

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO. 2009-0965-IHW-E RN102201688 CASE NO. 37853
RESPONDENT NAME: HEXION SPECIALTY CHEMICALS, 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 type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input checked="" type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: 45 Acfrac Road, Brady, McCulloch County

TYPE OF OPERATION: oil and gas frac sand manufacturing facility

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and Respondent expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired September 6, 2010. No comments were received.

CONTACTS AND MAILING LIST:
TCEQ Attorney: Ms. Laurencia Fasoyiro, Litigation Division, MC R-12, (713) 422-8914
Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-3400
TCEQ Enforcement Coordinator: Mr. Clinton Sims, Waste Enforcement Section, MC , (512) 239-6933
SEP Coordinator: Ms. Sharon Blue, Litigation Division, MC 175, (512) 239-2223
TCEQ Regional Contact: Mr. Chris Mayben, San Angelo Regional Office, MC R-8, (325) 655-9479
Respondent: Mr. Rick Springer, Vice President-Environmental Health & Safety, Hexion Specialty Chemicals, Inc., 180 East Broad Street – 24th Floor, Columbus, Ohio 43215
Respondent’s Attorney: Not represented by counsel on this enforcement matter.

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: April 23, 2009</p> <p>Date of NOE Relating to this Case: June 2, 2009</p> <p>Background Facts: The EDPRP was filed on March 31, 2010. Settlement was achieved and the agreed order was signed on July 6, 2010.</p> <p>Current Compliance Status: Respondent has not yet submitted documentation certifying compliance with the technical requirements.</p> <p>IHW:</p> <ol style="list-style-type: none"> Failed to conduct hazardous waste determinations and classifications for each solid waste generated [30 TEX. ADMIN. CODE §§ 335.62, 335.503(a) and 335.513, and 40 C.F.R. § 262.11]. Failed to update the NOR for any changes or additional information within 90 days of the occurrence of such changes or of becoming aware of such additional information [30 TEX. ADMIN. CODE § 335.6(c)]. Failed to submit a complete and correct Annual Waste Summary detailing the management of each hazardous and Class 1 waste generated or managed on-site during the reporting calendar year [30 TEX. ADMIN. CODE § 335.9(a)(2)]. Failed to prevent the shipment, storage, processing, and disposal of generated wastes at an unauthorized facility [30 TEX. ADMIN. CODE §§ 335.10(a) and 335.2(b), and 40 C.F.R. § 262.20(b)]. 	<p>Total Assessed: \$79,600</p> <p>Total Deferred: \$39,800 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input checked="" type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid to General Revenue: \$39,800</p> <p>Respondent paid \$39,800 of the administrative penalty. The remaining amount of \$39,800 shall be conditionally offset by the completion of a Supplemental Environmental Project (SEP).</p> <p>Site Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken: The Executive Director recognizes that on May 29, 2009, Respondent submitted:</p> <ol style="list-style-type: none"> Hazardous waste determinations and classifications for the used oil filters and cooling tower blow down wastewater; An updated Notice of Registration (“NOR”); and Completed Annual Waste Summaries for calendar years 2007 and 2008. <p>Ordering Provisions: Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Implement and complete a SEP (<i>Abandoned Tire Cleanup and Household Hazardous Waste Collection</i>); Immediately cease allowing the shipment, storage, processing, and disposal of generated wastes at unauthorized facilities; Within 30 days, develop and implement procedures to ensure that all wastes generated at the Facility are stored, processed, disposed of, and transported to facilities that are permitted to accept the wastes; and Within 45 days, submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance.

Attachment A
Docket Number: 2009-0965-IHW-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Hexion Specialty Chemicals, Inc.

Penalty Amount: Seventy-Nine Thousand Six Hundred Dollars (\$79,600)

Total SEP Offset Amount: Thirty-Nine Thousand Eight Hundred Dollars (\$39,800)

- **Project 1:**
 - SEP Offset Amount:*** Nineteen Thousand Nine Hundred Dollars (\$19,900)
 - Third Party Recipient:*** **Texas Association of Resource Conservation & Development**
Abandoned Tire Cleanup
 - Type of SEP:*** Pre-approved contribution
 - Location of SEP:*** Colorado River Basin (McCulloch County preference)

- **Project 2:**
 - SEP Offset Amount:*** Nineteen Thousand Nine Hundred Dollars (\$19,900)
 - Third Party Recipient:*** **Texas Association of Resource Conservation & Development**
Household Hazardous Waste Collection
 - Type of SEP:*** Pre-approved contribution
 - Location of SEP:*** McCulloch County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for Respondent to contribute to two (2) Supplemental Environmental Projects (“SEP”). The total offset amount is equal to the two SEP offset amounts described above, and offset is conditioned upon completion of each SEP in accordance with the terms of this Attachment A.

1. Project Descriptions

A. Project Information

Project 1 - Abandoned Tire Cleanup

Respondent shall contribute the SEP offset amount to the Third-Party Recipient named in Project 1 above. The contribution will be made to ***Texas Association of Resource Conservation and Development Areas, Inc. (“RC&D”)*** to be used for the ***Abandoned Tire Cleanup*** program. Specifically, the contribution will be used to clean up sites where tires have been disposed of illegally. The SEP offset amount will be used to pay for the labor and disposal costs associated with proper clean up and disposal of abandoned tires. Eligible cleanup sites will be limited to those where a responsible party cannot be found and where reasonable efforts have been made to prevent the dumping. Any SEP offset amount remaining after completion of this project may, upon approval of the Executive Director, be applied to another approved RC&D project.

Project 1 will be administered in accordance with federal, state, and local environmental laws and regulations. Respondent certifies that there is no prior commitment to perform the project and that it is being performed solely in an effort to settle this enforcement action.

Project 2 – Household Hazardous Waste Collection

Respondent shall contribute the SEP offset amount to the Third-Party Recipient named in Project 2 above. The contribution will be made to **RC&D** for the *Household Hazardous Waste Collection* program. During the event, residents of McCulloch County shall be allowed to bring household hazardous waste to a collection site for proper disposal and shall not be charged disposal fees. Specifically, the SEP offset amount will pay for the labor and disposal costs associated with properly disposing of paint, thinners, pesticides, oil and gas, corrosive cleaners, fertilizers, and other household hazardous wastes.

Project 2 will be administered in accordance with TCEQ guidance on household hazardous waste and federal, state, and local environmental laws and regulations. Respondent certifies that there is no prior commitment to perform this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

Project 1 will provide a discernable environmental benefit by providing for the proper disposal of abandoned tires, which will reduce associated potential health threats, help rid the community of hazardous contaminants that may leach into the soil and water, and help to prevent the release of harmful chemicals into the air should the tires catch fire.

Project 2 will provide a discernable environmental benefit by providing for the proper disposal of Household Hazardous Waste which might otherwise be disposed of in storm drains, the sewerage system, or other means which could be detrimental to the environment.

C. Minimum Expenditure

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

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall contribute the Total SEP Offset Amount to the Third-Party Recipient. Respondent shall mail the contribution, with a copy of the Agreed Order, to:

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

3. Records and Reporting

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

Hexion Specialty Chemicals, Inc
Docket No. 2009-0965-IHW-E
Attachment A

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If Respondent fails to perform its obligations under this SEP in any way, including full payment of the Total SEP Offset Amount and submittal of the required reporting as described in paragraph 3 above, the Executive Director may require immediate payment of all or part of the Total SEP Offset Amount.

In the event of incomplete performance, Respondent shall submit a check for any remaining amount due, made payable to "Texas Commission on Environmental Quality," with the notation "SEP Refund," and the docket number of the case, and shall send it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning these SEPs made by or on behalf of Respondent must include a clear statement that the projects were 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

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

7. Other SEPs by TCEQ or Other Agencies

The SEPs identified in this Agreed Order have not been, and shall not be, included as SEPs for 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

TCEQ

DATES	Assigned	22-Jun-2009			
	PCW	25-Feb-2010	Screening	24-Jun-2009	EPA Due

RESPONDENT/FACILITY INFORMATION					
Respondent	Hexion Specialty Chemicals, Inc.				
Reg. Ent. Ref. No.	RN102201688				
Facility/Site Region	8-San Angelo	Major/Minor Source	Minor		

CASE INFORMATION					
Enf./Case ID No.	37853	No. of Violations	4		
Docket No.	2009-0965-IHW-E	Order Type	1660		
Media Program(s)	Industrial and Hazardous Waste	Government/Non-Profit	No		
Multi-Media		Enf. Coordinator	Clinton Sims		
		EC's Team	Enforcement Team 7		
Admin. Penalty \$ Limit	Minimum	\$0	Maximum	\$10,000	

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$68,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	20.0% Enhancement	Subtotals 2, 3, & 7	\$13,600
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Notes: Enhancement for one 1660 order containing a denial of liability.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$2,000
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$52
Approx. Cost of Compliance	\$3,000

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$79,600
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount \$79,600

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$79,600
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$79,600
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Screening Date 24-Jun-2009

Docket No. 2009-0965-IHW-E

PCW

Respondent Hexion Specialty Chemicals, Inc.

Policy Revision 2 (September 2002)

Case ID No. 37853

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102201688

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Clinton Sims

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 20%

>> **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 Enhancement for one 1660 order containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 20%

Screening Date 24-Jun-2009 **Docket No.** 2009-0965-IHW-E **PCW**
Respondent Hexion Specialty Chemicals, Inc. *Policy Revision 2 (September 2002)*
Case ID No. 37853 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN102201688
Media [Statute] Industrial and Hazardous Waste
Enf. Coordinator Clinton Sims

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="25%"/>
	Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text" value="x"/>

Violation Base Penalty

Good Faith Efforts to Comply

Reduction

	Before NOV	NOV to EDPRP/Settlement
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text" value="x"/>	<input type="text"/>
N/A	<input type="text"/>	(mark with x)

Notes

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Hexion Specialty Chemicals, Inc.
Case ID No. 37853
Reg. Ent. Reference No. RN102201688
Media Industrial and Hazardous Waste
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	\$1,000	23-Apr-2009	29-May-2009	0.10	\$5	n/a	\$5
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

Estimated cost to conduct hazardous waste determinations and properly classify the wastes. The Date Required is the investigation date and the Final Date is the date of compliance.

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

\$1,000

TOTAL

\$5

Screening Date 24-Jun-2009 Docket No. 2009-0965-IHW-E PCW

Respondent Hexion Specialty Chemicals, Inc. Policy Revision 2 (September 2002)

Case ID No. 37853 PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102201688

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Clinton Sims

Violation Number 2 Rule Cite(s) 30 Tex. Admin. Code § 335.6(c)

Violation Description Failed to update the Notice of Registration (NOR) for any changes or additional information within 90 days of occurrence of such changes or becoming aware of such additional information. Specifically, the Respondent did not update the NOR to identify wastes that were currently being managed in seven waste management units. Also, the NOR was not updated to reflect the current contact person for the facility.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release, Harm (Major, Moderate, Minor), Actual, Potential, Percent. Value: 0%

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent. Value: 10%

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 36

Table with columns: Frequency (daily, weekly, monthly, quarterly, semiannual, annual, single event), mark only one with an x. Value: single event x

Violation Base Penalty \$1,000

One single event is recommended.

Good Faith Efforts to Comply 25.0% Reduction \$250

Table with columns: Before NOV, NOV to EDPRP/Settlement Offer, Extraordinary, Ordinary, N/A. Value: Ordinary x

Notes The Respondent came into compliance on May 29, 2009.

Violation Subtotal \$750

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount \$2 Violation Final Penalty Total \$950

This violation Final Assessed Penalty (adjusted for limits) \$950

Economic Benefit Worksheet

Respondent Hexion Specialty Chemicals, Inc.
Case ID No. 37853
Reg. Ent. Reference No. RN102201688
Media Industrial and Hazardous Waste
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$500	23-Apr-2009	29-May-2009	0.10	\$2	n/a	\$2
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Esitimated cost to submit an updated NOR. The Date Required is the investigation date and the Final Date is the date of compliance.

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

\$500

TOTAL

\$2

Screening Date 24-Jun-2009 **Docket No.** 2009-0965-IHW-E **PCW**

Respondent Hexion Specialty Chemicals, Inc. *Policy Revision 2 (September 2002)*

Case ID No. 37853 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN102201688

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Clinton Sims

Violation Number 3
Rule Cite(s) 30 Tex. Admin. Code § 335.9(a)(2)

Violation Description
 Failed to submit a complete and correct annual waste summary detailing the management of each hazardous and class 1 waste generated or managed on-site during the reporting calendar year. Specifically, the Respondent did not identify the type and quantity of waste generated or managed at the Facility during of calendar years 2007 and 2008.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent
	Major	Moderate	Minor	
	Actual			
	Potential			

>> Programmatic Matrix

	Major	Moderate	Minor	Percent
Falsification	x			

Matrix Notes
 100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2 730 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty \$2,000

Two annual events (one event per calendar year) are recommended.

Good Faith Efforts to Comply 25.0% Reduction \$500

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

Notes
 The Respondent came into compliance on May 29, 2009.

Violation Subtotal \$1,500

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$2 **Violation Final Penalty Total** \$1,900

This violation Final Assessed Penalty (adjusted for limits) \$1,900

Economic Benefit Worksheet

Respondent Hexion Specialty Chemicals, Inc.
Case ID No. 37853
Reg. Ent. Reference No. RN102201688
Media Industrial and Hazardous Waste
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$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)	\$500	23-Apr-2009	29-May-2009	0.10	\$2	n/a	\$2

Notes for DELAYED costs

Estimated cost to submit complete and correct annual waste summaries for calender years 2007 and 2008. The Date Required is the investigation date and the Final Date is the date of compliance.

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

\$500

TOTAL

\$2

Screening Date 24-Jun-2009 **Docket No.** 2009-0965-IHW-E **PCW**
Respondent Hexion Specialty Chemicals, Inc. *Policy Revision 2 (September 2002)*
Case ID No. 37853 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN102201688
Media [Statute] Industrial and Hazardous Waste
Enf. Coordinator Clinton Sims

Violation Number 4
Rule Cite(s) 30 Tex. Admin. Code §§ 335.10(a), 335.2(b), and 40 CFR § 262.20(b)
Violation Description Failed to prevent the shipment, storage, processing, and disposal of generated wastes at an unauthorized facility. Specifically, the Respondent allowed 60 shipments of Class 1 waste to an industrial and municipal waste pretreatment facility that was not authorized to accept this kind of Class 1 waste.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm				Percent 10%
	Release	Major	Moderate	Minor	
	Actual				
	Potential		x		

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent 0%

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 60 72 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$60,000

Sixty single events (one event per shipment) are recommended.

Good Faith Efforts to Comply 0.0% Reduction \$0

	Before NOV	NOV to EDRP/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 \$60,000

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$42 **Violation Final Penalty Total** \$72,000

This violation Final Assessed Penalty (adjusted for limits) \$72,000

Economic Benefit Worksheet

Respondent Hexion Specialty Chemicals, Inc.
Case ID No. 37853
Reg. Ent. Reference No. RN102201688
Media Industrial and Hazardous Waste
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$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	\$1,000	23-Apr-2009	26-Feb-2010	0.85	\$42	n/a	\$42
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

Estimated cost to develop and implement procedures to ensure that all wastes generated at the facility are stored, processed, and disposed of at facilities authorized to accept the wastes. The Date Required is the investigation date and the Final Date is the expected date of compliance.

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

\$1,000

TOTAL

\$42

Compliance History Report

Customer/Respondent/Owner-Operator:	CN602870511 Hexion Specialty Chemicals, Inc.	Classification: AVERAGE	Rating: 3.56
Regulated Entity:	RN102201688 HEXION SPECIALTY CHEMICALS	Classification: AVERAGE	Site Rating: 26.67
ID Number(s):	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	84199
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXR000079796
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXR000079796
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	MA00350
	AIR NEW SOURCE PERMITS	PERMIT	34310
	AIR NEW SOURCE PERMITS	PERMIT	51807
	AIR NEW SOURCE PERMITS	REGISTRATION	76390
	AIR NEW SOURCE PERMITS	REGISTRATION	23143
	AIR NEW SOURCE PERMITS	REGISTRATION	86978
	AIR NEW SOURCE PERMITS	REGISTRATION	84599
	AIR NEW SOURCE PERMITS	AFS NUM	4830700012
	STORMWATER	PERMIT	TXR05T443
Location:	45 ACFRAC RD, BRADY, TX, 76825		
TCEQ Region:	REGION 08 - SAN ANGELO		
Date Compliance History Prepared:	June 24, 2009		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	June 24, 2004 to June 24, 2009		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Clinton Sims	Phone:	239 - 6933

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? Yes
3. If Yes, who is the current owner/operator? Hexion Specialty Chemicals, Inc.
4. If Yes, who was/were the prior owner(s)/operator(s)? Borden Chemical, Inc.
5. When did the change(s) in owner or operator occur? 07/15/2005
6. Rating Date: 9/1/2008 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
 - Effective Date: 08/20/2006 ADMINORDER 2006-0644-WQ-E
 - Classification: Major
 - Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
 - Rqmt Prov: MSGP Part II, Section C(2) PERMIT
 - Description: Field Citation - Failure to obtain authorization to discharge storm water associated with
 - 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 05/23/2006 (462589)
 - 2 12/28/2006 (533997)
 - 3 06/03/2009 (744874)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 - N/A
 - 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
HEXION SPECIALTY
CHEMICALS, INC.;
RN102201688**

§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2009-0965-IHW-E**

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality (“Commission” or “TCEQ”) considered this agreement of the parties, resolving an enforcement action regarding Hexion Specialty Chemicals, Inc. (“Respondent”) under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE ch. 361. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent appear before the Commission and together stipulate that:

1. Respondent owns and operates an oil and gas frac sand manufacturing facility at 45 Acfrac Road, Brady, McCulloch County, Texas (the “Facility”). The Facility involves the management and/or the disposal of industrial hazardous waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 361 and TCEQ rules.
3. The Commission and Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondent is subject to the Commission's jurisdiction.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Respondent of any violation alleged in Section II (“Allegations”), nor of any statute or rule.
5. An administrative penalty in the amount of seventy-nine thousand six hundred dollars (\$79,600.00) is assessed by the Commission in settlement of the violations alleged in Section II. Pursuant to TEX. WATER CODE § 7.067, thirty-nine thousand eight hundred dollars (\$39,800.00) dollars of the administrative penalty shall be conditionally offset by Respondent’s completion of a Supplemental Environmental Project (SEP) as defined in

- Attachment A, incorporated herein by reference. 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. Respondent paid thirty-nine thousand eight hundred dollars (\$39,800.00) of the administrative penalty.
6. 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.
 7. The Executive Director of the TCEQ and Respondent agree on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
 8. The Executive Director recognizes that on May 29, 2009, Respondent implemented corrective measures at the Facility by submitting the following documents to the TCEQ San Angelo Regional Office:
 - a. Hazardous waste determinations and classifications for the used oil filters and cooling tower blow down wastewater;
 - b. An updated Notice of Registration ("NOR"); and
 - c. Completed Annual Waste Summaries for calendar years 2007 and 2008.
 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 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

1. During an investigation conducted on April 23, 2009, a TCEQ San Angelo Regional investigator documented that Respondent violated:
 - a. 30 TEX. ADMIN. CODE §§ 335.62, 335.503(a) and 335.513, and 40 C.F.R. § 262.11, by failing to conduct hazardous waste determinations and classifications for each solid waste generated. Specifically, Respondent did not conduct hazardous waste determinations and classifications for used oil filters and cooling tower blow down wastewater;

- b. 30 TEX. ADMIN. CODE § 335.6(c), by failing to update the NOR for changes or additional information within 90 days of the occurrence of such changes or of becoming aware of such additional information. Specifically, the NOR was not updated to identify wastes being managed in seven waste management units, and was not updated to reflect the current contact person for the Facility.
 - c. 30 TEX. ADMIN. CODE § 335.9(a)(2), by failing to submit a complete and correct Annual Waste Summary detailing the management of each hazardous and Class 1 waste generated or managed on-site during the reporting calendar year. Specifically, Respondent did not identify the type and quantity of waste generated or managed at the Facility during calendar years 2007 and 2008.
 - d. 30 TEX. ADMIN. CODE §§ 335.10(a) and 335.2(b), and 40 C.F.R. § 262.20(b), by failing to prevent the shipment, storage, processing, and disposal of generated wastes at an unauthorized facility. Specifically, Respondent allowed 60 shipments of Class 1 waste to an industrial and municipal waste pretreatment facility that was not authorized to accept Class 1 waste.
2. Respondent received notice of the violations on or about June 7, 2009.

III. DENIALS

Respondent generally denies each Allegation in Section II.

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Respondent pay an administrative penalty as set forth in Section I, Paragraph 5, above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and 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 considering or requiring corrective action or penalties for violations which are not raised here.
2. Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067, as set forth in Section I, Paragraph 5, above. Thirty-nine thousand eight hundred dollars (\$39,800.00) of the assessed administrative penalty shall be offset with the condition that Respondent implement and complete the SEP pursuant to the terms of the SEP as defined in Attachment A, incorporated herein by reference. 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. Administrative penalty payments for any portion of the SEP deemed by the Executive Director as not complete shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Hexion Specialty Chemicals, Inc., Docket No. 2009-0965-IHW-E to:

Litigation Division
Attn: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

3. Respondent shall undertake the following technical requirements:
- a. Immediately upon the effective date of this Agreed Order, Respondent shall cease allowing the shipment, storage, processing, and disposal of generated wastes at unauthorized facilities;
 - b. Within 30 days after the effective date of this Agreed Order, Respondent shall develop and implement procedures to ensure that all wastes generated at the Facility are stored, processed, disposed of, and transported to facilities that are permitted to accept the wastes, in accordance with 30 TEX. ADMIN. CODE §§ 335.10(a) and 335.2(b), and 40 C.F.R. § 262.20(b); and
 - c. Within 45 days after the effective date of this Agreed Order, Respondent shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision Nos. 3.a. and 3.b.. 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 fine and imprisonment for knowing violations.”

Respondent shall submit the written certification and copies of documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and

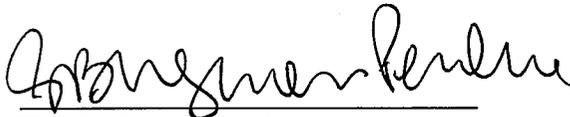
Chris Mayben, Waste Section Manager
Texas Commission on Environmental Quality
San Angelo Regional Office
622 South Oakes, Suite K
San Angelo, Texas 76903-7013

4. The provisions of this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If 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, Respondent's failure to comply is not a violation of this Agreed Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after 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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until 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 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.
9. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails notice of this Agreed Order to 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



For the Executive Director

8/27/2016

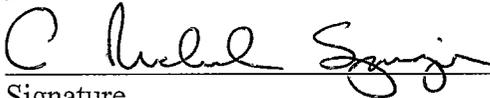
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that 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 in this order and/or failure to timely pay the penalty amount, may result in:

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

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



Signature

C RICHARD SPRINGER

Name (Printed or typed)

Authorized representative of
Hexion Specialty Chemicals, Inc.

7-6-2010

Date

Title

VICE PRESIDENT EHS - AMERICAS

Attachment A
Docket Number: 2009-0965-IHW-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Hexion Specialty Chemicals, Inc.

Penalty Amount: Seventy-Nine Thousand Six Hundred Dollars (\$79,600)

Total SEP Offset Amount: Thirty-Nine Thousand Eight Hundred Dollars (\$39,800)

- **Project 1:**
 - SEP Offset Amount:*** Nineteen Thousand Nine Hundred Dollars (\$19,900)
 - Third Party Recipient:*** **Texas Association of Resource Conservation & Development**
Abandoned Tire Cleanup
 - Type of SEP:*** Pre-approved contribution
 - Location of SEP:*** Colorado River Basin (McCulloch County preference)

- **Project 2:**
 - SEP Offset Amount:*** Nineteen Thousand Nine Hundred Dollars (\$19,900)
 - Third Party Recipient:*** **Texas Association of Resource Conservation & Development**
Household Hazardous Waste Collection
 - Type of SEP:*** Pre-approved contribution
 - Location of SEP:*** McCulloch County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for Respondent to contribute to two (2) Supplemental Environmental Projects (“SEP”). The total offset amount is equal to the two SEP offset amounts described above, and offset is conditioned upon completion of each SEP in accordance with the terms of this Attachment A.

1. Project Descriptions

A. Project Information

Project 1 - Abandoned Tire Cleanup

Respondent shall contribute the SEP offset amount to the Third-Party Recipient named in Project 1 above. The contribution will be made to ***Texas Association of Resource Conservation and Development Areas, Inc. (“RC&D”)*** to be used for the ***Abandoned Tire Cleanup*** program. Specifically, the contribution will be used to clean up sites where tires have been disposed of illegally. The SEP offset amount will be used to pay for the labor and disposal costs associated with proper clean up and disposal of abandoned tires. Eligible cleanup sites will be limited to those where a responsible party cannot be found and where reasonable efforts have been made to prevent the dumping. Any SEP offset amount remaining after completion of this project may, upon approval of the Executive Director, be applied to another approved RC&D project.

Project 1 will be administered in accordance with federal, state, and local environmental laws and regulations. Respondent certifies that there is no prior commitment to perform the project and that it is being performed solely in an effort to settle this enforcement action.

Project 2 – Household Hazardous Waste Collection

Respondent shall contribute the SEP offset amount to the Third-Party Recipient named in Project 2 above. The contribution will be made to **RC&D** for the *Household Hazardous Waste Collection* program. During the event, residents of McCulloch County shall be allowed to bring household hazardous waste to a collection site for proper disposal and shall not be charged disposal fees. Specifically, the SEP offset amount will pay for the labor and disposal costs associated with properly disposing of paint, thinners, pesticides, oil and gas, corrosive cleaners, fertilizers, and other household hazardous wastes.

Project 2 will be administered in accordance with TCEQ guidance on household hazardous waste and federal, state, and local environmental laws and regulations. Respondent certifies that there is no prior commitment to perform this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

Project 1 will provide a discernable environmental benefit by providing for the proper disposal of abandoned tires, which will reduce associated potential health threats, help rid the community of hazardous contaminants that may leach into the soil and water, and help to prevent the release of harmful chemicals into the air should the tires catch fire.

Project 2 will provide a discernable environmental benefit by providing for the proper disposal of Household Hazardous Waste which might otherwise be disposed of in storm drains, the sewerage system, or other means which could be detrimental to the environment.

C. Minimum Expenditure

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

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall contribute the Total SEP Offset Amount to the Third-Party Recipient. Respondent shall mail the contribution, with a copy of the Agreed Order, to:

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

3. Records and Reporting

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

Hexion Specialty Chemicals, Inc
Docket No. 2009-0965-IHW-E
Attachment A

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If Respondent fails to perform its obligations under this SEP in any way, including full payment of the Total SEP Offset Amount and submittal of the required reporting as described in paragraph 3 above, the Executive Director may require immediate payment of all or part of the Total SEP Offset Amount.

In the event of incomplete performance, Respondent shall submit a check for any remaining amount due, made payable to "Texas Commission on Environmental Quality," with the notation "SEP Refund," and the docket number of the case, and shall send it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning these SEPs made by or on behalf of Respondent must include a clear statement that the projects were 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

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

7. Other SEPs by TCEQ or Other Agencies

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