

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.: 2009-1450-AIR-E TCEQ ID: RN100211317 CASE NO.: 38326**

**RESPONDENT NAME: Rhodia Inc.**

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Rhodia Baytown Plant, 3439 Park Street, Baytown, Harris County</p> <p><b>TYPE OF OPERATION:</b> Sulfuric acid manufacturing plant</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is one additional pending enforcement action regarding this facility location, Docket No. 2009-1854-AIR-E.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on February 22, 2010. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Trina Grieco, Enforcement Division, Enforcement Team 5, MC R-13, (210) 403-4006; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> Mr. Floyd Dickerson, Environmental Manager, Rhodia Inc., 8615 Manchester Street, Houston, Texas 77012-2142                  Mr. William McConnell, Plant Manager, Rhodia Inc., 3439 Park Street, Baytown, Texas 77520  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> August 4 through 17, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> August 27, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a record review.</p> <p><b>AIR</b></p> <p>1) Failure to comply with permitted emissions limits and destruction efficiency requirements. Specifically, during a stack test conducted on August 11, 2008 at the dock vapor combustor, emission point number ("EPN") DOCKVCSTK, the emission rate was 0.41 pounds per hour ("lbs/hr") of nitrogen oxide ("NOx") and 0.96 lbs/hr of sulfur dioxide ("SO2"), and the permitted rates are 0.25 lbs/hr and 0.14, respectively. During the same stack test, the destruction efficiency was 97.75% of volatile organic compounds ("VOCs") and 95.01% of SO2, and the minimum permitted efficiency requirements are 98% and 99%, respectively [30 TEX. ADMIN. CODE § 116.115(b)(2)(F) and (c), TEX. HEALTH &amp; SAFETY CODE § 382.085(b), and New Source Review ("NSR") Permit No. 56534, Special Conditions 1 and 10].</p> <p>2) Failure to submit the results of stack testing within 60 days after the date of the test. Specifically, the test was conducted on August 11, 2008 and the results were due by October 11, 2008, but were not submitted until December 10, 2008 [30 TEX. ADMIN. CODE § 116.115(c), TEX. HEALTH &amp; SAFETY CODE § 382.085(b), and NSR Permit No. 56534, Special Condition 14.E].</p>	<p><b>Total Assessed:</b> \$23,025</p> <p><b>Total Deferred:</b> \$4,605  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$18,420</p> <p><b>Site Compliance History Classification</b>  <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:</p> <p>a. Submitted stack test results to the TCEQ on December 10, 2008; and</p> <p>b. Obtained an amendment to NSR Permit No. 56534 on October 5, 2009 which increased the NOx and SO2 emission limits and lower VOC and SO2 destruction efficiencies from the dock vapor combustor, EPN DOCKVCSTK.</p>

Additional ID No(s): HG0696Q

**Penalty Calculation Worksheet (PCW)**  
 Policy Revision 2 (September 2002) PCW Revision October 30, 2008

**TCEQ**  
**DATES**  
 Assigned   
 PCW  Screening  EPA Due

**RESPONDENT/FACILITY INFORMATION**  
 Respondent   
 Reg. Ent. Ref. No.   
 Facility/Site Region  Major/Minor Source

**CASE INFORMATION**  
 Enf./Case ID No.  No. of Violations   
 Docket No.  Order Type   
 Media Program(s)  Government/Non-Profit   
 Multi-Media  Enf. Coordinator   
 EC's Team   
 Admin. Penalty \$ Limit Minimum  Maximum

**Penalty Calculation Section**

**TOTAL BASE PENALTY (Sum of violation base penalties)** Subtotal 1

**ADJUSTMENTS (+/-) TO SUBTOTAL 1**  
 Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the Indicated percentage.  
**Compliance History**  Enhancement Subtotals 2, 3, & 7

Notes

**Culpability**   Enhancement Subtotal 4

Notes

**Good Faith Effort to Comply Total Adjustments** Subtotal 5

**Economic Benefit**  Enhancement\* Subtotal 6

Total EB Amounts   
 Approx. Cost of Compliance  \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** Final Subtotal

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  Adjustment

Notes

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty

**DEFERRAL**  Reduction Adjustment

Notes

**PAYABLE PENALTY**

**Screening Date** 8-Sep-2009

**Docket No.** 2009-1450-AIR-E

**PCW**

**Respondent** Rhodia Inc.

*Policy Revision 2 (September 2002)*

**Case ID No.** 38326

*PCW Revision October 30, 2009*

**Reg. Ent. Reference No.** RN100211317

**Media [Statute]:** Air

**Enf. Coordinator:** Trina Grieco

**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)	3	15%
	Other written NOVs	5	10%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
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)	2	-2%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	1	-2%
<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)** 66%

>> **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 three NOVs issued for same or similar violations, five NOVs issued for unrelated violations, one agreed order with a denial of liability, and one agreed order without a denial of liability. Penalty reduction due to two Notice of Audit letters and one Disclosure of Violations submitted.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 66%

<b>Screening Date</b> 8-Sep-2009	<b>Docket No.</b> 2009-1450-AIR-E	<b>PCW</b>		
<b>Respondent</b> Rhodia Inc.		<small>Policy Revision 2 (September 2002)</small>		
<b>Case ID No.</b> 38326		<small>PCW Revision October 30, 2008</small>		
<b>Reg. Ent. Reference No.</b> RN100211317				
<b>Media [Statute]</b> Air				
<b>Enf. Coordinator</b> Trina Grieco				
<b>Violation Number</b> 1				
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 116.115(b)(2)(F) and (c), Tex. Health & Safety Code § 382.085(b), and New Source Review ("NSR") Permit No. 56634, Special Conditions 1 and 10			
<b>Violation Description</b>	Failed to comply with permitted emissions limits and destruction efficiency requirements. Specifically, during a stack test conducted on August 11, 2008 at the dock vapor combustor, emission point number DOCKVCSTK, the emission rate was 0.41 pounds per hour ("lbs/hr") of nitrogen oxides ("NOx") and 0.96 lbs/hr of sulfur dioxide ("SO2"), and the permitted rates are 0.25 lbs/hr and 0.14, respectively. During the same stack test, the destruction efficiency was 97.75% of volatile organic compounds and 95.01% of SO2, and the minimum permitted efficiency requirements are 98% and 99%, respectively.			
	<b>Base Penalty</b>	\$10,000		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
	Harm			
<b>Release</b>	Major	Moderate	Minor	
Actual			x	
Potential				
<b>OR</b>			<b>Percent</b> 25%	
<b>&gt;&gt; Programmatic Matrix</b>				
	Falsification	Major	Moderate	Minor
				<b>Percent</b> 0%
<b>Matrix Notes</b>	Human health or the environment in the Houston-Galveston Brazoria non-attainment area was exposed to insignificant amounts of pollutants which did not exceed levels protective of human health or environmental receptors as a result of the violation.			
	<b>Adjustment</b>	\$7,500		
			\$2,500	
<b>Violation Events</b>				
	Number of Violation Events	5	Number of violation days	
		393		
<small>mark only one with an x</small>	daily			
	weekly			
	monthly			
	quarterly	x		
	semiannual			
	annual			
	single event			
			<b>Violation Base Penalty</b> \$12,500	
	Five quarterly events are recommended from the date of the failed stack test (August 11, 2008) to the screening date (September 8, 2009).			
<b>Good Faith Efforts to Comply</b>				
	10.0% Reduction		\$1,250	
	Before NOV	NOV to EDPRP/Settlement Offer		
Extraordinary				
Ordinary		x		
N/A		(mark with x)		
<b>Notes</b>	Corrective actions were complete on October 5, 2009.			
	<b>Violation Subtotal</b>	\$11,250		
<b>Economic Benefit (EB) for this violation</b>				
	<b>Estimated EB Amount</b>	\$115		
<b>Statutory Limit Test</b>				
	<b>Violation Final Penalty Total</b>	\$19,500		
	<b>This violation Final Assessed Penalty (adjusted for limits)</b>	\$19,500		

## Economic Benefit Worksheet

**Respondent** Rhodia Inc.  
**Case ID No.** 38326  
**Reg. Ent. Reference No.** RN100211317  
**Media** Air  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

**Delayed Costs**

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$2,000	11-Aug-2008	5-Oct-2009	1.15	\$115	n/a	\$115
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

Estimated cost to obtain a permit amendment. The date required is based on the date of the failed stack test and 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 Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

**Approx. Cost of Compliance**

\$2,000

**TOTAL**

\$115

<b>Screening Date</b> 8-Sep-2009	<b>Docket No.</b> 2009-1450-AIR-E	<b>PCW</b>		
<b>Respondent</b> Rhodia Inc.	<small>Policy Revision 2 (September 2002)</small>			
<b>Case ID No.</b> 38326	<small>PCW Revision October 30, 2008</small>			
<b>Reg. Ent. Reference No.</b> RN100211317				
<b>Media [Statute]</b> Air				
<b>Enf. Coordinator</b> Trina Grieco				
<b>Violation Number</b> <input type="text" value="2"/>				
<b>Rule Cite(s)</b>	<input type="text" value="30 Tex. Admin. Code § 118.115(c), Tex. Health &amp; Safety Code § 382.085(b), and NSR Permit No. 56534, Special Condition 14.E."/>			
<b>Violation Description</b>	<input type="text" value="Failed to submit the results of stack testing within 60 days after the date of the test. Specifically, the test was conducted on August 11, 2008 and the results were due by October 11, 2008, but were not submitted until December 10, 2008."/>			
<b>Base Penalty</b>		<input type="text" value="\$10,000"/>		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
<b>OR</b>	<b>Harm</b>			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
		<b>Percent</b>	<input type="text" value="0%"/>	
<b>&gt;&gt; Programmatic Matrix</b>				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>
		<b>Percent</b>	<input type="text" value="25%"/>	
<b>Matrix Notes</b>	<input type="text" value="The Respondent failed to comply with 100% of the rule requirements."/>			
<b>Adjustment</b>		<input type="text" value="\$7,500"/>		
			<input type="text" value="\$2,500"/>	
<b>Violation Events</b>				
<b>Number of Violation Events</b>	<input type="text" value="1"/>	<b>Number of violation days</b>	<input type="text" value="61"/>	
<small>mark only one with an x</small>	daily	<input type="text"/>		
	weekly	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input checked="" type="text" value="x"/>		
<b>Violation Base Penalty</b>		<input type="text" value="\$2,500"/>		
<input type="text" value="One single event is recommended for the late report."/>				
<b>Good Faith Efforts to Comply</b>	<input type="text" value="25.0%"/> Reduction	<input type="text" value="\$625"/>		
	<small>Before NOV      NOV to EDRP/Settlement Offer</small>			
Extraordinary	<input type="text"/>	<input type="text"/>		
Ordinary	<input checked="" type="text" value="x"/>	<input type="text"/>		
N/A	<input type="text"/>	<small>(mark with x)</small>		
<b>Notes</b>	<input type="text" value="The Respondent completed corrective action on December 10, 2008 (prior to the August 27, 2009 NOE)."/>			
<b>Violation Subtotal</b>		<input type="text" value="\$1,875"/>		
<b>Economic Benefit (EB) for this violation</b>				
<b>Estimated EB Amount</b>	<input type="text" value="\$0"/>	<b>Statutory Limit Test</b>		
		<b>Violation Final Penalty Total</b>		
		<input type="text" value="\$3,525"/>		
<b>This violation Final Assessed Penalty (adjusted for limits)</b>		<input type="text" value="\$3,525"/>		

## Economic Benefit Worksheet

**Respondent** Rhodia Inc.  
**Case ID No.** 38326  
**Reg. Ent. Reference No.** RN100211317  
**Media** Air  
**Violation No.** 2

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
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)	\$50	11-Oct-2008	10-Dec-2008	0.16	\$0	n/a	\$0

**Notes for DELAYED costs**  
 Estimated cost to submit stack test results. The date required is the date the results were due and the final date is the date they were submitted.

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Avoided Costs</b>							
<b>ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)</b>							
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 \$50 TOTAL \$0

# Compliance History Report

Customer/Respondent/Owner-Operator: CN600125330 Rhodia Inc. Classification: AVERAGE Rating: 1.03  
 Regulated Entity: RN100211317 RHODIA BAYTOWN PLANT Classification: HIGH Site Rating: 0.00

ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	HG0696Q
	AIR OPERATING PERMITS	PERMIT	1610
	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1011077
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD082688896
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	30708
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG0696Q
	AIR NEW SOURCE PERMITS	PERMIT	12675
	AIR NEW SOURCE PERMITS	PERMIT	11660
	AIR NEW SOURCE PERMITS	PERMIT	9565
	AIR NEW SOURCE PERMITS	PERMIT	52339
	AIR NEW SOURCE PERMITS	EPA ID	PSDTX695
	AIR NEW SOURCE PERMITS	AFS NUM	4820100038
	AIR NEW SOURCE PERMITS	PERMIT	56534
	AIR NEW SOURCE PERMITS	REGISTRATION	72458
	AIR NEW SOURCE PERMITS	REGISTRATION	74106
	AIR NEW SOURCE PERMITS	REGISTRATION	86388
	AIR NEW SOURCE PERMITS	EPA ID	PSDTX695M2
	AIR NEW SOURCE PERMITS	REGISTRATION	86786
	USED OIL	ID NUMBER	HOU00071
	WATER LICENSING	LICENSE	1011077

Location: 3439 PARK ST, BAYTOWN, TX, 77520

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: August 31, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: August 31, 2004 to August 31, 2009

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

Name: Trina Grieco Phone: (210) 403-4006

### 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: 11/06/2008

ADMINORDER 2008-0888-PWS-E

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)

5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: Violated the maximum contaminant level for trihalomethanes during the third quarter of 2005.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)

5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: Violated the maximum contaminant level for trihalomethanes during the fourth quarter of 2005.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)

5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: Violated the maximum contaminant level for trihalomethanes during the fourth quarter of 2007.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)

5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: Violated the maximum contaminant level for trihalomethanes during the first quarter of 2008.

Effective Date: 12/04/2008

ADMINORDER 2008-0817-AIR-E

Classification: Minor

Citation: 30 TAC Chapter 106, SubChapter T 106.454(1)(E)

30 TAC Chapter 115, SubChapter E 115.412(1)(C)

30 TAC Chapter 122, SubChapter B 122.143(4)

5C THSC Chapter 382 382.085(b)

Rqmt Prov: FOP O-01610 S.T. and C. 6 OP

Description: Failure to post signage summarizing proper operating procedures to minimize emissions on or near the degreaser.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(E)(I)

30 TAC Chapter 122, SubChapter B 122.143(4)

5C THSC Chapter 382 382.085(b)

Rqmt Prov: NSR 56534 General Condition 7 PERMIT

O-01610 S.T. and C. 6 OP

Description: Failure to provide sufficient documentation to demonstrate compliance with a permit special condition.

Classification: Moderate

Citation: 30 TAC Chapter 117, SubChapter B 117.354(b)

30 TAC Chapter 122, SubChapter B 122.143(4)

5C THSC Chapter 382 382.085(b)

Rqmt Prov: FOP O-01610 S.T. and C. 10(A) OP

Description: Failure to submit a NOx final control plan.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)

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)

Rqmt Prov: NSR 9565 Special Condition 8 PERMIT

Description: Failure to conduct stack test of the acid plant stack for initial demonstration of compliance.

- 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 11/19/2004 (293357)  
2 12/20/2004 (344712)  
3 10/20/2005 (646355)  
4 01/06/2006 (431852)  
5 01/12/2006 (646423)  
6 08/13/2007 (571028)  
7 02/05/2008 (646426)  
8 02/05/2008 (652068)  
9 04/03/2008 (646427)  
10 04/10/2008 (610705)  
11 04/28/2008 (646663)  
12 08/03/2009 (743318)  
13 08/27/2009 (765054)  
14 08/27/2009 (766655)

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

Date: 11/19/2004 (293357)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.116(a)(1)  
Description: Failure to present an affirmative defense for five non-reportable emission events that occurred on 2/22/04, 03/04/04, 03/08/04, 03/26/04, and 05/21/04. These emission events were the direct result of improper maintenance and/or design.

Date: 10/20/2005 (646355) CN600125330  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
5A THSC Chapter 341, SubChapter A 341.0315(c)  
Description: Violated the maximum contaminant level for trihalomethanes during the third quarter of 2005.

Date: 01/12/2006 (646423) CN600125330  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
5A THSC Chapter 341, SubChapter A 341.0315(c)  
Description: Violated the maximum contaminant level for trihalomethanes during the fourth quarter of 2005.

Date: 02/05/2008 (646426) CN600125330  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
5A THSC Chapter 341, SubChapter A 341.0315(c)  
Description: Violated the maximum contaminant level for trihalomethanes during the fourth quarter of 2007.

Date: 02/05/2008 (652068) CN600125330  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
Description: TOTAL TRIHALOMETHANES

Date: 04/03/2008 (646427) CN600125330  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
5A THSC Chapter 341, SubChapter A 341.0315(c)  
Description: Violated the maximum contaminant level for trihalomethanes during the first quarter of 2008.

Date: 04/10/2008 (618887)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
FOP O-01610 S.T. and C. 3(A)(iii) OP  
Description: Failure to conduct annual stationary vent opacity observations.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
FOP O-01610 S.T. and C. 6 OP  
Description: Failure to comply with the hourly maximum allowable emission rate for SO2 from the acid plant stack.

Date: 08/03/2009 (743318)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 106, SubChapter K 106.261  
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)  
5C THSC Chapter 382 382.085(b)  
Description: Failure to comply with the maximum allowable emission rate for NOx in permit #9565 and PBR 106.261(Reg #72458).

F. Environmental audits.

Notice of Intent Date: 08/31/2004 (350741)  
Disclosure Date: 10/13/2004  
Viol. Classification: Minor  
Citation: 30 TAC Chapter 116, SubChapter B 116.115  
Rqmt Prov: PERMIT General Condition 8  
Description: excess emissions SO2  
Viol. Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115  
Rqmt Prov: PERMIT General Condition 8  
Description: excess emissions NOx  
Viol. Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115  
Rqmt Prov: PERMIT General Condition 8  
Description: excess emissions CO  
Viol. Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115  
Rqmt Prov: PERMIT General Condition 8  
Description: exceeded the annual permitted value for NOx emissions  
Viol. Classification: Minor  
Citation: 30 TAC Chapter 101, SubChapter A 101.10  
Description: incorrectly reported amounts of SO2, NOx and CO on emission inventories for 2002 and 2003

Notice of Intent Date: 04/07/2009 (744273)  
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  
RHODIA INC.  
RN100211317

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2009-1450-AIR-E

### I. JURISDICTION AND STIPULATIONS

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Rhodia Inc. ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a sulfuric acid manufacturing plant at 3439 Park Street in Baytown, Harris County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about September 1, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Twenty-Three Thousand Twenty-Five Dollars (\$23,025) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Eighteen Thousand Four Hundred Twenty Dollars (\$18,420) of the administrative penalty and Four Thousand Six Hundred Five Dollars (\$4,605) is

deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:
  - a. Submitted stack test results to the TCEQ on December 10, 2008; and
  - b. Obtained an amendment to New Source Review ("NSR") Permit No. 56534 on October 5, 2009 which increased the nitrogen oxide ("NOx") and sulfur dioxide ("SO2") emission limits and lower volatile organic compound ("VOC") and SO2 destruction efficiencies from the dock vapor combustor, emission point number ("EPN") DOCKVCSTK.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have:

1. Failed to comply with permitted emissions limits and destruction efficiency requirements, in violation of 30 TEX. ADMIN. CODE § 116.115(b)(2)(F) and (c), TEX. HEALTH & SAFETY CODE § 382.085(b), and NSR Permit No. 56534, Special Conditions 1 and 10, as documented during a record review conducted on August 4 through 17, 2009. Specifically, during a stack test conducted on August 11, 2008 at the dock vapor combustor, EPN DOCKVCSTK, the emission rate was 0.41 pounds per hour ("lbs/hr") of NOx and 0.96 lbs/hr of SO2, and the permitted rates are 0.25 lbs/hr and 0.14, respectively. During the same stack test, the destruction efficiency was

97.75% of VOCs and 95.01% of SO<sub>2</sub>, and the minimum permitted efficiency requirements are 98% and 99%, respectively.

2. Failed to submit the results of stack testing within 60 days after the date of the test, in violation of 30 TEX. ADMIN. CODE § 116.115(c), TEX. HEALTH & SAFETY CODE § 382.085(b), and NSR Permit No. 56534, Special Condition 14.E., as documented during a record review conducted on August 4 through 17, 2009. Specifically, the test was conducted on August 11, 2008 and the results were due by October 11, 2008, but were not submitted until December 10, 2008.

### III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Rhodia Inc., Docket No. 2009-1450-AIR-E" to:  

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088
2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the

Rhodia Inc.  
DOCKET NO. 2009-1450-AIR-E  
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### SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

*[Handwritten Signature]*  
For the Executive Director

1/29/2010  
Date

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

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

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

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

*[Handwritten Signature]*  
Signature

1/21/10  
Date

William J. McConnell  
Name (Printed or typed)  
Authorized Representative of  
Rhodia Inc.

Plant Manager  
Title

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