

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.:** 2010-1035-AIR-E **TCEQ ID:** RN101621944 **CASE NO.:** 39928  
**RESPONDENT NAME:** Agrifos Fertilizer L.L.C.

<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> Agrifos Fertilizer Pasadena, 2001 Jackson Road, Pasadena, Harris County</p> <p><b>TYPE OF OPERATION:</b> Phosphatic fertilizer manufacturing 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 November 8, 2010. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b></p> <p><b>TCEQ Attorney/SEP Coordinator:</b> None</p> <p><b>TCEQ Enforcement Coordinator:</b> Ms. Roshondra Lowe, Enforcement Division, Enforcement Team 5, MC R-12, (713) 767-3553; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495</p> <p><b>Respondent:</b> Mr. Tim Waldeck, Environmental Engineer, Agrifos Fertilizer L.L.C., P.O. Box 3447, Pasadena, Texas 77501</p> <p>Mr. R. Keith Darnell, Chief Operating Officer, Agrifos Fertilizer L.L.C., P.O. Box 3447, Pasadena, Texas 77501</p> <p><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 checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input 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> May 20, 2010</p> <p><b>Date of NOV/NOE Relating to this Case:</b> June 10, 2010 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>AIR</b></p> <p>1) Failed to comply with the hydrogen fluorides ("HF") emission rate of 1.06 pounds per hour ("lbs/hr") and the total fluorides emission rate of 0.06 pounds per ton ("lbs/ton") phosphorus pentoxide ("P<sub>2</sub>O<sub>5</sub>") for the 800 Granulator North Stack ("USNV001"). Specifically, during a November 20, 2009 reference method stack test, HF emission rate was exceeded by 6.75 lbs/hr and total fluorides emission rate was exceeded by 0.14 lbs/ton P<sub>2</sub>O<sub>5</sub>; during a January 15, 2010 reference method stack test, HF emission rate was exceeded by 0.478 lbs/hr and during a February 9, 2010 reference method stack test, HF emission rate was exceeded by 0.657 lbs/hr. Total fluorides in excess of emissions rates due to this violation are calculated to be 836.07 lbs [30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F), 122.143(4), and 101.20(3), 40 CODE OF FEDERAL REGULATIONS ("CFR") § 63.622(a), TEX. HEALTH &amp; SAFETY CODE § 382.085(b), Federal Operating Permit ("FOP") No. 1252, Special Condition ("SC") Nos. 11(A) and 1(E), and New Source Review ("NSR") Permit No. 4209A and PSD-TX-949, SC No. 2].</p> <p>2) Failed to comply with the HF emission rate of 1.06 lbs/hr and the total fluorides emission rate of 0.06 lbs/ton P<sub>2</sub>O<sub>5</sub> for the 800 Granulator South Stack ("USNV002").</p>	<p><b>Total Assessed:</b> \$7,550</p> <p><b>Total Deferred:</b> \$1,510  <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> \$6,040</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Site 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 compliance with permitted HF emission rate of 1.06 lbs/hr and the total fluorides emission rate of 0.06 lbs/ton P<sub>2</sub>O<sub>5</sub> for the USNV001 and the USNV002 was demonstrated during reference method stack tests conducted for total fluorides on January 15, 2010 and for HF on February 19, 2010.</p>

<p>Specifically, during a November 20, 2009 reference method stack test, HF emission rate from the USNVO02 was exceeded by 2.57 lbs/hr and total fluorides emission rate was exceeded by 0.03 lbs/ton P<sub>2</sub>O<sub>5</sub>. Total fluorides in excess of emissions rates due to this violation are calculated to be 90.23 lbs [30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F), 122.143(4), and 101.20(3), 40 CFR § 63.622(a), TEX. HEALTH &amp; SAFETY CODE § 382.085(b), FOP No. 1252, SC Nos. 11(A) and 1(E), and NSR Permit No. 4209A and PSD-TX-949, SC No. 2].</p>		
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Additional ID No(s): HGo534U





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

<b>DATES</b>	<b>Assigned</b>	14-Jun-2010	<b>Screening</b>	24-Jun-2010	<b>EPA Due</b>	11-Mar-2011
	<b>PCW</b>	7-Jul-2010				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Agrifos Fertilizer L.L.C.
<b>Reg. Ent. Ref. No.</b>	RN101621944
<b>Facility/Site Region</b>	12-Houston
<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	39928	<b>No. of Violations</b>	2
<b>Docket No.</b>	2010-1035-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>	Roshondra Lowe
		<b>EC's Team</b>	Enforcement Team 5
<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>	<b>\$5,000</b>
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<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>	
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.	
<b>Compliance History</b>	75.0% Enhancement <b>Subtotals 2, 3, &amp; 7</b> <b>\$3,800</b>

**Notes:** Enhancement for two NOVs for same/similar violations, five NOVs for dissimilar violations, and one state and two federal orders with denial of liability. Reduction for two notice of audits submitted and one disclosure of violations.

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>\$1,250</b>
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
Total EB Amounts	\$62	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$5,000		

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$7,550</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes:**

<b>Final Penalty Amount</b>	<b>\$7,550</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$7,550</b>
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	<b>-\$1,510</b>
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes:**

Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	<b>\$6,040</b>
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Screening Date 24-Jun-2010

Docket No. 2010-1035-AIR-E

PCW

Respondent Agrifos Fertilizer L.L.C.

Policy Revision 2 (September 2002)

Case ID No. 39928

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101621944

Media [Statute] Air

Enf. Coordinator Roshondra Lowe

### 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> )	2	10%
	Other written NOVs	5	10%
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</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> )	2	-2%
	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> )	1	-2%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 76%

>> 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 two NOVs for same/similar violations, five NOVs for dissimilar violations, and one state and two federal orders with denial of liability. Reduction for two notice of audits submitted and one disclosure of violations.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 76%

**Screening Date** 24-Jun-2010  
**Respondent** Agrifos Fertilizer L.L.C.  
**Case ID No.** 39928  
**Reg. Ent. Reference No.** RN101621944  
**Media [Statute]** Air  
**Enf. Coordinator** Roshondra Lowe

**Docket No.** 2010-1035-AIR-E

**PCW**

Policy Revision 2 (September 2002)  
 PCW Revision October 30, 2008

**Violation Number** 1

**Rule Cite(s)** 30 Tex. Admin. Code §§ 116.115(b)(2)(F), 122.143(4), and 101.20(3), 40 Code of Federal Regulations ("CFR") § 63.622(a), Tex. Health & Safety Code § 382.085(b), Federal Operating Permit ("FOP") No. 1252, Special Condition ("SC") Nos. 11(A) and 1(E), and New Source Review ("NSR") Permit No. 4209A and PSD-TX-949, SC No. 2

**Violation Description**

Failed to comply with the hydrogen fluorides ("HF") emission rate of 1.06 pounds per hour ("lbs/hr") and the total fluorides emission rate 0.06 pounds per ton ("lbs/ton") phosphorus pentoxide ("P2O5") for the 800 Granulator North Stack ("USNV001"). Specifically, during a November 20, 2009 reference method stack test, HF emission rate was exceeded by 6.75 lbs/hr and total fluorides emission rate was exceeded by 0.14 lbs/ton P2O5; during a January 15, 2010 reference method stack test, HF emission rate was exceeded by 0.478 lbs/hr and during a February 9, 2010 reference method stack test, HF emission rate was exceeded by 0.657 lbs/hr. Total fluorides in excess of emissions rates due to this violation are calculated to be 836.07 lbs.

**Base Penalty** \$10,000

**>> Environmental, Property and Human Health Matrix**

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	25%
Potential				

**>> Programmatic Matrix**

Matrix Notes	Falsification			Percent
	Major	Moderate	Minor	
Human health or the environment in the Houston-Galveston-Brazoria nonattainment area has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of this violation.				0%

**Adjustment** \$7,500

\$2,500

**Violation Events**

Number of Violation Events   Number of violation days

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 from the date of the stack test, November 20, 2009 to the date of compliance, February 19, 2010.

**Good Faith Efforts to Comply**

**25.0%** Reduction

\$625

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

Notes: Corrective actions were completed on February 19, 2010, prior to the June 10, 2010 NOE.

**Violation Subtotal** \$1,875

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$31

**Violation Final Penalty Total** \$3,775

**This violation Final Assessed Penalty (adjusted for limits)** \$3,775

# Economic Benefit Worksheet

**Respondent:** Agrifos Fertilizer L.L.C.

**Case ID No.:** 39928

**Reg. Ent. Reference No.:** RN101621944

**Media:** Air

**Violation No.:** 1

Percent Interest	Years of Depreciation
5.0	15

**Item Cost**   **Date Required**   **Final Date**   **Yrs**   **Interest Saved**   **Onetime Costs**   **EB Amount**  
**Item Description:** No commas or \$

**Delayed Costs**

Equipment			0.00	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0
Engineering/construction			0.00	\$0	\$0	\$0
Land			0.00	\$0	n/a	\$0
Record Keeping System			0.00	\$0	n/a	\$0
Training/Sampling			0.00	\$0	n/a	\$0
Remediation/Disposal			0.00	\$0	n/a	\$0
Permit Costs			0.00	\$0	n/a	\$0
Other (as needed)	\$2,500	20-Nov-2009	19-Feb-2010	0.25	\$31	n/a

**Notes for DELAYED costs**

Estimated cost to ensure compliance with applicable permitted emission limits. The date required is the non-compliant test date. The final date is the date compliance was demonstrated.

**Avoided Costs**

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

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

**Notes for AVOIDED costs**

Approx. Cost of Compliance

\$2,500

**TOTAL**

\$31

Screening Date: 24-Jun-2010

Docket No.: 2010-1035-AIR-E

PCW

Respondent: Agrifos Fertilizer L.L.C.

Policy Revision 2 (September 2002)

Case ID No.: 39928

PCW Revision October 30, 2008

Reg. Ent. Reference No.: RN101621944

Media [Statute]: Air

Enf. Coordinator: Roshondra Lowe

Violation Number: 2

Rule Cite(s)

30 Tex. Admin. Code §§ 116.115(b)(2)(F), 122.143(4), and 101.20(3), 40 CFR § 63.622(a), Tex. Health & Safety Code § 382.085(b), FOP No. 1252, SC Nos. 11(A) and 1(E), and NSR Permit No. 4209A and PSD-TX-949, SC No. 2

Violation Description

Failed to comply with the HF emission rate of 1.06 lbs/hr and the total fluorides emission rate of 0.06 lbs/ton P2O5 for the 800 Granulator South Stack ("USNV002"). Specifically, during a November 20, 2009 reference method stack test, HF emission rate from the USNV002 was exceeded by 2.57 lbs/hr and total fluorides emission rate was exceeded by 0.03 lbs/ton P2O5. Total fluorides in excess of emissions rates due to this violation are calculated to be 90.23 lbs.

Base Penalty: \$10,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes: Human health or the environment in the Houston-Galveston-Brazoria nonattainment area has been exposed to insignificant amounts of pollutants 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, 91 Number of violation days

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 from the date of the stack test, November 20, 2009 to the date of compliance, February 19, 2010.

Good Faith Efforts to Comply

25.0% Reduction

\$625

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

Notes: Corrective actions were completed on February 19, 2010, prior to the June 10, 2010 NOE.

Violation Subtotal: \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount: \$31

Violation Final Penalty Total: \$3,775

This violation Final Assessed Penalty (adjusted for limits): \$3,775

# Economic Benefit Worksheet

**Respondent:** Agrifos Fertilizer L.L.C.  
**Case ID No.:** 39928  
**Reg. Ent. Reference No.:** RN101621944  
**Media:** Air  
**Violation No.:** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<i>No commas or \$</i>							

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$2,500	20-Nov-2009	19-Feb-2010	0.25	\$31	n/a	\$31

Notes for DELAYED costs

Estimated cost to ensure compliance with applicable permitted emission limits. The date required is the non-compliant test date. The final date is the date compliance was demonstrated.

### 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

<b>Approx. Cost of Compliance</b>	\$2,500	<b>TOTAL</b>	\$31
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## Compliance History Report

Customer/Respondent/Owner-Operator: CN603449265 Agrifos Fertilizer L.L.C. Classification: AVERAGE Rating: 8.27  
 Regulated Entity: RN101621944 AGRIFOS FERTILIZER PASADENA Classification: AVERAGE Site Rating: 8.27

ID Number(s):	DESCRIPTION	TYPE	ID NUMBER
	AIR OPERATING PERMITS	ACCOUNT NUMBER	HG0534U
	AIR OPERATING PERMITS	PERMIT	1252
	STORMWATER	PERMIT	TXR05Y597
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD099387474
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	30051
	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	50576
	WASTEWATER	PERMIT	WQ0000649000
	WASTEWATER	PERMIT	TX0007285000
	WASTEWATER	PERMIT	TPDES0007285
	WASTEWATER	PERMIT	TX0007285
	AIR NEW SOURCE PERMITS	PERMIT	4209A
	AIR NEW SOURCE PERMITS	REGISTRATION	15865
	AIR NEW SOURCE PERMITS	REGISTRATION	45992
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG0534U
	AIR NEW SOURCE PERMITS	EPA ID	PSDTX949
	AIR NEW SOURCE PERMITS	REGISTRATION	88266
	AIR NEW SOURCE PERMITS	REGISTRATION	75658
	AIR NEW SOURCE PERMITS	AFS NUM	4820100029
	AIR NEW SOURCE PERMITS	PERMIT	56361
	AIR NEW SOURCE PERMITS	REGISTRATION	72261
	AIR NEW SOURCE PERMITS	PERMIT	74495
	AIR NEW SOURCE PERMITS	PERMIT	74724
	AIR NEW SOURCE PERMITS	EPA ID	PSDTX1049
	AIR NEW SOURCE PERMITS	REGISTRATION	79277
	AIR NEW SOURCE PERMITS	REGISTRATION	80235
	AIR NEW SOURCE PERMITS	REGISTRATION	80520
	AIR NEW SOURCE PERMITS	REGISTRATION	81107
	AIR NEW SOURCE PERMITS	REGISTRATION	86927
	AIR NEW SOURCE PERMITS	PERMIT	PSDTX949M1
	AIR NEW SOURCE PERMITS	REGISTRATION	86410
	AIR NEW SOURCE PERMITS	REGISTRATION	92576
	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1010936
	IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	30051
	AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	HG0534U

Location: 2001 JACKSON RD, PASADENA, TX, 77506

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: June 22, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: June 22, 2005 to June 22, 2010

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

Name: Roshondra Lowe Phone: (713) 767-3553

### 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  
OWNOPR
3. If Yes, who is the current owner/operator?  
N/A Agrifos Fertilizer Inc.  
OWNOPR Agrifos Fertilizer L.L.C.
4. If Yes, who was/were the prior owner(s)/operator(s)?  
OWNOPR Agrifos Fertilizer Inc.  
N/A
5. When did the change(s) in owner or operator occur?  
03/01/2009 OWNOPR Agrifos Fertilizer Inc.  
N/A
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: 01/26/2007

ADMINORDER 2002-0742-IWD-E

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)

Rqmt Prov: Monitoring & Reporting Requirement No. 1 OP

Description: Failed to report monitoring results, including the failure to provide any pH, phosphorous, or fluoride monitoring results on monthly effluent reports for the months of August and December, 2001.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: EL & MR OP

Description: Allowed exceedances of the permitted effluent limits at Outfall 001.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: EL & MR OP

Description: Allowed exceedances of the permitted effluent limits at Outfall 002.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: EL & MR OP

Description: Allowed an exceedance of the permitted daily maximum NH3-N concentration limit (5 mg/L) at Outfall 006 with a self-reported NH3-N concentration of 16.5 mg/L in February 2002.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: EL & MR OP

Description: Allowed the exceedances of the permitted daily average flow limit (0.432 MGD) and daily maximum NH3-N concentration limit (5 mg/L) at Outfall 007.

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	08/10/2005	(394821)
2	08/10/2005	(394823)
3	08/10/2005	(398343)
4	12/12/2005	(439347)
5	03/06/2006	(452911)
6	03/06/2006	(457766)
7	03/17/2006	(457573)
8	03/28/2006	(456292)
9	03/28/2006	(456418)
10	03/28/2006	(456473)
11	04/27/2006	(457754)
12	07/06/2006	(484113)
13	10/16/2006	(512933)
14	11/03/2006	(512056)
15	03/30/2007	(512354)
16	03/30/2007	(512361)
17	04/13/2007	(554737)
18	04/19/2007	(536461)
19	04/19/2007	(536641)
20	04/19/2007	(537115)
21	08/09/2007	(539769)
22	08/22/2007	(543547)
23	10/02/2007	(512915)
24	12/10/2007	(597592)
25	01/29/2008	(594176)
26	03/31/2008	(639570)
27	04/15/2008	(611225)
28	05/29/2008	(542940)
29	09/03/2008	(681910)
30	10/31/2008	(700567)
31	11/10/2008	(595206)
32	06/08/2009	(747933)
33	11/03/2009	(737257)
34	01/05/2010	(781602)
35	02/23/2010	(780667)
36	03/04/2010	(790198)
37	04/13/2010	(795044)
38	04/14/2010	(827786)
39	06/10/2010	(799868)
40	06/15/2010	(825437)

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

Date: 04/28/2006 (457754)

CN603449265

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.9(e)  
5C THC Chapter 382, SubChapter D 382.085(b)

O-01252, SC 8F OP  
Description: Failure to provide notification of performance test at least 60 calendar days before the performance test is scheduled to begin for Prayon Unit (P-4R) and 800 Fertilizer Plant (P-7).

Self Report? NO Classification: Moderate  
Citation: 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 AA 63.607(c)(2)  
5C THC Chapter 382, SubChapter D 382.085(b)  
NSR Permit 4209A/PSD-TX 949, SC 2 PERMIT  
O-01252, SC 1A OP

Description: failure to submit excessive emissions report/ summary reports semiannually for Prayon Unit (P-4R).

Self Report? NO Classification: Moderate  
Citation: 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 AA 63.627(c)(2)  
5C THC Chapter 382, SubChapter D 382.085(b)  
NSR 4209A/PSD-TX949, SC 2 PERMIT  
O-01252, SC 1A OP

Description: Failure to submit excessive emissions report/ summary reports semiannually for 800 Fertilizer Plant (P-7).

Date: 03/31/2008 (595613) CN603449265

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 117, SubChapter B 117.340(a)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
FOP O-01252 Special Condition 5 OP

Description: Failure to install a fuel flow meter in the TEMPBOIL.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.6(e)(3)(i)  
5C THSC Chapter 382 382.085(b)  
FOP O-01252 Special Condition 8 OP

Description: Failure to have a Start-up, Shut-down, Maintenance (SSM) Plan.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 106, SubChapter A 106.8(c)(1)  
5C THSC Chapter 382 382.085(b)

Description: Failure to have all claimed PBRs on site.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
FOP O-01252 Special Condition 11 OP

Description: Failure to maintain the permitted NH3 hourly emission rate limit on scrubber (USNV002), 800 South Stack, on October 20, 2005.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
FOP O-01252 Special Condition 3 OP

Description: Failure to conduct AVO inspections on the 800 Fertilizer Plant.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter C 122.222(c)  
5C THSC Chapter 382 382.085(b)

Description: Failure to submit an Off-Permit Notification upon removing and installing a new degreaser.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.145(2)(A)  
5C THSC Chapter 382 382.085(b)

Description: Failure to report a deviation (failure to conduct AVO inspections and failure to install a fuel flow monitor) during its certification period.

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)  
FOP O-01252 Special Condition 11 OP  
NSR 4209A, Special Condition 9 PERMIT

Description: Failure to maintain CEMS data for 800 Fertilizer Plant.

Date: 09/03/2008 (681910) CN603449265  
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.145(2)(C)  
5C THSC Chapter 382 382.085(b)

Description: Failed to submit the semi-annual deviation report timely.

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)  
FOP, Special Condition 11 OP  
FOP, Special Condition 1A OP  
NSR, General Condition 10 PERMIT  
NSR, Special Condition 7 PERMIT

Description: Failed to operate the baghouses (units: 3MNV001-3, 2MNV001-3, and PSNV002) within the specified pressure drop ranges. (CATEGORY B19 g(1))

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)  
FOP, Special Condition 11 OP  
FOP, Special Condition 1A OP  
NSR, General Condition 10 PERMIT  
NSR, Special Condition 9 PERMIT

Description: Failed to operate the 800 North and South Stack (units USNV001-2) CEMS December 14-17, 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)  
5C THSC Chapter 382 382.085(b)

Description: Failed to conduct five (5) weekly calibration checks during May 15, 2007 through November 14, 2007.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.146(2)  
5C THSC Chapter 382 382.085(b)  
FOP, Special Condition 13 OP

Description: Failure to submit the Permit Compliance Certification timely.

Date: 10/31/2008 (700567) CN603449265  
Self Report? NO Classification: Major

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)(1)  
5C THSC Chapter 382 382.085(b)

Description: Failure to obtain proper authorization to operate the Ammonium Thiosulfate (ATS) Plant.

Date: 11/03/2009 (737257) CN603449265  
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)(4)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
Special Terms and Conditions 12 OP

Description: Failure to obtain proper authorization to operate the Barge Loading. (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)

40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.13(d)(1)  
5C THSC Chapter 382 382.085(b)  
Description: Failure to conduct SO2 CEMS calibration on ASNV001. (CATEGORY B3 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)  
Special Condition 9B PERMIT  
Special Terms and Conditions 11 OP

Description: Failure to conduct NH3 CEMS calibrations on ASNV001 and USNV002.  
[CATEGORY B3 violations)  
Self Report? NO Classification: Minor  
Citation: 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 AA 63.605(d)(1)  
5C THSC Chapter 382 382.085(b)  
Special Condition 8 PERMIT  
Special Terms and Conditions 11 OP

Description: Failure to prevent NH3 pressure drop on PSNV001. (CATEGORY C4 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)  
Special Condition 7 PERMIT  
Special Terms and Conditions 11 OP  
Special Terms and Conditions 9A OP

Description: Failure to prevent baghouse pressure drop on EPNs 2MNV002, 2MNV003, and  
3MNV002. (CATEGORY C4 violation)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter H 101.352(b)  
5C THSC Chapter 382 382.085(b)

Description: Failure to settle NOx allowances on the Cisco Boiler (Tempboll1). (CATEGORY  
C3 Violation)  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.145(2)(A)  
5C THSC Chapter 382 382.085(b)  
General Terms and Conditions OP

Description: Failure to include all instances of deviations occurring during a deviation reporting  
period. (CATEGORY C3 Violation)  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 106, SubChapter S 106.433(9)

30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
Special Terms and Conditions 12 OP  
Description: Failure to register the surface coating facility with a PI-7 form as required by PBR  
106.433. (CATEGORY C3 Violation)

Date: 04/14/2010 (827786) CN603449265  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 305, SubChapter F 305.125(17)  
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 06/15/2010 (825437) CN603449265  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
SPECIAL CONDITION 1 OP  
Description: Agrifos failed to maintain proper pH levels which led to unauthorized emissions.

F. Environmental audits.

Notice of Intent Date: 09/19/2007 (598797)

Disclosure Date: 03/19/2008

Viol. Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter R 335.511  
30 TAC Chapter 335, SubChapter R 335.513

Description: Failure to update NOR.

Viol. Classification: Minor

Citation: 30 TAC Chapter 335, SubChapter A 335.10(c)  
30 TAC Chapter 335, SubChapter A 335.13  
30 TAC Chapter 335, SubChapter R 335.501  
30 TAC Chapter 335, SubChapter A 335.6  
30 TAC Chapter 335, SubChapter C 335.61  
30 TAC Chapter 335, SubChapter A 335.9

Description: Failure to properly assign a waste code when tanks No. 62 and 35 were dismantled and removed.

Viol. Classification: Minor

Citation: 40 CFR Chapter 265, SubChapter I, PT 265, SubPT I 265.173  
30 TAC Chapter 324, SubChapter A 324.1

Description: Failure to properly store used oil

Viol. Classification: Minor

Citation: 40 CFR Chapter 273, SubChapter I, PT 273, SubPT B 273.13  
40 CFR Chapter 273, SubChapter I, PT 273, SubPT B 273.14  
40 CFR Chapter 273, SubChapter I, PT 273, SubPT B 273.15  
30 TAC Chapter 335, SubChapter H 335.261

Description: Failure to properly store universal waste.

Notice of Intent Date: 08/12/2009 (766558)

No DOV Associated

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



<b>IN THE MATTER OF AN</b>	<b>§</b>	<b>BEFORE THE</b>
<b>ENFORCEMENT ACTION</b>	<b>§</b>	
<b>CONCERNING</b>	<b>§</b>	<b>TEXAS COMMISSION ON</b>
<b>AGRIFOS FERTILIZER L.L.C.</b>	<b>§</b>	
<b>RN101621944</b>	<b>§</b>	<b>ENVIRONMENTAL QUALITY</b>

**AGREED ORDER**  
**DOCKET NO. 2010-1035-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 Agrifos Fertilizer L.L.C. ("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 phosphatic fertilizer manufacturing plant at 2001 Jackson Road 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 June 15, 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 Seven Thousand Five Hundred Fifty Dollars (\$7,550) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Six Thousand Forty Dollars (\$6,040) of the

administrative penalty and One Thousand Five Hundred Ten Dollars (\$1,510) 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 compliance with permitted hydrogen fluorides ("HF") emission rate of 1.06 pounds per hour ("lbs/hr") and the total fluorides emission rate of 0.06 pounds per ton ("lbs/ton") phosphorus pentoxide ("P<sub>2</sub>O<sub>5</sub>") for the 800 Granulator North Stack ("USNV001") and the 800 Granulator South Stack ("USNV002") were demonstrated during reference method stack tests conducted for total fluorides on January 15, 2010 and for HF on February 19, 2010.
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:

1. Failed to comply with the HF emission rate of 1.06 lbs/hr and the total fluorides emission rate of 0.06 lbs/ton P<sub>2</sub>O<sub>5</sub> for the USNV001 Stack, in violation of 30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F), 122.143(4), and 101.20(3), 40 CODE OF FEDERAL REGULATIONS ("CFR") § 63.622(A), TEX. HEALTH & SAFETY CODE § 382.085(b), Federal Operating Permit ("FOP") No. 1252, Special Condition ("SC") Nos. 11(A) and 1(E), and NSR Permit No. 4209A and PSD-TX-949, SC No. 2, as documented during an investigation conducted on May 20, 2010. Specifically, during a November 20, 2009 reference method stack test, HF emission rate was exceeded by 6.75 lbs/hr and total fluorides emission rate was exceeded by 0.14 lbs/ton P<sub>2</sub>O<sub>5</sub>; during a January 15, 2010 reference method stack test, HF emission rate was exceeded by 0.478 lbs/hr and during a February 9, 2010 reference method stack test, HF emission rate was exceeded by 0.657 lbs/hr. Total fluorides in excess of emissions rates due to this violation are calculated to be 836.07 lbs.

2. Failed to comply with the HF emission rate of 1.06 lbs/hr and the total fluorides emission rate of 0.06 lbs/ton P<sub>2</sub>O<sub>5</sub> for the USNV002 Stack, in violation of 30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F), 122.143(4), and 101.20(3), 40 CFR § 63.622(a), TEX. HEALTH & SAFETY CODE § 382.085(b), FOP No. 1252, SC Nos. 11(A) and 1(E), and NSR Permit No. 4209A and PSD-TX-949, SC No. 2, as documented during an investigation conducted on May 20, 2010. Specifically, during a November 20, 2009 reference method stack test, HF emission rate from the USNV002 was exceeded by 2.57 lbs/hr and total fluorides emission rate was exceeded by 0.03 lbs/ton P<sub>2</sub>O<sub>5</sub>. Total fluorides in excess of emissions rates due to this violation are calculated to be 90.23 lbs.

### 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: Agrifos Fertilizer L.L.C., Docket No. 2010-1035-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

  
For the Executive Director

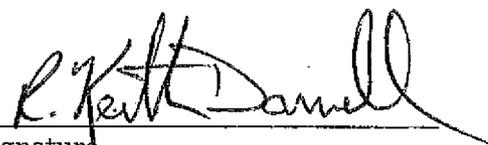
10/7/2010  
Date

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

01 SEPT. 2010  
Date

R. KEITH DARNELL  
Name (Printed or typed)  
Authorized Representative of  
Agrifos Fertilizer L.L.C.

CHIEF OPERATING OFFICER  
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.

