

Page 1 of 2

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.:** 2010-0962-AIR-E **TCEQ ID:** RN100212216 **CASE NO.:** 39860  
**RESPONDENT NAME:** Kuraray America, Inc.

<b>ORDER TYPE:</b>		
<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	
<b>CASE TYPE:</b>		
<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><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Eval Business Unit, 11500 Bay Area Boulevard, Pasadena, Harris County</p> <p><b>TYPE OF OPERATION:</b> Copolymer plant</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on October 4, 2010. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Miriam Hall, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-1044; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> Mr. Stanley Lewis, Director of HSE and Quality, Kuraray America, Inc., 11500 Bay Area Boulevard, Pasadena, Texas 77507  Mr. Glenn Pubentz, Vice President of Manufacturing/Plant Manager, Kuraray America, Inc., 11500 Bay Area Boulevard, Pasadena, Texas 77507  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> March 30, 2010</p> <p><b>Date of NOV/NOE Relating to this Case:</b> May 11, 2010 (NOE)</p> <p><b>Background Facts:</b> This was a records review.</p> <p><b>AIR</b></p> <p>Failed to properly fill the Ethylene Surge Drum (Emission Point No. V-1402) on March 7, 2010, resulting in the unauthorized release of 1,562 pounds of ethylene, a highly-reactive volatile organic compound, during a four-minute emissions event (Incident No. 136684). When a technician bypassed the standard operating procedure of filling the tank through the pressure control valve, the drum was over pressured blowing the rupture disk and releasing ethylene through the relief valve. Because the event could have been avoided by better operating practices, the Respondent did not meet the affirmative defense in 30 TEX. ADMIN. CODE § 101.22 [30 TEX. ADMIN. CODE §§ 115.722(c) and 116.115(c), Air Permit No. 9576 Special Condition No. 5, and Tex. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>	<p><b>Total Assessed:</b> \$2,700</p> <p><b>Total Deferred:</b> \$540  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$2,160</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:</p> <p>a. By March 19, 2010, trained all plant production personnel on standard operating procedures for filling the Ethylene Surge Drum; and</p> <p>b. By March 19, 2010, installed a car seal on the bypass to the pressure control valve on the Ethylene Surge Drum (Emission Point No. V-1402), so that the bypass cannot be used without manager approval.</p>

Additional ID No(s): Air Account No. HG13100



# Penalty Calculation Worksheet (PCW)

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	17-May-2010	<b>Screening</b>	10-Jun-2010	<b>EPA Due</b>	
	<b>PCW</b>	9-Jun-2010				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Kuraray America, Inc.
<b>Reg. Ent. Ref. No.</b>	RN100212216
<b>Facility/Site Region</b>	12-Houston
<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	39860	<b>No. of Violations</b>	1
<b>Docket No.</b>	2010-0962-AIR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Miriam Hall
		<b>EC's Team</b>	Enforcement Team 4
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$2,500
<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>		
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>		
<b>Compliance History</b>	33.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b> \$825
<b>Notes</b>	The penalty was enhanced for one similar NOV, four dissimilar NOVs, and one 1660 order.	
<b>Culpability</b>	No 0.0% Enhancement	<b>Subtotal 4</b> \$0
<b>Notes</b>	The Respondent does not meet the culpability criteria.	
<b>Good Faith Effort to Comply Total Adjustments</b>		<b>Subtotal 5</b> \$625
<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b> \$0
<small>Total EB Amounts</small>	\$4	
<small>Approx. Cost of Compliance</small>	\$2,000	<small>*Capped at the Total EB \$ Amount</small>
<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$2,700
<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b> \$0
<small>Reduces or enhances the Final Subtotal by the indicated percentage.</small>		
<b>Notes</b>		
	<b>Final Penalty Amount</b>	\$2,700
<b>STATUTORY LIMIT ADJUSTMENT</b>		<b>Final Assessed Penalty</b> \$2,700
<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b> -\$540
<small>Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)</small>		
<b>Notes</b>	Deferral offered for expedited settlement.	
<b>PAYABLE PENALTY</b>		\$2,160

Screening Date 10-Jun-2010

Docket No. 2010-0962-AIR-E

PCW

Respondent Kuraray America, Inc.

Policy Revision 2 (September 2002)

Case ID No. 39860

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100212216

Media (Statute) Air

Enf. Coordinator Miriam Hall

**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)	1	5%
	Other written NOVs	4	8%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

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)** 33%

>> **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 penalty was enhanced for one similar NOV, four dissimilar NOVs, and one 1660 order.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 33%

Screening Date 10-Jun-2010

Docket No. 2010-0962-AIR-E

PCW

Respondent Kuraray America, Inc.

Policy Revision 2 (September 2002)

Case ID No. 39860

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100212216

Media [Statute] Air

Enf. Coordinator Miriam Hall

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 115.722(c) and 116.115(c), Air Permit No. 9576 Special Condition No. 5, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to properly fill the Ethylene Surge Drum (Emission Point No. V-1402) on March 7, 2010, resulting in the unauthorized emissions release of 1,562 pounds of ethylene, a highly-reactive volatile organic compound, during a four-minute emissions event (Incident No. 136684). When a technician bypassed the standard operating procedure of filling the tank through the pressure control valve, the drum was over pressured blowing the rupture disk and releasing ethylene through the relief valve. Because the event could have been avoided by better operating practices, the Respondent did not meet the affirmative defense in 30 Tex. Admin. Code § 101.222.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual			X	25%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0%

Human health or the environment has been exposed to insignificant emissions which do not exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 1

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,500

One quarterly event is recommended.

Good Faith Efforts to Comply

25.0% Reduction \$625

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

Notes Corrective actions were completed by March 19, 2010, and the NOE was issued May 11, 2010.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4

Violation Final Penalty Total \$2,700

This violation Final Assessed Penalty (adjusted for limits) \$2,700

# Economic Benefit Worksheet

**Respondent:** Kuraray America, Inc.

**Case ID No.:** 39860

**Reg. Ent. Reference No.:** RN100212216

**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	\$500	7-Mar-2010	19-Mar-2010	0.03	\$0	\$1	\$1
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	\$1,500	7-Mar-2010	19-Mar-2010	0.03	\$2	n/a	\$2
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

The estimated cost of installing a car seal on the bypass valve and training all plant production personnel on standard operating procedures for filling the Ethylene Surge Drum from the date of the violation to the date corrective actions were completed.

**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

\$2,000

TOTAL

\$4

# Compliance History Report

Customer/Respondent/Owner-Operator:	CN603315953 Kuraray America, Inc.	Classification: AVERAGE	Rating: 0.16																																																						
Regulated Entity:	RN100212216 EVAL BUSINESS UNIT	Classification: AVERAGE	Site Rating: 0.18																																																						
ID Number(s):	<table style="width: 100%; border-collapse: collapse;"> <tr><td>AIR OPERATING PERMITS</td><td>ACCOUNT NUMBER</td><td>HG13100</td></tr> <tr><td>AIR OPERATING PERMITS</td><td>PERMIT</td><td>1561</td></tr> <tr><td>AIR OPERATING PERMITS</td><td>PERMIT</td><td>3011</td></tr> <tr><td>AIR OPERATING PERMITS</td><td>PERMIT</td><td>3011</td></tr> <tr><td>AIR NEW SOURCE PERMITS</td><td>PERMIT</td><td>9576</td></tr> <tr><td>AIR NEW SOURCE PERMITS</td><td>REGISTRATION</td><td>28727</td></tr> <tr><td>AIR NEW SOURCE PERMITS</td><td>REGISTRATION</td><td>33413</td></tr> <tr><td>AIR NEW SOURCE PERMITS</td><td>REGISTRATION</td><td>44286</td></tr> <tr><td>AIR NEW SOURCE PERMITS</td><td>ACCOUNT NUMBER</td><td>HG13100</td></tr> <tr><td>AIR NEW SOURCE PERMITS</td><td>AFS NUM</td><td>4820100404</td></tr> <tr><td>AIR NEW SOURCE PERMITS</td><td>REGISTRATION</td><td>80133</td></tr> <tr><td>AIR NEW SOURCE PERMITS</td><td>REGISTRATION</td><td>81932</td></tr> <tr><td>AIR NEW SOURCE PERMITS</td><td>REGISTRATION</td><td>84790</td></tr> <tr><td>INDUSTRIAL AND HAZARDOUS WASTE GENERATION</td><td>EPA ID</td><td>TXD981148059</td></tr> <tr><td>INDUSTRIAL AND HAZARDOUS WASTE GENERATION</td><td>SOLID WASTE REGISTRATION # (SWR)</td><td>32728</td></tr> <tr><td>STORMWATER</td><td>PERMIT</td><td>TXR05L364</td></tr> <tr><td>PUBLIC WATER SYSTEM/SUPPLY</td><td>REGISTRATION</td><td>1012402</td></tr> <tr><td>AIR EMISSIONS INVENTORY</td><td>ACCOUNT NUMBER</td><td>HG13100</td></tr> </table>			AIR OPERATING PERMITS	ACCOUNT NUMBER	HG13100	AIR OPERATING PERMITS	PERMIT	1561	AIR OPERATING PERMITS	PERMIT	3011	AIR OPERATING PERMITS	PERMIT	3011	AIR NEW SOURCE PERMITS	PERMIT	9576	AIR NEW SOURCE PERMITS	REGISTRATION	28727	AIR NEW SOURCE PERMITS	REGISTRATION	33413	AIR NEW SOURCE PERMITS	REGISTRATION	44286	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG13100	AIR NEW SOURCE PERMITS	AFS NUM	4820100404	AIR NEW SOURCE PERMITS	REGISTRATION	80133	AIR NEW SOURCE PERMITS	REGISTRATION	81932	AIR NEW SOURCE PERMITS	REGISTRATION	84790	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD981148059	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	32728	STORMWATER	PERMIT	TXR05L364	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1012402	AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	HG13100
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Location:	11500 BAY AREA BLVD, PASADENA, TX, 77507																																																								
TCEQ Region:	REGION 12 - HOUSTON																																																								
Date Compliance History Prepared:	June 07, 2010																																																								
Agency Decision Requiring Compliance History:	Enforcement																																																								
Compliance Period:	June 07, 2005 to June 07, 2010																																																								

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

Name: Miriam Hall Phone: (512) 239-1044

### 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 Kuraray America, Inc
4. If Yes, who was/were the prior owner(s)/operator(s) ? OWNOPR Eval Company of America
5. When did the change(s) in owner or operator occur? 01/01/2008
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.
  - Effective Date: 02/08/2009 ADMINORDER 2008-0883-AIR-E
  - Classification: Moderate
  - Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)
  - Rqmt Prov: Permit 9576, Special Condition 1 PERMIT
  - Description: Failed to maintain emissions at or below the rates listed in the maximum allowable emission rate table ("MAERT") for the Acetic Acid Scrubber (emission point number 403). Specifically, VOC emissions rate during stack tests conducted on February 8 and March 11, 2008 were 9.36 lbs/hr and 0.14 lbs/hr, respectively, but the MAERT limit was 0.08 lbs/hr.
- 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 07/07/2005 (380138)
- 2 07/27/2005 (381339)
- 3 07/27/2005 (401461)
- 4 07/27/2005 (401903)
- 5 07/28/2005 (402349)
- 6 08/03/2005 (403227)
- 7 08/08/2005 (404023)
- 8 08/10/2005 (403935)
- 9 08/12/2005 (404779)
- 10 08/18/2005 (405719)
- 11 08/18/2005 (405942)
- 12 08/29/2005 (407273)
- 13 08/30/2005 (406999)
- 14 09/06/2005 (418921)
- 15 09/08/2005 (418685)
- 16 05/24/2006 (454601)
- 17 06/08/2006 (481222)
- 18 09/01/2006 (488863)
- 19 08/22/2007 (573261)
- 20 01/07/2008 (612101)
- 21 05/23/2008 (646252)
- 22 08/01/2008 (686782)
- 23 08/15/2008 (687031)
- 24 03/18/2009 (737818)
- 25 03/20/2009 (739261)
- 26 01/25/2010 (767630)
- 27 05/11/2010 (798193)

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

- Date: 07/07/2005 (380138) CN603315953  
 Self Report? NO Classification: Moderate  
 Citation: 40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.8(a)  
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT NNN 60.665(b)  
 Description: Failure to conduct the initial performance test as per 40 CFR 60.8(a) for Flare 51 serving Line 1100, Line 1200, Line 1300, and Recovery under NSPS, Subpart NNN to demonstrate compliance with 40 CFR 60.18 for the flare. Also, failure to demonstrate compliance with 40 CFR 60.665(b).
- Self Report? NO Classification: Minor  
 Citation: 40 CFR Chapter 60, SubChapter C, PT 60, SubPT NNN 60.665(a)  
 Description: Failure to demonstrate compliance with 40 CFR 60.665(a).
- Date: 07/27/2005 (381339) CN603315953  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-5(a)  
 FOP O-01561, Spec. Terms and Cond. #1.A. OP  
 Description: Eval failed to have closed-loop, or comparable, sampling point valves at six locations.
- Date: 06/09/2006 (481222) CN603315953  
 Self Report? NO Classification: Moderate  
 Citation: 40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(f)(4)  
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.8(a)  
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT NNN 60.662(b)  
 Description: The flowrate meter used during the reference method stack test conducted November 15, 2005 on flare 400 (EPN 400), did not meet method 2A calibration requirements.
- Date: 08/15/2008 (687031) CN603315953

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
9576, Special Condition No. 1 PERMIT  
Description: Kuraray failed to prevent a build-up of pressure in the line between Ethylene Recycle Compressor K-1101 and Ethylene Stripper C-1102.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)  
5C THSC Chapter 382 382.085(b)  
Description: Failure to submit Initial Notification to TCEQ Region Office within 24 hours of discovery.

Date: 01/25/2010 (767630) CN603315953

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.167(a)(1)  
5C THSC Chapter 382 382.085(b)  
Special Condition 14E PERMIT  
Special Term and Condition 13 OP  
Special Term and Condition 1A OP  
Description: Failure to seal open-ended lines. (CATEGORY C10 violation)

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 115, SubChapter H 115.722(d)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(3)(ii)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.11(b)(6)  
5C THSC Chapter 382 382.085(b)  
Special Condition 6A PERMIT  
Special Term and Condition 13 OP  
Special Term and Condition 1A OP  
Description: Failure to maintain a minimum net heating value of 300 BTU/scf for Flare EPN FL8432. (CATEGORY C4 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  
KURARAY AMERICA, INC.  
RN100212216**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2010-0962-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 Kuraray America, 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 copolymer plant at 11500 Bay Area Boulevard in Pasadena, Harris 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 May 16, 2010.
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 Two Thousand Seven Hundred Dollars (\$2,700) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Thousand One Hundred Sixty Dollars (\$2,160) of the

- administrative penalty and Five Hundred Forty Dollars (\$540) 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 the Respondent has implemented the following corrective measures at the Plant:
    - a. By March 19, 2010, trained all plant production personnel on standard operating procedures for filling the Ethylene Surge Drum; and
    - b. By March 19, 2010, installed a car seal on the bypass to the pressure control valve on the Ethylene Surge Drum (Emission Point No. V-1402), so that the bypass cannot be used without manager approval.
  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 properly fill the Ethylene Surge Drum (Emission Point No. V-1402) on March 7, 2010, resulting in the unauthorized release of 1,562 pounds of ethylene, a highly-reactive volatile organic compound, during a four-minute emissions event (Incident No. 136684), in violation of 30 TEX. ADMIN. CODE §§ 115.722(c) and 116.115(c), Air Permit No. 9576 Special Condition No. 5, and Tex. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on March 30, 2010. When a technician bypassed the standard operating procedure of filling the tank through the pressure control valve, the drum was over pressured blowing the rupture disk and releasing ethylene through the relief valve. Because the event could have been avoided by better operating practices, the Respondent did not meet the affirmative defense in 30 TEX. ADMIN. CODE § 101.22.

### 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: Kuraray America, Inc., Docket No. 2010-0962-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 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.
3. 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.
4. 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.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

*John Szollos*  
For the Executive Director

9/13/2010  
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.

*Glen Pubentz*  
Signature

July 19, 2010  
Date

Glen Pubentz  
Name (Printed or typed)  
Authorized Representative of  
Kuraray America, Inc.

V.P. Manuf./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.