

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-1107-AIR-E **TCEQ ID:** RN100851211 **CASE NO.:** 37962

RESPONDENT NAME: Republic Plastics, Ltd.

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: Republic Plastics Seguin Foam Plant, 355 Schumann Road, McQueeney, Guadalupe County</p> <p>TYPE OF OPERATION: Polystyrene foam products manufacturing 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 no record of additional pending enforcement actions regarding this facility location.</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 October 12, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Trina Grieco, Enforcement Division, Enforcement Team 5, MC R-13, (210) 403-4006; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Jose Colon, Vice President of Operations, Republic Plastics, Ltd., 355 Schumann Road, McQueeney, Texas 78123-3260 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: June 26, 2009</p> <p>Date of NOV/NOE Relating to this Case: July 3, 2009 (NOE)</p> <p>Background Facts: This was a records review.</p> <p>AIR</p> <p>Failure to submit the Title V permit compliance certification within 30 days after the January 25, 2008 to January 24, 2009 annual compliance certification period and to include semi-annual deviations in the certification when it was submitted. Specifically, the certification was due on February 25, 2009, but was not received until May 5, 2009, and did not include or reference the January 25, 2008 to July 24, 2008 semi-annual deviation report that was submitted on August 25, 2008 [30 TEX. ADMIN. CODE §§ 122.143(4), 122.146(2), and 122.146(5)(C), Federal Operating Permit No. O-02680, General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$3,100</p> <p>Total Deferred: \$620 <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: \$2,480</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>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, implement measures designed to ensure that annual compliance certifications are submitted within the required timeframes, and that they include all deviations; and</p> <p>b. Within 45 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 a.</p>

Additional ID No(s): GL0145C



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	7-Jul-2009	Screening	15-Jul-2009	EPA Due	20-Mar-2010
	PCW	15-Jul-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	Republic Plastics, Ltd.
Reg. Ent. Ref. No.	RN100851211
Facility/Site Region	13-San Antonio
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	37962	No. of Violations	1
Docket No.	2009-1107-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Trina Grleco
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$2,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	24.0% Enhancement	Subtotal 2, 3, & 7	\$600
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Notes: Penalty enhancement due to two NOVs issued for unrelated violations and one agreed order issued with a denial of liability.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement	Subtotal 6	\$0
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Total EB Amounts: \$25
Approx. Cost of Compliance: \$500
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$3,100
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$3,100
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$3,100
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DEFERRAL	20.0% Reduction	Adjustment	-\$620
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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	\$2,480
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Screening Date 15-Jul-2009

Docket No. 2009-1107-AIR-E

PCW

Respondent Republic Plastics, Ltd.

Policy Revision 2 (September 2002)

Case ID No. 37962

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100851211

Media [Statute] Air

Enf. Coordinator Trina Grieco

Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 24%

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

Adjustment Percentage (Subtotal 3) 0%

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

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

Total Adjustment Percentage (Subtotals 2, 3, & 7) 24%

Screening Date 15-Jul-2009	Docket No. 2009-1107-AIR-E														
Respondent Republic Plastics, Ltd.	PCW <small>Policy Revision 2 (September 2002) PCW Revision October 30, 2008</small>														
Case ID No. 37962															
Reg. Ent. Reference No. RN100851211															
Media [Statute] Air															
Enf. Coordinator Trina Grieco															
Violation Number 1															
Rule Cite(s)	30 Tex. Admin. Code §§ 122.143(4), 122.146(2), and 122.146(5)(c), Federal Operating Permit No. O-02680, General Terms and Conditions, and Tex. Health & Safety Code § 382.085(b)														
Violation Description	Failed to submit the Title V permit compliance certification within 30 days after the January 25, 2008 to January 24, 2009 annual compliance certification period and to include semi-annual deviations in the certification when it was submitted. Specifically, the certification was due on February 25, 2009, but was not received until May 5, 2009, and did not include or reference the January 25, 2008 to July 24, 2008 semi-annual deviation report that was submitted on August 25, 2008.														
Base Penalty	\$10,000														
>> Environmental, Property and Human Health Matrix															
OR	Harm														
Release	Major Moderate Minor														
Actual	<input type="text"/> <input type="text"/> <input type="text"/>														
Potential	<input type="text"/> <input type="text"/> <input type="text"/>														
	Percent <input type="text" value="0%"/>														
>> Programmatic Matrix															
Falsification	Major Moderate Minor														
<input type="text"/>	<input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>														
	Percent <input type="text" value="25%"/>														
Matrix Notes	100% of the rule requirements were not met.														
Adjustment	\$7,500														
	<input type="text" value="\$2,500"/>														
Violation Events															
Number of Violation Events	<input type="text" value="1"/> <input type="text" value="140"/> Number of violation days														
<i>mark only one with an x</i>	<table border="1" style="border-collapse: collapse;"> <tr><td>daily</td><td><input type="text"/></td></tr> <tr><td>weekly</td><td><input type="text"/></td></tr> <tr><td>monthly</td><td><input type="text"/></td></tr> <tr><td>quarterly</td><td><input type="text"/></td></tr> <tr><td>semiannual</td><td><input type="text"/></td></tr> <tr><td>annual</td><td><input type="text"/></td></tr> <tr><td>single event</td><td><input checked="" type="checkbox"/></td></tr> </table>	daily	<input type="text"/>	weekly	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input checked="" type="checkbox"/>
daily	<input type="text"/>														
weekly	<input type="text"/>														
monthly	<input type="text"/>														
quarterly	<input type="text"/>														
semiannual	<input type="text"/>														
annual	<input type="text"/>														
single event	<input checked="" type="checkbox"/>														
	Violation Base Penalty <input type="text" value="\$2,500"/>														
	One single event is recommended for the certification that was deficient and submitted late.														
Good Faith Efforts to Comply	<input type="text" value="0.0%"/> Reduction <input type="text" value="\$0"/>														
	Before NOV NOV to EDPPRS settlement Offer														
Extraordinary	<input type="text"/>														
Ordinary	<input type="text"/>														
N/A	<input checked="" type="checkbox"/> (mark with x)														
Notes	The Respondent does not meet the good faith criteria for this violation.														
Violation Subtotal	\$2,500														
Economic Benefit (EB) for this violation	Statutory Limit Test														
Estimated EB Amount	<input type="text" value="\$25"/> <input type="text" value="\$3,100"/>														
Violation Final Assessed Penalty (adjusted for limits)	<input type="text" value="\$3,100"/>														

Economic Benefit Worksheet

Respondent Republic Plastics, Ltd.
Case ID No. 37962
Reg. Ent. Reference No. RN100851211
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
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				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	25-Feb-2009	1-Mar-2010	1.01	\$25	n/a	\$25

Notes for DELAYED costs

Estimated cost to implement measures designed to ensure that annual compliance certifications are submitted within the required timeframes and include all deviations. The date required is the date the certification was due to the date corrective actions are projected to be completed.

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

\$25

Compliance History Report

Customer/Respondent/Owner-Operator: CN600528772 Republic Plastics, Ltd. Classification: AVERAGE Rating: 4.44
Regulated Entity: RN100851211 REPUBLIC PLASTICS SEGUIN FOAM PLANT Classification: AVERAGE Site Rating: 5.88

ID Number(s): AIR NEW SOURCE PERMITS PERMIT 40212
AIR NEW SOURCE PERMITS ACCOUNT NUMBER GL0145C
AIR NEW SOURCE PERMITS AFS NUM 4818700056
AIR OPERATING PERMITS ACCOUNT NUMBER GL0145C
AIR OPERATING PERMITS PERMIT 2680

Location: 355 SCHUMANN RD, MC QUEENEY, TX, 78123

TCEQ Region: REGION 13 - SAN ANTONIO

Date Compliance History Prepared: July 14, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: July 14, 2004 to July 14, 2009

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

Name: Trina Grieco Phone: (210) 403-4006

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2008 Repeat Violator: NO

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: 02/18/2008

ADMINORDER 2007-1216-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)

30 TAC Chapter 122, SubChapter B 122.146(1)

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

Rqmt Prov: FOP No. O-02680 General Terms and Cond. PERMIT

Description: Failed to submit the Title V Annual Compliance Certification within 30 days after the end of the January 24, 2006 to January 23, 2007 certification period. Specifically, the report was due February 22, 2007, but has not yet been submitted.

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

N/A

- C. Chronic excessive emissions events.

N/A

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

1 04/01/2005 (374602)
2 02/17/2006 (455837)
3 03/20/2006 (459712)
4 06/15/2006 (482746)
5 07/19/2007 (568023)

6 05/30/2008 (680365)

7 07/03/2009 (760412)

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

Date: 02/21/2006 (455837)

Self Report? NO

Classification: Minor

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

Description: Failing to comply with all Special Conditions of a Permit.

Date: 02/23/2006 (459712)

Self Report? NO

Classification: Minor

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

Description: Failing to comply with all Special Conditions of a Permit.

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
REPUBLIC PLASTICS, LTD.
RN100851211**

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§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2009-1107-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 Republic Plastics, Ltd. ("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 polystyrene foam products manufacturing plant at 355 Schumann Road in McQueeney, Guadalupe 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 July 8, 2009.
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 Three Thousand One Hundred Dollars (\$3,100) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Thousand Four Hundred Eighty Dollars (\$2,480) of the administrative penalty and Six Hundred Twenty Dollars (\$620) is deferred contingent upon the

Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director 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.
10. 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.
11. 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 failed to submit the Title V permit compliance certification within 30 days after the January 25, 2008 to January 24, 2009 annual compliance certification period and to include semi-annual deviations in the certification when it was submitted, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4), 122.146(2), and 122.146(5)(C), Federal Operating Permit No. O-02680, General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on June 26, 2009. Specifically, the certification was due on February 25, 2009, but was not received until May 5, 2009, and did not include or reference the January 25, 2008 to July 24, 2008 semi-annual deviation report that was submitted on August 25, 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: Republic Plastics, Ltd., Docket No. 2009-1107-AIR-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order, implement measures designed to ensure that annual compliance certifications are submitted within the required timeframes, and that they include all deviations, in accordance with 30 TEX. ADMIN. CODE § 122.146; and
- b. Within 45 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 fines 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:

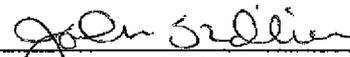
Air Section, Manager
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480

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 Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
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



For the Executive Director

Date 9/18/09

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

Date 8/14/09

JOSE COLON

Name (Printed or typed)
Authorized Representative of
Republic Plastics, Ltd.

VP OF OPERATIONS
Title

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

