

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2010-0052-AIR-E **TCEQ ID:** RN100218932 **CASE NO.:** 38966
RESPONDENT NAME: Chemtrade Refinery Services, Inc.

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: Chemtrade Refinery Services, Inc., 1400 Olin Road, Beaumont, Jefferson County</p> <p>TYPE OF OPERATION: Sulfuric acid plant</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is one additional pending enforcement action regarding this facility location, Docket No. 2010-0991-IWD-E.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on October 11, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Kirk Schoppe, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-0489; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Nestor Gomez, Plant Manager, Chemtrade Refinery Services, Inc., P.O. Box 30, Beaumont, Texas 77704 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 checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: October 23, 2009</p> <p>Date of NOV/NOE Relating to this Case: December 21, 2009 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>AIR</p> <p>Failed to adhere to the permitted maximum allowable emission limit for nitrogen oxides ("NOx") at the sulfuric acid regeneration furnace [Emission Point Number ("EPN") 1]. Specifically, on September 10, 2009, a stack test was conducted, which documented an emission rate of 23.93 pounds per hour ("lbs/hr"), and the permitted allowable limit is 7.2 lbs/hr [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), Air Permit No. 3149, Special Condition ("SC") 1, Federal Operating Permit No. O-01409, SC 10, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$8,850</p> <p>Total Deferred: \$1,770 <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: \$7,080</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that, on September 10, 2009, the Respondent reduced the furnace operating temperature from approximately 2,000 degrees Fahrenheit to 1,950 degrees Fahrenheit, resulting in the NOx emission rate to be less than 14 lbs/hr.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 60 days after the effective date of this Agreed Order, complete stack testing for EPN 1 for NOx specifically to determine compliance with the permitted allowable emission rate for NOx; or</p> <p>b. Within 60 days after the effective date of this Agreed Order, submit an administratively complete permit amendment application to increase allowable emission limits for NOx from EPN 1, and comply with any subsequently issued requirements and timelines for stack testing for NOx from EPN 1;</p> <p>c. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests, or by any other deadline specified in writing; and</p> <p>d. Within 240 days after the effective date of this Agreed Order, submit written certification that either Air Permit No. 3149 has been amended to address the violation of NOx limits during the stack test conducted on September 10, 2009 for EPN 1, or demonstrate compliance with the existing permit limit.</p>

Additional ID No(s): Air Account No. JE0073N



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	28-Dec-2009		
	PCW	11-Feb-2010	Screening	7-Jan-2010
		EPA Due		

RESPONDENT/FACILITY INFORMATION			
Respondent	Chemtrade Refinery Services, Inc.		
Reg. Ent. Ref. No.	RN100218932		
Facility/Site Region	10-Beaumont	Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	38966	No. of Violations	1
Docket No.	2010-0052-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Kirk Schoppe
		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	\$5,000
ADJUSTMENTS (+/-) TO SUBTOTAL 1			
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the Indicated percentage.</small>			
Compliance History	77.0% Enhancement	Subtotals 2, 3, & 7	\$3,850
Notes	Enhancement for four NOV's for same/similar violations, ten NOV's for dissimilar violations, and two orders with denial of liability. Reduction for one NOI and one DOV.		
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	\$0
Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
Total EB Amounts	\$269	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$6,500		
SUM OF SUBTOTALS 1-7		Final Subtotal	\$8,850
OTHER FACTORS AS JUSTICE MAY REQUIRE		0.0% Adjustment	\$0
<small>Reduces or enhances the Final Subtotal by the indicated percentage.</small>			
Notes			
Final Penalty Amount			\$8,850
STATUTORY LIMIT ADJUSTMENT			Final Assessed Penalty \$8,850
DEFERRAL	20.0% Reduction	Adjustment	-\$1,770
<small>Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)</small>			
Notes	Deferral offered for expedited settlement.		
PAYABLE PENALTY			\$7,080

Screening Date 7-Jan-2010

Docket No. 2010-0052-AIR-E

PCW

Respondent Chemtrade Refinery Services, Inc.

Policy Revision 2 (September 2002)

Case ID No. 38966

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100218932

Media [Statute] Air

Enf. Coordinator Kirk Schoppe

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)	4	20%
	Other written NOVs	10	20%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	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) 77%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for four NOVs for same/similar violations, ten NOVs for dissimilar violations, and two orders with denial of liability. Reduction for one NOI and one DOV.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 77%

Screening Date 7-Jan-2010

Docket No: 2010-0052-AIR-E

PCW

Respondent Chemtrade Refinery Services, Inc.

Policy Revision 2 (September 2002)

Case ID No. 38966

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN100218932

Media [Statute] Air

Enf. Coordinator Kirk Schoppe

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), Air Permit No. 3149, Special Condition ("SC") 1, Federal Operating Permit No. O-01409, SC 10, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to adhere to the permitted maximum allowable emission limit for nitrogen oxides ("NOx") at the sulfuric acid regeneration furnace. Specifically, on September 10, 2009, a stack test was conducted, which documented an emission rate of 23.93 pounds per hour ("lbs/hr"), and the permitted allowable limit is 7.2 lbs/hr. The Respondent took additional actions to reduce the NOx emission rate to 11.18 lbs/hr since the September 10, 2009 stack test, resulting in approximately 9,373 lbs of unauthorized NOx emissions.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 25%

>> Programmatic Matrix

	Major	Moderate	Minor
Falsification			

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which did not exceed levels protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2 120 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$5,000

Two quarterly events are recommended beginning on the date of the stack test (September 10, 2009) until case screening date (January 7, 2010).

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$289

Violation Final Penalty Total \$8,850

This violation Final Assessed Penalty (adjusted for limits) \$8,850

Economic Benefit Worksheet

Respondent: Chemtrade Refinery Services, Inc.
Case ID No.: 38966
Reg. Ent. Reference No.: RN100218932
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
No. commas or \$							

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$6,500	10-Sep-2009	1-Aug-2010	0.89	\$289	n/a	\$289
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

These are approximate costs for conducting a stack test and certifying compliance beginning on the date of the failed stack test, and ending on the projected date of compliance.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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

\$6,500

TOTAL

\$289

Compliance History Report

Customer/Respondent/Owner-Operator: CN602999567 Chemtrade Refinery Services, Inc. Classification: AVERAGE Rating: 5.80
 Regulated Entity: RN100218932 CHEMTRADE REFINERY SERVICES Classification: AVERAGE Site Rating: 5.80

ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	JE0073N
	AIR OPERATING PERMITS	PERMIT	1409
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD008097487
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	30795
	INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	50167
	INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	50167
	WASTEWATER	PERMIT	WQ0000647000
	WASTEWATER	PERMIT	TPDES0006726
	WASTEWATER	PERMIT	TX0006726
	AIR NEW SOURCE PERMITS	PERMIT	3149
	AIR NEW SOURCE PERMITS	PERMIT	6872
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	JE0073N
	AIR NEW SOURCE PERMITS	AFS NUM	4824500010
	AIR NEW SOURCE PERMITS	REGISTRATION	89874
	AIR NEW SOURCE PERMITS	REGISTRATION	85063
	AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	JE0073N

Location: 1400 OLIN RD, BEAUMONT, TX, 77705

TCEQ Region: REGION 10 - BEAUMONT

Date Compliance History Prepared: January 07, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: January 07, 2005 to January 07, 2010

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

Name: Suzanne Walrath Phone: 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/operator of the site during the compliance period? Yes
3. If Yes, who is the current owner/operator?

OWNOPR	Peak Sulfur, Inc.
OWNOPR	Chemtrade Refinery Services, Inc.
4. If Yes, who was/were the prior owner(s)/operator(s) ?

OWN	Chemtrade Refinery Services, Inc.
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5. When did the change(s) in owner or operator occur? 03/23/2006
6. Rating Date: 9/1/2009 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.

Classification: Moderate

Citation: 40 CFR Chapter 112, SubChapter D, PT 112.112.3(c)

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

Description: Failed to maintain SO2 net ground level concentrations below 0.32 parts per million by volume ("ppmv"). On July 10, 2006, from 1:10 am to 3:30 am, the TCEQ measured a 30-minute 0.967 ppmv net average SO2 level and a maximum SO2 peak concentration of 3.00 ppmv at 2:55 am at the fence line of the Plant.

Classification: Moderate

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

30 TAC Chapter 122, SubChapter B 122.143(4)

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

Rqmt Prov: 3149 PERMIT

Special Condition No. 7A OP

Description: Failed to maintain authorized emissions from the final vent stack ("EPN 1"). Specifically, during a September 19, 2006 emissions event the 1,000 ppmv SO2 concentration limit for EPN 1 was exceeded for three hours and 20 minutes.

Classification: Moderate

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

30 TAC Chapter 122, SubChapter B 122.143(4)

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

Rqmt Prov: 3149 PERMIT

O-01409 OP

Description: Failed to record the SO2 emissions data as reported in the deviation reports for the periods covering January 28, 2006 to July 29, 2006 and July 28, 2006 to January 29, 2007. Specifically, on June 3, 2006, August 2, 2006, and January 19-20, 2007, the respondent failed to record the emission data from the sample line to the SO2 continuous monitoring system ("CEMS").

Classification: Moderate

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

30 TAC Chapter 122, SubChapter B 122.143(4)

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

Rqmt Prov: 3149 PERMIT

O-01409 OP

Description: Failed to calculate sulfur SO2 emissions as reported in the deviation reports for the periods covering January 28, 2006 to July 29, 2006 and July 28, 2006 to January 29, 2007. Specifically, on twenty occasions, the respondent failed to calculate converter, scrubber, and overall SO2 efficiencies.

Classification: Moderate

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

30 TAC Chapter 122, SubChapter B 122.143(4)

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

Rqmt Prov: Special Condition 7A OP

Special Condition 7B OP

Description: Failed to zero and span the SO2 CEMS as reported in the deviation report for the period covering July 28, 2006 to January 29, 2007. Specifically, the respondent failed to conduct the daily zero and span on the SO2 CEMS scrubber stack [emission point number ("EPN") 1] on November 24, 2006.

Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter A 111.127(c)

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

Description: Failed to continuously operate an opacity monitor as reported in the deviation report for the period covering July 28, 2006 to January 29, 2007. Specifically, the opacity instrument motor failed on January 1, 2007.

Classification: Moderate

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

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

Description: Failed to submit initial reports for Incident Nos. 87223 and 87225 in a timely manner as reported in the deviation report for the period covering July 28, 2006 to January 29, 2007.

Classification: Moderate

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

Description: Failed to submit final reports for Incident Nos. 87223 and 87225 in a timely manner as reported in the deviation report for the period covering July 28, 2006 to January 29, 2007.

Classification: Moderate

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

Rqmt Prov: 3149 PERMIT
O-01409 OP

Description: Failed to maintain an emission rate below the maximum allowable emission limit of 400 pounds per 24 hour ("lbs/24-hr") for SO₂ from the scrubber stack ("EPN 1"). Specifically, 14,440 lbs of SO₂ were emitted on 02/08-09/2006 in a 28 hour period and 9,945 lbs of SO₂ were emitted on 02/12-13/2006 in a 15 hour period.

See addendum for information regarding federal actions.

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	01/20/2005	(381977)
2	01/25/2005	(346563)
3	02/17/2005	(344416)
4	02/17/2005	(430042)
5	03/17/2005	(381974)
6	04/16/2005	(430043)
7	06/06/2005	(430044)
8	06/24/2005	(380140)
9	07/06/2005	(397887)
10	07/18/2005	(430045)
11	08/15/2005	(401456)
12	08/22/2005	(440953)
13	09/07/2005	(404953)
14	09/12/2005	(440954)
15	09/16/2005	(403815)
16	10/24/2005	(468631)
17	11/16/2005	(468632)
18	12/19/2005	(468633)
19	01/19/2006	(468634)
20	02/21/2006	(468628)
21	02/24/2006	(455730)
22	03/17/2006	(468629)
23	04/19/2006	(468630)
24	05/05/2006	(461660)
25	05/19/2006	(498338)
26	06/14/2006	(498339)
27	07/20/2006	(498340)
28	08/16/2006	(520353)
29	09/25/2006	(520354)
30	10/10/2006	(520355)
31	11/21/2006	(544686)
32	12/05/2006	(544687)
33	01/08/2007	(518481)
34	01/19/2007	(544688)
35	02/12/2007	(544685)
36	03/19/2007	(575579)
37	04/19/2007	(575580)
38	04/20/2007	(542441)

39 05/01/2007 (555822)
40 05/01/2007 (575582)
41 05/18/2007 (556834)
42 06/18/2007 (575583)
43 07/19/2007 (575584)
44 07/30/2007 (575581)
45 08/08/2007 (564518)
46 08/21/2007 (601696)
47 09/20/2007 (601697)
48 10/16/2007 (601698)
49 11/15/2007 (619624)
50 12/21/2007 (619625)
51 01/16/2008 (619626)
52 01/31/2008 (610418)
53 02/14/2008 (672150)
54 03/20/2008 (672151)
55 03/26/2008 (637375)
56 04/14/2008 (672152)
57 04/22/2008 (618415)
58 05/06/2008 (690057)
59 05/07/2008 (641700)
60 05/16/2008 (641171)
61 06/18/2008 (690058)
62 07/11/2008 (690059)
63 08/02/2008 (684886)
64 08/12/2008 (710840)
65 08/26/2008 (689028)
66 09/24/2008 (710841)
67 10/08/2008 (687042)
68 10/13/2008 (688571)
69 10/14/2008 (710842)
70 10/24/2008 (701138)
71 11/14/2008 (727554)
72 11/20/2008 (705494)
73 12/16/2008 (750370)
74 01/16/2009 (727555)
75 02/18/2009 (750367)
76 03/03/2009 (750368)
77 03/23/2009 (738235)
78 04/15/2009 (750369)
79 04/20/2009 (742333)
80 04/24/2009 (738829)
81 05/18/2009 (768429)
82 06/11/2009 (748920)
83 06/11/2009 (768430)
84 07/09/2009 (743947)
85 08/05/2009 (763963)
86 08/31/2009 (764737)
87 09/21/2009 (775308)
88 11/05/2009 (778153)
89 12/21/2009 (780326)
90 01/05/2010 (784979)
91 01/06/2010 (782761)

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

Date: 07/07/2005 (397887)
Self Report? NO
Citation: M&RR 2 PERMIT

CN602999567
Classification: Minor

Description: Failure to keep a complete pH meter calibration log
Self Report? NO Classification: Minor
Citation: M&RR 3.C PERMIT
Description: Failure by the permittee to record the time of the sample refrigerator temperature check on the temperature log.

Date: 08/15/2005 (401456) CN602999567
Self Report? NO Classification: Moderate

Citation: 1409 OP
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
3149 PERMIT
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to calculate sulfur dioxide efficiency from the scrubber stack.
Self Report? NO Classification: Moderate

Citation: 1409 OP
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
3149 PERMIT
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to maintain the oxygen concentration at 0.65 volume percent or greater.
Self Report? NO Classification: Moderate

Citation: 1409 OP
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
3149 PERMIT
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to conduct Orsat analysis on a daily basis.
Self Report? NO Classification: Moderate

Citation: 1409 OP
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
3149 PERMIT
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to conduct daily zero and span on the hydrocarbon CEMS.

Date: 10/31/2005 (468632) CN602999567
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: 01/31/2006 (468628) CN602999567
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: 05/10/2006 (461660) CN602999567
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter A 111.127(c)
5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failure to conduct continuous opacity monitoring as reported in the Deviation Report for FOP O-01409 covering January 28, 2005 to July 29, 2005.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)

3149, Special Condition 1 PERMIT
5C THC Chapter 382, SubChapter D 382.085(b)
O-01409. Special Condition 7 OP

Description: Failure to calculate sulfur dioxide emissions from the scrubber stack as reported in the Deviation Reports for FOP O-01409 covering January 28, 2005 to July 29,

2005 and July 30, 2005 to January 29, 2006.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 112, SubChapter A 112.3(c)
5C THC Chapter 382, SubChapter A 382.085(a)
Description: Failure to maintain sulfur dioxide net ground level concentrations below 0.32
ppmv averaged over any 30-minute period.

Date: 12/31/2006 (544688) CN602999567
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: 01/31/2007 (544685) CN602999567
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: 05/23/2007 (556834) CN602999567
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter F 101.201(e)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THC Chapter 382, SubChapter D 382.085(b)
O-01409, General Terms and Conditions OP
O-01409, Special Condition 2F OP
Description: Failure to notify the regional office of a reportable excess opacity event. EIC B3,
MOD(2)(B)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(A)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
3149, Special Condition 2 PERMIT
5C THC Chapter 382, SubChapter D 382.085(b)
O-01409, General Terms and Conditions OP
O-01409, Special Condition 3A(I) OP
O-01409, Special Condition 7A OP
Description: Failure to maintain opacity limits below applicable requirements. EIC B18 MOD(2)
(D)

Date: 05/31/2007 (575583) CN602999567
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: 08/09/2007 (564518) CN602999567
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 335, SubChapter A 335.4(1)
Description: Failure by Chemtrade Refinery Services to prevent the imminent threat of
discharge of industrial solid waste into or adjacent to waters of the state.
Self Report? NO Classification: Moderate
Citation: PC 2g PERMIT
Description: Failure by Chemtrade Refinery Services to prevent unauthorized discharges into
or adjacent to waters of the state.

Date: 04/23/2008 (618415)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter F 101.201(e)
30 TAC Chapter 101, SubChapter F 101.201(e)(10)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)

O-01409, General Terms and Conditions OP
O-01409, Special Condition 2F OP
Description: Failure to properly report an opacity event.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(A)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
3149, Special Condition 2 PERMIT
5C THSC Chapter 382 382.085(b)
O-01409, General Terms and Conditions OP
O-01409, Special Condition 2I OP
O-01409, Special Condition 3A(i) OP
O-01409, Special Condition 7A OP
Description: Failure to maintain opacity below applicable limits.

Date: 05/08/2008 (641700) CN602999567
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
3149, SC 5 PERMIT
5C THSC Chapter 382 382.085(b)
O-01409, SC 7 OP
Description: Failure to maintain the energy content of fuel feed as reported in a Semiannual Deviation Report for FOP O-01409 dated January 29, 2007 to July 28, 2007.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
3149, SC 7 PERMIT
5C THSC Chapter 382 382.085(b)
O-01409, SC 7 OP
Description: Failure to continuously operate a sulfur dioxide CEMS as reported in a Semiannual Deviation Report for FOP O-01409 dated January 29, 2007 to July 28, 2007.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 111, SubChapter A 111.127(c)
5C THSC Chapter 382 382.085(b)
Description: Failure to continuously operate an opacity monitor as reported in a Semiannual Deviation Report for FOP O-01409 dated July 28, 2007 to January 29, 2008.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
3149, SC 1 PERMIT
5C THSC Chapter 382 382.085(b)
O-01409, SC 7 OP
Description: Failure to calculate sulfur dioxide emissions as reported in a Semiannual Deviation Report for FOP O-01409 dated July 28, 2007 to January 29, 2008.

Date: 04/27/2009 (738829) CN602999567
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 111, SubChapter A 111.127(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
O-01409, SC 1A OP
Description: Failure to continuously operate an opacity monitor as reported in a Semiannual Deviation Report for FOP O-01409 dated July 28, 2007 to January 29, 2008.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
3149, SC 1 PERMIT
5C THSC Chapter 382 382.085(b)
O-01409, SC 7 OP
Description: Failure to calculate sulfur dioxide emissions as reported in a Semiannual Deviation Report for FOP O-01409 dated July 28, 2007 to January 29, 2008.

Date: 01/06/2010 (782761)

CN602999567

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(A)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
O-01409 PERMIT
O-01409, Special Condition 3A(i) PERMIT

Description: Failure to maintain opacity limits below applicable requirements.

F. Environmental audits.

Notice of Intent Date: 02/09/2007 (542637)

Disclosure Date: 07/19/2007

Viol. Classification: Moderate

Citation: 30 TAC Chapter 106, SubChapter U 106.472
30 TAC Chapter 116, SubChapter B 116.110(a)
30 TAC Chapter 116, SubChapter B 116.116(a)(2)

Rqmt Prov: PERMIT NSR permit 3149

Description: Failed to include SO2 emissions from SBS truck, railcar loading/unloading operations and 98% drum vent in NSR permit or Title V permit.

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
CHEMTRADE REFINERY SERVICES,
INC.
RN100218932

§
§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2010-0052-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 Chemtrade Refinery Services, Inc. ("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 sulfuric acid plant at 1400 Olin Road in Beaumont, Jefferson 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 December 26, 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 Eight Thousand Eight Hundred Fifty Dollars (\$8,850) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Seven Thousand Eighty Dollars (\$7,080) of the administrative penalty and One Thousand Seven Hundred Seventy Dollars (\$1,770) 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 recognizes that, on September 10, 2009, the Respondent reduced the furnace operating temperature from approximately 2,000 degrees Fahrenheit to 1,950 degrees Fahrenheit, resulting in the nitrogen oxides ("NOx") emission rate to be less than 14 pounds per hour ("lbs/hr").
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 adhere to the permitted maximum allowable emission limit for NOx at the sulfuric acid regeneration furnace [Emission Point Number ("EPN") 1] in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), Air Permit No. 3149, Special Condition ("SC") 1, Federal Operating Permit No. O-01409, SC 10, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on October 23, 2009. Specifically, on September 10, 2009, a stack test was conducted, which documented an emission rate of 23.93 lbs/hr, and the permitted allowable limit is 7.2 lbs/hr.

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: Chemtrade Refinery Services, Inc., Docket No. 2010-0052-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 60 days after the effective date of this Agreed Order, complete stack testing for EPN 1 for NOx specifically to determine compliance with the permitted allowable emission rate for NOx; or
 - b. Within 60 days after the effective date of this Agreed Order, submit an administratively complete permit amendment application to increase allowable emission limits for NOx from EPN 1, and comply with any subsequently issued requirements and timelines for stack testing for NOx from EPN 1;
 - c. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests, or by any other deadline specified in writing; and
 - d. Within 240 days after the effective date of this Agreed Order, submit written certification that either Air Permit No. 3149 has been amended to address the violation of NOx limits during the stack test conducted on September 10, 2009 for EPN 1, or demonstrate compliance with the existing permit limit. The certification shall include detailed supporting documentation including receipts and/or other records to demonstrate compliance, 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:

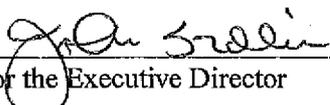
Air Section, Manager
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1892

3. The provisions of this Agreed Order shall apply to and be binding upon 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

10/7/2010
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

8/2/10
Date

Nestor Gomez

Name (Printed or typed)
Authorized Representative of
Chemtrade Refinery Services, Inc.

Plant Manager

Title

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

