 1967B, Special Condition ("SC") 8H, and Title V Site Operating Permit ("SOP") No. O-02908, Special Terms and Conditions ("STC") 5 and 6, as documented during a record review conducted on April 9, 2008. Specifically, the Respondent failed to submit the required compliance status notification by May 21, 2007.

2. Failed to submit the 40 CFR Part 63 Subpart WWWW semi-annual compliance reports, in violation of 30 TEX. ADMIN. CODE §§ 113.1060, 116.115(c), and 122.143(4) and 40 CFR § 63.5910(b), TEX. HEALTH & SAFETY CODE § 382.085(b), NSR Permit No. 1967B, SC 8H, and Title V SOP No. O-02908, STC 5 and 6, as documented during a record review conducted on April 9, 2008. Specifically, the first semi-annual compliance report was due on January 31, 2007 for the period April 21, 2006 through December 31, 2006. The second semi-annual compliance report was due July 31, 2007 for the period January 1, 2007 through June 30, 2007. The third semi-annual compliance report was due January 31, 2008 for the period July 1, 2007 through December 31, 2007.

3. Failed to submit semi-annual deviation reports within 30 days after the reporting periods, in violation of 30 TEX. ADMIN. CODE § 122.145(2)(C) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on April 9, 2008. Specifically, the Respondent failed to submit semi-annual deviation reports for the reporting periods February 21, 2007 through August 20, 2007 and August 21, 2007 through February 20, 2008.

## 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: Ameron International Corporation, Docket No. 2008-1056-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. The Respondent shall implement and complete a Supplemental Environmental Project ("SEP") in accordance with TEX. WATER CODE § 7.067. As set forth in Section I , Paragraph 6 above, Seven Thousand Eight Hundred Dollars ($7,800) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.

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 Plant 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 Sadler
For the Executive Director

11/14/2008
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.

Signature

10/9/2008
Date

David Jones
Name (Printed or typed)
Authorized Representative of
Ameron International Corporation

Vice President - Operations
Title Ameron FCPD-USA

**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.

**Attachment A**
**Docket Number: 2008-1056-AIR-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

| | |
|---|---|
| **Respondent:** | **Ameron International Corporation** |
| **Penalty Amount:** | **Fifteen Thousand Six Hundred Dollars ($15,600)** |
| **SEP Offset Amount:** | **Seven Thousand Eight Hundred Dollars ($7,800)** |
| **Type of SEP:** | **Pre-approved** |
| **Third-Party Recipient:** | **Texas PTA – *Clean School Bus Program*** |
| **Location of SEP:** | **Wichita County** |

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

## 1. Project Description

### A. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to ***Texas PTA*** for the *Clean School Bus Program* in Wichita County as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to reimburse local school districts for the cost of the following activities to reduce emissions: 1) replacing older diesel buses with alternative fuelled or clean diesel buses; or 2) retrofitting older diesel buses with new, cleaner technology. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

The Respondent certifies that it has no prior commitment to make this contribution and that it is being done solely in an effort to settle this enforcement action.

### B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing particulate emissions on buses by more than 90% below today's level and reducing hydrocarbons below measurement capability.

### C. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

## 2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Recipient. The Respondent shall mail a copy of the Agreed Order with the contribution to:

Texas Congress of Parents and Teachers dba Texas PTA
Clean School Bus Program
Suzy Swan, Director of Finance
408 West 11th Street
Austin, Texas 78707

## 3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

## 4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Offset Amount.

In the event of incomplete performance, the Respondent shall include on the check the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. The Respondent shall make the payment for the amount due to "Texas Commission on Environmental Quality" and mail it to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

## 5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

## 6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

## 7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.