

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO. 2007-0580-AIR-E TCEQ ID RN100543867 CASE NO.: 33193
RESPONDENT NAME: ZOLTEK CORPORATION

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" 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 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

SITE WHERE VIOLATION(S) OCCURRED: 1221 Fulwiler Road, Abilene, Taylor County

TYPE OF OPERATION: Polyacrylonitrile carbon fiber manufacturing plant

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: Four complaints were received alleging that white, gray and black smoke with strong fumes were coming from the Respondent's plant. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: The Complainants have not indicated a desire to protest this action or speak at Agenda. No one other than the ED and the Respondent expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired December 21, 2009. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Laurencia Fasoyiro, Litigation Division, MC R-12, (713) 442-8914
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

TCEQ Enforcement Coordinator: Ms. Miriam Hall, Air Enforcement Section, MC-128, (512) 239-1044

TCEQ Regional Contact: Mr. Mike Taylor, Abilene Regional Office, MC R-3, (325) 698-6125

Respondent: Mr. Dennis M. Fitzgerald, In-House Counsel, Zoltek Corporation, 3101 McKelvey Road, St. Louis, MO 63044

Respondent's Attorney: Ms. Celina Romero, Clark, Thomas & Winters, P.O. Box 1148, 300 West 6th Street, 15th Floor, Austin, TX 78701

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input checked="" type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Dates of Complaints Relating to this Case: February 26, 2007, March 2, 2007, March 8, 2007, March 12, 2007</p> <p>Dates of Investigation Relating to this Case: February 26, 2007 and March 21-27, 2007</p> <p>Dates of NOEs Relating to this Case: March 13, 2007 and June 8, 2007</p> <p>Background Facts: The EDPRP was filed on January 29, 2008. The Respondent filed an answer, and the case was referred to SOAH. Settlement was achieved and the agreed order was signed on September 29, 2009. A revised agreed order was signed on December 30, 2009.</p> <p>Current Compliance Status: No outstanding Technical Requirements.</p> <p>AIR:</p> <ol style="list-style-type: none"> Failed to take necessary measures to prevent the release of odors and visible emissions from the thermal oxidizer ("TO") stacks. Specifically, white smoke emissions and strong, offensive odors, as determined by using TCEQ Frequency, Intensity, Duration, and Offensiveness ("FIDO") protocol, were noted as coming from the Plant for approximately 6 minutes out of a 30 minute period from the TO exhaust stack for Process Line No. 5 (EPN No. 52) [30 TEX. ADMIN. CODE §§ 101.4 and 116.115(c); Permit No. 35215, Special Condition No. 3; and TEX. HEALTH & SAFETY CODE § 382.085(a) and (b)]. Failed to report in writing to the TCEQ all instances of failing to maintain minimum temperatures and of any visible emissions from TO stacks. Specifically, Respondent did not report 190 temperature excursions below the minimum operating temperature of either 1300° F (TO Nos. 1A, 1C, and 1E) and 1500° F (TO 2A, 2C, and 2E) , and did not report three documented instances of visible emissions from the TO stacks [30 TEX. ADMIN. CODE § 116.115(c); Permit No. 35215, Special Condition Nos. 14(a) and (b); and TEX. HEALTH & SAFETY CODE § 382.085(b)]. 	<p>Total Assessed: \$21,590</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid to General Revenue: \$21,590</p> <p>The Respondent paid the administrative penalty in full.</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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Order Justification: The violation involves an emission or discharge of contaminants to the environment or other actions meeting the following criteria: people have been exposed to pollutants which exceed levels that are protective.</p> <p>Excessive Emissions Event Determination Factors: February 13, 2007 Event: (violation No. 6) – 30 TEX. ADMIN. CODE § 116.115(b)(2)(G) and (c); Permit No. 35215, Special Condition Nos. 1, 3, 4, and 7; and TEX. HEALTH & SAFETY CODE § 382.085(b): Failed to properly operate emission control equipment during normal operations, which resulted in an excessive emission event. Specifically, EPN No. 32 experienced a loss of ignition on February 13, 2007, which resulted in an estimated release of 79.89 lbs. of HCN, 10.65 lbs. of CO, 31.94 lbs. of NH₃, and 19.4 lbs. of C₂₀H₄₂ over a six hour period. Permitted limits are 0.0000116 lbs/hr HCN; 0.49 lbs/hr CO, 0 lbs/hr NH₃, and 0.0005 lbs/hr C₂₀H₄₂.</p> <p>March 12, 2007 Event: (violation No. 7) – 30 TEX. ADMIN. CODE §§ 101.4, 116.115(b)(2)(G) and (c); Permit No. 35215, Special Condition Nos. 1, 3, 4, and 7; and TEX. HEALTH & SAFETY CODE § 382.085(a) and (b): Failed to properly operate emission control equipment during normal operations, which resulted in the release of nuisance odors, as well as visible and excessive emissions. Specifically, EPN No. 32 experienced a loss of ignition on March 12, 2007, which resulted in continuous emissions of strong, offensive odors (as determined using TCEQ FIDO protocol) and visible emissions over a 30-minute period. In addition, the loss of ignition caused an estimated total release of 20.20 lbs of HCN, 3.32 lbs of CO, 8.27 lbs of NH₃, and 9.7 lbs of C₂₀H₄₂ over a two hour period. Permitted limits are 0.0000116 lbs/hr HCN; 0.49 lbs/hr CO, 0 lbs/hr NH₃, and 0.0005 lbs/hr C₂₀H₄₂.</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that by June 25, 2007, the Respondent performed the following corrective actions at the Plant in order to address the nuisance, reporting, and operating violations:</p> <ol style="list-style-type: none"> Created an on-going training program for personnel responsible for the operation of the TO equipment and implemented modifications to the operating procedure for introducing material into the LT furnace to minimize variable process parameters to limit temperature excursions; Dedicated an engineer to review TO logs for required reporting to the TCEQ; Established the utilization of software to capture TO temperature data in a tabular form every ten minutes during alarm conditions, enabling the analysis and timely reporting of pollutants released during a temperature excursion; and Installed additional alarm circuitry to include a high intensity strobe that cannot be reset until alarm conditions are corrected, as well as corrected temperature alarm set points to meet permit requirements. <p>The Executive Director recognizes that on August 23, 2007, Respondent submitted the emissions event reports for the February 26, 2007, and March 12, 2007, emissions events.</p>

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>3. Failed to notify the Commission of a reportable emission event no later than 24 hours after the discovery of the event. Specifically, TO No. 2C (EPN No. 32) experienced a loss of ignition on February 13, 2007, and the event was never reported to the TCEQ [30 TEX. ADMIN. CODE § 101.201(a)(1) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>		
<p>4. Failed to maintain minimum operating temperatures of 1300° F and 1500° F at the outlets of TO Nos. 1 and 2, respectively. Specifically, from October 1, 2006, through March 21, 2007, operating temperatures at TO Nos. 1 and 2 were below the permitted limit on 188 occasions [30 TEX. ADMIN. CODE § 116.115(c); Permit No. 35215, Special Condition No. 7; and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>		
<p>5. Failed to notify the Commission of a reportable emission event no later than 24 hours after the discovery of the event. Specifically, TO No. 2C (EPN No. 32) experienced a loss of ignition on March 12, 2007, and the event was never reported to the TCEQ [30 TEX. ADMIN. CODE § 101.201(a)(1) TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>		
<p>6. Failed to properly operate emission control equipment during normal operations, which resulted in an excessive emissions event. Specifically, TO No. 2C (EPN No. 32) experienced a loss of ignition on February 13, 2007, which resulted in an estimated release of 79.89 pounds (“lbs”) of hydrogen cyanide (“HCN”), 10.65 lbs carbon monoxide (“CO”), 31.94 lbs of ammonia (“NH₃”), and 19.4 lbs of n-eicosane (“C₂₀H₄₂”) over a six hour period. Permitted limits are 0.0000116 lbs/hr HCN, 0.49 lbs/hr CO, 0 lbs/hr NH₃, and 0.0005 lbs/hr C₂₀H₄₂ [30 TEX. ADMIN. CODE § 116.115(b)(2)(G) and (c); Permit No. 35215, Special Condition Nos. 1, 3, 4, and 7; and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>		
<p>7. Failed to properly operate emission control equipment during normal operations, which resulted in the release of nuisance odors, as well as visible and excessive emissions. Specifically, TO No. 2C (EPN No. 32) experienced a loss of ignition on March 12, 2007, which resulted in continuous emissions of strong, offensive odors, as determined using the TCEQ FIDO protocol, and visible emissions over a 30 minute period.</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
In addition, the loss of ignition caused an estimated total release of 20.20 lbs HCN, 3.32 lbs CO, 8.27 lbs NH ₃ , and 9.7 lbs of C ₂₀ H ₄₂ over a two-hour period. Permitted limits are 0.0000116 lbs/hr HCN, 0.49 lbs/hr CO, 0 lbs/hr NH ₃ , and 0.0005 lbs/hr C ₂₀ H ₄₂ [30 TEX. ADMIN. CODE §§ 101.4 and 116.115(b)(2)(G) and (c); Permit No. 35215, Special Condition Nos. 1, 3, 4, and 7; and TEX. HEALTH & SAFETY CODE § 382.085(a) and (b)].		



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision March 19, 2007

TCEQ

DATES	Assigned	11-Jun-2007			
	PCW	28-Sep-2009	Screening	29-Jun-2007	EPA Due

RESPONDENT/FACILITY INFORMATION					
Respondent	Zoltek Corporation				
Reg. Ent. Ref. No.	RN100543867				
Facility/Site Region	3-Abilene	Major/Minor Source	Minor		

CASE INFORMATION					
Enf./Case ID No.	33193	No. of Violations	7		
Docket No.	2007-0580-AIR-E	Order Type	Findings		
Media Program(s)	Air	Enf. Coordinator	Miriam Hall		
Multi-Media		EC's Team	EnforcementTeam 4		
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000		

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$17,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	27% Enhancement	Subtotals 2, 3, & 7	\$4,590
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Notes: The penalty was enhanced due to one prior agreed order, one prior similar NOV, and one prior dissimilar NOV.

Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
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	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes: The Respondent does not meet good faith criteria.

0% Enhancement*	Subtotal 6	\$0
Total EB Amounts	\$162	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$6,250	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$21,590
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OTHER FACTORS AS JUSTICE MAY REQUIRE		Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

Final Penalty Amount	\$21,590
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$21,590
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DEFERRAL	0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$21,590
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Screening Date 29-Jun-2007

Docket No. 2007-0580-AIR-E

PCW

Respondent Zoltek Corporation

Policy Revision 2 (September 2002)

Case ID No. 33193

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN100543867

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 (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	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 (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<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) 27%

>> **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 due to one prior agreed order, one prior similar NOV, and one prior dissimilar NOV.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 27%

Screening Date 29-Jun-2007

Docket No. 2007-0580-AIR-E

PCW

Respondent Zoltek Corporation

Policy Revision 2 (September 2002)

Case ID No. 33193

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN100543867

Media [Statute] Air

Enf. Coordinator Miriam Hall

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 101.4 and 116.115(c); Permit No. 35215, Special Condition No. 3; and Tex. Health and Safety Code § 382.085(a) and (b)

Violation Description Failed to take necessary measures to prevent the release of odors and visible emissions from the thermal oxidizer ("TO") stacks. Specifically, white smoke emissions and strong, offensive odors (as determined using TCEQ Frequency, Intensity, Duration, and Offensiveness ("FIDO") protocol) were noted as coming from the Zoltek plant for approximately 6 minutes out of a 30-minute period on February 26, 2007 from the TO exhaust stack for Process Line No. 5 (EPN No. 52).

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			x	10%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 1

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$1,000

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$16

Violation Final Penalty Total \$1,270

This violation Final Assessed Penalty (adjusted for limits) \$1,270

Economic Benefit Worksheet

Respondent Zoltek Corporation
Case ID No. 33193
Reg. Ent. Reference No. RN100543867
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

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling	\$500	26-Feb-2007	25-Jun-2007	0.3	\$8	n/a	\$8
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$500	26-Feb-2007	25-Jun-2007	0.3	\$8	n/a	\$8

Notes for DELAYED costs
 Training cost is the estimated cost of additional training and management practices to ensure proper operation of the TO unit. Other costs include the estimated cost to research and implement new maintenance procedures. Date required is the date of the first complaint investigation. Final date is the date training and additional maintenance procedures were implemented.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$1,000

TOTAL \$16

Screening Date 29-Jun-2007

Docket No. 2007-0580-AIR-E

PCW

Respondent Zoltek Corporation

Policy Revision 2 (September 2002)

Case ID No. 33193

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN100543867

Media [Statute] Air

Enf. Coordinator Miriam Hall

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 116.115(c); Permit No. 35215, Special Condition Nos. 14(a) and (b); and Tex. Health and Safety Code § 382.085(b)

Violation Description

Failed to report in writing to the TCEQ all instances of failure to maintain minimum temperatures or of any visible emissions from TO stacks. Specifically, Zoltek did not report 190 temperature excursions below the minimum operating temperature of either 1300 °F (TO Nos. 1A, 1C, and 1E) or 1500°F (TO Nos. 2A, 2C, and 2E) during the October 1, 2006 through March 21, 2007 review period. In addition, Zoltek did not report three documented instances of visible emissions from the TO stacks.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
		x			10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2 Number of violation days 171

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,000

Two quarterly events are recommended based on the October 1, 2006 through March 21, 2007 review period.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$46

Violation Final Penalty Total \$2,540

This violation Final Assessed Penalty (adjusted for limits) \$2,540

Economic Benefit Worksheet

Respondent Zoltek Corporation
Case ID No. 33193
Reg. Ent. Reference No. RN100543867
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
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$750	1-Oct-2006	25-Jun-2007	0.7	\$27	n/a	\$27
Training/Sampling	\$500	1-Oct-2006	25-Jun-2007	0.7	\$18	n/a	\$18
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost for additional training and procedures designed to ensure proper reporting practices. Date required is the start date of the review period and final date is the date additional training was completed.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$1,250

TOTAL \$46

Screening Date 29-Jun-2007

Docket No. 2007-0580-AIR-E

PCW

Respondent Zoltek Corporation

Policy Revision 2 (September 2002)

Case ID No. 33193

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN100543867

Media [Statute] Air

Enf. Coordinator Miriam Hall

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 101.201(a)(1) and Tex. Health and Safety Code § 382.085(b)

Violation Description

Failed to notify the commission of a reportable emission event no later than 24 hours after the discovery of the event. Specifically, TO No. 2C (EPN No. 32) experienced a loss of ignition on February 13, 2007, and the event was never reported to the TCEQ.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,000

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$12

Violation Final Penalty Total \$1,270

This violation Final Assessed Penalty (adjusted for limits) \$1,270

Economic Benefit Worksheet

Respondent Zoltek Corporation
Case ID No. 33193
Reg. Ent. Reference No. RN100543867
Media Air
Violation No. 3

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

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$250	13-Feb-2007	1-Feb-2008	1.0	\$12	n/a	\$12
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to procure proper record keeping procedures designed to submit final reports on time. Date Required is the due date for the report. Final Date is the estimated date of compliance.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$250

TOTAL \$12

Screening Date 29-Jun-2007

Docket No. 2007-0580-AIR-E

PCW

Respondent Zoltek Corporation

Policy Revision 2 (September 2002)

Case ID No. 33193

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN100543867

Media [Statute] Air

Enf. Coordinator Miriam Hall

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 116.115(c); Permit No. 35215, Special Condition No. 7; and Tex. Health and Safety Code § 382.085(b)

Violation Description

Failed to maintain minimum operating temperatures of 1300° F and 1500° F at the outlets of TO Nos. 1 and 2, respectively. Specifically, from October 1, 2006 through March 21, 2007, operating temperatures at TO Nos. 1 and 2 were below the permitted limit on 188 occasions.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2

171 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$2,000

Two quarterly events are recommended based on the October 1, 2006 through March 21, 2007 review period.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$37

Violation Final Penalty Total \$2,540

This violation Final Assessed Penalty (adjusted for limits) \$2,540

Economic Benefit Worksheet

Respondent Zoltek Corporation
Case ID No. 33193
Reg. Ent. Reference No. RN100543867
Media Air
Violation No. 4

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

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$1,000	1-Oct-2006	25-Jun-2007	0.7	\$37	n/a	\$37

Notes for DELAYED costs

Estimated cost for additional oversight and proper management practices designed to ensure proper operation and monitoring of emission control equipment. Date required is the start date of the review period and final date is the date of compliance.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$1,000

TOTAL \$37

Screening Date 29-Jun-2007

Docket No. 2007-0580-AIR-E

PCW

Respondent Zoltek Corporation

Policy Revision 2 (September 2002)

Case ID No. 33193

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN100543867

Media [Statute] Air

Enf. Coordinator Miriam Hall

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 101.201(a)(1) and Tex. Health and Safety Code § 382.085(b)

Violation Description Failed to notify the commission of a reportable emission event no later than 24 hours after the discovery of the event. Specifically, TO No. 2C (EPN No. 32) experienced a loss of ignition on March 12, 2007, and the event was never reported to the TCEQ.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
		Actual			
Potential					

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
			x		
100% of the rule requirement was not met.					

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 1

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$1,000

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$11

Violation Final Penalty Total \$1,270

This violation Final Assessed Penalty (adjusted for limits) \$1,270

Economic Benefit Worksheet

Respondent Zoltek Corporation
Case ID No. 33193
Reg. Ent. Reference No. RN100543867
Media Air
Violation No. 5

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

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$250	12-Mar-2007	1-Feb-2008	0.9	\$11	n/a	\$11
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to procure proper record keeping procedures designed to submit final reports on time. Date Required is the due date for the report. Final Date is the estimated date of compliance.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$250

TOTAL

\$11

Screening Date 29-Jun-2007

Docket No. 2007-0580-AIR-E

PCW

Respondent Zoltek Corporation

Policy Revision 2 (September 2002)

Case ID No. 33193

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN100543867

Media [Statute] Air

Enf. Coordinator Miriam Hall

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code § 116.115(b)(2)(G) and (c); Permit No. 35215, Special Condition Nos. 1, 3, 4, and 7; and Tex. Health and Safety Code § 382.085(b)

Violation Description Failed to properly operate emission control equipment during normal operations, which resulted in an excessive emission event. Specifically, TO No. 2C (EPN No. 32) experienced a loss of ignition on February 13, 2007, which resulted in an estimated release of 79.89 lbs of hydrogen cyanide ("HCN"), 10.65 lbs of carbon monoxide ("CO"), 31.94 lbs of ammonia ("NH3"), and 19.4 lbs of n-eicosane ("C20H42") over a six hour period (permitted limits are 0.0000116 lbs/hr HCN; 0.49 lbs/hr CO, 0 lbs/hr NH3, and 0.0005 lbs/hr C20H42). Since this was determined to be an excessive emission event, the affirmative defense in 30 Tex. Admin. Code § 101.222 is not applicable.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm				Percent
	Release	Major	Moderate	Minor	
	Actual	x			
	Potential				50%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 1 Number of violation days 1

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

Violation Base Penalty \$5,000

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$18

Violation Final Penalty Total \$6,350

This violation Final Assessed Penalty (adjusted for limits) \$6,350

Economic Benefit Worksheet

Respondent Zoltek Corporation
Case ID No. 33193
Reg. Ent. Reference No. RN100543867
Media Air
Violation No. 6

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

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$1,000	13-Feb-2007	25-Jun-2007	0.4	\$18	n/a	\$18

Notes for DELAYED costs

Estimated cost for additional oversight and proper management practices designed to ensure proper operation and monitoring of emission control equipment. Date required is the date of the emission event and final date is the date the Corrective Action Plan was submitted and completed.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$18

Screening Date 29-Jun-2007

Docket No. 2007-0580-AIR-E

PCW

Respondent Zoltek Corporation

Policy Revision 2 (September 2002)

Case ID No. 33193

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN100543867

Media [Statute] Air

Enf. Coordinator Miriam Hall

Violation Number 7

Rule Cite(s)

30 Tex. Admin. Code §§ 101.4, 116.115(b)(2)(G) and (c); Permit No. 35215, Special Condition Nos. 1, 3, 4, and 7; and Tex. Health and Safety Code § 382.085(a) and (b)

Violation Description

Failed to properly operate emission control equipment during normal operations, which resulted in the release of nuisance odors, as well as visible and excessive emissions. Specifically, TO No. 2C (EPN No. 32) experienced a loss of ignition on March 12, 2007, which resulted in continuous emissions of strong, offensive odors (as determined using TCEQ FIDO protocol) and visible emissions over a 30-minute period. In addition, the loss of ignition caused an estimated total release of 20.20 lbs of HCN, 3.32 lbs of CO, 8.27 lbs of NH3, and 9.7 lbs of C20H42 over a two hour period (permitted limits are 0.0000116 lbs/hr HCN; 0.49 lbs/hr CO, 0 lbs/hr NH3, and 0.0005 lbs/hr C20H42). Since this was determined to be an excessive emission event, the affirmative defense in 30 Tex. Admin. Code § 101.222 is not applicable.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	x		
Potential			

Percent 50%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$5,000

\$5,000

Violation Events

1

1

Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$5,000

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$22

Violation Final Penalty Total \$6,350

This violation Final Assessed Penalty (adjusted for limits) \$6,350

Economic Benefit Worksheet

Respondent Zoltek Corporation
Case ID No. 33193
Reg. Ent. Reference No. RN100543867
Media Air
Violation No. 7

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

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$1,500	12-Mar-2007	25-Jun-2007	0.3	\$22	n/a	\$22

Notes for DELAYED costs

Estimated cost for additional oversight and proper management practices designed to ensure proper operation and monitoring of emission control equipment. Date required is the date of the emission event and final date is the date the Corrective Action Plan was submitted and completed.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$1,500

TOTAL \$22

Compliance History

Customer/Respondent/Owner-Operator:	CN600255046 ZOLTEK CORPORATION	Classification: AVERAGE	Rating: 16.25
Regulated Entity:	RN100543867 ZOLTEK	Classification: AVERAGE	Site Rating: 16.25
ID Number(s):	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXR000057026
	AIR NEW SOURCE PERMITS	PERMIT	35215
	AIR NEW SOURCE PERMITS	PERMIT	37533
	AIR NEW SOURCE PERMITS	PERMIT	40654
	AIR NEW SOURCE PERMITS	PERMIT	44848
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	TB0267M
	AIR NEW SOURCE PERMITS	REGISTRATION	54993
	AIR NEW SOURCE PERMITS	REGISTRATION	82095
	STORMWATER	PERMIT	TXRNEP483
Location:	1221 FULWILER RD, ABILENE, TX, 79603	Rating Date: September 01 06	Repeat Violator: NO
TCEQ Region:	REGION 03 - ABILENE		
Date Compliance History Prepared:	August 15, 2007		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	August 15, 2002 to August 15, 2007		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History:			
Name:	Lindsey Jones	Phone:	512-239-4930

Site Compliance History Components

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

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
- | | |
|--|----------------------------|
| Effective Date: 05/28/2006 | ADMINORDER 2005-1983-IWD-E |
| Classification: Moderate | |
| Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1) | |
| Description: Failure to prevent the unauthorized discharge of industrial waste water | |
- 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 | 01/21/2004 | (259370) |
| 2 | 04/01/2005 | (374544) |
| 3 | 07/31/2006 | (466597) |
| 4 | 11/27/2006 | (531756) |
| 5 | 06/08/2007 | (543845) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- | | | |
|------------------|--|--------------------------|
| Date: 12/07/2004 | (340760) | |
| Self Report? | NO | Classification: Major |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a)(1) | |
| Description: | Failed to prevent the unauthorized discharge of untreated industrial process waste water into the roadside ditch. | |
| Self Report? | NO | Classification: Moderate |
| Citation: | 30 TAC Chapter 335, SubChapter C 335.63(a) | |
| Description: | Failure to obtain an Environmental Protection Agency (EPA) ID Number. | |
| Self Report? | NO | Classification: Moderate |
| Citation: | 30 TAC Chapter 335, SubChapter C 335.69(b) | |
| Description: | Failure to acquire a permit for storing hazardous waste longer than 90 days. | |
| Self Report? | NO | Classification: Moderate |
| Citation: | 30 TAC Chapter 335, SubChapter C 335.62 | |
| Description: | Failure to perform waste determination on waste produced at the facility after a change in process. | |
| Date: 07/24/2006 | (466597) | |
| Self Report? | NO | Classification: Moderate |
| Citation: | 30 TAC Chapter 116, SubChapter B 116.115(c) | |
| Description: | Zoltek failed to meet the Demonstration Criteria set forth in of 30 Tex. Admin. Code § 101.222(b) and are not subject to an affirmative defense. Zoltek failed to create and maintain a final record for non-reportable emissions events that occurred on March 3, 2006 and May 1, 2006. | |
| Self Report? | NO | Classification: Moderate |
| Citation: | 30 TAC Chapter 116, SubChapter B 116.115(c) | |
| Description: | Zoltek failed to report the emissions events to the TCEQ within 24 hours of discovery as required by 30 Texas Admin Code 101.201(a)(1)(B) | |
- 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
ZOLTEK CORPORATION
RN100543867**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2007-0580-AIR-E**

At its _____ agenda, the Texas Commission on Environmental Quality (“Commission” or “TCEQ”) considered this agreement of the parties, resolving an enforcement action regarding Zoltek Corporation (“Zoltek”) under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE ch. 382. The Executive Director of the TCEQ, represented by the Litigation Division, and Zoltek, represented by Celina Romero of the law firm Clark, Thomas & Winters, and presented this agreement to the Commission.

Zoltek understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, Zoltek agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon Zoltek.

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Zoltek owns and operates a polyacrylonitrile carbon fiber manufacturing plant located at 1221 Fulwiler Road, Abilene, Taylor County, Texas (the “Plant”).
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).

3. During an investigation conducted on February 26, 2007, a TCEQ Abilene Regional Office investigator documented that Zoltek failed to take necessary measures to prevent the release of odors and visible emissions from the thermal oxidizer (“TO”) stacks. Specifically, white smoke emissions and strong, offensive odors, as determined by using TCEQ Frequency, Intensity, Duration, and Offensiveness (“FIDO”) protocol, were noted as coming from the Plant for approximately 6 minutes out of a 30 minute period on February 26, 2007, from the TO exhaust stack for Process Line No. 5 (EPN No. 52).
4. During an investigation conducted on March 21-27, 2007, a TCEQ Abilene Regional Office investigator documented that Zoltek:
 - a. Failed to report in writing to the TCEQ all instances of failure to maintain minimum temperatures or of any visible emissions from TO stacks. Specifically, Zoltek did not report 190 temperature excursions below the minimum operating temperature of either 1300° F (TO Nos. 1A, 1C, and 1E) and 1500° F (TO Nos. 2A, 2C, and 2E) during the October 1, 2006 through March 21, 2007, review period. In addition, Zoltek did not report three documented instances of visible emissions from the TO stacks.
 - b. Failed to notify the Commission of a reportable emission event no later than 24 hours after the discovery of the event. Specifically, TO No. 2C (EPN No. 32) experienced a loss of ignition on February 13, 2007, and the event was never reported to the TCEQ.
 - c. Failed to maintain minimum operating temperatures of 1300° F and 1500° F at the outlets of TO Nos. 1 and 2, respectively. Specifically, from October 1, 2006, through March 21, 2007, operating temperatures at TO Nos. 1 and 2 were below the permitted limit on 188 occasions.
 - d. Failed to notify the Commission of a reportable emission event no later than 24 hours after the discovery of the event. Specifically, TO No. 2C (EPN No. 32) experienced a loss of ignition on March 12, 2007, and the event was never reported to the TCEQ.
 - e. Failed to properly operate emission control equipment during normal operations, which resulted in an excessive emissions event. Specifically, TO No. 2C (EPN No. 32) experienced a loss of ignition on February 13, 2007, which resulted in an estimated release of 79.89 pounds (“lbs”) of hydrogen cyanide (“HCN”), 10.65 lbs carbon monoxide (“CO”), 31.94 lbs of ammonia (“NH₃”), and 19.4 lbs of n-eicosane (“C₂₀H₄₂”) over a six hour period. Permitted limits are 0.0000116 lbs/hr HCN, 0.49 lbs/hr CO, 0 lbs/hr NH₃, and 0.0005 lbs/hr C₂₀H₄₂. Since this was determined to be an excessive emission event, the affirmative defense in 30 TEX. ADMIN. CODE § 101.222 is not applicable.

- f. Failed to properly operate emission control equipment during normal operations, which resulted in the release of nuisance odors, as well as visible and excessive emissions. Specifically, TO No. 2C (EPN No. 32) experienced a loss of ignition on March 12, 2007, which resulted in continuous emissions of strong, offensive odors, as determined using the TCEQ FIDO protocol, and visible emissions over a 30 minute period. In addition, the loss of ignition caused an estimated total release of 20.20 lbs HCN, 3.32 lbs CO, 8.27 lbs NH₃, and 9.7 lbs of C₂₀H₄₂ over a two-hour period. Permitted limits are 0.0000116 lbs/hr HCN, 0.49 lbs/hr CO, 0 lbs/hr NH₃, and 0.0005 lbs/hr C₂₀H₄₂. Since this was determined to be an excessive emission event, the affirmative defense in 30 TEX. ADMIN. CODE § 101.222 is not applicable.
5. Zoltek received notice of the violations in Finding of Fact No. 3 on or about March 18, 2007. Zoltek received notice of the violations in Finding of Fact Nos. 4.a. through 4.f. on or about June 13, 2007.
6. The Executive Director recognizes that by June 25, 2007, Zoltek implemented the following corrective measures at the Plant in order to address the nuisance, reporting, and operating violations:
 - a. Created an on-going training program for personnel responsible for the operation of the TO equipment and implemented modifications to the operating procedure for introducing material into the LT furnace to minimize variable process parameters to limit temperature excursions;
 - b. Dedicated an engineer to review TO logs for required reporting to the TCEQ;
 - c. Established the utilization of software to capture TO temperature data in a tabular form every ten minutes during alarm conditions, enabling the analysis and timely reporting of pollutants released during a temperature excursion; and
 - d. Installed additional alarm circuitry to include a high intensity strobe that cannot be reset until alarm conditions are corrected, as well as corrected temperature alarm set points to meet permit requirements.
7. The Executive Director recognizes that on August 23, 2007, Zoltek submitted the emissions event reports for the February 26, 2007, and March 12, 2007, emissions events.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Zoltek is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE ch. 382, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, Zoltek failed to take necessary measures to prevent the release of odors and visible emissions from the TO stacks, in violation of 30 TEX. ADMIN. CODE §§ 101.4 and 116.115(c), Permit No. 35215, Special Condition No. 3, and TEX. HEALTH & SAFETY CODE § 382.085(a) and (b).
3. As evidenced by Finding of Fact No. 4.a., Zoltek failed to report in writing to the TCEQ all instances of failing to maintain minimum temperatures and of any visible emissions from TO stacks, in violation of 30 TEX. ADMIN. CODE § 116.115(c), Permit No. 35215, Special Condition Nos. 14(a) and (b), and TEX. HEALTH & SAFETY CODE § 382.085(b).
4. As evidenced by Finding of Fact No. 4.b., Zoltek failed to notify the Commission of a reportable emission event no later than 24 hours after the discovery of the event, in violation of 30 TEX. ADMIN. CODE § 101.201(a)(1) and TEX. HEALTH & SAFETY CODE § 382.085(b).
5. As evidenced by Finding of Fact No. 4.c., Zoltek failed to maintain minimum operating temperatures of 1300° F and 1500° F at the outlets of TO Nos. 1 and 2, respectively, in violation of 30 TEX. ADMIN. CODE § 116.115(c), Permit No. 35215, Special Condition No. 7, and TEX. HEALTH & SAFETY CODE § 382.085(b).
6. As evidenced by Finding of Fact No. 4.d., Zoltek failed to notify the Commission of a reportable emission event no later than 24 hours after the discovery of the event, in violation of 30 TEX. ADMIN. CODE § 101.201(a)(1) and TEX. HEALTH & SAFETY CODE § 382.085(b).
7. As evidenced by Finding of Fact No. 4.e., Zoltek failed to properly operate emissions control equipment during normal operations, which resulted in an excessive emission event, in violation of 30 TEX. ADMIN. CODE § 116.115(b)(2)(G) and (c), Permit No. 35215, Special Condition Nos. 1, 3, 4, and 7, and TEX. HEALTH & SAFETY CODE § 382.085(b).
8. As evidenced by Finding of Fact No. 4.f., Zoltek failed to properly operate emission control equipment during normal operations, which resulted in the release of nuisance odors, as well as visible and excessive emissions, in violation of 30 TEX. ADMIN. CODE §§ 101.4, and 116.115(b)(2)(G) and (c), Permit No. 35215, Special Condition Nos. 1, 3, 4, and 7, and TEX. HEALTH & SAFETY CODE § 382.085(a) and (b).

9. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Zoltek for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
10. An administrative penalty in the amount of twenty-one thousand five hundred ninety dollars (\$21,590.00) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Zoltek paid twenty-one thousand five hundred ninety dollars (\$21,590.00) of the administrative penalty.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Zoltek is assessed an administrative penalty in the amount of twenty-one thousand five hundred ninety dollars (\$21,590.00) as set forth in Conclusion of Law No. 10 for violations of TCEQ rules and state statutes. The payment of this administrative penalty and Zoltek's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here.
2. The provisions of this Agreed Order shall apply to and be binding upon Zoltek. Zoltek is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
3. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Zoltek if the Executive Director determines that Zoltek has not complied with one or more of the terms or conditions in this Agreed Order.
4. 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.
5. This Agreed Order, issued by the Commission, shall not be admissible against Zoltek 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.

6. 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.
7. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date is the date of hand-delivery of this Agreed Order to Zoltek, or three days after the date on which the Commission mails notice of this Agreed Order to Zoltek, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John R. Penland
For the Executive Director

1/7/2010
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Zoltek Corporation. I represent that I am authorized to agree to the attached Agreed Order on behalf of Zoltek Corporation, and do agree to the specified terms and conditions. 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 in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on Zoltek's compliance history;
- Greater scrutiny of any permit applications submitted by Zoltek;
- 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 against Zoltek;
- Automatic referral to the Attorney General's Office of any future enforcement actions against Zoltek; and
- TCEQ seeking other relief as authorized by law.

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

Zolt Runk
Signature

30 Dec 09
Date

ZOLT RUNK
Name (printed or typed)
Authorized Representative
Zoltek Corporation

CHAIRMAN / CEO
Title