

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2010-0194-AIR-E **TCEQ ID:** RN100220581 **CASE NO.:** 39104
RESPONDENT NAME: Rhodia Inc.

ORDER TYPE:		
<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	
CASE TYPE:		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Rhodia Houston Plant, 8615 Manchester Street, Houston, Harris County</p> <p>TYPE OF OPERATION: Sulfuric acid manufacturing plant</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is one additional pending enforcement action regarding this facility location, Docket No. 2009-1329-IWD-E.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on July 5, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Trina Grieco, Enforcement Division, Enforcement Team 5, MC R-13, (210) 403-4006; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. William McConnell, Plant Manager, Rhodia Inc., 8615 Manchester Street, Houston, Texas 77012-2142 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: December 8, 2009</p> <p>Date of NOV/NOE Relating to this Case: January 22, 2010 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>AIR</p> <p>Failure to prevent unauthorized emissions; to ensure that air pollution emission capture and abatement equipment is operating properly; and to achieve 98 percent destruction of volatile organic compounds ("VOCs") by the vapor combustor designated as emission point number ("BPN") 170. Specifically, unauthorized emissions of 15,173 pounds of VOCs were released from BPN 170, an inoperable vapor combustor unit, during an emissions event (Incident No. 130238) that occurred on October 16, 2009 and lasted 691 hours and 37 minutes (29 days). Since this event could have been avoided by ensuring the vapor combustor was operational prior to the planned maintenance activity, the demonstrations for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222 were not met [30 TEX. ADMIN. CODE § 116.115(b)(2)(F), (b)(2)(G), and (c), TEX. HEALTH & SAFETY CODE § 382.085(b), and New Source Review Permit No. 4802, Special Conditions 1 and 7B].</p>	<p>Total Assessed: \$7,350</p> <p>Total Deferred: \$1,470 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$5,880</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, implement measures designed to ensure the vapor combustor is operational prior to any planned maintenance activity; and</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>

Additional ID No(s): HG06970



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	25-Jan-2010	Screening	4-Feb-2010	EPA Due	
	PCW	29-Jan-2010				

RESPONDENT/FACILITY INFORMATION	
Respondent	Rhodla Inc.
Reg. Ent. Ref. No.	RN100220581
Facility/Site Region	12-Houston
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	39104	No. of Violations	1
Docket No.	2010-0194-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Trina@tceq
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 \$5,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 47.0% Enhancement Subtotals 2, 3, & 7 \$2,350

Notes: Penalty enhancement due to one NOV issued for same or similar violations, 13 NOVs issued for unrelated violations, and one agreed order with a denial of liability. Penalty reduction due to two Notice of Audit letters and one Disclosure of Violations submitted.

Culpability No 0.0% Enhancement Subtotal 4 \$0

Notes: The Respondent does not meet the culpability criteria.

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

Economic Benefit 0.0% Enhancement* Subtotal 6 \$0

Total EB Amounts	\$69	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$1,500	

SUM OF SUBTOTALS 1-7 Final Subtotal \$7,350

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$7,350

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty \$7,350

DEFERRAL 20.0% Reduction Adjustment -\$1,470

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

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY \$5,880

Screening Date: 4-Feb-2010

Docket No.: 2010-0194-AIR-E

PCW

Respondent: Rhodia Inc.

Policy Revision 2 (September 2002)

Case ID No.: 39104

PCW Revision October 30, 2008

Reg. Ent. Reference No.: RN100220581

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)	1	5%
	Other written NOVs	13	26%
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	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 judgments 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%

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) 47%

>> 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 one NOV issued for same or similar violations, 13 NOVs issued for unrelated violations, and one agreed order with 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) 47%

Screening Date 4-Feb-2010

Docket No. 2010-0194-AIR-E

PCW

Respondent Rhodia Inc.

Policy Revision 2 (September 2002)

Case ID No. 39104

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100220581

Media [Statute] Air

Enf. Coordinator Trina Grieco

Violation Number

1

Rule Cite(s)

30 Tex. Admin. Code § 116.115(b)(2)(F), (b)(2)(G), and (c), Tex. Health & Safety Code § 382.085(b), and New Source Review Permit No. 4802, Special Conditions 1 and 7B

Violation Description

Failed to prevent unauthorized emissions; to ensure that air pollution emission capture and abatement equipment is operating properly; and to achieve 98 percent destruction of volatile organic compounds ("VOCs") by the vapor combustor designated as emission point number ("EPN") 170. Specifically, unauthorized emissions of 15,173 pounds of VOCs were released from EPN 170, an inoperable vapor combustor unit, during an emissions event (Incident No. 130238) that occurred on October 16, 2009 and lasted 691 hours and 37 minutes (29 days). Since this event could have been avoided by ensuring the vapor combustor was operational prior to the planned maintenance activity, the demonstrations for an affirmative defense in 30 Tex. Admin. Code § 101.222 were not met.

Base Penalty

\$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		X	
Potential			

Percent

50%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

0%

Matrix Notes

Human health or the environment in the Houston-Galveston-Brazoria non-attainment area has been exposed to significant amounts of contaminants that did not exceed protective levels as a result of the violation.

Adjustment

\$5,000

\$5,000

Violation Events

Number of Violation Events 1

28 Number of violation days

mark only one with an x

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty

\$5,000

One monthly event is recommended for the month during which the event occurred.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal

\$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

\$69

Violation Final Penalty Total

\$7,350

This violation Final Assessed Penalty (adjusted for limits)

\$7,350

Economic Benefit Worksheet

Respondent: Rhodia Inc.
Case ID No.: 39104
Reg. Ent. Reference No.: RN100220581
Media: Air
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	16-Oct-2009	15-Sep-2010	0.92	\$69	n/a	\$69

Notes for DELAYED costs

Estimated cost to implement measures designed to ensure the vapor combustor is operational prior to any planned maintenance activity. The date required is the date the event began and the final date is the date corrective actions are projected to be completed.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

TOTAL

\$69

Compliance History Report

Customer/Respondent/Owner-Operator: CN600125330 Rhodia Inc. Classification: AVERAGE Rating: 4.83
 Regulated Entity: RN100220581 RHODIA HOUSTON PLANT Classification: AVERAGE Site Rating: 0.62

ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	HG06970
	AIR OPERATING PERMITS	PERMIT	3049
	WASTEWATER	PERMIT	WQ0000542000
	WASTEWATER	PERMIT	TPDES0007072
	WASTEWATER	PERMIT	TX0007072
	AIR NEW SOURCE PERMITS	PERMIT	10622
	AIR NEW SOURCE PERMITS	REGISTRATION	13219
	AIR NEW SOURCE PERMITS	PERMIT	19282
	AIR NEW SOURCE PERMITS	REGISTRATION	36032
	AIR NEW SOURCE PERMITS	REGISTRATION	46657
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG06970
	AIR NEW SOURCE PERMITS	PERMIT	4802
	AIR NEW SOURCE PERMITS	AFS NUM	4820100037
	AIR NEW SOURCE PERMITS	PERMIT	56566
	AIR NEW SOURCE PERMITS	REGISTRATION	56485
	AIR NEW SOURCE PERMITS	EPA ID	PSDTX1081
	AIR NEW SOURCE PERMITS	REGISTRATION	80725
	AIR NEW SOURCE PERMITS	REGISTRATION	81025
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD008099079
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	31019
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	30507
	INDUSTRIAL AND HAZARDOUS WASTE COMPLIANCE PLANS	PERMIT	50095
	INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	50095
	INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	50095
	INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	50095
	AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	HG06970

Location: 8615 MANCHESTER ST. HOUSTON, TX, 77012

TCEQ Region: REGION 12 – HOUSTON

Date Compliance History Prepared: January 26, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: January 26, 2005 to January 26, 2010

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: 9/1/2009 Repeat Violator: NO

Components (Multimedia) for the Site :

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

Effective Date: 11/13/2009

ADMINORDER 2008-0102-MLM-E

Classification: Major

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 335, SubChapter H 335.221(a)(6)
40 CFR Chapter 266, SubChapter I, PT 266, SubPT H 266.102(e)(4)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: V.I.3.c. PERMIT

Description: Failed to maintain permitted emissions limits for the industrial furnace (Notice of Registration Waste Management Unit No. 2, IHW Permit Unit No. 7) at the Plant

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 335, SubChapter H 335.221(a)(6)
40 CFR Chapter 266, SubChapter I, PT 266, SubPT H 266.102(e)(7)(I)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: V.I.3.f. PERMIT

Description: Failure to cease burning hazardous waste in the industrial furnace after a stack test conducted on February 28 - March 2, 2007 showed arsenic emissions were exceeding the maximum allowable rate specified in Permit No. HW-50095-001.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(9)
30 TAC Chapter 335, SubChapter A 335.6

Rqmt Prov: II.B.4. PERMIT

Description: Failure to report in a timely manner a noncompliance that may have endangered human health or the environment.

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	02/08/2005	(381999)
2	03/18/2005	(346915)
3	03/18/2005	(374508)
4	03/21/2005	(382000)
5	04/18/2005	(430058)
6	05/05/2005	(350927)
7	05/10/2005	(430059)
8	06/14/2005	(430060)
9	07/15/2005	(430061)
10	08/16/2005	(440975)
11	08/24/2005	(398096)
12	09/14/2005	(440976)
13	10/10/2005	(468678)
14	10/26/2005	(431733)
15	11/28/2005	(468679)
16	12/27/2005	(468680)
17	01/17/2006	(468681)
18	02/13/2006	(468676)
19	03/20/2006	(498376)

20	04/11/2006	(468677)
21	05/22/2006	(498377)
22	06/13/2006	(498378)
23	06/16/2006	(466806)
24	06/16/2006	(480107)
25	07/17/2006	(498379)
26	08/18/2006	(520387)
27	08/30/2006	(457592)
28	09/12/2006	(520388)
29	10/17/2006	(575653)
30	11/21/2006	(575654)
31	11/21/2006	(575656)
32	12/21/2006	(575655)
33	02/26/2007	(575647)
34	03/27/2007	(575648)
35	04/16/2007	(575649)
36	04/23/2007	(554349)
37	04/26/2007	(554784)
38	05/22/2007	(575650)
39	05/31/2007	(575652)
40	06/14/2007	(575651)
41	06/18/2007	(543573)
42	08/20/2007	(607586)
43	09/26/2007	(607587)
44	10/16/2007	(619641)
45	11/15/2007	(600496)
46	11/20/2007	(619642)
47	12/11/2007	(619643)
48	12/13/2007	(597131)
49	12/20/2007	(600277)
50	01/21/2008	(672167)
51	02/22/2008	(672166)
52	03/09/2008	(614586)
53	03/19/2008	(690074)
54	04/23/2008	(690075)
55	05/19/2008	(690076)
56	06/02/2008	(654235)
57	06/11/2008	(710862)
58	07/21/2008	(686244)
59	07/24/2008	(710863)
60	08/13/2008	(636945)
61	08/20/2008	(710864)
62	09/26/2008	(710865)
63	10/01/2008	(750384)
64	10/20/2008	(727572)
65	11/18/2008	(727573)
66	12/08/2008	(750383)
67	01/09/2009	(722942)
68	01/26/2009	(750382)
69	03/23/2009	(768443)
70	04/16/2009	(737974)
71	04/17/2009	(738044)
72	04/23/2009	(768444)
73	04/27/2009	(700846)
74	07/01/2009	(760178)
75	08/03/2009	(748768)
76	08/10/2009	(765277)
77	08/24/2009	(766185)
78	08/25/2009	(737246)

79 09/28/2009 (777186)
80 12/15/2009 (784086)
81 01/22/2010 (785155)

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

Date: 07/31/2005 (440975) CN600125330
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 08/24/2005 (398096) CN600125330
Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
40 CFR Part 61, Subpart V 61.247(b)
TCEQ WM Permit No. HW-50095-001 SecX.B.1 PERMIT
Description: Failed to submit the semiannual report.under the 40 CFR § 61.247(b)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
40 CFR Part 61, Subpart V 61.245(b)(1)
40 CFR Part 61, Subpart V 61.245(b)(4)(ii)
TCEQ WMP Permit No. HW-50095-001 Sec X.B.1 PERMIT
Description: Failed calibrate their Toxic Vapor Analyzer with 10,000 parts per million methane gas under 40 CFR Part 61, Subpart V.

Date: 08/31/2005 (440976) CN600125330
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2005 (468678) CN600125330
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2006 (498379) CN600125330
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 08/30/2006 (457592) CN600125330
Self Report? YES Classification: Minor
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THC Chapter 382, SubChapter D 382.085(b)
NSR Permit 4802 Special Condition 9J PERMIT
Description: Failure to maintain authorized hydrocarbon monitoring.

Date: 08/31/2006 (520388) CN600125330
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 06/19/2007 (543573) CN600125330

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THC Chapter 382, SubChapter D 382.085(b)
FOP O-01609 SC 12 OP
NSR Permit 4802 SC 1 PERMIT
Description: Failed to maintain emissions from the Vapor Combuster below the MAERT of NSR permit 4802.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(A)
FOP O-01609 GC OP

Description: Failure to report a deviation on semi-annual Deviation Report.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 106, SubChapter T 106.454(3)(B)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THC Chapter 382, SubChapter D 382.085(b)
FOP O-01609 SC 13 OP

Description: Failure to maintain lid on parts cleaner closed.

Date: 12/20/2007 (600277) CN600125330

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 335, SubChapter A 335.8(b)
II.C.1.d. PERMIT

Description: Failure to notify of the closure of two surface impoundments (NOR 009 and NOR 012) and demonstrate in writing that closure was completed appropriately.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter F 335.152(a)(4)
40 CFR Chapter 264, SubChapter I, PT 264, SubPT E 264.75
II.B.7. PERMIT

Description: Failure to prepare and submit the biennial report by March 1, 2006.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 335, SubChapter F 335.152(a)(4)
40 CFR Chapter 264, SubChapter I, PT 264, SubPT E 264.73(b)(9)
II.B.9. PERMIT

Description: Failure to annually certify a waste minimization statement by January 25 for the previous calendar year.

Date: 01/31/2008 (672166) CN600125330

Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

Date: 06/02/2008 (654235) CN600125330

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 319, SubChapter A 319.11(a)
30 TAC Chapter 319, SubChapter A 319.11(b)

Description: Failure to properly collect volatile samples as required. The permit requires the analysis of composite samples for volatiles. Volatiles must be collected in individual 40 milliliter volatile bottles with no headspace, preserved, and then composited according to the regulations.

Date: 08/13/2008 (636945) CN600125330

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.146(2)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP

Description: Failure to submit an annual compliance certification within the required time frame.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)

30 TAC Chapter 122, SubChapter B 122.145(2)(C)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP

Description: Failure to submit a semi-annual deviation report within the required time frame.

Date: 12/31/2008 (750384) CN600125330

Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2009 (750382) CN600125330

Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.

Notice of Intent Date: 02/15/2006 (461055)

Disclosure Date: 08/07/2006

Viol. Classification: Moderate
Rqmt Prov: PERMIT Permit No. 19282, SC 6
PERMIT Permit No. 19282, SC 7

Description: Failure to maintain SO2 emission rate limits, and report exceedances.

Viol. Classification: Major
Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)
5C THSC Chapter 382, SubChapter A 382.0518(G)

Description: Failure to authorize emissions from the advanced water treatment plant SO2 and VOCs, sulfur tanks S1 and S2 and unloading pit, and spent acid truck unloading wash water,

Viol. Classification: Moderate
Rqmt Prov: PERMIT Permit No. 4802, SC 3

Description: Failure to meet depressurization requirement of hazardous waste tank trucks allowed in any rolling 12 month period.

Viol. Classification: Moderate
Rqmt Prov: PERMIT Permit Nos. 4802 and 56566

Description: Failure to maintain tank turnovers as specified in the permit's applications for 2005.

Viol. Classification: Major
Rqmt Prov: PERMIT Permit No. 4802, SC 7

Description: Failure to permit new chemicals in the plant operations.

Viol. Classification: Major
Rqmt Prov: PERMIT Permit No. 19282

Description: Failure to include air pollutants in air permit no. 19282.

Viol. Classification: Major
Citation: 30 TAC Chapter 122, SubChapter B 122.145
30 TAC Chapter 122, SubChapter B 122.146

Description: Failure to submit Title V semiannual deviation report for October 19, 2005 to June 9, 2006.

Viol. Classification: Minor
Citation: 40 CFR Chapter 63, SubChapter C, PT 63, SubPT G 63.132(g)(2)

Description: Failure to submit HON notification of compliance for wastewater.

Viol. Classification: Moderate
Citation: 40 CFR Chapter 63, SubChapter C, PT 63, SubPT G 63.148(j)

Description: Failure to submit semiannual reports for HON wastewater from January 1, 2006 to June 30, 2006.

Notice of Intent Date: 04/07/2009 (744272)

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.
RN100220581**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2010-0194-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 8615 Manchester Street in Houston, 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 January 27, 2010.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Seven Thousand Three Hundred Fifty Dollars (\$7,350) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Five Thousand Eight Hundred Eighty Dollars (\$5,880) of the administrative penalty and One Thousand Four Hundred Seventy Dollars (\$1,470) 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 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.
10. 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.
11. 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 failed to prevent unauthorized emissions to ensure that air pollution emission capture and abatement equipment is operating properly and to achieve 98 percent destruction of volatile organic compounds ("VOCs") by the vapor combustor designated as emission point number ("EPN") 170, in violation of 30 TEX. ADMIN. CODE § 116.115(b)(2)(F), (b)(2)(G), and (c), TEX. HEALTH & SAFETY CODE § 382.085(b), and New Source Review Permit No. 4802, Special Conditions 1 and 7B, as documented during a record review conducted on December 8, 2009. Specifically, unauthorized emissions of 15,173 pounds of VOCs were released from EPN 170, an inoperable vapor combustor unit, during an emissions event (Incident No. 130238) that occurred on October 16, 2009 and lasted 691 hours and 37 minutes (29 days). Since this event could have been avoided by ensuring the vapor combustor was operational prior to the planned maintenance activity, the demonstrations for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222 were not met.

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. 2010-0194-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. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, implement measures designed to ensure the vapor combustor is operational prior to any planned maintenance activity; and
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

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

3. 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.
4. 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.
5. 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.
6. 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.
7. 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.
8. 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 Bricker
For the Executive Director

6/17/2010
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.

William J. McConnell
Signature

4/29/10
Date

WILLIAM 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.

