

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2009-1456-AIR-E **TCEQ ID:** RN100213842 **CASE NO.:** 38325

**RESPONDENT NAME:** Robroy Industries-Texas, L.P.

<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> Robroy Industries-Texas Conduit Division, 1100 U.S. Highway 271 South, Gilmer, Upshur County</p> <p><b>TYPE OF OPERATION:</b> Electrical conduit and fittings manufacturing plant</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on March 22, 2010. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732  <b>TCEQ Enforcement Coordinator:</b> Ms. Miriam Hall, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-1044; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> Mr. David Marshall, President/COO, Robroy Industries-Texas, L.P., 1100 U.S. Highway 271 South, Gilmer, Texas 75644  <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> May 13, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> June 19, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a record review.</p> <p><b>AIR</b></p> <p>1) Failure to maintain volatile organic compound ("VOC") emissions below the maximum allowable emission rates ("MAER") for the Preheat Oven, Emission Point No. ("EPN") STAK 03. Specifically, the Respondent exceeded the hourly STAK 03 MAER of 5.90 pounds per hour ("lbs/hr") and the rolling 12-month average MAER of 12.09 tons per year ("TPY"). From November 28, 2007 through July 8, 2009, there were 132 days that the hourly MAER was exceeded, and from February 2008 through April 2009, the 12-month rolling average was exceeded [30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and 122.143(4); New Source Review Permit ("NSRP") No. 20805, General Condition ("GC") No. 8; Federal Operating Permit ("FOP") No. O-02709, General Terms and Conditions ("GTC") and Special Terms and Conditions ("STC") No. 6; and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>2) Failure to maintain VOC emissions below the MAER for Exterior Priming, EPN STAK 02. Specifically, the Respondent exceeded the hourly STAK 02 MAER of 13.76 lbs/hr and the rolling 12-month average MAER of 28.20 TPY. From November 28, 2007 through July 8, 2009, there were 132 days that the hourly MAER was exceeded, and from February 2008 through April 2009, the 12-month rolling average was exceeded [30 TEX.</p>	<p><b>Total Assessed:</b> \$26,250</p> <p><b>Total Deferred:</b> \$5,250  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$10,500</p> <p><b>Total Paid to General Revenue:</b> \$10,500</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that on July 27, 2009, the Respondent submitted an application to amend NSRP No. 20805 to increase VOC emission rate limits.</p> <p><b>Ordering Provisions:</b></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. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit amendment application for NSRP No. 20805 within 30 days after the date of such requests, or by any other deadline specified in writing; and</p> <p>b. Within 180 days after the effective date of this Agreed Order, submit written certification that either the permit amendment has been obtained and/or EPNs STAK 02, 03, and 06 are operating at permitted emission rates for VOC or that operation of the EPNs has ceased. The certification shall include detailed supporting documentation including receipts and/or other records to demonstrate compliance.</p>

<p>ADMIN. CODE §§ 116.115(b)(2)(F) and 122.143(4); NSRP No. 20805, GC No. 8; FOP No. O-02709, GTC and STC No. 6; and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>3) Failure to maintain VOC emissions below the MAER for Interior Coating, EPN STAK 06. Specifically, the Respondent exceeded the hourly STAK 06 MAER of 10.70 lbs/hr on August 7, September 6, and October 16 and 31, 2008, and May 6, 7, and 28, 2009 [30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and 122.143(4), NSRP No. 20805, GC No. 8; FOP No. O-02709, GTC and STC No. 6; and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>		
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Additional ID No(s): UA0012S



Attachment A  
Docket Number: 2009-1456-AIR-E

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>Robroy Industries-Texas, L.P.</b>
<b>Payable Penalty Amount:</b>	<b>Twenty-One Thousand Dollars (\$21,000)</b>
<b>SEP Amount:</b>	<b>Ten Thousand Five Hundred Dollars (\$10,500)</b>
<b>Type of SEP:</b>	<b>Pre-approved</b>
<b>Third-Party Recipient:</b>	<b>Texas Association of Resource Conservation and Development Areas, Inc. ("RC&amp;D")-Abandoned Tire Clean-Up</b>
<b>Location of SEP:</b>	<b>Gregg County</b>

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

The Respondent shall contribute to the SEP offset amount to the Third-Party Recipient named above. The contribution will be to Texas Association of Resource Conservation and Development Areas, Inc. to be used for the RC&D Abandoned Tire Clean-Up Program as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to clean-up sites where tires have been disposed of illegally. Eligible sites will be limited to those where a responsible party cannot be found and where reasonable efforts have been made to prevent the dumping. SEP monies will be used to pay for the direct cost of collecting and disposing of tires. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

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

This SEP will provide a discernible environmental benefit by providing for the proper disposal of tires and by reducing health threats associated with illegally dumped tires. Illegal tire dumpsites can become breeding grounds for mosquitoes and rodents which carry disease. The potential for tire fires is also reduced by removing illegally dumped tires. Tire fires can result in the contamination of surface water, ground water, and soil.



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 Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.  
1716 Briarcrest Drive, Suite 510  
Bryan, Texas 77802-2700

**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

<b>DATES</b>	Assigned	10-Aug-2009	Screening	3-Sep-2009	EPA Due	2-May-2010
	PCW	5-Nov-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	Robroy Industries-Texas, L.P.		
Reg. Ent. Ref. No.	RN100213842		
Facility/Site Region	5-Tyler	Major/Minor Source	Major

<b>CASE INFORMATION</b>			
Enf./Case ID No.	38325	No. of Violations	3
Docket No.	2009-1456-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Miriam Hall
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

<b>Penalty Calculation Section</b>			
<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>		<b>Subtotal 1</b>	\$25,000
<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>			
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>			
<b>Compliance History</b>	5.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$1,250
Notes	The penalty has been enhanced for one similar NOV.		
<b>Culpability</b>	No 0.0% Enhancement	<b>Subtotal 4</b>	\$0
Notes	The Respondent does not meet the culpability criteria.		
<b>Good Faith Effort to Comply Total Adjustments</b>		<b>Subtotal 5</b>	\$0
<b>Economic Benefit</b>	0.0% Enhancement	<b>Subtotal 6</b>	\$0
Total EB Amounts	\$668	<small>*Capped at the Total EB \$ Amount</small>	
Approx. Cost of Compliance	\$5,000		
<b>SUM OF SUBTOTALS 1-7</b>		<b>Final Subtotal</b>	\$26,250
<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
<small>Reduces or enhances the Final Subtotal by the indicated percentage.</small>			
Notes			
		<b>Final Penalty Amount</b>	\$26,250
<b>STATUTORY LIMIT ADJUSTMENT</b>		<b>Final Assessed Penalty</b>	\$26,250
<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	-\$5,250
<small>Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)</small>			
Notes	Deferral offered for expedited settlement.		
<b>PAYABLE PENALTY</b>			\$21,000

Screening Date 3-Sep-2009

Docket No. 2009-1456-AIR-E

PCW

Respondent Robroy Industries-Texas, L.P.

Policy Revision 2 (September 2002)

Case ID No. 38325

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN100213842

Media [Statute] Air

Enf. Coordinator Miriam Hall

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	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 (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The penalty has been enhanced for one similar NOV.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

<b>Screening Date</b> 3-Sep-2009	<b>Docket No.</b> 2009-1456-AIR-E	<b>PCW</b>		
<b>Respondent</b> Robroy Industries-Texas, L.P.		<i>Policy Revision 2 (September 2002)</i>		
<b>Case ID No.</b> 38325		<i>PCW Revision October 30, 2008</i>		
<b>Reg. Ent. Reference No.</b> RN100213842				
<b>Media [Statute]</b> Air				
<b>Enf. Coordinator</b> Miriam Hall				
<b>Violation Number</b> 1				
<b>Rule Cite(s)</b>	30 Tex. Admin. Code §§ 116.115(b)(2)(F) and 122.143(4); New Source Review Permit ("NSRP") No. 20805, General Condition ("GC") No. 8; Federal Operating Permit ("FOP") No. O-02709, General Terms and Conditions ("GTC") and Special Terms and Conditions ("STC") No. 6; and Tex. Health & Safety Code § 382.085(b)			
<b>Violation Description</b>	Failed to maintain volatile organic compound ("VOC") emissions below the maximum allowable emission rates ("MAER") for the Preheat Over, Emission Point No. ("EPN") STAK 03. Specifically, the Respondent exceeded the hourly STAK 03 MAER of 5.90 pounds per hour ("lbs/hr") and the rolling 12-month average MAER of 12.09 tons per year ("TPY"). From November 28, 2007 through July 8, 2009, there were 132 days that the hourly MAER was exceeded, and from February 2008 through April 2009, the 12-month rolling average was exceeded.			
	<b>Base Penalty</b>	\$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="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<b>Percent</b>	<input type="text" value="25%"/>	
<b>&gt;&gt; Programmatic Matrix</b>				
	Falsification	Major	Moderate	Minor
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<b>Percent</b>	<input type="text" value="0%"/>	
<b>Matrix Notes</b>	Human health or the environment has been exposed to an insignificant amount of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of this violation. The total excess emissions for November 28, 2007 through July 8, 2009 were approximately 1.49 tons of VOC.			
	<b>Adjustment</b>	\$7,500		
			\$2,500	
<b>Violation Events</b>				
	Number of Violation Events	<input type="text" value="4"/>	Number of violation days	
		<input type="text" value="132"/>		
<i>mark only one with an x</i>	daily	<input type="checkbox"/>	<b>Violation Base Penalty</b> <input type="text" value="\$10,000"/>	
	weekly	<input type="checkbox"/>		
	monthly	<input type="checkbox"/>		
	quarterly	<input type="checkbox"/>		
	semiannual	<input checked="" type="checkbox"/>		
	annual	<input type="checkbox"/>		
	single event	<input type="checkbox"/>		
	Four semiannual events are recommended from November 28, 2007 through July 8, 2009 for the actual documented days of violation.			
<b>Good Faith Efforts to Comply</b>				
	<b>0.0%</b> Reduction	<input type="text" value="\$0"/>		
	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"/>	<input type="checkbox"/> (mark with x)		
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.			
	<b>Violation Subtotal</b>	\$10,000		
<b>Economic Benefit (EB) for this violation</b>			<b>Statutory Limit Test</b>	
	Estimated EB Amount	<input type="text" value="\$668"/>	Violation Final Penalty Total	
			<input type="text" value="\$10,500"/>	
	<b>This violation Final Assessed Penalty (adjusted for limits)</b>		<input type="text" value="\$10,500"/>	

## Economic Benefit Worksheet

**Respondent** Robroy Industries-Texas, L.P.  
**Case ID No.** 38325  
**Reg. Ent. Reference No.** RN100213842  
**Media** Air  
**Violation No.** 1

<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
<i>No commas or \$</i>							
<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	\$5,000	28-Nov-2007	31-Jul-2010	2.67	\$668	n/a	\$668
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The estimated cost of obtaining a permit amendment from the first day of violation to the estimated compliance date.

**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 \$5,000 TOTAL \$668

<b>Screening Date</b> 3-Sep-2009	<b>Docket No.</b> 2009-1456-AIR-E	<b>PCW</b>	
<b>Respondent</b> Robroy Industries-Texas, L.P.		<small>Policy Revision 2 (September 2002)</small>	
<b>Case ID No.</b> 38325		<small>PCW Revision October 30, 2008</small>	
<b>Reg. Ent. Reference No.</b> RN100213842			
<b>Media [Statute]</b> Air			
<b>Enf. Coordinator</b> Miriam Hall			
<b>Violation Number</b> <input type="text" value="2"/>			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code §§ 116.115(b)(2)(F) and 122.143(4); NSRP No. 20805, GC No. 8; FOP No. O-Q2709, GTC and STC No. 8; and Tex. Health & Safety Code § 382.085(b)		
<b>Violation Description</b>	Failed to maintain VOC emissions below the MAER for Exterior Priming, EPN STAK 02. Specifically, the Respondent exceeded the hourly STAK 02 MAER of 13.76 lbs/hr and the rolling 12-month average MAER of 28.20 TPY. From November 28, 2007 through July 8, 2009, there were 132 days that the hourly MAER was exceeded, and from February 2008 through April 2009, the 12-month rolling average was exceeded.		
	<b>Base Penalty</b>	<input type="text" value="\$10,000"/>	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>			
<b>OR</b>	<b>Release</b>	<b>Harm</b>	
		Major    Moderate    Minor	
	Actual	<input type="text" value=""/> <input type="text" value=""/> <input checked="" type="text" value="x"/>	<b>Percent</b> <input type="text" value="25%"/>
	Potential	<input type="text" value=""/> <input type="text" value=""/> <input type="text" value=""/>	
<b>&gt;&gt; Programmatic Matrix</b>			
	Falsification	Major    Moderate    Minor	
	<input type="text" value=""/> <input type="text" value=""/> <input type="text" value=""/>	<input type="text" value=""/> <input type="text" value=""/> <input type="text" value=""/>	<b>Percent</b> <input type="text" value="0%"/>
<b>Matrix Notes</b>	Human health or the environment has been exposed to an insignificant amount of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of this violation. The total excess emissions for November 28, 2007 through July 8, 2009 were approximately 3.47 tons of VOC.		
	<b>Adjustment</b>	<input type="text" value="\$7,500"/>	
		<input type="text" value="\$2,500"/>	
<b>Violation Events</b>			
	Number of Violation Events	<input type="text" value="4"/>	Number of violation days
		<input type="text" value="132"/>	
<small>mark only one with an x</small>	daily	<input type="text" value=""/>	<b>Violation Base Penalty</b> <input type="text" value="\$10,000"/>
	weekly	<input type="text" value=""/>	
	monthly	<input type="text" value=""/>	
	quarterly	<input type="text" value=""/>	
	semiannual	<input checked="" type="text" value="x"/>	
	annual	<input type="text" value=""/>	
	single event	<input type="text" value=""/>	
	Four semiannual events are recommended from November 28, 2007 through July 8, 2009 for the actual documented days of violation.		
<b>Good Faith Efforts to Comply</b>		<b>0.0% Reduction</b>	<input type="text" value="\$0"/>
	Extraordinary	Before NOV    NOV to EDPRP/Settlement Offer	
	Ordinary	<input type="text" value=""/> <input type="text" value=""/>	
	N/A	<input checked="" type="text" value="x"/> (mark with x)	
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.		
	<b>Violation Subtotal</b>	<input type="text" value="\$10,000"/>	
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>	
	Estimated EB Amount	<input type="text" value="\$0"/>	Violation Final Penalty Total
			<input type="text" value="\$10,500"/>
	<b>This violation Final Assessed Penalty (adjusted for limits)</b>		<input type="text" value="\$10,500"/>

## Economic Benefit Worksheet

**Respondent** Robroy Industries-Texas, L.P.  
**Case ID No.** 38325  
**Reg. Ent. Reference No.** RN100213842  
**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
Item Description: No commas or \$							

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The economic benefit is included in Violation No. 1.

**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

\$0

**TOTAL**

\$0

<b>Screening Date</b> 3-Sep-2009	<b>Docket No.</b> 2009-1456-AIR-E	<b>PCW</b>		
<b>Respondent</b> Robroy Industries-Texas, L.P.	<small>Policy Revision 2 (September 2002)</small>			
<b>Case ID No.</b> 38325	<small>PCW Revision October 30, 2008</small>			
<b>Reg. Ent. Reference No.</b> RN100213842				
<b>Media [Statute]</b> Air				
<b>Enf. Coordinator</b> Miriam Hall				
<b>Violation Number</b> 3				
<b>Rule Cite(s)</b>	30 Tex. Admin. Code §§ 116.115(b)(2)(F) and 122.143(4); NSRP No. 20805, GC No. 8; FOP No. O-02709, GTC and STC No. 6; and Tex. Health & Safety Code § 382.085(b)			
<b>Violation Description</b>	Failed to maintain VOC emissions below the MAER for Interior Coating, EPN STAK 06. Specifically, the Respondent exceeded the hourly STAK 06 MAER of 10.70 lbs/hr on August 7, September 6, and October 16 and 31, 2008, and May 6, 7, and 28, 2009.			
<b>Base Penalty</b>		\$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 checked="" type="checkbox"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
			<b>Percent</b> 25%	
<b>&gt;&gt; Programmatic Matrix</b>				
			<b>Percent</b> 0%	
<b>Matrix Notes</b>	Human health or the environment has been exposed to an insignificant amount of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of this violation. From August 7, 2008 through May 28, 2009, the total excess emissions were only 124.32 lbs.			
<b>Adjustment</b>		\$7,500		
		\$2,500		
<b>Violation Events</b>				
<b>Number of Violation Events</b> 2		<b>Number of violation days</b> 7		
<small>mark only one with an x</small>	daily	<input type="text"/>	<b>Violation Base Penalty</b> \$5,000	
	weekly	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semiannual	<input checked="" type="checkbox"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		
Two semiannual events are recommended, for August 7, 2008 through May 28, 2009 for the actual documented days of violation.				
<b>Good Faith Efforts to Comply</b>		0.0% Reduction	\$0	
		<small>Before NOV    NOV to EDPRP/Settlement Offer</small>		
Extraordinary	<input type="text"/>	<input type="text"/>		
Ordinary	<input type="text"/>	<input type="text"/>		
N/A	<input checked="" type="checkbox"/>	<small>(mark with x)</small>		
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.			
<b>Violation Subtotal</b>		\$5,000		
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b> \$0		<b>Violation Final Penalty Total</b> \$5,250		
		<b>This violation Final Assessed Penalty (adjusted for limits)</b> \$5,250		

## Economic Benefit Worksheet

**Respondent** Robroy Industries-Texas, L.P.  
**Case ID No.** 38325  
**Reg. Ent. Reference No.** RN100213842  
**Media** Air  
**Violation No.** 3

<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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The economic benefit is included in Violation No. 1.

**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 \$0

TOTAL \$0

# Compliance History Report

Customer/Respondent/Owner-Operator:	CN601534886 Robroy Industries-Texas, L.P.	Classification: AVERAGE	Rating: 2.28																																							
Regulated Entity:	RN100213842 ROBROY INDUSTRIES-TEXAS CONDUIT DIVISION	Classification: AVERAGE	Site Rating: 0.82																																							
ID Number(s):	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">AIR OPERATING PERMITS</td> <td style="width: 25%;">ACCOUNT NUMBER</td> <td style="width: 25%;">UA0012S</td> </tr> <tr> <td>AIR OPERATING PERMITS</td> <td>PERMIT</td> <td>2709</td> </tr> <tr> <td>WASTEWATER</td> <td>PERMIT</td> <td>WQ0001052000</td> </tr> <tr> <td>WASTEWATER</td> <td>PERMIT</td> <td>TPDES0059561</td> </tr> <tr> <td>PETROLEUM STORAGE TANK REGISTRATION</td> <td>REGISTRATION</td> <td>58524</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>ACCOUNT NUMBER</td> <td>UA0012S</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>PERMIT</td> <td>20805</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>AFS NUM</td> <td>4845900004</td> </tr> <tr> <td>INDUSTRIAL AND HAZARDOUS WASTE GENERATION</td> <td>EPA ID</td> <td>TXD007318694</td> </tr> <tr> <td>INDUSTRIAL AND HAZARDOUS WASTE GENERATION</td> <td>SOLID WASTE REGISTRATION # (SWR)</td> <td>30448</td> </tr> <tr> <td>STORMWATER</td> <td>PERMIT</td> <td>TXR05M197</td> </tr> <tr> <td>IHW CORRECTIVE ACTION</td> <td>SOLID WASTE REGISTRATION # (SWR)</td> <td>30448</td> </tr> <tr> <td>AIR EMISSIONS INVENTORY</td> <td>ACCOUNT NUMBER</td> <td>UA0012S</td> </tr> </table>			AIR OPERATING PERMITS	ACCOUNT NUMBER	UA0012S	AIR OPERATING PERMITS	PERMIT	2709	WASTEWATER	PERMIT	WQ0001052000	WASTEWATER	PERMIT	TPDES0059561	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	58524	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	UA0012S	AIR NEW SOURCE PERMITS	PERMIT	20805	AIR NEW SOURCE PERMITS	AFS NUM	4845900004	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD007318694	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	30448	STORMWATER	PERMIT	TXR05M197	IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	30448	AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	UA0012S
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AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	UA0012S																																								
Location:	1100 US HIGHWAY 271 S, GILMER, TX, 75644																																									
TCEQ Region:	REGION 05 - TYLER																																									
Date Compliance History Prepared:	September 14, 2009																																									
Agency Decision Requiring Compliance History:	Enforcement																																									
Compliance Period:	September 14, 2004 to September 14, 2009																																									

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

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

### Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? 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: 9/1/2009 Repeat Violator: NO

### Components (Multimedia) for the Site :

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

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	09/20/2004	(357720)
2	10/18/2004	(357721)
3	10/18/2004	(357722)

- 4 12/12/2005 (439823)
- 5 08/22/2006 (484106)
- 6 11/30/2006 (532365)
- 7 07/11/2007 (567400)
- 8 06/16/2008 (681828)
- 9 06/17/2008 (681162)
- 10 08/05/2009 (745670)

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

Date: 06/17/2009 (745670) CN601534886

Self Report? NO 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)  
 Permit GTC OP  
 Permit SC 18(B) PA  
 Permit STC 6 NSR OP

Description: Failure to produce a report of hourly VOC emission rates for STAK 02, listed on the maximum allowable emissions rates table (MAERT) attached to TCEQ new source review (NSR) Permit No. 20805, for the reporting period of November 28, 2007 through November 27, 2008.

Self Report? NO 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)  
 Permit 2709 STC 6 NSR OP  
 Permit GTC OP  
 Permit SC 18(B) PA

Description: Failure to produce a report of hourly VOC emission rates for STAK 03 listed on the maximum allowable emissions rates table (MAERT) attached to TCEQ new source review (NSR) Permit No. 20805 for the reporting period of November 28, 2007 through November 27, 2008.

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)  
 Permit GC 8 PA  
 Permit GTC OP  
 Permit SC 6 NSR OP

Description: Failure to maintain volatile organic carbon (VOC) emissions from STAK 07 below the maximum allowable emissions rates table (MAERT) attached to TCEQ new source review (NSR) Permit No. 20805 for the reporting period of May 29, 2008 through November 27, 2008.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
ROBROY INDUSTRIES-TEXAS, L.P.  
RN100213842**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2009-1456-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 Robroy Industries-Texas, L.P. ("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 an electrical conduit and fittings manufacturing plant at 1100 U.S. Highway 271 South in Gilmer, Upshur County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about June 24, 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-Six Thousand Two Hundred Fifty Dollars (\$26,250) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Ten Thousand Five Hundred Dollars (\$10,500) of the

administrative penalty and Five Thousand Two Hundred Fifty Dollars (\$5,250) 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. Ten Thousand Five Hundred Dollars (\$10,500) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project.

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 on July 27, 2009, the Respondent submitted an application to amend New Source Review Permit ("NSRP") No. 20805 to increase volatile organic compound ("VOC") emission rate limits.
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 maintain VOC emissions below the maximum allowable emission rates ("MAER") for the Preheat Oven, Emission Point No. ("EPN") STAK 03, in violation of 30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and 122.143(4); NSRP No. 20805, General Condition ("GC") No. 8; Federal Operating Permit ("FOP") No. O-02709, General Terms and Conditions ("GTC") and Special Terms and Conditions ("STC") No. 6; and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on May 13, 2009. Specifically, the Respondent exceeded the hourly STAK 03 MAER of 5.90 pounds per hour ("lbs/hr") and the rolling 12-month average MAER of 12.09 tons per year ("TPY"). From November 28, 2007 through July 8, 2009, there were 132 days that the hourly MAER was exceeded, and from February 2008 through April 2009, the 12-month rolling average was exceeded.
2. Failed to maintain VOC emissions below the MAER for Exterior Priming, EPN STAK 02, in violation of 30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and 122.143(4); NSRP No. 20805, GC No. 8; FOP No. O-02709, GTC and STC No. 6; and TEX. HEALTH & SAFETY CODE § 382.085(b),

as documented during a record review conducted on May 13, 2009. Specifically, the Respondent exceeded the hourly STAK 02 MAER of 13.76 lbs/hr and the rolling 12-month average MAER of 28.20 TPY. From November 28, 2007 through July 8, 2009, there were 132 days that the hourly MAER was exceeded, and from February 2008 through April 2009, the 12-month rolling average was exceeded.

3. Failed to maintain VOC emissions below the MAER for Interior Coating, EPN STAK 06, in violation of 30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and 122.143(4), NSRP No. 20805, GC No. 8; FOP No. O-02709, GTC and STC No. 6; and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on May 13, 2009. Specifically, the Respondent exceeded the hourly STAK 06 MAER of 10.70 lbs/hr on August 7, September 6, and October 16 and 31, 2008, and May 6, 7, and 28, 2009.

### 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: Robroy Industries-Texas, L.P., Docket No. 2009-1456-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 Supplemental Environmental Project ("SEP") in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Ten Thousand Five Hundred Dollars (\$10,500) 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. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit amendment application for NSRP No. 20805 within 30 days after the date of such requests, or by any other deadline specified in writing; and

- b. Within 180 days after the effective date of this Agreed Order, submit written certification that either the permit amendment has been obtained and/or EPNs STAK 02, 03, and 06 are operating at permitted emission rates for VOC or that operation of the EPNs has ceased. The certification shall include detailed supporting documentation including receipts and/or other records to demonstrate compliance, be notarized:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, 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  
Tyler Regional Office  
Texas Commission on Environmental Quality  
2916 Teague Drive  
Tyler, Texas 75701-3734

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 Plant 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. 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.
8. 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.
9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

John S. Sartin  
\_\_\_\_\_  
For the Executive Director

2/25/2010  
\_\_\_\_\_  
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.

David Marshall  
\_\_\_\_\_  
Signature

12/17/09  
\_\_\_\_\_  
Date

David Marshall  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Robroy Industries-Texas, L.P.

President/COO  
\_\_\_\_\_  
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.

Attachment A  
Docket Number: 2009-1456-AIR-E

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>Robroy Industries-Texas, L.P.</b>
<b>Payable Penalty Amount:</b>	<b>Twenty-One Thousand Dollars (\$21,000)</b>
<b>SEP Amount:</b>	<b>Ten Thousand Five Hundred Dollars (\$10,500)</b>
<b>Type of SEP:</b>	<b>Pre-approved</b>
<b>Third-Party Recipient:</b>	<b>Texas Association of Resource Conservation and Development Areas, Inc. ("RC&amp;D")-Abandoned Tire Clean-Up</b>
<b>Location of SEP:</b>	<b>Gregg County</b>

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

The Respondent shall contribute to the SEP offset amount to the Third-Party Recipient named above. The contribution will be to Texas Association of Resource Conservation and Development Areas, Inc. to be used for the RC&D Abandoned Tire Clean-Up Program as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to clean-up sites where tires have been disposed of illegally. Eligible sites will be limited to those where a responsible party cannot be found and where reasonable efforts have been made to prevent the dumping. SEP monies will be used to pay for the direct cost of collecting and disposing of tires. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

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

This SEP will provide a discernible environmental benefit by providing for the proper disposal of tires and by reducing health threats associated with illegally dumped tires. Illegal tire dumpsites can become breeding grounds for mosquitoes and rodents which carry disease. The potential for tire fires is also reduced by removing illegally dumped tires. Tire fires can result in the contamination of surface water, ground water, and soil.

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 Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.  
1716 Briarcrest Drive, Suite 510  
Bryan, Texas 77802-2700

**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.

