

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2009-1133-AIR-E **TCEQ ID:** RN100213198 **CASE NO.:** 37981
RESPONDENT NAME: Shintech Incorporated

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: PVC Resins Production Facility, 5618 East Highway 332, Freeport, Brazoria County</p> <p>TYPE OF OPERATION: Resin 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 December 14, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. James Nolan, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-6634; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Jim Hodges, Site Manager, Shintech Incorporated, 5618 East Highway 332, Freeport, Texas 77541 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: April 28, 2009</p> <p>Date of NOV/NOE Relating to this Case: July 1, 2009 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>AIR</p> <p>Failure to continuously monitor and record the condenser vapor outlet temperature of steam stripper equipment. Specifically, condenser vapor outlet temperature for units PL1WWSTRIP, PL2WWSTRIP, and PL3WWSTRIP was not monitored from November 25, 2007 through May 24, 2008 [30 TEX. ADMIN. CODE § 115.144(3)(F) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$546</p> <p>Total Deferred: \$109 <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: \$437</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 the proper monitoring of condenser vapor outlet temperature for units PL1WWSTRIP, PL2WWSTRIP, and PL3WWSTRIP; 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): BL0051F



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	7-Jul-2009		
	PCW	29-Jul-2009	Screening	16-Jul-2009
			EPA Due	

RESPONDENT/FACILITY INFORMATION			
Respondent	Shintech Incorporated		
Reg. Ent. Ref. No.	RN100213198		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	37981	No. of Violations	1
Docket No.	2009-1133-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	James Nolan
		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**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

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

Notes

Culpability Enhancement **Subtotal 4**

Notes

Good Faith Effort to Comply Total Adjustments **Subtotal 5**

Economic Benefit Enhancement* **Subtotal 6**

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

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

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Notes

PAYABLE PENALTY

Screening Date 16-Jul-2009

Docket No. 2009-1133-AIR-E

PCW

Respondent Shintech Incorporated

Policy Revision 2 (September 2002)

Case ID No. 37981

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100213198

Media [Statute] Air

Enf. Coordinator James Nolan

Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	4	20%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	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	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%

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) 82%

>> **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

Penalty enhancement due to four previous similar NOVs, one previous non-similar NOV, and three previous 1660-style agreed orders.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 82%

Screening Date 16-Jul-2009	Docket No. 2009-1133-AIR-E	PCW														
Respondent Shintech Incorporated		<i>Policy Revision 2 (September 2002)</i>														
Case ID No. 37981		<i>PCW Revision October 30, 2008</i>														
Reg. Ent. Reference No. RN100213198																
Media [Statute] Air																
Enf. Coordinator James Nolan																
Violation Number 1																
Rule Cite(s)	30 Tex. Admin. Code § 115.144(3)(F) and Tex. Health & Safety Code § 382.085(b)															
Violation Description	Failed to continuously monitor and record the condenser vapor outlet temperature of steam stripper equipment. Specifically, the condenser vapor outlet temperature for units PL1WWSTRIP, PL2WWSTRIP, and PL3WWSTRIP was not monitored.															
	Base Penalty	\$10,000														
>> Environmental, Property and Human Health Matrix																
	Harm															
	Release	Major Moderate Minor														
OR	Actual	<input type="text"/> <input type="text"/> <input type="text"/>														
	Potential	<input type="text"/> <input type="text"/> <input type="text"/>														
	Percent	<input type="text"/> 0%														
>> Programmatic Matrix																
	Falsification	Major Moderate Minor														
	<input type="text"/>	<input type="text"/> <input type="text"/> <input checked="" type="text"/>														
	Percent	<input type="text"/> 1%														
Matrix Notes	The Respondent failed to meet 25% of the rule requirement.															
	Adjustment	\$9,900														
		\$100														
Violation Events																
Number of Violation Events	<input type="text"/> 3	Number of violation days <input type="text"/> 213														
mark only one with an x	<table border="1" style="width:100%; 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 style="text-align: center;"><input checked="" type="text"/></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="text"/>	Violation Base Penalty <input type="text"/> \$300
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="text"/>															
	Three single events are recommended for the three units.															
Good Faith Efforts to Comply																
	<input type="text"/> 0.0% Reduction	<input type="text"/> \$0														
	Before NOV NOV to EDRP/Settlement Offer															
Extraordinary	<input type="text"/>	<input type="text"/>														
Ordinary	<input type="text"/>	<input type="text"/>														
N/A	<input checked="" type="text"/> X	(mark with x)														
Notes	The Respondent does not meet the good faith criteria for this violation.															
	Violation Subtotal	\$300														
Economic Benefit (EB) for this violation																
Estimated EB Amount	<input type="text"/> \$65	Statutory Limit Test														
	Violation Final Penalty Total	<input type="text"/> \$546														
	This violation Final Assessed Penalty (adjusted for limits) <input type="text"/> \$546															

Economic Benefit Worksheet

Respondent Shintech Incorporated
Case ID No. 37981
Reg. Ent. Reference No. RN100213198
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	\$750	15-Dec-2008	11-Mar-2010	1.24	\$3	\$62	\$65
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to install monitors for the condenser vapor outlet temperature of the three steam stripper units. The date required is the date of the first investigation and the final date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$750

TOTAL

\$65

Compliance History Report

Customer/Respondent/Owner-Operator: CN600128425 Shintech Incorporated Classification: AVERAGE Rating: 11.80
 Regulated Entity: RN100213198 PVC RESINS PRODUCTION FACILITY Classification: AVERAGE Site Rating: 20.60

ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	BL0051F
	AIR OPERATING PERMITS	PERMIT	1361
	AIR OPERATING PERMITS	PERMIT	1361
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD065095390
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	31121
	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	0200598
	AIR NEW SOURCE PERMITS	PERMIT	682E
	AIR NEW SOURCE PERMITS	PERMIT	36277
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	BL0359U
	AIR NEW SOURCE PERMITS	AFS NUM	4803900012
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	BL0051F
	AIR NEW SOURCE PERMITS	PERMIT	9347
	AIR NEW SOURCE PERMITS	PERMIT	8299
	AIR NEW SOURCE PERMITS	EPA ID	PSDTX285M5
	AIR NEW SOURCE PERMITS	EPA ID	PSDTX285M2
	AIR NEW SOURCE PERMITS	EPA ID	PSDTX285M3
	AIR NEW SOURCE PERMITS	EPA ID	PSDTX285M4
	AIR NEW SOURCE PERMITS	EPA ID	PSDTX285M1
	AIR NEW SOURCE PERMITS	EPA ID	PSDTX671
	AIR NEW SOURCE PERMITS	EPA ID	PSDTX285
	AIR NEW SOURCE PERMITS	AFS NUM	4803900672
	AIR NEW SOURCE PERMITS	AFS NUM	4803900012
	WASTEWATER	PERMIT	TX0053813000
	WASTEWATER	PERMIT	WQ0004818000
	WASTEWATER	PERMIT	TX0053813

Location: 5618 E HIGHWAY 332, FREEPORT, TX, 77541

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: July 16, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: July 16, 2004 to July 16, 2009

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

Name: James Nolan Phone: (512) 239-6634

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: 05/25/2007 ADMINORDER 2006-1718-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
 30 TAC Chapter 122, SubChapter B 122.146(1)
 30 TAC Chapter 122, SubChapter B 122.146(2)

Rqmt Prov: O-1361, General Terms and Conditions OP

Description: Failure to submit permit compliance certifications for FOP 1361 for certification periods May 25, 2004 to May 24, 2005 and May 25, 2005 to May 24, 2006

Classification: Moderate

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

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

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

30 TAC Chapter 122, SubChapter B 122.145(2)(C)

Rqmt Prov: O-1361, General Terms and Conditions OP

Description: Failure to submit deviation reports for FOP 1361 for semiannual reporting periods November 26, 2004 to May 24, 2005 and November 26, 2005 to May 24, 2006.

Classification: Moderate

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

30 TAC Chapter 122, SubChapter B 122.143(4)

40 CFR Chapter 61, SubChapter C, PT 61, SubPT F 61.70(a)

Rqmt Prov: O-1361, Special Condition 1A OP

Description: Failure to submit quarterly reports, as required by Subpart F-National Emission Standards for Vinyl Chloride, for the first three quarters of 2005.

Effective Date: 09/21/2007

ADMINORDER 2003-1544-AIR-E

Classification: Moderate

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

30 TAC Chapter 116, SubChapter B 116.115(c)

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

Rqmt Prov: Permit #9628, S.C. #1 PA

Description: Failure of the emissions event to meet the Demonstration Criteria set forth in 30 TAC 101.222(b)(3).

Classification: Moderate

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

30 TAC Chapter 116, SubChapter B 116.115(c)

40 CFR Part 61, Subpart V 61.247(b)

Rqmt Prov: Permit No. 20014, S.C. No. 3 PA

Permit No. 9347, S.C. No. 3 PA

Permit No. 9628, S.C. No. 3 PA

Description: Failure to prepare and submit the semiannual reports for 2001 through 2002.

Classification: Minor

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

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

Rqmt Prov: Permit No. 20014, S.C. No.1.G PA

Permit No. 9347, S.C. No. 5.G PA

Permit No. 9628, S.C. No.27.G PA

Description: Failure to perform the quarterly fugitive emissions monitoring for the transfer pumps servicing the methanol, ethanol, and isobutanol storage tanks for 2002.

Classification: Moderate

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

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

Rqmt Prov: Permit No. 20014, S.C. No.31 PA

Permit No. 9347, S.C. No.25 PA

Permit No. 9628, S.C. No.24 PA

Description: Failure to keep and maintain records of monthly natural gas analysis.

Classification: Minor

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

30 TAC Chapter 116, SubChapter B 116.115(c)

40 CFR Part 61, Subpart V 61.246(c)(5)

40 CFR Part 61, Subpart V 61.246(c)(6)

40 CFR Part 61, Subpart V 61.246(c)(7)

40 CFR Part 61, Subpart V 61.246(c)(8)

40 CFR Part 61, Subpart V 61.246(c)(9)

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

Rqmt Prov: Permit No. 20014, S.C. No.3 PA

Permit No. 9347, S.C. No.3 PA

Permit No. 9628, S.C. No.3 PA

Description: Failure to maintain complete records for equipment leaks for fugitive emissions monitoring for 2002.

Effective Date: 02/25/2008

ADMINORDER 2007-1527-AIR-E

Classification: Moderate

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

Description: Failure to submit the semiannual deviation report within 30 days of the end of the deviation reporting period.

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

N/A

C. Chronic excessive emissions events.

N/A

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

1	08/12/2005	(403520)
2	03/24/2006	(436809)
3	04/03/2006	(459183)
4	05/16/2006	(482100)
5	06/29/2006	(484243)
6	08/29/2006	(479996)
7	12/14/2006	(518286)
8	08/28/2007	(572966)
9	08/04/2008	(595603)
10	12/04/2008	(706010)
11	03/06/2009	(703591)
12	05/14/2009	(744783)
13	07/01/2009	(744105)

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

Date: 08/12/2005 (403520) CN600128425
Self NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)
9347 and PSD-TX-285M5, SC #1 PERMIT

Description: Failure to prevent an avoidable emissions event.
Date: 05/18/2006 (462100) CN600128425
Self NO Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
40 CFR Chapter 61, SubChapter C, PT 61, SubPT V 61.246(c)

Description: Shintech failed to maintain records of connector monitoring in VOC service.
Self NO Classification: Minor
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
NSR Permit #9347, SC 12K PERMIT
Description: Shintech failed to record dates of repair and method of compliance on leak records.

Date: 07/22/2008 (595603) CN600128425
Self NO Classification: Minor
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.146(5)(D)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP

Description: Failure to include the deviation of not submitting the semi-annual deviation report for the period from November 26, 2005 through May 24, 2008 in the June 22, 2007 annual compliance certification report or its August 28, 2007 amended report.

Self NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Condition No. 14 OP
Special Condition No. 7 PERMIT

Description: Failure to record the rolling 12-month emissions from site sources, which constitutes a violation of NSR Permit No. 9347, Special Condition No. 7.

Self NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 General Terms and Conditions OP
 Special Condition No. 14 OP
 Special Condition No. 23 PERMIT
 Description: Failure to record the cumulative influent flow rate on a daily basis for Plant 2 Bio Lagoon.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 68, SubChapter C, PT 68, SubPT G 68.190(b)(1)
 5C THSC Chapter 382 382.085(b)
 General Terms and Conditions OP
 Special Terms and Conditions No. 20 OP

Description: Failure to submit the revised Risk Management Plan by June 24, 2004.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 68, SubChapter C, PT 68, SubPT B 68.36(a)
 5C THSC Chapter 382 382.085(b)
 General Terms and Conditions OP
 Special Terms and Conditions No. 20 OP

Description: Failure to update the offsite consequence analysis by June 24, 2004.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.116(b)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 General Terms and Conditions OP
 Special Terms and Conditions No. 14 OP

Description: Failure to amend NSR Permit No. 9347 to include the operation of the small organic liquid storage tank TK2130.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 General Terms and Conditions OP
 Special Terms and Conditions No. 14 OP

Description: Failure to prevent twenty seven storage silos and eighteen site reactors from exceeding their NSR Permit No. 9347 MAERT hourly PM emission rate limit and hourly VCM emission rate limit, respectively.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter B 115.148(1)
 5C THSC Chapter 382 382.085(b)

Description: Failure to maintain data to demonstrate that the wastewater treatment systems are in compliance with 30 TAC 115.142.

Date: 03/06/2009 (703591) CN600128425

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(A)
 5C THSC Chapter 382 382.085(b)

Description: Failure to report start of construction or construction interruptions of Vinyl Chloride storage spheres. (CATEGORY B9 Violation)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 NSR SC 19 PERMIT
 O-01361 General Terms and Conditions OP
 O-01361, Special Terms and Conditions 10 OP

Description: Failure to maintain the flow rate of scrubbers UN2703A, UN2703B and LV-5 during the compliance certification period 5/25/2007 through 5/24/2008. (Category C7 Violation)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 NSR SC 19 PERMIT
 O-01361 General Terms and Conditions OP
 O-01361 Special Terms and Conditions 10 OP

Description: Failure to maintain the pH of scrubbers UN2703A and UN2703B during the certification period 5/25/2007 through 5/24/2008. (Category B3 Violation)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter D 115.356(3)(A)
30 TAC Chapter 115, SubChapter D 115.356(3)(B)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
O-01361 General Terms and Conditions OP

Description: Failure to create and maintain proper records to identify and justify unsafe to monitor components, difficult to monitor valves and pumps, unsafe to inspect flanges, and records of analysis and design capacity of process units located sitewide in Plants 1, 2, and 3. (Category B18 Violation)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter B 115.144(3)(F)
5C THSC Chapter 382 382.085(b)

Description: Failure to continuously monitor and record the condenser vapor outlet temperature of units PL1WWSTRIP, PL2WWSTRIP, and PL3WWSTRIP. (Category A4 Violation)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 117, SubChapter B 117.340(j)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
O-01361 General Terms and Conditions OP

Description: Failure to maintain records of the stationary internal engines dated 5/25/2007 through 1/8/2008. (Category B3 Violation)

Date: 07/01/2009 (744105) CN600128425

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
NSR SC 19 PERMIT
O-01361 General Terms and Conditions OP
O-01361, Special Terms and Conditions 10 OP

Description: Failure to maintain the flow rate of scrubbers UN2703A, UN2703B and LV-5 during the compliance certification period 5/25/2007 through 5/24/2008. (Category C7 Violation)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter D 115.356(3)(A)
30 TAC Chapter 115, SubChapter D 115.356(3)(B)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
O-01361 General Terms and Conditions OP

Description: Failure to create and maintain proper records to identify and justify unsafe to monitor components, difficult to monitor valves and pumps, unsafe to inspect flanges, and records of analysis and design capacity of process units located sitewide in Plants 1, 2, and 3. (Category B18 Violation)

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
SHINTECH INCORPORATED
RN100213198**

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§
§
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§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2009-1133-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 Shintech Incorporated ("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 resin manufacturing plant at 5618 East Highway 332 in Freeport, Brazoria 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 6, 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 Five Hundred Forty-Six Dollars (\$546) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Four Hundred Thirty-Seven Dollars (\$437) of the administrative penalty and One Hundred Nine Dollars (\$109) 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 continuously monitor and record the condenser vapor outlet temperature of steam stripper equipment, in violation of 30 TEX. ADMIN. CODE § 115.144(3)(F) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on April 28, 2009. Specifically, condenser vapor outlet temperature for units PL1WWSTRIP, PL2WWSTRIP, and PL3WWSTRIP was not monitored from November 25, 2007 through May 24, 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: Shintech Incorporated, Docket No. 2009-1133-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 the proper monitoring of condenser vapor outlet temperature for units PL1WWSTRIP, PL2WWSTRIP, and PL3WWSTRIP, as required by 30 TEX. ADMIN. CODE § 115.144(3)(F); 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
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

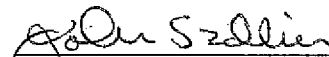
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any 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 12/1/2009

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 10/7/09

Name (Printed or typed)
Authorized Representative of
Shintech Incorporated

Title SITE MGR.

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.

