

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-1079-AIR-E **TCEQ ID:** RN100224674 and RN100706803 **CASE NO.:** 37937

RESPONDENT NAME: Oxy Vinyls, LP

| | | |
|--|---|--|
| 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 AND HAZARDOUS WASTE |
| <input type="checkbox"/> PUBLIC WATER SUPPLY | <input type="checkbox"/> PETROLEUM STORAGE TANKS | <input type="checkbox"/> OCCUPATIONAL CERTIFICATION |
| <input type="checkbox"/> WATER QUALITY | <input type="checkbox"/> SEWAGE SLUDGE | <input type="checkbox"/> UNDERGROUND INJECTION CONTROL |
| <input type="checkbox"/> MUNICIPAL SOLID WASTE | <input type="checkbox"/> RADIOACTIVE WASTE | <input type="checkbox"/> DRY CLEANER REGISTRATION |
| <p>SITE WHERE VIOLATION(S) OCCURRED: Geon-Oxy Vinyl, 2400 Miller Cut Off Road, La Porte, and Oxy Vinyls Deer Park VCM Plant, 851 Tidal Road, Deer Park, Harris County</p> <p>TYPE OF OPERATION: Chemical manufacturing plants</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding these facility locations.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on December 28, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732 TCEQ Enforcement Coordinator: Ms. Rebecca Johnson, Enforcement Division, Enforcement Team 5, MC R-14, (361) 825-3420; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Mark Woodall, Environmental Manager, Oxy Vinyls, LP, 2400 Miller Cut Off Road, La Porte, Texas 77571 Mr. Stephen R. Fitzgerald, Senior Vice President of Manufacturing, Engineering, and Technology, Oxy Vinyls, LP, 2400 Miller Cut Off Road, La Porte, Texas 77571 Respondent's Attorney: Not represented by counsel on this enforcement matter</p> | | |

VIOLATION SUMMARY CHART:

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|---|---|---|
| <p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: January 26, February 17, and May 14, 2009</p> <p>Date of NOV/NOE Relating to this Case: July 1 and July 10, 2009 (NOE)</p> <p>Background Facts: This was a routine investigation and record reviews.</p> <p>AIR</p> <p>1) Failure to prevent unauthorized emissions during Incident No. 112879. Specifically, during the August 20, 2008 emissions event the following unauthorized emissions were released from piping associated with Cracking Furnace E over a period of 12 hours and 47 minutes when a crack developed and the exiting materials ignited: 11,751 pounds ("lbs") of hydrochloric acid, 381 lbs of 1,2-dichloroethane, 36.20 lbs of nitrogen oxides, 4 lbs of carbon monoxide, 2.4 lbs of vinyl chloride, 0.53 lb of trichloroethylene, 0.12 lb of carbon tetrachloride, 0.11 lb of 1,1,2-trichloroethane, and 0.01 lb of chloroform. Since the emissions event was excessive and could have been avoided through better operational practices, the demonstration criteria for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222 were not met [Air Permit No. 3855B and PSD-TX-876, Special Condition No. 1, 30 TEX. ADMIN. CODE § 116.115(c), and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>2) Failure to prevent unauthorized emissions during Incident No. 123174. Specifically, during the April 22, 2009 emissions event 195 lbs of unauthorized vinyl chloride emissions were released from a pressure relief valve over a period</p> | <p>Total Assessed: \$24,850</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$12,425</p> <p>Total Paid (Due) to General Revenue: \$12,425</p> <p>RN100224674 and RN100706803 Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Orders Justification: This case involves unauthorized emissions which have been deemed excessive. Human health or the environment has been exposed to an excessive amount of hazardous air pollutants which modeling predicted to have exceeded the TCEQ 1-hour short term Effects Screening Level.</p> | <p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plants:</p> <p>a. On September 23, 2009, completed implementation of all the corrective actions identified in the Corrective Action Plan ("CAP") for Incident No. 112879, which was subsequently approved on October 6, 2009. The CAP included upgrading the insulation on all furnace "exit-Y" piping to better minimize the potential for rainwater exposure, adding cover plates to the decks above the "exit-Y" piping to direct rainfall away from the piping, updating the operating checklist to require that the "exit-Y" piping insulation be inspected prior to furnace start up, modifications to the monthly critical items checklist to verify that the "exit-Y" piping insulation is in place, and modifications to the maintenance work order instruction requiring verification that the insulation covering on "exit-Y" piping is intact after maintenance work has been completed;</p> <p>b. Developed a preventative maintenance and testing procedure for pressure switches in response to Incident No. 123174. Implementation and employee training on the new procedure was completed by July 23, 2009; and</p> <p>c. On May 31, 2009, completed implementation of a portion of the corrective actions identified in the CAP for Incident No. 116828, which was approved on September 29, 2009. The corrective actions implemented included furnace operations refresher training for all operations, maintenance, and technical personnel working in the furnace area, enhancements to the furnace operating procedures, updating the process log sheets, and training of all affected employees on the procedure and log sheet changes.</p> |

| | | |
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| <p>of one minute when the North Hydrochloric Acid Stripping Column overpressured. Since the emissions event could have been avoided through better operational practices, the demonstration criteria for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222 were not met [Air Permit No. 3855B and PSD-TX-876, Special Condition No. 1, 30 TEX. ADMIN. CODE § 116.115(c), and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>3) Failure to prevent unauthorized emissions during Incident No. 116828. Specifically, during the November 18, 2008 emissions event the following unauthorized emissions were released from Cracking Furnace F6203 over a period of one hour and 54 minutes when a tube failed and caused the contents to ignite and burn: 57,248 lbs of hydrochloric acid, 6,358 lbs of carbon monoxide, 677 lbs of ethylene dichloride, 261 lbs of vinyl chloride, 39 lbs of nitrogen oxides, 16 lbs of other volatile organic compounds, 1 lb of benzene, and 1 lb of chloroform. Since the emissions event was excessive and could have been avoided through better operational practices, the demonstration criteria for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222 were not met [Air Permit No. 4943B, Special Condition No. 1, 30 TEX. ADMIN. CODE § 116.115(c), and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> | | <p>Ordering Provisions:</p> <p>1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p> <p>2) The Order will also require the Respondent to:</p> <p>a. Implement the remaining corrective action identified in the CAP for Incident No. 116828, in accordance with the schedule submitted on September 17, 2009 and approved on September 29, 2009;</p> <p>b. Upon completion of CAP implementation, submit written certification to demonstrate compliance with Ordering Provision No. 2.a; and</p> <p>c. Written certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.b.</p> |
|--|--|---|

Additional ID No(s): HG0193B, HG1939G

Attachment A

Docket Number: 2009-1079-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Oxy Vinyls, LP
Payable Penalty Amount: Twenty-Four Thousand Eight Hundred Fifty Dollars (\$24,850)
SEP Amount: Twelve Thousand Four Hundred Twenty-Five Dollars (\$12,425)
Type of SEP: Pre-approved
Third-Party Recipient: Houston Regional Monitoring Corporation - Houston Area Monitoring
Location of SEP: Harris County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

Performing Party shall use SEP Funds to operate, maintain, and potentially expand portions of the existing Houston Regional Monitoring Corporation Ambient Air Quality Monitoring Network in the Houston area in order to continue to provide information on data quality and trends to the public, TCEQ, and industry representatives. SEP funds may be used to operate a single monitoring site or multiple sites contingent upon the amount of SEP funds provided.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

Data from this monitoring may be used to evaluate the effectiveness of current emission control strategies, track ambient concentration trends for key pollutants of interest, evaluate episodic emission events, conduct source attribution studies, and assess potential community exposure to toxic air contaminants. Performing party notifies the TCEQ on a quarterly basis of all exceedences of the National Ambient Air Quality Standards ("NAAQS") that it measures at its monitoring stations. The TCEQ uses this information, along with information collected at its own monitors and monitors operated by the City of Houston, to evaluate Houston's progress toward achieving or remaining in attainment of the NAAQS.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Houston Regional Monitoring Corporation. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Christopher B. Amandes
Vinson & Elkins LLP
First City Tower
1001 Fannin Street, Suite 2500
Houston, TX 77002-6760

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

| | | | | | | |
|--------------|----------|------------|-----------|------------|---------|-------------|
| DATES | Assigned | 3-Aug-2009 | Screening | 3-Aug-2009 | EPA Due | 28-Mar-2010 |
| | PCW | 3-Aug-2009 | | | | |

| | | | |
|--|----------------|--------------------|-------|
| RESPONDENT/FACILITY INFORMATION | | | |
| Respondent | Oxy Vinyls, LP | | |
| Reg. Ent. Ref. No. | RN100706803 | | |
| Facility/Site Region | 12-Houston | Major/Minor Source | Major |

| | | | |
|---------------------------------|-----------------|-----------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 37937 | No. of Violations | 1 |
| Docket No. | 2009-1079-AIR-E | Order Type | Findings |
| Media Program(s) | Air | Government/Non-Profit | No |
| Multi-Media | | Enf. Coordinator | Rebecca Johnson |
| | | EC's Team | Enforcement Team 5 |
| Admin. Penalty \$ Limit Minimum | \$0 | Maximum | \$10,000 |

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$10,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 14.0% Enhancement **Subtotals 2, 3, & 7** \$1,400

Notes: Penalty enhancement due to two NOV's issued for same or similar violations and three NOV's issued for unrelated violations. Penalty reduction due to two Notices of Intended Audits submitted.

Culpability No 0.0% Enhancement **Subtotal 4** \$0

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** \$0

Economic Benefit 0.0% Enhancement **Subtotal 6** \$0

Total EB Amounts \$678
 Approx. Cost of Compliance \$10,000
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$11,400

OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% **Adjustment** \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount \$11,400

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$10,000

DEFERRAL 0.0% Reduction **Adjustment** \$0

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

Notes:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY \$10,000

Screening Date 3-Aug-2009
Respondent Oxy Vinyls, LP
Case ID No. 37937
Reg. Ent. Reference No. RN100706803
Media [Statute] Air
Enf. Coordinator Rebecca Johnson

Docket No. 2009-1079-AIR-E

PCW

Policy Revision 2 (September 2002)
PCW Revision October 30, 2009

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 | 3 | 6% |
| Orders | Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i> | 0 | 0% |
| | 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> | 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> | 0 | 0% |

Please Enter Yes or No

| | | | |
|-------|---|----|----|
| Other | Environmental management systems in place for one year or more | No | 0% |
| | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program | No | 0% |
| | Participation in a voluntary pollution reduction program | No | 0% |
| | Early compliance with, or offer of a product that meets future state or federal government environmental requirements | No | 0% |

Adjustment Percentage (Subtotal 2) 14%

>> **Repeat Violator (Subtotal 3)**

No

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

Penalty enhancement due to two NOVs issued for same or similar violations and three NOVs issued for unrelated violations. Penalty reduction due to two Notices of Intended Audits submitted.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 14%

| | | | | | | | | | | | | | | | | | | |
|---|--|--|--|--|-------------------------------|--------------------------|--------------------------|--------------------------|-----------|--------------------------|--------------------------|--------------------------|-------------------------------------|--------------------------|--------------|--------------------------|--|--|
| Screening Date 3-Aug-2009 | Docket No. 2009-1079-AIR-E | PCW | | | | | | | | | | | | | | | | |
| Respondent Oxy Vinyls, LP | | <i>Policy Revision 2 (September 2002)</i> | | | | | | | | | | | | | | | | |
| Case ID No. 37937 | | <i>PCW Revision October 30, 2008</i> | | | | | | | | | | | | | | | | |
| Reg. Ent. Reference No. RN100708803 | | | | | | | | | | | | | | | | | | |
| Media [Statute] Air | | | | | | | | | | | | | | | | | | |
| Enf. Coordinator Rebecca Johnson | | | | | | | | | | | | | | | | | | |
| Violation Number <input type="text" value="1"/> | | | | | | | | | | | | | | | | | | |
| Rule Cite(s) | Air Permit No. 4943B, Special Condition No. 1, 30 Tex. Admin. Code § 116.115(c), and Tex. Health & Safety Code § 382.085(b) | | | | | | | | | | | | | | | | | |
| Violation Description | Failed to prevent unauthorized emissions during Incident No. 116828. Specifically, during the November 18, 2008 emissions event the following unauthorized emissions were released from Cracking Furnace F6203 over a period of one hour and 54 minutes when a tube failed and caused the contents to ignite and burn: 57,248 pounds ("lbs") of hydrochloric acid, 6,358 lbs of carbon monoxide, 677 lbs of ethylene dichloride, 261 lbs of vinyl chloride, 39 lbs of nitrogen oxides, 16 lbs of other volatile organic compounds, 1 lb of benzene, and 1 lb of chloroform. Since the emissions event was excessive and could have been avoided through better operational practices, the demonstration criteria for an affirmative defense in 30 Tex. Admin. Code § 101.222 were not met. | | | | | | | | | | | | | | | | | |
| | Base Penalty | <input type="text" value="\$10,000"/> | | | | | | | | | | | | | | | | |
| >> Environmental, Property and Human Health Matrix | | | | | | | | | | | | | | | | | | |
| OR | Harm | | | | | | | | | | | | | | | | | |
| | Release | Major | Moderate | Minor | | | | | | | | | | | | | | |
| Actual | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | | | | | | | | | | | | | | | |
| Potential | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Percent <input type="text" value="100%"/> | | | | | | | | | | | | | | |
| >> Programmatic Matrix | | | | | | | | | | | | | | | | | | |
| | Falsification | Major | Moderate | Minor | | | | | | | | | | | | | | |
| | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | | | | | | | | | | | | | | |
| | | | | Percent <input type="text" value="0%"/> | | | | | | | | | | | | | | |
| Matrix Notes | Human health or the environment have been exposed to an excessive amount of hazardous air pollutants which modeling predicted to have exceeded the TCEQ 1-hour short term Effects Screening Level by 19,430%. | | | | | | | | | | | | | | | | | |
| | Adjustment | <input type="text" value="\$0"/> | | | | | | | | | | | | | | | | |
| | | | | <input type="text" value="\$10,000"/> | | | | | | | | | | | | | | |
| Violation Events | | | | | | | | | | | | | | | | | | |
| | Number of Violation Events | <input type="text" value="1"/> | Number of violation days | <input type="text" value="1"/> | | | | | | | | | | | | | | |
| | | <table border="1" style="border-collapse: collapse;"> <tr><td>daily</td><td style="text-align: center;"><input checked="" type="checkbox"/></td></tr> <tr><td>weekly</td><td style="text-align: center;"><input type="checkbox"/></td></tr> <tr><td>monthly</td><td style="text-align: center;"><input type="checkbox"/></td></tr> <tr><td>quarterly</td><td style="text-align: center;"><input type="checkbox"/></td></tr> <tr><td>semiannual</td><td style="text-align: center;"><input type="checkbox"/></td></tr> <tr><td>annual</td><td style="text-align: center;"><input type="checkbox"/></td></tr> <tr><td>single event</td><td style="text-align: center;"><input type="checkbox"/></td></tr> </table> | daily | <input checked="" type="checkbox"/> | weekly | <input type="checkbox"/> | monthly | <input type="checkbox"/> | quarterly | <input type="checkbox"/> | semiannual | <input type="checkbox"/> | annual | <input type="checkbox"/> | single event | <input type="checkbox"/> | | |
| daily | <input checked="" type="checkbox"/> | | | | | | | | | | | | | | | | | |
| weekly | <input type="checkbox"/> | | | | | | | | | | | | | | | | | |
| monthly | <input type="checkbox"/> | | | | | | | | | | | | | | | | | |
| quarterly | <input type="checkbox"/> | | | | | | | | | | | | | | | | | |
| semiannual | <input type="checkbox"/> | | | | | | | | | | | | | | | | | |
| annual | <input type="checkbox"/> | | | | | | | | | | | | | | | | | |
| single event | <input type="checkbox"/> | | | | | | | | | | | | | | | | | |
| <i>mark only one with an x</i> | | | Violation Base Penalty | <input type="text" value="\$10,000"/> | | | | | | | | | | | | | | |
| | <input type="text" value="One daily event is recommended based on the November 18, 2008 emissions event."/> | | | | | | | | | | | | | | | | | |
| Good Faith Efforts to Comply | | | 0.0% Reduction | <input type="text" value="\$0"/> | | | | | | | | | | | | | | |
| | | <table border="1" style="border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;">Before NOV</td> <td style="text-align: center;">NOV to EDPRP/Settlement Offer</td> </tr> <tr> <td>Extraordinary</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>Ordinary</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>N/A</td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;">(mark with x)</td> </tr> </table> | | Before NOV | NOV to EDPRP/Settlement Offer | Extraordinary | <input type="checkbox"/> | <input type="checkbox"/> | Ordinary | <input type="checkbox"/> | <input type="checkbox"/> | N/A | <input checked="" type="checkbox"/> | (mark with x) | | | | |
| | Before NOV | NOV to EDPRP/Settlement Offer | | | | | | | | | | | | | | | | |
| Extraordinary | <input type="checkbox"/> | <input type="checkbox"/> | | | | | | | | | | | | | | | | |
| Ordinary | <input type="checkbox"/> | <input type="checkbox"/> | | | | | | | | | | | | | | | | |
| N/A | <input checked="" type="checkbox"/> | (mark with x) | | | | | | | | | | | | | | | | |
| Notes | The Respondent does not meet the good faith criteria for this violation. | | | | | | | | | | | | | | | | | |
| | Violation Subtotal | <input type="text" value="\$10,000"/> | | | | | | | | | | | | | | | | |
| Economic Benefit (EB) for this violation | | | Statutory Limit Test | | | | | | | | | | | | | | | |
| | Estimated EB Amount | <input type="text" value="\$678"/> | Violation Final Penalty Total | <input type="text" value="\$11,400"/> | | | | | | | | | | | | | | |
| | | | This violation Final Assessed Penalty (adjusted for limits) | <input type="text" value="\$10,000"/> | | | | | | | | | | | | | | |

Economic Benefit Worksheet

Respondent: Oxy Vinyls, LP
Case ID No.: 37937
Reg. Ent. Reference No.: RN100706803
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 | | | | 0.00 | \$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) | \$10,000 | 18-Nov-2008 | 28-Mar-2010 | 1.36 | \$678 | n/a | \$678 |

Notes for DELAYED costs

Estimated cost to implement measures designed to prevent furnace tube failure. The date required is the date of the emissions event. The final date is the projected date corrective actions will be completed.

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

\$10,000

TOTAL

\$678



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

| | | | | | | |
|--------------|----------|-------------|-----------|-------------|---------|-------------|
| DATES | Assigned | 3-Aug-2009 | Screening | 13-Jul-2009 | EPA Due | 28-Mar-2010 |
| | PCW | 21-Oct-2009 | | | | |

RESPONDENT/FACILITY INFORMATION

| | | | |
|----------------------|----------------|--------------------|-------|
| Respondent | Oxy Vinyls, LP | | |
| Reg. Ent. Ref. No. | RN100224674 | | |
| Facility/Site Region | 12-Houston | Major/Minor Source | Major |

CASE INFORMATION

| | | | |
|---------------------------------|-----------------|-----------------------|--------------------|
| Enf./Case ID No. | 37937 | No. of Violations | 2 |
| Docket No. | 2009-1079-AIR-E | Order Type | Findings |
| Media Program(s) | Air | Government/Non-Profit | No |
| Multi-Media | | Enf. Coordinator | Rebecca Johnson |
| | | EC's Team | Enforcement Team 5 |
| Admin. Penalty \$ Limit Minimum | \$0 | Maximum | \$10,000 |

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 \$12,500

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 104.0% Enhancement Subtotals 2, 3, & 7 \$13,000

Notes: Penalty enhancement due to five NOV's issued for same or similar violations, one NOV issued for unrelated violations, and four agreed orders with a denial of liability. Penalty reduction due to three Notices of Intended Audits submitted.

Culpability No 0.0% Enhancement Subtotal 4 \$0

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments Subtotal 5 \$250

Economic Benefit 0.0% Enhancement* Subtotal 6 \$0

Total EB Amounts \$307
 Approx. Cost of Compliance \$11,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal \$25,250

OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$25,250

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty \$14,850

DEFERRAL 0.0% Reduction Adjustment \$0

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

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY \$14,850

Screening Date 13-Jul-2009

Docket No. 2009-1079-AIR-E

PCW

Respondent Oxy Vinyls, LP

Policy Revision 2 (September 2002)

Case ID No. 37937

PCW Revision October 30, 2000

Reg. Ent. Reference No. RN100224674

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

| Component | Number of... | Enter Number Here | Adjust. |
|-------------------------------|--|-------------------|---------|
| NOVs | Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria) | 5 | 25% |
| | Other written NOVs | 1 | 2% |
| Orders | Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria) | 4 | 80% |
| | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0 | 0% |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria) | 0 | 0% |
| | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government | 0 | 0% |
| Convictions | Any criminal convictions of this state or the federal government (number of counts) | 0 | 0% |
| Emissions | Chronic excessive emissions events (number of events) | 0 | 0% |
| Audits | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted) | 3 | -3% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed) | 0 | 0% |
| <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) 104%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Penalty enhancement due to five NOVs issued for same or similar violations, one NOV issued for unrelated violations, and four agreed orders with a denial of liability. Penalty reduction due to three Notices of Intended Audits submitted.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 104%

Economic Benefit Worksheet

Respondent Oxy Vinyls, LP
Case ID No. 37937
Reg. Ent. Reference No. RN100224674
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 |
|--------------------------|-----------|---------------|-------------|------|----------------|---------------|-----------|
| 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) | \$4,000 | 20-Aug-2008 | 23-Sep-2009 | 1.09 | \$219 | n/a | \$219 |

Notes for DELAYED costs
 Estimated cost to install new and upgraded protective equipment and modify operating checklists and procedures to prevent cracks from developing on the furnace piping. The date required is the date of the emissions event. The final date is the date corrective actions were completed.

| Avoided Costs | ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs) | | | | | | |
|-------------------------------|--|---------------|------------|------|----------------|---------------|-----------|
| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
| Disposal | | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance **TOTAL**

| | |
|---------|-------|
| \$4,000 | \$219 |
|---------|-------|

| | | | |
|---|--|---|--|
| Screening Date 13-Jul-2009 | Docket No. 2009-1079-AIR-E | PCW | |
| Respondent Oxy Vinyls, LP | | <i>Policy Revision 2 (September 2002)</i> | |
| Case ID No. 37937 | | <i>PCW Revision October 30, 2008</i> | |
| Reg. Ent. Reference No. RN100224674 | | | |
| Media [Statute] Air | | | |
| Enf. Coordinator Rebecca Johnson | | | |
| Violation Number 2 | | | |
| Rule Cite(s) | Air Permit No. 3855B and PSD-TX-876, Special Condition No. 1, 30 Tex. Admin. Code § 116.115(c), and Tex. Health & Safety Code § 382.085(b) | | |
| Violation Description | Failed to prevent unauthorized emissions during Incident No. 123174. Specifically, during the April 22, 2009 emissions event 195 lbs of unauthorized vinyl chloride emissions were released from a pressure relief valve over a period of one minute when the North Hydrochloric Acid Stripping Column overpressured. Since the emissions event could have been avoided through better operational practices, the demonstration criteria for an affirmative defense in 30 Tex. Admin. Code § 101.222 were not met. | | |
| | Base Penalty | \$10,000 | |
| >> Environmental, Property and Human Health Matrix | | | |
| OR | Release | Harm | |
| | | Major Moderate Minor | |
| | Actual | <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> | Percent 25% |
| | Potential | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> | |
| >> Programmatic Matrix | | | |
| | Falsification | Major Moderate Minor | |
| | <input type="checkbox"/> | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> | Percent 0% |
| Matrix Notes | Human health or the environment have been exposed to an insignificant amount of pollutants that did not exceed protective levels as a result of the violation. | | |
| | Adjustment | \$7,500 | |
| | | | \$2,500 |
| Violation Events | | | |
| | Number of Violation Events | <input type="text" value="1"/> | Number of violation days <input type="text" value="1"/> |
| <i>mark only one with an x</i> | daily | <input type="checkbox"/> | Violation Base Penalty \$2,500 |
| | weekly | <input type="checkbox"/> | |
| | monthly | <input type="checkbox"/> | |
| | quarterly | <input checked="" type="checkbox"/> | |
| | semiannual | <input type="checkbox"/> | |
| | annual | <input type="checkbox"/> | |
| | single event | <input type="checkbox"/> | |
| One quarterly event is recommended based on the April 22, 2009 emissions event. | | | |
| Good Faith Efforts to Comply | | | 10.0% Reduction \$250 |
| | Extraordinary | Before NOV NOV to EDRP/Settlement Offer | |
| | Ordinary | <input type="checkbox"/> <input checked="" type="checkbox"/> | |
| | N/A | <input type="checkbox"/> (mark with x) | |
| Notes | The Respondent completed implementation of corrective actions on July 23, 2009, which was after the NOE was issued on July 10, 2009, and before the August 26, 2009 initial settlement offer. | | |
| | | | Violation Subtotal \$2,250 |
| Economic Benefit (EB) for this violation | | | Statutory Limit Test |
| | Estimated EB Amount | \$88 | Violation Final Penalty Total \$4,850 |
| | | | This violation Final Assessed Penalty (adjusted for limits) \$4,850 |

Economic Benefit Worksheet

Respondent Oxy Vinyls, LP
Case ID No. 37937
Reg. Ent. Reference No. RN100224874
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 | | | | 0.00 | \$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) | \$7,000 | 22-Apr-2009 | 23-Jul-2009 | 0.25 | \$88 | n/a | \$88 |

Notes for DELAYED costs

Estimated cost to implement a preventative maintenance and testing plan for pressure switches. The date required is the date of the emissions event. The final date is the date corrective actions were completed.

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

\$7,000

TOTAL

\$88

Compliance History Report

Customer/Respondent/Owner-Operator: CN600129126 Oxy Vinyls, LP Classification: AVERAGE Rating: 1.63
Regulated Entity: RN100224674 GEON-OXY VINYL Classification: AVERAGE Site Rating: 4.14
ID Number(s):

| | | |
|---|----------------------------------|--------------|
| AIR OPERATING PERMITS | ACCOUNT NUMBER | HG0193B |
| AIR OPERATING PERMITS | PERMIT | 1324 |
| INDUSTRIAL AND HAZARDOUS WASTE GENERATION | EPA ID | TXD070133319 |
| INDUSTRIAL AND HAZARDOUS WASTE GENERATION | SOLID WASTE REGISTRATION # (SWR) | 31077 |
| WASTEWATER | PERMIT | WQ0002097000 |
| WASTEWATER | PERMIT | TPDES0070416 |
| WASTEWATER | PERMIT | TX0070416 |
| PETROLEUM STORAGE TANK REGISTRATION | REGISTRATION | 12124 |
| AIR NEW SOURCE PERMITS | PERMIT | 3855B |
| AIR NEW SOURCE PERMITS | PERMIT | 31148 |
| AIR NEW SOURCE PERMITS | PERMIT | 40916 |
| AIR NEW SOURCE PERMITS | PERMIT | 41432 |
| AIR NEW SOURCE PERMITS | ACCOUNT NUMBER | HG0193B |
| AIR NEW SOURCE PERMITS | PERMIT | 52249 |
| AIR NEW SOURCE PERMITS | AFS NUM | 4820100320 |
| AIR NEW SOURCE PERMITS | EPA ID | PSDTX876 |
| AIR NEW SOURCE PERMITS | REGISTRATION | 86463 |
| AIR NEW SOURCE PERMITS | REGISTRATION | 87304 |
| AIR NEW SOURCE PERMITS | REGISTRATION | 87958 |
| AIR NEW SOURCE PERMITS | REGISTRATION | 85765 |
| AIR NEW SOURCE PERMITS | REGISTRATION | 84912 |
| AIR NEW SOURCE PERMITS | REGISTRATION | 82629 |
| AIR NEW SOURCE PERMITS | EPA ID | PSDTX1107 |
| AIR NEW SOURCE PERMITS | REGISTRATION | 83129 |
| AIR NEW SOURCE PERMITS | REGISTRATION | 84849 |
| AIR NEW SOURCE PERMITS | REGISTRATION | 88041 |
| PUBLIC WATER SYSTEM/SUPPLY | REGISTRATION | 1011153 |
| IHW CORRECTIVE ACTION | SOLID WASTE REGISTRATION # (SWR) | 31077 |

Location: 2400 MILLER CUT OFF RD, LA PORTE, TX, 77571
TCEQ Region: REGION 12 - HOUSTON
Date Compliance History Prepared: July 15, 2009
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: July 15, 2004 to July 15, 2009
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Rebecca Johnson

Phone: (361) 825-3420

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2008 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 08/13/2004

ADMINORDER 2003-0441-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(c)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.182(d)(1)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: SC 4.C. PERMIT

Description: Failure to submit 40CFR Subpart H semi annual reports.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: SC 43F PERMIT

Description: Failure to maintain fugitive monitoring records for 2,302 accessible valves in the Crack-Pu Unit.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(c)
40 CFR Part 63, Subpart H 63.181(a)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: SC 4.C. PERMIT

Description: Failure to maintain annual fugitive monitoring records for connectors in gas/vapor or light liquid service.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(c)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.168(l)(3)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: SC 4.C. PERMIT

Description: Failure to provide a written plan for the monitoring of Difficult to Monitor components.

Effective Date: 05/11/2007

ADMINORDER 2006-0573-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.167(a)(1)

Rqmt Prov: 3855B and PSD-TX-876, SC 43E PERMIT

O-01324, SC 1A OP

O-01324, SC 21 OP

Description: Failed to seal open-ended lines in volatile organic compound service.

Classification: Moderate

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

30 TAC Chapter 122, SubChapter B 122.143(4)
Rqmt Prov: 3855B and PSD-TX-876, SC 32 PERMIT
O-01324, SC 21 OP

Description: Failed to maintain the pH level above the required minimum permit limit of 8 for Scrubbers IND101A and IND101B.

Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)

Rqmt Prov: 3855B and PSD-TX-876, SC 10D PERMIT
O-01324, SC 21 OP

Description: Failed to maintain the firing rate at the permitted limit of 72 MM BTU per hour on August 24, 2005 and September 13, 2005 for furnace IND108.

Classification: Moderate
Citation: 30 TAC Chapter 117, SubChapter B 117.203(a)(6)(D)

Description: Failed to limit the operation of emergency diesel pump engine (E1:Pump A) for operational, testing, or maintenance purposes within the allowable 52 hours per year based on a rolling 12-month average.

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

Rqmt Prov: O-01324, SC 3A(iv)(1) OP

Description: Failed to monitor visible emissions for the 1st quarter (January 10, 2005 through March 31, 2005) for the A& B catalytic oxidizer catalyst traps and 1 diesel engine (E5).

Effective Date: 04/28/2008 ADMINORDER 2007-1731-AIR-E

Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter D 382.085(b)
Rqmt Prov: Permit No. 3855B and PSD-TX-876, MAERT PERMIT

Description: Failure to prevent an unauthorized emission due to operation issues.

Effective Date: 02/08/2009 ADMINORDER 2008-1053-AIR-E

Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: 3855B, Special Condition 1 PERMIT

Description: The Respondent is alleged to have failed to prevent unauthorized emissions during Incident No. 105535

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

N/A

C. Chronic excessive emissions events.

N/A

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

| | | |
|----|------------|----------|
| 1 | 07/20/2004 | (358707) |
| 2 | 08/24/2004 | (358708) |
| 3 | 09/18/2004 | (358713) |
| 4 | 09/23/2004 | (358709) |
| 5 | 10/22/2004 | (358710) |
| 6 | 11/09/2004 | (339927) |
| 7 | 11/23/2004 | (358711) |
| 8 | 12/09/2004 | (339090) |
| 9 | 12/20/2004 | (358712) |
| 10 | 02/23/2005 | (385515) |
| 11 | 02/24/2005 | (348525) |
| 12 | 03/04/2005 | (371341) |
| 13 | 03/04/2005 | (371799) |
| 14 | 03/22/2005 | (385516) |
| 15 | 04/13/2005 | (377233) |
| 16 | 04/18/2005 | (423530) |
| 17 | 05/23/2005 | (423531) |

| | | |
|----|------------|----------|
| 18 | 06/20/2005 | (423532) |
| 19 | 07/08/2005 | (394840) |
| 20 | 07/08/2005 | (395131) |
| 21 | 07/15/2005 | (444346) |
| 22 | 08/22/2005 | (444347) |
| 23 | 08/23/2005 | (401982) |
| 24 | 08/23/2005 | (404446) |
| 25 | 08/23/2005 | (404921) |
| 26 | 08/25/2005 | (406044) |
| 27 | 08/31/2005 | (418878) |
| 28 | 08/31/2005 | (418946) |
| 29 | 08/31/2005 | (418950) |
| 30 | 09/20/2005 | (444348) |
| 31 | 09/28/2005 | (418665) |
| 32 | 11/28/2005 | (474875) |
| 33 | 12/20/2005 | (474876) |
| 34 | 01/23/2006 | (474877) |
| 35 | 02/22/2006 | (455182) |
| 36 | 02/22/2006 | (474873) |
| 37 | 02/25/2006 | (455900) |
| 38 | 02/25/2006 | (456977) |
| 39 | 02/27/2006 | (456938) |
| 40 | 02/28/2006 | (457147) |
| 41 | 02/28/2006 | (457156) |
| 42 | 02/28/2006 | (457174) |
| 43 | 03/20/2006 | (474874) |
| 44 | 04/20/2006 | (460418) |
| 45 | 04/24/2006 | (502550) |
| 46 | 05/22/2006 | (502551) |
| 47 | 05/26/2006 | (467526) |
| 48 | 05/26/2006 | (467563) |
| 49 | 06/23/2006 | (502552) |
| 50 | 07/21/2006 | (524869) |
| 51 | 08/18/2006 | (524870) |
| 52 | 09/06/2006 | (487733) |
| 53 | 09/19/2006 | (524871) |
| 54 | 09/28/2006 | (512141) |
| 55 | 10/05/2006 | (487698) |
| 56 | 10/20/2006 | (549775) |
| 57 | 11/01/2006 | (512136) |
| 58 | 11/03/2006 | (515153) |
| 59 | 11/27/2006 | (549776) |
| 60 | 12/29/2006 | (533496) |
| 61 | 12/29/2006 | (533497) |
| 62 | 01/08/2007 | (549777) |
| 63 | 01/23/2007 | (549778) |
| 64 | 02/28/2007 | (583976) |
| 65 | 03/22/2007 | (583977) |
| 66 | 03/22/2007 | (583982) |
| 67 | 04/23/2007 | (583978) |
| 68 | 05/09/2007 | (559347) |
| 69 | 05/21/2007 | (583979) |
| 70 | 06/18/2007 | (583980) |
| 71 | 07/20/2007 | (583981) |
| 72 | 07/20/2007 | (583983) |
| 73 | 08/22/2007 | (604115) |
| 74 | 08/31/2007 | (573381) |
| 75 | 09/19/2007 | (623027) |
| 76 | 10/04/2007 | (596408) |

77 10/16/2007 (597441)
 78 10/18/2007 (623028)
 79 10/23/2007 (594714)
 80 10/23/2007 (596411)
 81 11/02/2007 (595129)
 82 11/19/2007 (623029)
 83 12/13/2007 (610860)
 84 12/20/2007 (599139)
 85 12/20/2007 (623030)
 86 02/19/2008 (674447)
 87 03/17/2008 (674448)
 88 04/23/2008 (692787)
 89 04/28/2008 (638348)
 90 04/30/2008 (641245)
 91 05/16/2008 (692788)
 92 06/19/2008 (657150)
 93 06/20/2008 (692789)
 94 07/22/2008 (333288)
 95 07/22/2008 (713943)
 96 07/22/2008 (713946)
 97 08/11/2008 (713944)
 98 08/27/2008 (689117)
 99 09/23/2008 (713945)
 100 10/09/2008 (685006)
 101 10/17/2008 (729932)
 102 11/24/2008 (729933)
 103 12/22/2008 (729934)
 104 01/13/2009 (708494)
 105 02/11/2009 (725033)
 106 02/23/2009 (753164)
 107 03/23/2009 (753165)
 108 05/14/2009 (744183)
 109 07/01/2009 (725730)
 110 07/10/2009 (748332)

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

Date: 09/06/2006 (487733)
 Self Report? NO Classification: Moderate
 Citation: Permit No. 3855B and PSD-TX-876 PERMIT
 30 TAC Chapter 116, SubChapter B 116.115(c)
 5C THC Chapter 382, SubChapter D 382.085(b)
 Description: Failure to prevent an electrical short that resulted from a temporary repair with electrical tape to a junction box.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(1)(H)
 Description: Failure to list the permit number for the facility involved in the emissions event.

Date: 09/28/2006 (512141)
 Self Report? NO Classification: Moderate
 Citation: Permit No. 3855B and PSD-TX-876 PERMIT
 30 TAC Chapter 116, SubChapter B 116.115(c)
 5C THC Chapter 382, SubChapter D 382.085(b)
 Description: Failure to conduct maintenance on air intakes that would have prevented water infiltration causing this emissions event.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)
 Description: Failure to submit the initial incident within the 24 hour time period.

Date: 11/01/2006 (512136)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter D 382.085(b)
Permit No. 3855B and PSD-TX-876, MAERT PERMIT
Description: Failure to conduct regular maintenance on a valve that has been in service for 20 years.

Date: 04/28/2008 (638348)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
3855-B, Special Condition 1. PERMIT
5C THSC Chapter 382 382.085(b)
Description: Oxy Vinyls LP failed to prevent unauthorized emissions necessary to establish an affirmative defense.

Date: 08/31/2008 (713945)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 02/11/2009 (725033)
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 PERMIT
Description: Failure to prevent the release of unauthorized emissions.

F. Environmental audits.

Notice of Intent Date: 04/25/2005 (438736)

No DOV Associated

Notice of Intent Date: 04/26/2006 (465306)

No DOV Associated

Notice of Intent Date: 01/04/2007 (538766)

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

Compliance History Report

Customer/Respondent/Owner-Operator: CN600129126 Oxy Vinyls, LP Classification: AVERAGE Rating: 1.63
 Regulated Entity: RN100706803 OXY VINYLs DEER PARK VCM PLANT Classification: AVERAGE Site Rating: 0.76

| | | | |
|---------------|---|----------------------------------|--------------|
| ID Number(s): | AIR OPERATING PERMITS | ACCOUNT NUMBER | HG1939G |
| | AIR OPERATING PERMITS | PERMIT | 1369 |
| | AIR NEW SOURCE PERMITS | PERMIT | 4943B |
| | AIR NEW SOURCE PERMITS | PERMIT | 32221 |
| | AIR NEW SOURCE PERMITS | PERMIT | 37379 |
| | AIR NEW SOURCE PERMITS | PERMIT | 43446 |
| | AIR NEW SOURCE PERMITS | ACCOUNT NUMBER | HG1939G |
| | AIR NEW SOURCE PERMITS | AFS NUM | 4820100653 |
| | AIR NEW SOURCE PERMITS | REGISTRATION | 75305 |
| | AIR NEW SOURCE PERMITS | REGISTRATION | 78005 |
| | AIR NEW SOURCE PERMITS | REGISTRATION | 79200 |
| | AIR NEW SOURCE PERMITS | REGISTRATION | 79539 |
| | AIR NEW SOURCE PERMITS | REGISTRATION | 87007 |
| | AIR NEW SOURCE PERMITS | REGISTRATION | 88690 |
| | VOLUNTARY CLEANUP PROGRAM | ID NUMBER | 348 |
| | INDUSTRIAL AND HAZARDOUS WASTE GENERATION | EPA ID | TXD981911209 |
| | INDUSTRIAL AND HAZARDOUS WASTE GENERATION | SOLID WASTE REGISTRATION # (SWR) | 38000 |
| | INDUSTRIAL AND HAZARDOUS WASTE STORAGE | PERMIT | 50248 |
| | INDUSTRIAL AND HAZARDOUS WASTE STORAGE | PERMIT | 50248 |
| | INDUSTRIAL AND HAZARDOUS WASTE STORAGE | PERMIT | 50248 |

Location: 851 TIDAL RD, DEER PARK, TX, 77536

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: July 15, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: July 15, 2004 to July 15, 2009

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

Name: Rebecca Johnson Phone: (361) 825-3420

Site Compliance History Components

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

6. Rating Date: 9/1/2008 Repeat Violator: NO

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

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 | 08/11/2004 | (287512) |
| 2 | 08/11/2004 | (288650) |
| 3 | 08/11/2004 | (289451) |
| 4 | 08/31/2004 | (291131) |
| 5 | 08/31/2004 | (292672) |
| 6 | 10/11/2004 | (335331) |
| 7 | 10/22/2004 | (291766) |
| 8 | 10/26/2004 | (292804) |
| 9 | 11/11/2004 | (287487) |
| 10 | 11/11/2004 | (289668) |
| 11 | 12/20/2004 | (340226) |
| 12 | 12/20/2004 | (340327) |
| 13 | 12/20/2004 | (341467) |
| 14 | 12/20/2004 | (342041) |
| 15 | 01/21/2005 | (340248) |
| 16 | 07/26/2005 | (400654) |
| 17 | 08/05/2005 | (399775) |
| 18 | 08/22/2005 | (405376) |
| 19 | 08/23/2005 | (401954) |
| 20 | 08/23/2005 | (404424) |
| 21 | 08/23/2005 | (404919) |
| 22 | 08/23/2005 | (406538) |
| 23 | 08/24/2005 | (405929) |
| 24 | 02/01/2006 | (341634) |
| 25 | 02/09/2006 | (440094) |
| 26 | 02/22/2006 | (455177) |
| 27 | 02/23/2006 | (455898) |
| 28 | 02/25/2006 | (456955) |
| 29 | 02/25/2006 | (457093) |
| 30 | 02/27/2006 | (456685) |
| 31 | 02/28/2006 | (457145) |
| 32 | 02/28/2006 | (457153) |
| 33 | 03/09/2006 | (457674) |
| 34 | 05/26/2006 | (459728) |
| 35 | 05/26/2006 | (460696) |
| 36 | 06/28/2006 | (481238) |
| 37 | 06/30/2006 | (482020) |
| 38 | 07/10/2006 | (481239) |
| 39 | 07/11/2006 | (481152) |
| 40 | 07/26/2006 | (482332) |
| 41 | 09/20/2006 | (509928) |
| 42 | 05/31/2007 | (543350) |
| 43 | 10/26/2007 | (571338) |
| 44 | 01/28/2008 | (595615) |
| 45 | 04/03/2008 | (618500) |

46 04/16/2008 (618245)
 47 04/16/2008 (618512)
 48 07/16/2008 (682922)
 49 01/06/2009 (703407)
 50 05/04/2009 (743886)
 51 07/01/2009 (738695)

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

Date: 08/05/2005 (399775)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.167(a)(1)

FOP O-01369 SC 16 OP
 NSR Permit 4943B SC 6.E PERMIT

Description: Failure to comply with the requirements as found in 30 TAC 115.352(4).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)(1)

Description: Failure to comply with the requirements as found in 30 TAC 116.110.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)

FOP O-0139 SC 16 OP
 NSR Permit 4943B SC 6.F PERMIT

Description: Failure to comply with the requirements as found in NRS Permit 4943B SC 6.F.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)

FOP O-01369 SC 16 OP
 NSR Permit 4943B SC 1 PERMIT

Description: Failure to comply with the requirements as found in NRS Permit 4943B SC 1.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT G 63.120(d)
 FOP O-01369 SC 1.A OP

Description: Failure to comply with the requirements as found in 40 CFR 63.120(d)(6).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter E 115.412(1)(A)

Description: Failure to comply with the requirements as found in 30 TAC 115.412(1)(A).

Date: 02/09/2006 (440094)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 5C THC Chapter 382, SubChapter A 382.085(b)
 Special Condition 1 PERMIT

Description: Failure to prevent an avoidable emissions event.

Date: 05/31/2007 (543350)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)
 30 TAC Chapter 115, SubChapter H 115.783(5)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.167(a)(1)
 4943B, Special Condition 6.E. PERMIT
 5C THC Chapter 382, SubChapter D 382.085(b)
 O-01369, Special Condition 1.A. OP
 O-01369, Special Condition 16. OP

Description: Failure to seal open ended lines containing volatile organic compounds.

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 EEE 63.1203(a)(5)(i)
4943B, Special Condition 8 PERMIT
5C THC Chapter 382, SubChapter D 382.085(b)
O-01369, Special Condition 16. OP

Description: Failure to cease introducing liquid feed to HCIN3 incinerator when the CO corrected to 7% O2 was greater than 100 ppm .

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 EEE 63.1209(d)(2)
4943B, Special Condition 8 PERMIT
5C THC Chapter 382, SubChapter D 382.085(b)
O-01369, Special Condition 16 OP

Description: Failure to cease burning waste feed to HCIN3 incinerator when the calibration of the CEMS exceeded 20 minutes.

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 EEE 63.1209(d)(2)
4943B, Special Condition 15.B. PERMIT
4943B, Special Condition 8 PERMIT
5C THC Chapter 382, SubChapter D 382.085(b)
O-01369, Special Condition 16 OP

Description: Failure to perform daily calibration and systems checks for CO, O2 and Cl.

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 EEE 63.1206(b)
4943B, Special Condition 8 PERMIT
5C THC Chapter 382, SubChapter D 382.085(b)
O-01369, Special Condition 16 OP

Description: Failed to prevent the scrubber system's minimum liquid to gas flow ratio from dropping below the operating limit. (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)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT EEE 63.1206(b)
4943B, Special Condition 8 PERMIT
5C THC Chapter 382, SubChapter D 382.085(b)
O-01369, Special Condition 16 OP

Description: Failed to prevent the WESP from dropping below the operating limit. (CATEGORY B19.g.(1))

Date: 01/29/2008 (595615)

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)
30 TAC Chapter 115, SubChapter H 115.783(5)
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 VV 60.482-6(a)(1)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.167(a)(1)
5C THSC Chapter 382 382.085(b)
Permit 4943B, Special Condition 6E PERMIT
Permit O-1369, Special Condition 15 PERMIT
Permit O-1369, Special Condition 1A PERMIT

Description: Failure to cap 4 open-ended lines

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Permit 4943B SC 15 PERMIT
Permit O-1369, Special Condition 15 PERMIT

Description: Failure to operate analyzer with up to date analyzer gas

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 115, SubChapter H 115.764(a)(6)

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

Description: Failure to conduct semi-annual and annual calibration of the cooling tower sparger system

Date: 01/06/2009 (703407)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.167(a)(1)
5C THSC Chapter 382 382.085(b)
SC 15 OP
Special Condition (SC) 1A OP
Special Condition (SC) 6E PERMIT

Description: Failure to seal open ended lines. (Category 10)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.116(a)
5C THSC Chapter 382 382.085(b)

Description: Failure to maintain the Wet Electrostatic Precipitator's (WESP) power above the proper operating limit.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 61, SubChapter C, PT 61, SubPT F 61.65(b)(8)
5C THSC Chapter 382 382.085(b)
SC 1A OP

Description: Failure to conduct manual samples every two hours on F-DPV-01 and -03 gas chromatographs.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
SC 15 OP
SC 15 PERMIT

Description: Failure to maintain the HCIN-2 and HCIN-3 carbon monoxide monitors for continuous monitoring.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
SC 15 OP
SC 15B PERMIT

Description: Failure to perform the quarterly and daily calibrations for the HCIN-2 and HCIN-3 GEMS.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter D 115.354(2)(C)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.168(c)
5C THSC Chapter 382 382.085(b)
SC 15 OP
SC 1A OP
SC 6F PERMIT

Description: Failure to monitor fugitive components at the Heavy Ends Unloading Rack. (Category B1)

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 (GT&C) OP

Description: Failure to report all deviations in previous reports.

F. Environmental audits.

Notice of Intent Date: 11/28/2005 (440247)

No DOV Associated

Notice of Intent Date: 10/09/2007 (599677)

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



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
OXY VINYL, LP
RN100224674 AND RN100706803

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-1079-AIR-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Oxy Vinyls, LP ("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 presented this agreement to the Commission.

The Respondent 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, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement 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 the Respondent.

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

I. FINDINGS OF FACT

1. The Respondent owns and operates chemical manufacturing plants located at 2400 Miller Cut Off Road in La Porte (the "La Porte Plant") and 851 Tidal Road in Deer Park (the "Deer Park Vinyl Chloride Monomer Plant"), Harris County, Texas (collectively, the "Plants").

2. The Plants consist of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. During an investigation on January 26, 2009, TCEQ staff documented the release of unauthorized emissions during Incident No. 112879 at the La Porte Plant. Specifically, during the August 20, 2008 emissions event the following unauthorized emissions were released from piping associated with Cracking Furnace E over a period of 12 hours and 47 minutes when a crack developed and the exiting materials ignited: 11,751 pounds ("lbs") of hydrochloric acid, 381 lbs of 1,2-dichloroethane, 36.20 lbs of nitrogen oxides, 4 lbs of carbon monoxide, 2.4 lbs of vinyl chloride, 0.53 lb of trichloroethylene, 0.12 lb of carbon tetrachloride, 0.11 lb of 1,1,2-trichloroethane, and 0.01 lb of chloroform.
4. During a record review on May 14, 2009, TCEQ staff documented the release of unauthorized emissions during Incident No. 123174 at the La Porte Plant. Specifically, during the April 22, 2009 emissions event 195 lbs of unauthorized vinyl chloride emissions were released from a pressure relief valve over a period of one minute when the North Hydrochloric Acid Stripping Column overpressured.
5. During a record review on February 17, 2009, TCEQ staff documented the release of unauthorized emissions during Incident No. 116828 at the Deer Park Vinyl Chloride Monomer Plant. Specifically, during the November 18, 2008 emissions event the following unauthorized emissions were released from Cracking Furnace F6203 over a period of one hour and 54 minutes when a tube failed and caused the contents to ignite and burn: 57,248 lbs of hydrochloric acid, 6,358 lbs of carbon monoxide, 677 lbs of ethylene dichloride, 261 lbs of vinyl chloride, 39 lbs of nitrogen oxides, 16 lbs of other volatile organic compounds, 1 lb of benzene, and 1 lb of chloroform.
6. The Respondent received notices of the violations on July 6, 2009 and July 13, 2009.
7. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plants:
 - a. On September 23, 2009, completed implementation of all the corrective actions identified in the Corrective Action Plan ("CAP") for Incident No. 112879, which was subsequently approved on October 6, 2009. The CAP included upgrading the insulation on all furnace "exit-Y" piping to better minimize the potential for rainwater exposure, adding cover plates to the decks above the "exit-Y" piping to direct rainfall away from the piping, updating the operating checklist to require that the "exit-Y" piping insulation be inspected prior to furnace start up, modifications to the monthly critical items checklist to verify that the "exit-Y" piping insulation is in place, and modifications to the maintenance work order instruction requiring verification that the insulation covering on "exit-Y" piping is intact after maintenance work has been completed;
 - b. Developed a preventative maintenance and testing procedure for pressure switches in response to Incident No. 123174. Implementation and employee training on the new procedure was completed by July 23, 2009; and

- c. On May 31, 2009, completed implementation of a portion of the corrective actions identified in the CAP for Incident No. 116828, which was approved on September 29, 2009. The corrective actions implemented included furnace operations refresher training for all operations, maintenance, and technical personnel working in the furnace area, enhancements to the furnace operating procedures, updating the process log sheets, and training of all affected employees on the procedure and log sheet changes.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to prevent unauthorized emissions during Incident No. 112879, in violation of Air Permit No. 3855B and PSD-TX-876, Special Condition No. 1, 30 TEX. ADMIN. CODE § 116.115(c), and TEX. HEALTH & SAFETY CODE § 382.085(b). Since the emissions event was excessive and could have been avoided through better operational practices, the demonstration criteria for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222 were not met.
3. As evidenced by Findings of Fact No. 4, the Respondent failed to prevent unauthorized emissions during Incident No. 123174, in violation of Air Permit No. 3855B and PSD-TX-876, Special Condition No. 1, 30 TEX. ADMIN. CODE § 116.115(c), and TEX. HEALTH & SAFETY CODE § 382.085(b). Since the emissions event could have been avoided through better operational practices, the demonstration criteria for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222 were not met.
4. As evidenced by Findings of Fact No. 5, the Respondent failed to prevent unauthorized emissions during Incident No. 116828, in violation of Air Permit No. 4943B, Special Condition No. 1, 30 TEX. ADMIN. CODE § 116.115(c), and TEX. HEALTH & SAFETY CODE § 382.085(b). Since the emissions event was excessive and could have been avoided through better operational practices, the demonstration criteria for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222 were not met.
5. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent 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.
6. An administrative penalty in the amount of Twenty-Four Thousand Eight Hundred Fifty Dollars (\$24,850) 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. The Respondent has paid Twelve Thousand Four Hundred Twenty-Five Dollars (\$12,425) of the administrative penalty. Twelve Thousand Four Hundred Twenty-Five Dollars (\$12,425) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of Twenty-Four Thousand Eight Hundred Fifty Dollars (\$24,850) as set forth in Section II, Paragraph 6 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent'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. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Oxy Vinyls, LP, Docket No. 2009-1079-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 Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Twelve Thousand Four Hundred Twenty-Five Dollars (\$12,425) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The Respondent shall undertake the following technical requirements:
 - a. Implement the remaining corrective action identified in the CAP for Incident No. 116828, in accordance with the schedule submitted on September 17, 2009 and approved on September 29, 2009;
 - b. Upon completion of CAP implementation, submit written certification to demonstrate compliance with Ordering Provision No. 3.a., as described in Ordering Provision No. 3.c.; and
 - c. Written certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Air Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

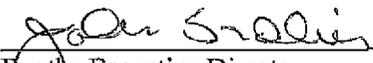
4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plants' operations referenced in this Agreed Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. 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 the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

8. 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.
9. 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.
10. 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.
11. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

Date 1/8/2010

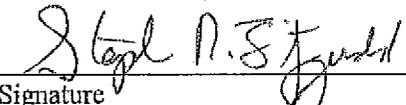
I, the undersigned, have read and understand the attached Agreed Order in the matter of Oxy Vinyls, LP. I am authorized to agree to the attached Agreed Order on behalf of Oxy Vinyls, LP, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Oxy Vinyls, LP waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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

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

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



Signature

Date 10/28/09

Stephen R. Fitzgerald
Name (Printed or typed)
Authorized Representative of
Oxy Vinyls, LP

Sr. V.P. Manufacturing, Engineering &
Title Technology

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.

Attachment A
Docket Number: 2009-1079-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

| | |
|--------------------------------|--|
| Respondent: | Oxy Vinyls, LP |
| Payable Penalty Amount: | Twenty-Four Thousand Eight Hundred Fifty Dollars (\$24,850) |
| SEP Amount: | Twelve Thousand Four Hundred Twenty-Five Dollars (\$12,425) |
| Type of SEP: | Pre-approved |
| Third-Party Recipient: | Houston Regional Monitoring Corporation - Houston Area Monitoring |
| Location of SEP: | Harris County |

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

Performing Party shall use SEP Funds to operate, maintain, and potentially expand portions of the existing Houston Regional Monitoring Corporation Ambient Air Quality Monitoring Network in the Houston area in order to continue to provide information on data quality and trends to the public, TCEQ, and industry representatives. SEP funds may be used to operate a single monitoring site or multiple sites contingent upon the amount of SEP funds provided.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

Data from this monitoring may be used to evaluate the effectiveness of current emission control strategies, track ambient concentration trends for key pollutants of interest, evaluate episodic emission events, conduct source attribution studies, and assess potential community exposure to toxic air contaminants. Performing party notifies the TCEQ on a quarterly basis of all exceedences of the National Ambient Air Quality Standards ("NAAQS") that it measures at its monitoring stations. The TCEQ uses this information, along with information collected at its own monitors and monitors operated by the City of Houston, to evaluate Houston's progress toward achieving or remaining in attainment of the NAAQS.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Houston Regional Monitoring Corporation. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Christopher B. Amandes
Vinson & Elkins LLP
First City Tower
1001 Fannin Street, Suite 2500
Houston, TX 77002-6760

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

