# EXECUTIVE SUMMARY - ENFORCEMENT MATTER



**DOCKET NO.:** 2008-1412-AIR-E **TCEQ ID:** RN100218973 **CASE NO.:** 36470

**RESPONDENT NAME:** Formosa Plastics Corporation, Texas

| 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:** Formosa Point Comfort Plant, Texas, 201 Formosa Drive, Point Comfort, Calhoun County

**TYPE OF OPERATION:** Inorganic chemical plant

**SMALL BUSINESS:** ___ Yes _X_ No

**OTHER SIGNIFICANT MATTERS:** There are no complaints. There is one additional pending enforcement action regarding this facility location, Docket No. 2008-0873-AIR-E.

**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 March 2, 2009. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney/SEP Coordinator:** Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768
**TCEQ Enforcement Coordinator:** Ms. Suzanne Walrath, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-2134; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387
**Respondent:** Mr. Randall P. Smith, Vice President/General Manager, Formosa Plastics Corporation, Texas, P.O. Box 700, Point Comfort, Texas 77978
**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>___ Routine<br>___ Enforcement Follow-up<br>_X_ Records Review<br><br>**Date(s) of Complaints Relating to this Case:** None<br><br>**Date of Investigation Relating to this Case:** July 1, 2008<br><br>**Date of NOV/NOE Relating to this Case:** August 22, 2008 (NOE)<br><br>**Background Facts:** This was a record review.<br><br>**AIR**<br><br>Failure to route displaced vapors from the marine loading of ethylene dichloride ("EDC") to the dock incinerator/scrubber. Specifically, on February 1, 2008, 30.47 pounds ("lbs") of EDC and 1,123.25 lbs of hydrochloric acid gas were released from the dock flare (EPN 8F-D03) and 63.04 lbs of EDC were released from a pressure relief valve associated with dock fugitives (EPN 8FD-FUGDOCK) when a light oil vapor hose was mistakenly connected to the EDC barge, sending EDC vapors to the dock flare instead of the incinerator. The permit does not authorize emissions of EDC and hydrochloric acid gas from the dock flare [30 TEX. ADMIN. CODE §§ 101.20(3) and 116.115(c), Air Permit No. 19871 and PSD-TX-760M7, Special Condition Nos. 1 and 7, and TEX. HEALTH & SAFETY CODE § 382.085(b)]. | **Total Assessed:** $7,425<br><br>**Total Deferred:** $1,485<br>_X_ Expedited Settlement<br><br>__Financial Inability to Pay<br><br>**SEP Conditional Offset:** $2,970<br><br>**Total Paid to General Revenue:** $2,970<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>The Executive Director recognizes that on March 31, 2008, the Respondent secured the hoses, labeled the vapor hoses with the proper vent stream, and revised the standard operations procedures to prevent future incidents due to the same causes.<br><br>**Ordering Provisions:**<br><br>The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A) |

Additional ID No(s).: CB0038Q

**Attachment A**
**Docket Number: 2008-1412-AIR-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

| | |
|---|---|
| **Respondent:** | **Formosa Plastics Corporation, Texas** |
| **Payable Penalty Amount:** | **Five Thousand Nine Hundred Forty Dollars ($5,940)** |
| **SEP Amount:** | **Two Thousand Nine Hundred Seventy Dollars ($2,970)** |
| **Type of SEP:** | **Pre-approved** |
| **Third-Party Recipient:** | **City of Point Comfort-Wastewater Treatment Plant Repair Assistance** |
| **Location of SEP:** | **Calhoun 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 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 to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to assist in the rehabilitation of the wastewater treatment system, including: replacement of the main sanitary sewer lift station to prevent sewage overflows or backups of sewage into residences; replacement of the final effluent outfall line at the wastewater treatment facility site; demolition of portions of the former site to alleviate storm water inflow into the chlorine contact chamber; and engineering design and oversight for the project.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by helping to prevent the release of raw sewage or inadequately disinfected effluent into the environment, which will protect the ground, surface, and drinking water sources.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP 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 Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

City of Point Comfort
Attn: J.A. Cuellar
P.O. Box 497
Point Comfort, Texas 77978

## 3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP 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 payment of the SEP 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 Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

## 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 an 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 | 25-Aug-2008 | | | | | |
| PCW | 23-Sep-2008 | Screening | 28-Aug-2008 | EPA Due | 19-May-2009 | |

**RESPONDENT/FACILITY INFORMATION**

| | | | |
|---|---|---|---|
| Respondent | Formosa Plastics Corporation, Texas | | |
| Reg. Ent. Ref. No. | RN100218973 | | |
| Facility/Site Region | 14-Corpus Christi | Major/Minor Source | Major |

**CASE INFORMATION**

| | | | |
|---|---|---|---|
| Enf./Case ID No. | 36470 | No. of Violations | 1 |
| Docket No. | 2008-1412-AIR-E | Order Type | 1660 |
| Media Program(s) | Air | Government/Non-Profit | No |
| Multi-Media | | Enf. Coordinator | Suzanne Walrath |
| | | 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* $2,500

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

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

**Compliance History** 222.0% Enhancement — *Subtotals 2, 3, & 7* $5,550

Notes: The Respondent has received five Notices of Violation ("NOVs") for same or similar violations, 20 NOVs for dissimilar violations, has been issued three Agreed Orders containing a denial of liability, four Findings Orders, has submitted one letter notifying of an audit, and has disclosed violations once.

**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* $625

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

Total EB Amounts $16
Approx. Cost of Compliance $2,000
**Capped at the Total EB $ Amount*

**SUM OF SUBTOTALS 1-7** — *Final Subtotal* $7,425

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

*Final Penalty Amount* $7,425

**STATUTORY LIMIT ADJUSTMENT** — *Final Assessed Penalty* $7,425

**DEFERRAL** 20.0% Reduction — *Adjustment* -$1,485

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** $5,940

**Screening Date** 28-Aug-2008 **Docket No.** 2008-1412-AIR-E **PCW**
**Respondent** Formosa Plastics Corporation, Texas *Policy Revision 2 (September 2002)*
**Case ID No.** 36470 *PCW Revision June 12, 2008*
**Reg. Ent. Reference No.** RN100218973
**Media [Statute]** Air
**Enf. Coordinator** Suzanne Walrath

## 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*) | 5 | 25% |
| | Other written NOVs | 20 | 40% |
| Orders | Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*) | 3 | 60% |
| | 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 | 4 | 100% |
| 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*) | 1 | -1% |
| | 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% |

| | | *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)*** 222%

>> **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**

The Respondent has received five Notices of Violation ("NOVs") for same or similar violations, 20 NOVs for dissimilar violations, has been issued three Agreed Orders containing a denial of liability, four Findings Orders, has submitted one letter notifying of an audit, and has disclosed violations once.

***Total Adjustment Percentage (Subtotals 2, 3, & 7)*** 222%

**Screening Date** 28-Aug-2008 **Docket No.** 2008-1412-AIR-E **PCW**

**Respondent** Formosa Plastics Corporation, Texas *Policy Revision 2 (September 2002)*

**Case ID No.** 36470 *PCW Revision June 12, 2008*

**Reg. Ent. Reference No.** RN100218973

**Media [Statute]** Air

**Enf. Coordinator** Suzanne Walrath

**Violation Number** 1

**Rule Cite(s)** 30 Tex. Admin. Code §§ 101.20(3) and 116.115(c), Air Permit No. 19871 and PSD-TX-760M7, Special Condition Nos. 1 and 7, and Tex. Health & Safety Code § 382.085(b)

**Violation Description** Failed to route displaced vapors from the marine loading of ethylene dichloride ("EDC") to the dock incinerator/scrubber. Specifically, on February 1, 2008, 30.47 pounds ("lbs") of EDC and 1,123.25 lbs of hydrochloric acid gas were released from the dock flare (EPN 8F-D03) and 63.04 lbs of EDC were released from a pressure relief valve associated with dock fugitives (EPN 8FD-FUGDOCK) when a light oil vapor hose was mistakenly connected to the EDC barge, sending EDC vapors to the dock flare instead of the incinerator. The permit does not authorize emissions of EDC and hydrochloric acid gas from the dock flare.

**Base Penalty** $10,000

## >> Environmental, Property and Human Health Matrix

| Release | Harm: Major | Moderate | Minor |
|---|---|---|---|
| Actual | | | x |
| Potential | | | |

OR

**Percent** 25%

## >>Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---|---|---|---|
| | | | |

**Percent** 0%

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

**Adjustment** $7,500

$2,500

## Violation Events

Number of Violation Events 1 — 1 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

25.0% Reduction — $625

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

Notes: The Respondent achieved compliance on March 31, 2008.

**Violation Subtotal** $1,875

## Economic Benefit (EB) for this violation

**Estimated EB Amount** $16

## Statutory Limit Test

**Violation Final Penalty Total** $7,425

**This violation Final Assessed Penalty (adjusted for limits)** $7,425

# Economic Benefit Worksheet

**Respondent** Formosa Plastics Corporation, Texas
**Case ID No.** 36470
**Reg. Ent. Reference No.** RN100218973
**Media** Air
**Violation No.** 1

| 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) | $2,000 | 1-Feb-2008 | 31-Mar-2008 | 0.16 | $16 | n/a | $16 |

Notes for DELAYED costs: These are estimated costs for the securing and labeling of the marine dock hoses with the proper vent stream, and for standard operational procedure revisions to the marine loading of EDC, beginning on the date the permit was exceeded, and ending on the compliance date.

| 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: $2,000

TOTAL: $16

# Compliance History

| | | | | |
|---|---|---|---|---|
| Customer/Respondent/Owner-Operator: | CN600130017 | Formosa Plastics Corporation, Texas | Classification: AVERAGE | Rating: 4.23 |
| Regulated Entity: | RN100218973 | FORMOSA POINT COMFORT PLANT | Classification: AVERAGE | Site Rating: 11.18 |

ID Number(s):

| | | |
|---|---|---|
| AIR OPERATING PERMITS | ACCOUNT NUMBER | CB0038Q |
| AIR OPERATING PERMITS | PERMIT | 1484 |
| AIR OPERATING PERMITS | PERMIT | 1951 |
| AIR OPERATING PERMITS | PERMIT | 1953 |
| AIR OPERATING PERMITS | PERMIT | 1954 |
| AIR OPERATING PERMITS | PERMIT | 1955 |
| AIR OPERATING PERMITS | PERMIT | 1956 |
| AIR OPERATING PERMITS | PERMIT | 1957 |
| AIR OPERATING PERMITS | PERMIT | 1958 |
| INDUSTRIAL AND HAZARDOUS WASTE GENERATION | EPA ID | TXT490011293 |
| INDUSTRIAL AND HAZARDOUS WASTE GENERATION | SOLID WASTE REGISTRATION # (SWR) | 31945 |
| INDUSTRIAL AND HAZARDOUS WASTE GENERATION | EPA ID | TX0000888164 |
| INDUSTRIAL AND HAZARDOUS WASTE GENERATION | SOLID WASTE REGISTRATION # (SWR) | 82613 |
| AIR NEW SOURCE PERMITS | AFS NUM | 4805700015 |
| AIR NEW SOURCE PERMITS | PERMIT | 7699 |
| AIR NEW SOURCE PERMITS | PERMIT | 17030 |
| AIR NEW SOURCE PERMITS | PERMIT | 17158 |
| AIR NEW SOURCE PERMITS | PERMIT | 19166 |
| AIR NEW SOURCE PERMITS | PERMIT | 19167 |
| AIR NEW SOURCE PERMITS | PERMIT | 19168 |
| AIR NEW SOURCE PERMITS | PERMIT | 19198 |
| AIR NEW SOURCE PERMITS | PERMIT | 19199 |
| AIR NEW SOURCE PERMITS | PERMIT | 19200 |
| AIR NEW SOURCE PERMITS | PERMIT | 19201 |
| AIR NEW SOURCE PERMITS | PERMIT | 19871 |
| AIR NEW SOURCE PERMITS | PERMIT | 20203 |
| AIR NEW SOURCE PERMITS | PERMIT | 24947 |
| AIR NEW SOURCE PERMITS | PERMIT | 29765 |
| AIR NEW SOURCE PERMITS | PERMIT | 31130 |
| AIR NEW SOURCE PERMITS | PERMIT | 26267 |
| AIR NEW SOURCE PERMITS | PERMIT | 26270 |
| AIR NEW SOURCE PERMITS | PERMIT | 26351 |
| AIR NEW SOURCE PERMITS | PERMIT | 26523 |
| AIR NEW SOURCE PERMITS | PERMIT | 26266 |
| AIR NEW SOURCE PERMITS | PERMIT | 35292 |
| AIR NEW SOURCE PERMITS | PERMIT | 37070 |
| AIR NEW SOURCE PERMITS | PERMIT | 40157 |
| AIR NEW SOURCE PERMITS | PERMIT | 40293 |
| AIR NEW SOURCE PERMITS | PERMIT | 41145 |
| AIR NEW SOURCE PERMITS | PERMIT | 43265 |
| AIR NEW SOURCE PERMITS | PERMIT | 44847 |
| AIR NEW SOURCE PERMITS | PERMIT | 44933 |
| AIR NEW SOURCE PERMITS | ACCOUNT NUMBER | CB0038Q |
| AIR NEW SOURCE PERMITS | PERMIT | 52859 |
| AIR NEW SOURCE PERMITS | PERMIT | 52259 |
| AIR NEW SOURCE PERMITS | EPA ID | HAP10 |
| AIR NEW SOURCE PERMITS | REGISTRATION | 75974 |
| AIR NEW SOURCE PERMITS | PERMIT | 76305 |
| AIR NEW SOURCE PERMITS | PERMIT | 76044 |
| AIR NEW SOURCE PERMITS | EPA ID | PSDTX1053 |
| AIR NEW SOURCE PERMITS | EPA ID | PSDTX699 |
| AIR NEW SOURCE PERMITS | EPA ID | PSDTX760M3 |
| AIR NEW SOURCE PERMITS | EPA ID | PSDTX760M4 |
| AIR NEW SOURCE PERMITS | EPA ID | PSDTX1058 |
| AIR NEW SOURCE PERMITS | EPA ID | PSDTX760M6 |
| AIR NEW SOURCE PERMITS | REGISTRATION | 78769 |
| AIR NEW SOURCE PERMITS | REGISTRATION | 79826 |
| AIR NEW SOURCE PERMITS | REGISTRATION | 80198 |

| | | |
|---|---|---|
| AIR NEW SOURCE PERMITS | REGISTRATION | 81109 |
| AIR NEW SOURCE PERMITS | EPA ID | HAP2 |
| AIR NEW SOURCE PERMITS | EPA ID | HAP7 |
| AIR NEW SOURCE PERMITS | REGISTRATION | PSDTX760M8 |
| AIR NEW SOURCE PERMITS | REGISTRATION | 83608 |
| AIR NEW SOURCE PERMITS | REGISTRATION | 84730 |
| AIR NEW SOURCE PERMITS | REGISTRATION | 85081 |
| AIR NEW SOURCE PERMITS | REGISTRATION | 85100 |
| AIR NEW SOURCE PERMITS | REGISTRATION | 83763 |
| AIR NEW SOURCE PERMITS | REGISTRATION | 83308 |
| AIR NEW SOURCE PERMITS | REGISTRATION | 83990 |
| AIR NEW SOURCE PERMITS | REGISTRATION | 84589 |
| AIR NEW SOURCE PERMITS | REGISTRATION | 83489 |
| AIR NEW SOURCE PERMITS | REGISTRATION | 84788 |
| USED OIL | REGISTRATION | C86337 |
| WASTEWATER | PERMIT | WQ0002436000 |
| WASTEWATER | EPA ID | TX0085570 |
| UNDERGROUND INJECTION CONTROL | PERMIT | WDW402 |
| UNDERGROUND INJECTION CONTROL | PERMIT | WDW403 |
| IHW CORRECTIVE ACTION | SOLID WASTE REGISTRATION # (SWR) | 31945 |

Location: 201 FORMOSA DR, POINT COMFORT, TX, 77978 Rating Date: September 01 07 Repeat Violator: NO

TCEQ Region: REGION 14 - CORPUS CHRISTI

Date Compliance History Prepared: August 28, 2008

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: August 28, 2003 to August 28, 2008

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

Name: Suzanne Walrath Phone: 512/239-2134

## Site Compliance History Components

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

## Components (Multimedia) for the Site :

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

Effective Date: 11/11/2004 ADMINORDER 2000-1144-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
40 CFR Part 61, Subpart F 61.65(a)

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

Description: Failed to prevent a nonemergency relief valve discharge of VCL to the atmosphere on July 24, 2000

Classification: Moderate

Citation: 5C THC Chapter 382, SubChapter A 382.085(b)

Description: Emitted approximately 2,870 lbs of heptane into the atmosphere from a spill which occurred on July 11, 2000.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
40 CFR Part 61, Subpart F 61.65(a)

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

Description: Failed to prevent a nonemergency relief valve discharge of VCL and HCL to the atmosphere on April 20, 2000.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)

40 CFR Part 61, Subpart F 61.64(a)

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

Description: Exceeded the maximum allowable VCL concentration of 10 ppm in a reactor exhaust gas stream on July 9, 2000 and September 29, 2000

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
30 TAC Chapter 113, SubChapter C 113.100

40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.6(e)
40 CFR Part 61, Subpart A 61.12(c)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failed to maintain the Plant in a manner consistent with good air pollution control practices for minimizing emissions

Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(G)

30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: General Condition PERMIT
Description: Exceeded the MAER at the olefins elevated flare for VOCs, NOx, CO, and opacity on July 15-16, 2000, and October 12, 2000.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(c)

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

Rqmt Prov: SC 9F PERMIT
Description: Formosa failed to conduct performance testing as required for EPNs 313G and 313H

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(G)

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

Rqmt Prov: General Condition PERMIT
Description: Exceeded the permitted PM emission rate from EPN 313H during a performance test conducted on October 11-12, 2001

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
30 TAC Chapter 101, SubChapter A 101.7(a)

30 TAC Chapter 113, SubChapter C 113.100
40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.6(e)
40 CFR Part 61, Subpart K 61.122(c)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failed to maintain and operate the vinyl plant in a manner consistent with good air pollution control practice for minimizing emissions, by allowing continuous leaks from Chill Water Tank B

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
40 CFR Part 61, Subpart F 61.63(a)

40 CFR Part 61, Subpart F 61.64(a)(1)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failed to limit the concentration of vinyl chloride to 10 parts per million averaged over a three hour period.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
30 TAC Chapter 116, SubChapter B 116.115(b)

40 CFR Part 61, Subpart F 61.63(a)
40 CFR Part 61, Subpart F 61.64(a)(1)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: GC 8 PERMIT
Description: Exceeded the MAER for VCL at plant incinerator VH-801C

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.6(a)(1)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failed to submit complete and timely notification for one reportable upset which occurred on July 19-23, 2001

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.6(b)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failed to supply all required information in the upset notification which occurred on June 23, 2001, and by failing to clearly identify either the cause of the upset or the actions taken to correct the upset in the final reports submitted for releases which occurred on October 12 and 19, November 17, 27, and 30, and De

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: GC 8 PERMIT

Description: Exceeded the MAER for VOCs, CO, and NOX, on eight occasions between July 24, 2000 and June 6, 2001

Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)
30 TAC Chapter 116, SubChapter B 116.115(b)

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

Rqmt Prov: SC 1 PERMIT

Description: Allowed the olefins flare to have visible emissions for more than five minutes in a two-hour period on December 19, 2000 and May 23 ,2001, and by exceeding the hourly MAER for NOX, CO, and benzene on December 19, 2000

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
40 CFR Part 61, Subpart F 61.63(a)

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

Description: exceeded the maximum allowable concentration of VCL of 10 ppm in an exhaust gas stream from equipment used in the VCL formation and/or purification on October 18, 2000

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
30 TAC Chapter 116, SubChapter B 116.115(b)

40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(f)(3)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.8
40 CFR Chapter 60, SubChapter C, PT 60, SubPT Kb 60.112b(a)(3)(ii)
40 CFR Part 60, Subpart A 60.18(c)(3)(ii)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: SC 10 PERMIT

Description: Failed to operate the flare in accordance with 40 C.F.R. § 60.18; specifically, by failing to demonstrate, through the prescribed testing, that the low pressure tank flare met the minimum BTU content and that the minimum heating value of the waste gas was met

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
40 CFR Part 61, Subpart F 61.64(a)(1)

Description: Exceeded the maximum allowable VCL concentration of 10 ppm in a reactor gas stream on March 4, 2001

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
40 CFR Part 61, Subpart A 61.12(c)

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

Description: Failed to maintain and operate the vinyl plant in a manner consistent with good air pollution control practice for minimizing emissions on February 4, 2002,

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
40 CFR Chapter 61, SubChapter C, PT 61, SubPT A 61.12(c)

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

Description: Failed to maintain and operate the vinyl plant consistent with good air pollution control practice for minimizing emissions on February 5, 2002

Effective Date: 02/10/2005 ADMINORDER 2004-0781-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
30 TAC Chapter 113, SubChapter C 113.100

30 TAC Chapter 116, SubChapter B 116.115(b)
30 TAC Chapter 116, SubChapter B 116.115(c)
40 CFR Chapter 61, SubChapter C, PT 61, SubPT A 61.12(c)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.6(e)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failed to maintain and operate the Vinyl Plant in a manner consistent with good air pollution practice for minimizing emissions by allowing extended storage/installation of the vinyl chloride monomer

(VCM) process area overhead condensers.

Classification: Major

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

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

Rqmt Prov: General Cond. F & Special Condition 1 PERMIT

Description: Failed to maintain an emission rate below the allowable emission limit for VCM of 1.6 pounds per hour (lbs/hr) from the VCM process area cooling tower (EPN VW-C11) overhead condensers (FIN VE-504D and E).

Effective Date: 12/30/2005 ADMINORDER 2005-0125-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)(ii)
30 TAC Chapter 116, SubChapter B 116.115(c)

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

Rqmt Prov: Special Condition No. 1 PERMIT
Special Condition No. 12 PERMIT

Description: Failure prevent unauthorized emissions from EPNs 1018 and 1067. Formosa failed to satisfy all demonstrations criteria as listed under 30 TAC 101.222(b) and gain regulatory authority for the emissions released from two emissions events, Incident Nos. 25241and 25275, that occurred on July 15, 2003.

Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)(ii)
30 TAC Chapter 116, SubChapter B 116.115(c)

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

Rqmt Prov: Special Condition 1 PERMIT
Special Condtion 12 PERMIT

Description: Failure to prevent unauthorized emissions from EPN 1018. Formosa failed to satisfy all demonstration criteria in 30 TAC §101.222(b) and gain an affirmative defense for unauthorized emissions that were released from the Olefins 1 facility during an emissions event which occurred on or about June 30, 2004.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: 7699 / PSD-TX-226M6 PA

Description: Failure to prevent unauthorized emissions from EPN 999. Formosa failed to obtain regulatory authority or meet the demonstration requirements of 30 TAC 101.222 for vinyl chloride emissions involving Cooling Tower VW-CO1 during an emissions event which began on August 14, 2004.

Classification: Minor

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

Description: Failure to electronically provide rule required information in the rule required format. Specifically, the reportable emissions event was not reported via STEERS within 24 hours of discovery.

Effective Date: 06/26/2006 ADMINORDER 2005-0938-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: Special Conditin 1 PERMIT
Description: Failure to maintain hydrogen chloride (HCl) emissions at or below the 0.14 lb/hr permitted limits. Specifically, emission test results of the Ethylene Dichloride Incinerator C (EPN 6002C), conducted on December 16, 2004, reported HCl emissions of 2.183 lb/hr.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Special Condition 1 PERMIT
Description: Failure to meet the demonstration requirements of 30 Texas Admin. Code §101.222(b), specifically (b)(1), and gain an affirmative defense for emissions released during two emissions events, TCEQ Incidents 52272 and 54851, which were discovered on December 3, 2004, and December 6, 2005, respectively.

Classification: Minor

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

Description: Failure to notify the TCEQ Corpus Christi Region Office within 24 hours after the discovery of an emissions event. Specifically, two planned start-up activities, TCEQ Incidents 49733 and 49731, which both occurred on November 20, 2004, became emissions events on December 3, 2004, and

December 6, 2005, respectively.

Effective Date: 02/08/2008 ADMINORDER 2007-0771-AIR-E

Classification: Major

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
30 TAC Chapter 113, SubChapter C 113.100

30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: TCEQ Air Permit Number 7699 PSD-TX-226M6 OP
Description: Failure to satisfy all demonstrations criteria as listed under 30 TAC §101.222 for the emissions released from the emissions event, Incident Number 81836, that occurred on or about September 26, 2006.

Effective Date: 02/25/2008 ADMINORDER 2007-0230-AIR-E

Classification: Major

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(c)

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

Rqmt Prov: 7699/PSD-TX-226M6 PERMIT
Description: Failed to prevent the unauthorized release of air contaminants into the atmosphere. The event did not meet the demonstration criteria necessary to present an affirmative defense for the unauthorized emissions.

Classification: Major

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(A)
30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)

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

Description: Failed to submit a timely and accurate initial notification of an emissions event within 24 hours of discovery.

Effective Date: 03/08/2008 ADMINORDER 2007-1227-AIR-E

Classification: Major

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(c)

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

Rqmt Prov: 19168 OP
Description: failed to comply with the MAERT for particulate matter

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 | 09/23/2003 | (316666) |
| 2 | 10/28/2003 | (316668) |
| 3 | 11/24/2003 | (316669) |
| 4 | 12/29/2003 | (316670) |
| 5 | 01/23/2004 | (316671) |
| 6 | 01/27/2004 | (260399) |
| 7 | 02/24/2004 | (316653) |
| 8 | 02/25/2004 | (259754) |
| 9 | 03/11/2004 | (253895) |
| 10 | 03/17/2004 | (265434) |
| 11 | 03/23/2004 | (316655) |
| 12 | 03/26/2004 | (264531) |
| 13 | 04/15/2004 | (267931) |
| 14 | 04/22/2004 | (316656) |
| 15 | 05/24/2004 | (316658) |
| 16 | 06/18/2004 | (276036) |
| 17 | 06/22/2004 | (316660) |
| 18 | 06/22/2004 | (273805) |
| 19 | 07/02/2004 | (277618) |
| 20 | 07/15/2004 | (282138) |
| 21 | 07/27/2004 | (284340) |
| 22 | 07/28/2004 | (361023) |
| 23 | 08/24/2004 | (361024) |
| 24 | 09/21/2004 | (361025) |
| 25 | 10/07/2004 | (290237) |
| 26 | 10/21/2004 | (361026) |
| 27 | 11/23/2004 | (361027) |
| 28 | 12/17/2004 | (292882) |
| 29 | 12/27/2004 | (386885) |
| 30 | 12/28/2004 | (345075) |
| 31 | 12/29/2004 | (341344) |
| 32 | 01/24/2005 | (386886) |
| 33 | 02/10/2005 | (346929) |
| 34 | 02/22/2005 | (386883) |
| 35 | 03/22/2005 | (386884) |
| 36 | 04/11/2005 | (376939) |
| 37 | 04/14/2005 | (373413) |
| 38 | 04/20/2005 | (375911) |
| 39 | 04/22/2005 | (424698) |
| 40 | 05/03/2005 | (378050) |
| 41 | 05/06/2005 | (351122) |
| 42 | 05/23/2005 | (424699) |
| 43 | 06/07/2005 | (377227) |
| 44 | 06/21/2005 | (424700) |
| 45 | 07/21/2005 | (400202) |
| 46 | 07/22/2005 | (445391) |
| 47 | 08/01/2005 | (401922) |
| 48 | 08/02/2005 | (401840) |
| 49 | 08/02/2005 | (401946) |
| 50 | 08/16/2005 | (374480) |
| 51 | 08/19/2005 | (401926) |
| 52 | 08/22/2005 | (398698) |
| 53 | 08/22/2005 | (445392) |
| 54 | 08/25/2005 | (401908) |
| 55 | 08/29/2005 | (406996) |
| 56 | 08/30/2005 | (418480) |
| 57 | 08/31/2005 | (407352) |
| 58 | 09/16/2005 | (431883) |
| 59 | 09/21/2005 | (432632) |
| 60 | 09/23/2005 | (445393) |
| 61 | 10/08/2005 | (433294) |
| 62 | 10/24/2005 | (445394) |
| 63 | 11/22/2005 | (476821) |
| 64 | 12/20/2005 | (476822) |

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|---|---|---|
| 65 | 12/30/2005 | (450540) |
| 66 | 01/02/2006 | (450795) |
| 67 | 01/23/2006 | (476823) |
| 68 | 01/30/2006 | (439909) |
| 69 | 02/22/2006 | (476819) |
| 70 | 03/22/2006 | (476820) |
| 71 | 03/27/2006 | (459161) |
| 72 | 04/04/2006 | (439904) |
| 73 | 04/04/2006 | (439905) |
| 74 | 04/04/2006 | (449815) |
| 75 | 04/04/2006 | (451199) |
| 76 | 04/04/2006 | (438249) |
| 77 | 04/13/2006 | (454110) |
| 78 | 04/24/2006 | (503676) |
| 79 | 04/24/2006 | (503679) |
| 80 | 04/28/2006 | (435129) |
| 81 | 04/28/2006 | (454108) |
| 82 | 05/05/2006 | (464365) |
| 83 | 05/12/2006 | (463945) |
| 84 | 05/22/2006 | (503677) |
| 85 | 06/02/2006 | (461335) |
| 86 | 06/07/2006 | (465772) |
| 87 | 06/14/2006 | (450942) |
| 88 | 06/14/2006 | (480076) |
| 89 | 06/23/2006 | (503678) |
| 90 | 06/27/2006 | (482129) |
| 91 | 07/07/2006 | (485310) |
| 92 | 07/20/2006 | (482883) |
| 93 | 08/03/2006 | (489597) |
| 94 | 08/21/2006 | (526033) |
| 95 | 08/30/2006 | (509837) |
| 96 | 08/30/2006 | (497562) |
| 97 | 08/30/2006 | (510729) |
| 98 | 08/31/2006 | (509975) |
| 99 | 09/01/2006 | (510775) |
| 100 | 09/25/2006 | (526034) |
| 101 | 09/26/2006 | (462238) |
| 102 | 09/26/2006 | (512144) |
| 103 | 09/26/2006 | (514141) |
| 104 | 10/09/2006 | (513839) |
| 105 | 10/12/2006 | (515322) |
| 106 | 10/12/2006 | (514515) |
| 107 | 10/19/2006 | (513945) |
| 108 | 10/23/2006 | (550418) |
| 109 | 10/26/2006 | (513991) |
| 110 | 11/03/2006 | (516618) |
| 111 | 11/06/2006 | (514634) |
| 112 | 11/15/2006 | (519298) |
| 113 | 11/17/2006 | (519684) |
| 114 | 11/20/2006 | (550419) |
| 115 | 11/21/2006 | (516781) |
| 116 | 11/30/2006 | (532252) |
| 117 | 12/08/2006 | (519141) |
| 118 | 12/15/2006 | (517230) |
| 119 | 12/20/2006 | (550420) |
| 120 | 12/21/2006 | (516229) |
| 121 | 01/16/2007 | (532907) |
| 122 | 01/17/2007 | (550421) |
| 123 | 01/18/2007 | (535414) |
| 124 | 01/24/2007 | (511068) |
| 125 | 02/01/2007 | (531203) |
| 126 | 02/01/2007 | (538682) |
| 127 | 02/08/2007 | (538669) |
| 128 | 02/16/2007 | (540711) |
| 129 | 02/16/2007 | (550417) |
| 130 | 03/09/2007 | (538214) |
| 131 | 03/13/2007 | (538231) |
| 132 | 03/19/2007 | (586494) |

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|---|---|---|
| 133 | 03/22/2007 | (541488) |
| 134 | 04/20/2007 | (586495) |
| 135 | 04/20/2007 | (586499) |
| 136 | 04/26/2007 | (557916) |
| 137 | 05/01/2007 | (554893) |
| 138 | 05/03/2007 | (532954) |
| 139 | 05/03/2007 | (539088) |
| 140 | 05/04/2007 | (558947) |
| 141 | 05/08/2007 | (543566) |
| 142 | 05/17/2007 | (586496) |
| 143 | 05/21/2007 | (539094) |
| 144 | 05/22/2007 | (518012) |
| 145 | 06/01/2007 | (560753) |
| 146 | 06/05/2007 | (561710) |
| 147 | 06/06/2007 | (561326) |
| 148 | 06/20/2007 | (586497) |
| 149 | 06/22/2007 | (564553) |
| 150 | 07/02/2007 | (564474) |
| 151 | 07/02/2007 | (562183) |
| 152 | 07/03/2007 | (564356) |
| 153 | 07/09/2007 | (565028) |
| 154 | 07/17/2007 | (556894) |
| 155 | 07/18/2007 | (567987) |
| 156 | 07/19/2007 | (586498) |
| 157 | 08/06/2007 | (570182) |
| 158 | 08/09/2007 | (571103) |
| 159 | 08/10/2007 | (571081) |
| 160 | 08/17/2007 | (572727) |
| 161 | 08/20/2007 | (608547) |
| 162 | 08/23/2007 | (570607) |
| 163 | 08/27/2007 | (573658) |
| 164 | 08/28/2007 | (571044) |
| 165 | 08/28/2007 | (573161) |
| 166 | 08/29/2007 | (573863) |
| 167 | 08/30/2007 | (571235) |
| 168 | 08/30/2007 | (573910) |
| 169 | 08/31/2007 | (573913) |
| 170 | 09/05/2007 | (573493) |
| 171 | 09/14/2007 | (593716) |
| 172 | 09/17/2007 | (594445) |
| 173 | 09/18/2007 | (608548) |
| 174 | 09/25/2007 | (594531) |
| 175 | 09/26/2007 | (594361) |
| 176 | 09/26/2007 | (595204) |
| 177 | 10/15/2007 | (597270) |
| 178 | 10/17/2007 | (596207) |
| 179 | 10/19/2007 | (597799) |
| 180 | 10/19/2007 | (608549) |
| 181 | 11/01/2007 | (598892) |
| 182 | 11/14/2007 | (600715) |
| 183 | 11/19/2007 | (624434) |
| 184 | 12/19/2007 | (624435) |
| 185 | 01/03/2008 | (612135) |
| 186 | 01/03/2008 | (613118) |
| 187 | 01/11/2008 | (594104) |
| 188 | 01/22/2008 | (615309) |
| 189 | 02/01/2008 | (616854) |
| 190 | 02/19/2008 | (675333) |
| 191 | 02/20/2008 | (619101) |
| 192 | 02/21/2008 | (636162) |
| 193 | 02/21/2008 | (619178) |
| 194 | 02/22/2008 | (636366) |
| 195 | 02/22/2008 | (636289) |
| 196 | 02/22/2008 | (636326) |
| 197 | 02/28/2008 | (636411) |
| 198 | 03/19/2008 | (675334) |
| 199 | 03/20/2008 | (638519) |
| 200 | 03/25/2008 | (638608) |

201 03/31/2008 (639844)
202 04/01/2008 (639933)
203 04/10/2008 (641485)
204 04/15/2008 (646242)
205 04/16/2008 (675335)
206 04/17/2008 (640632)
207 04/21/2008 (641076)
208 04/25/2008 (636833)
209 04/29/2008 (653424)
210 04/29/2008 (646542)
211 05/09/2008 (646274)
212 05/12/2008 (636795)
213 05/20/2008 (693652)
214 05/21/2008 (671435)
215 05/30/2008 (681375)
216 06/17/2008 (682859)
217 06/17/2008 (683115)
218 06/20/2008 (693653)
219 06/24/2008 (683966)
220 06/24/2008 (683946)
221 06/24/2008 (683984)
222 07/10/2008 (685472)
223 07/16/2008 (684475)
224 07/18/2008 (693654)
225 07/22/2008 (685001)
226 07/29/2008 (686965)
227 07/30/2008 (687334)
228 07/30/2008 (543170)
229 08/01/2008 (688047)
230 08/07/2008 (685243)
231 08/22/2008 (684138)
232 08/26/2008 (700762)
233 08/27/2008 (700078)

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

Date 05/31/2004 (316660)
Self Report? YES Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date 06/21/2004 (276036)
Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: PERMIT WQ0002436-000
Description: Failure to comply with the permitted effluent limits.

Date 06/30/2004 (361023)
Self Report? YES Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date 07/15/2004 (282138)
Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(c)
Rqmt Prov: PA 7699 / PSD-TX-226M6
Description: Failure to obtain regulatory authority or meet the demonstration requirements of 30 TAC 101.222 for emissions involving the VCM Vent Valve during an emissions event which began on March 3, 2004.

Date 12/31/2004 (386886)
Self Report? YES Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date 03/31/2005 (424698)
Self Report? YES Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date 04/14/2005 (373413)
Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
Description: Failed to demonstrate compliance with emission limits for Hydrogen Chloride (HCl). Specifically, testing of Etheyene Dichloride Incinerator B (EPN 6002B), conducted on June 21 and 22, 2004 indicated emssions of HCl of 4.956 lb/hr, exceeding the permitted allowable of 0.14 lb/hr.

Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
Description: Failed to demonstrate compliance with emission limits for Hydrogen Chloride (HCl). Specifically, testing of Etheyene Dichloride Incinerator (EPN 6002C), conducted on June 21 and 22, 2004 indicated emssions of HCl of 3.813 lb/hr, exceeding the permitted allowable of 0.14 lb/hr.

Date 07/21/2005 (400202)
Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: PERMIT TPDES Permit No. WQ0002436-000
Description: Failure to maintain the effluent quality within the permitted limits.
Date 07/31/2005 (445392)
Self Report? YES Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date 08/19/2005 (401926)
Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)
Description: Failure to include all instances of deviations in the two Deviation Reports (DR) submitted in the April 19, 2004 through April 18, 2005 time period.
Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 122, SubChapter B 122.146(5)(D)
Description: Failure to include or reference in the annual permit compliance certification (PCC) the identification of all other terms and conditions of the permit for which compliance was not achieved.
Date 10/31/2005 (476821)
Self Report? YES Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date 05/31/2006 (503678)
Self Report? YES Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date 06/07/2006 (450942)
Self Report? NO Classification Minor
Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)
Description: Failure to submit all instances of deviations as required by rule.
Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
30 TAC Chapter 116, SubChapter B 116.115(c)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-6(a)(1)
Rqmt Prov: PERMIT 7699/Special Condition No. 13E
Description: Failure to equip each open ended valve or line with a cap, blind flange, plug, or a second valve, as required by 40 Code of Federal Regulations (CFR) §60.482-6(a)(1).

Date 07/20/2006 (482883)
Self Report? NO Classification Minor
Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)
Description: Failure to comply with the Federal Operating Permit Compliance Certification Terms and Conditions. Formosa failed to report all instances of deviations in the Semi-Annual Compliance Certification for the certification period which began on October 22, 2004 through April 20, 2005.

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.146(5)(D)

Description: Failure to comply with the Federal Operating Permit Compliance Certification Terms and Conditions. Formosa failed to report all instances of deviations in the Annual Compliance Certification for the certification period which began on April 21, 2004 through April 20, 2005.

Date 08/30/2006 (509837)

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)

Rqmt Prov: PERMIT 19200, Special Condition 9A
OP FOP O-01956, Special Condition No. 13

Description: Failure to maintain required records of monitoring data.

Date 08/30/2006 (497562)

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)

Rqmt Prov: PA SC 20
OP Spec. Terms & Conditions (STC) No. 13

Description: Failure to operate two incinerators according to the excess oxygen (O2) and carbon monoxide (CO) limits defined by the HDPE I Plant air permit special condition.

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)

Rqmt Prov: PA SC 7
OP STC No. 13

Description: Failure to demonstrate that monthly monitoring for VOC associated with cooling tower water had been conducted in January and February 2005.

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
30 TAC Chapter 122, SubChapter B 122.143(4)

Rqmt Prov: OP STC No. 1

Description: Failure to equip two open-ended lines (OELs) with a cap, blind flange, plug or a second valve.

Date 11/06/2006 (514634)

Self Report? NO Classification Major

Rqmt Prov: PERMIT Special Condition No. 1

Description: Failure to meet the demonstration requirements of 30 TAC §101.222 and gain an affirmative defense for emissions released during an emissions event (Incident No. 47973) which was discovered on October 17, 2004.

Self Report? NO Classification Major

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: PERMIT Special Condition No. 1

Description: Failure to meet the demonstration requirements of 30 TAC §101.222 and gain an affirmative defense for thirty-one (31) non-reportable emissions events at the PVC Unit and at the VCM Unit.

Self Report? NO Classification Major

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: PERMIT Special Condition No. 1

Description: Failure to meet the demonstration requirements of 30 TAC §101.222 and gain an affirmative defense for thirty-eight (38) reportable quantity (RQ) releases of vinyl chloride from the VCM Unit, and eleven (11) RQ releases of vinyl chloride from the PVC Unit.

Self Report? NO Classification Major

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: PERMIT Special Condition No. 1

Description: Failure to meet the demonstration requirements of 30 TAC §101.222 and gain an affirmative defense for seven (7) non-reportable emissions events released between January 1 and December 31, 2004 at the EDC Unit.

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)

Description: Complete failure to submit notification of reportable emissions events for the VCM and PVC Units.

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)

Description: Failure to maintain complete non-reportable emissions event final records for the EDC, PVC, and VCM Units.

Date 11/30/2006 (550420)

Self Report? YES Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

Date 12/18/2006 (517230)

Self Report? NO Classification Moderate

Citation: TWC Chapter 26 26.121(a)(1)

Rqmt Prov: PERMIT TPDES Permit No. WQ0002436-008

Description: Failure to prevent an unpermitted discharge of cooling tower blow down water via outfall 008.

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: PERMIT TPDES Permit No. WQ0002436-008

Description: Failure to meet daily maximum discharge loading limit for total zinc at outfall 001.

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: PERMIT TPDES Permit No. WQ0002436-001

Description: Failure to meet effluent limitation for pH maximum and duration at outfall 001.

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: PERMIT TPDES Permit No. WQ0002436-010

Description: Failure to meet effluent limitation for pH maximum at outfall 010.

Date 05/22/2007 (518012)

Self Report? NO Classification Major

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)

Rqmt Prov: OP Federal Operating Permit Number O-01957
OP TCEQ Air Permit Number 19201/PSD-TX-760M

Description: Failure to operate H923A and/or H923B Incinerators at not less than 2.0 percent oxygen and not more than 45 ppmvd carbon monoxide as required by Permit Number 19201, Special Condition 20.

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)

Rqmt Prov: OP TCEQ Air Permit No. 190201/PSD-TX-76M6

Description: Failure to comply with 19201/PSD-TX-760M6, Special Condition 15 which states that Dryer Vents (D-301, 2D-301, and 3D-301) shall only be vented directly to the atmosphere when the VOC concentration of the vent streams reaches 25 percent of the lower explosive level.

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)

Rqmt Prov: OP TCEQ Air Permit Number 20203/PSD-TX-76M6

Description: Formosa failed to comply with Permit 20203/PSD-TX-760M6, Special Condition 8 which states that the LLDPE incinerator firebox exit temperature will be maintained at no less than 1500 degrees Fahrenheit.

Self Report? NO Classification Major

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)

Rqmt Prov: OP TCEQ Air Permit Number 20203/PSD-TX-760M

Description: Formosa failed to comply with Permit 20203/PSD-TX-760M6, Maximum Allowable Emission Rates (MAER) which indicates that the carbon monoxide pounds per hour emission rate of the emission point number LI-01 Incinerator shall be maintained at no greater than 8.98 pounds per hour.

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)

Rqmt Prov: OP TCEQ Air Permit Number 20203/PSD-TX-760M

Description: Formosa failed to comply with Permit 20203/PSD-TX-760M6, Operational Standards Special Condition 5, which states that the facility covered by this permit shall not operate unless all associated air pollution abatement equipment is maintained in good working order and operating during normal facility operations.

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)

Rqmt Prov: OP Federal Operating Permit Number O-01957

Description: Formosa failed to comply with the periodic monitoring requirements included in the permit for the purpose of annual compliance certification under 30 TAC §122.146 by failing to conduct quarterly monitoring as required.

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)

Rqmt Prov: OP Federal Operating Permit Numbe O-01957
OP TCEQ Air Permit Number 40157/PSD-TX-760M

Description: Formosa failed to monitor accessible valves by leak-checking for fugitive emissions at least quarterly using an approved gas analyzer with a directed maintenance program.

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)

Description: Formosa failed to submit accurate and complete Semi-Annual Deviation Reports.

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)

Description: Failure to comply with permit reporting requirements as specified in terms and conditions of the permit regarding deviation reports.

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.146(5)(C)

Description: Formosa failed to submit complete annual compliance certification for reporting period 07/27/2004 through 07/26/2005.

Date 08/31/2007 (571235)

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(b)

Rqmt Prov: PERMIT TCEQ Air Permit 7699/PSD-TX-226M6

Description: Formosa failed to comply with the TCEQ Air Permit Numbers 7699 and PSD-TX-226M6, Special Conditions 1 and 2 and failed to prevent release of unauthorized emissions.

Date 08/31/2007 (573913)

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: PERMIT Permit No. 7699/PSD TX 226M, SC 8

Description: Failure to demonstrate compliance for daily visible emissions inspections following method 22 for baghouses covered under TCEQ Air Permit No. 7699 and PSD TX 226M6.

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)

Description: Failure to submit all instances of deviations, the probable cause of the deviations, and any corrective actions or preventative measures taken for each emission unit addressed in the permit for the reporting period of August 9, 2004 through February 9, 2005.

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: PERMIT Permit No. 7699/PSD-TX226, SC12

Description: Failure to maintain scrubber solution pH and scrubber solution flow at or above levels established during the last stack test, 7.95 pH and 45 gallons per minute (gpm), respectively. Specifically, VH-801A, 006A and VH-801B, 006B did not maintain scrubber solution pH and scrubber solution flows at or above the established levels and no cause was identified for their failures.

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 113, SubChapter C 113.130
30 TAC Chapter 116, SubChapter B 116.115(c)

40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.174(a)

Rqmt Prov: PERMIT 7699/PSD-TX-226, SC 9

Description: Failure to monitor components associated with the VR-401G System that had been added to the unit as a result of an upgrade in metallurgy, equipment and piping.

Date 03/31/2008 (675335)

Self Report? YES Classification Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

Date 05/31/2008 (693653)

Self Report? YES Classification Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

Date 08/28/2008 (700078)

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)
5C THSC Chapter 382 382.085(b)

Description: Failure to include all instances of deviations for Federal Operating Permit (FOP) No. O-01956 in two semi-annual deviation reports dated May 18, 2007 and November 16, 2007. The regulated entity failed to include in the following deviation reports a total of three deviations from October 19, 2006 through October 18, 2007. This timeframe encompassed 2 six-month periods which included (1) October 19, 2006 through April 18, 2007, and (2) April 19, 2007 through October 18, 2007.

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.146(5)(D)

Description: Failure to include or reference in the Federal Operating Permit (FOP) No. O-01956 Permit Compliance Certification the identification of all other terms and conditions of the permit for which compliance was not achieved. Specifically, by failing to report all instances of deviations in the Permit Compliance Certification for certification period April 19, 2006 through April 18, 2007, the regulated entity failed to certify an accurate report for the period.

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)
5C THSC Chapter 382 382.085(b)

Description: Failure to certify the first date of the reporting period represented in the semiannual deviation report dated February 23, 2007. Specifically, the regulated entity failed to certify the first day, July 27, 2006, of the reporting period, July 27, 2006 through January 25, 2007, by incorrectly using the date, July 28, 2006, as the first day of the reporting period.

F. Environmental audits.

Notice of Intent Date: 08/03/2008 (574209)

Disclosure Date: 03/14/2008

Viol. Classification: Major

Citation: 40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.163(b)(1)

40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.168(b)(2)

40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.174(a)

Description: Failure to monitor LDAR components for the EDC and VCM Units by Method 21.

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** | § | **BEFORE THE** |
| **ENFORCEMENT ACTION** | § | |
| **CONCERNING** | § | |
| **FORMOSA PLASTICS** | § | **TEXAS COMMISSION ON** |
| **CORPORATION, TEXAS** | § | |
| **RN100218973** | § | **ENVIRONMENTAL QUALITY** |

**AGREED ORDER**
**DOCKET NO. 2008-1412-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 Formosa Plastics Corporation, Texas ("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 an inorganic chemical plant at 201 Formosa Drive in Point Comfort, Calhoun 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 August 27, 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 Seven Thousand Four Hundred Twenty-Five Dollars ($7,425) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Thousand Nine Hundred Seventy Dollars ($2,970) of the administrative penalty and One Thousand Four Hundred Eighty-Five Dollars

($1,485) 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. Two Thousand Nine Hundred Seventy Dollars ($2,970) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

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 on March 31, 2008, the Respondent secured the hoses, labeled the vapor hoses with the proper vent stream, and revised the standard operations procedures to prevent future incidents due to the same causes.

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 failed to route displaced vapors from the marine loading of ethylene dichloride ("EDC") to the dock incinerator/scrubber, in violation of 30 TEX. ADMIN. CODE §§ 101.20(3) and 116.115(c), Air Permit No. 19871 and PSD-TX-760M7, Special Condition Nos. 1 and 7, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on July 1, 2008. Specifically, on February 1, 2008, 30.47 pounds ("lbs") of EDC and 1,123.25 lbs of hydrochloric acid gas were released from the dock flare (EPN 8F-D03) and 63.04 lbs of EDC were released from a pressure relief valve associated with dock fugitives (EPN 8FD-FUGDOCK) when a light oil vapor hose was mistakenly connected to the EDC barge, sending EDC vapors to the dock flare instead of the incinerator. The permit does not authorize emissions of EDC and hydrochloric acid gas from the dock flare.

## 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: Formosa Plastics Corporation, Texas, Docket No. 2008-1412-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 SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6, Jurisdiction and Stipulations above, Two Thousand Nine Hundred Seventy Dollars ($2,970) 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

_____ 2/5/2009
For the Executive Director 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.

_____ 12/16/08
Signature Date

RANDALL P. SMITH V. P. / GEN. MANAGER
Name (Printed or typed) Title
Authorized Representative of
Formosa Plastics Corporation, Texas

**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: 2008-1412-AIR-E**

## SUPPLEMENTAL ENVIRONMENTAL PROJECT

| | |
|---|---|
| **Respondent:** | **Formosa Plastics Corporation, Texas** |
| **Payable Penalty Amount:** | **Five Thousand Nine Hundred Forty Dollars ($5,940)** |
| **SEP Amount:** | **Two Thousand Nine Hundred Seventy Dollars ($2,970)** |
| **Type of SEP:** | **Pre-approved** |
| **Third-Party Recipient:** | **City of Point Comfort-Wastewater Treatment Plant Repair Assistance** |
| **Location of SEP:** | **Calhoun 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 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 to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to assist in the rehabilitation of the wastewater treatment system, including: replacement of the main sanitary sewer lift station to prevent sewage overflows or backups of sewage into residences; replacement of the final effluent outfall line at the wastewater treatment facility site; demolition of portions of the former site to alleviate storm water inflow into the chlorine contact chamber; and engineering design and oversight for the project.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by helping to prevent the release of raw sewage or inadequately disinfected effluent into the environment, which will protect the ground, surface, and drinking water sources.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP 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 Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

City of Point Comfort
Attn: J.A. Cuellar
P.O. Box 497
Point Comfort, Texas 77978

## 3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP 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 payment of the SEP 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 Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

## 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 an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.