EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2010-1386-AIR-E **TCEQ ID:** RN101049518 **CASE NO.:** 40267

RESPONDENT NAME: Noltex L.L.C.

ORDER TYPE:		
X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
X AIR	__MULTI-MEDIA (check all that apply)	__INDUSTRIAL AND HAZARDOUS WASTE
__PUBLIC WATER SUPPLY	__PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
__WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
__MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	__DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: Noltex La Porte EVOH Plant, 12220 Strang Road, La Porte, Harris County

TYPE OF OPERATION: Chemical manufacturing plant

SMALL BUSINESS: X **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 the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on January 17, 2011. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None
TCEQ Enforcement Coordinator: Ms. Nadia Hameed, Enforcement Division, Enforcement Team 5, MC R-12, (713) 767-3629; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495
Respondent: Mr. Randall Boeding, Executive Vice President, Noltex L.L.C., 12220 Strang Road, La Porte, Texas 77571
Ms. Kristine Aparicio, Environmental Manager, Noltex L.L.C., 12220 Strang Road, La Porte, Texas 77571
Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: __ Complaint __ Routine __ Enforcement Follow-up X Records Review **Date(s) of Complaints Relating to this Case:** None **Date of Investigation Relating to this Case:** July 27, 2010 **Date of NOV/NOE Relating to this Case:** August 4, 2010 (NOE) **Background Facts:** This was a records review. **AIR** Failed to comply with the permitted emission rate for nitrogen oxides ("NOx"), carbon monoxide ("CO") and volatile organic compounds ("VOC"). Specifically, during a reference method stack test conducted on February 16, 2010 on the Regenerative Thermal Oxidizer ("RTO"), it was determined that the NOx emission rate was 1.36 pounds per hour ("lb/hr"), exceeding the maximum allowable emission rate ("MAER") of 0.81 lb/hr by 0.55 lb/hr; CO emission rate was 10.80 lb/hr, exceeding the MAER of 4.45 lb/hr by 6.35 lb/hr; the concentration of CO, corrected to 3 percent oxygen, was 2,294.82 parts per million volumetric dry ("ppmvd"), exceeding the 400 ppmvd permitted rate; VOC emission rate was 3.96 lb/hr, exceeding the MAER of 1.74 lb/hr by 2.22 lb/hr; and the destruction removal efficiency ("DRE") was 77.07% with an outlet concentration of 13.2 parts per million by volume ("ppmv") which was below the applicable DRE of 99% and exceeded the lower limit of 10 ppmv, by 21.93% and 3.2 ppmv, respectively. The unauthorized emissions from the RTO were 10,160 pounds ("lbs") of CO, 2,172 lbs of NOx and 3,258 lbs of VOCs based on 4,344 hours of operation [30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F), 117.310(c)(1) and 122.143(4), Standard Permit No. 88301, Federal Operating Permit No. O-01301 Standard Terms and Conditions No. 8, and TEX. HEALTH & SAFETY CODE § 382.085(b)].	**Total Assessed:** $6,200 **Total Deferred:** $1,240 X Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid to General Revenue:** $4,960 **Compliance History Classifications:** Person/CN - Average Site/RN - Average **Major Source:** X Yes ___ No **Applicable Penalty Policy:** September 2002	**Corrective Actions Taken:** The Executive Director recognizes that on April 27, 2010, the Respondent made some operational changes and conducted a stack test on the RTO which demonstrated that the RTO was operating below the permitted emissions rates.

Additional ID No(s).: Air Account No. HG7698J

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) — *PCW Revision October 30, 2008*

TCEQ

DATES						
Assigned	10-Aug-2010					
PCW	26-Aug-2010	**Screening**	19-Aug-2010	**EPA Due**	1-May-2011	

RESPONDENT/FACILITY INFORMATION			
Respondent	Noltex L.L.C.		
Reg. Ent. Ref. No.	RN101049518		
Facility/Site Region	12-Houston	**Major/Minor Source**	Major

CASE INFORMATION			
Enf./Case ID No.	40267	**No. of Violations**	1
Docket No.	2010-1386-AIR-E	**Order Type**	1660
Media Program(s)	Air	**Government/Non-Profit**	No
Multi-Media		**Enf. Coordinator**	Nadia Hameed
		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 **49.0%** Enhancement — ***Subtotals 2, 3, & 7*** **$2,450**

Notes: Enhancement for two agreed orders with denial of liability and two same/similar NOVs. Reduction for one Notice of Intent to Audit.

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*** **$1,250**

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

Total EB Amounts $50
Approx. Cost of Compliance $2,000
**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 — ***Final Subtotal*** **$6,200**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **$6,200**

STATUTORY LIMIT ADJUSTMENT — ***Final Assessed Penalty*** **$6,200**

DEFERRAL **20.0%** Reduction — ***Adjustment*** **-$1,240**

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY **$4,960**

Screening Date 19-Aug-2010 **Docket No.** 2010-1386-AIR-E **PCW**

Respondent Noltex L.L.C.

Policy Revision 2 (September 2002)

Case ID No. 40267

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101049518

Media [Statute] Air

Enf. Coordinator Nadia Hameed

Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (*number of NOVs meeting criteria*)	2	10%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (*number of judgements or consent decrees meeting criteria*)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which notices were submitted)*	1	-1%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	0	0%

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

Adjustment Percentage (Subtotal 2) 49%

>> 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 two agreed orders with denial of liability and two same/similar NOVs.
Reduction for one Notice of Intent to Audit.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 49%

Screening Date 19-Aug-2010 **Docket No.** 2010-1386-AIR-E **PCW**

Respondent Noltex L.L.C. *Policy Revision 2 (September 2002)*

Case ID No. 40267 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN101049518

Media [Statute] Air

Enf. Coordinator Nadia Hameed

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(b)(2)(F), 117.310(c)(1), and 122.143(4), Standard Permit No. 88301, Federal Operating Permit No. O-01301 Standard Terms and Conditions No. 8, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to comply with the permitted emission rate for nitrogen oxides ("NOx"), carbon monoxide ("CO") and volatile organic compounds ("VOC"). Specifically, during a reference method stack test conducted on February 16, 2010 on the Regenerative Thermal Oxidizer ("RTO"), it was determined that the NOx emission rate was 1.36 pound per hour ("lb/hr"), exceeding the maximum allowable emission rate ("MAER") of 0.81 lb/hr by 0.55 lb/hr; CO emission rate was 10.80 lb/hr, exceeding the MAER of 4.45 lb/hr by 6.35 lb/hr; the concentration of CO, corrected to 3 percent oxygen, was 2,294.82 parts per million volumetric dry ("ppmvd"), exceeding the 400 ppmvd permitted rate; VOC emission rate was 3.96 lb/hr, exceeding the MAER of 1.74 lb/hr by 2.22 lb/hr; and the destruction removal efficiency ("DRE") was 77.07% with an outlet concentration of 13.2 parts per million by volume ("ppmv") which was below the applicable DRE of 99% and exceeded the lower limit of 10 ppmv, by 21.93% and 3.2 ppmv, respectively. The unauthorized emissions from the RTO were 10,160 pounds ("lbs") of CO, 2,172 lbs of NOx and 3,258 lbs of VOCs based on 4,344 hours of operation.

>> Environmental, Property and Human Health Matrix

OR	Release	Harm: Major	Moderate	Minor
	Actual			x
	Potential			

Percent 25%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment $7,500

$2,500

Violation Events

Number of Violation Events: 2 — 181 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $5,000

Two quarterly events are recommended from the date of initial non-compliance (October 28, 2009) to the date of compliance (April 27, 2010).

Good Faith Efforts to Comply

25.0% Reduction — $1,250

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

Notes: The Respondent completed the corrective actions on April 27, 2010, prior to the August 4, 2010, NOE.

Violation Subtotal $3,750

Economic Benefit (EB) for this violation

Estimated EB Amount $50

Statutory Limit Test

Violation Final Penalty Total $6,200

This violation Final Assessed Penalty (adjusted for limits) $6,200

Economic Benefit Worksheet

Respondent Noltex L.L.C.
Case ID No. 40267
Reg. Ent. Reference No. RN101049518
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
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)	$2,000	28-Oct-2009	27-Apr-2010	0.50	$50	n/a	$50

Notes for DELAYED costs: Estimated cost for adjusting the new equipment and making operational changes to the temperature and the fuel to air ratio to ensure that the RTO is operated within the permitted emission rates. (The RTO was retested on April 27, 2010 to demonstrate compliance). The date required is based on the date of initial non-compliance. The final date is the date the corrective action was 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 $2,000

TOTAL $50

Compliance History Report

Customer/Respondent/Owner-Operator: CN600127229 Noltex L.L.C. Classification: AVERAGE Rating: 10.69

Regulated Entity: RN101049518 NOLTEX LA PORTE EVOH PLANT Classification: AVERAGE Site Rating: 10.69

ID Number(s):

INDUSTRIAL AND HAZARDOUS WASTE	EPA ID	TXR000011106
INDUSTRIAL AND HAZARDOUS WASTE	SOLID WASTE REGISTRATION # (SWR)	84348
AIR OPERATING PERMITS	ACCOUNT NUMBER	HG7698J
AIR OPERATING PERMITS	PERMIT	1301
AIR NEW SOURCE PERMITS	AFS NUM	4820101467
AIR NEW SOURCE PERMITS	REGISTRATION	93258
AIR NEW SOURCE PERMITS	PERMIT	19074
AIR NEW SOURCE PERMITS	REGISTRATION	71707
AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG7698J
AIR NEW SOURCE PERMITS	REGISTRATION	76800
AIR NEW SOURCE PERMITS	REGISTRATION	76608
AIR NEW SOURCE PERMITS	REGISTRATION	76802
AIR NEW SOURCE PERMITS	REGISTRATION	78846
AIR NEW SOURCE PERMITS	REGISTRATION	83456
AIR NEW SOURCE PERMITS	REGISTRATION	88301
STORMWATER	PERMIT	TXR05S160
AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	HG7698J

Location: 12220 STRANG RD, LA PORTE, TX, 77571

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: August 18, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: August 18, 2005 to August 18, 2010

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

Name: Nadia Hameed Phone: 713-767-3629

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 judgments, and consent decrees of the State of Texas and the federal government.

N/A Effective Date: 08/29/2005 ADMINORDER 2005-0122-AIR-E

Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
30 TAC Chapter 115, SubChapter D 115.354(2)(B)
30 TAC Chapter 115, SubChapter D 115.354(2)(C)
30 TAC Chapter 116, SubChapter B 116.115(c)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-2(a)(1)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-7(a)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Special Conditions 11, 12E, 12F, and 12G PERMIT

Description: Failed to monitor fugitive components in volatile organic compound ("VOC") service.

Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
30 TAC Chapter 115, SubChapter D 115.352(2)
30 TAC Chapter 116, SubChapter B 116.115(c)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-2(c)(1)

40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-7(d)(1)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-8(c)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: NSR Permit 19074, SC 12H PA

Description: Failed to repair fugitive components in VOC service within 15 calendar days after the leaks were detected.

Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
30 TAC Chapter 115, SubChapter D 115.352(2)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-2(c)(2)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-7(d)(2)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-8(c)(2)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failed to make first attempts at fugitive component leak repairs within five calendar days after the leaks were detected.

Classification: Moderate
Citation: 30 TAC Chapter 115, SubChapter H 115.782(b)(1)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failed to make a first attempt at leak repair to a fugitive component in highly reactive VOC service within one calendar day after the leak was detected.

Effective Date: 04/25/2010 ADMINORDER 2009-1425-AIR-E

Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.6(i)(4)(i)(A)
5C THSC Chapter 382 382.085(b)

Description: Failed to amend Federal Operating Permit No. O-01301 to include the conditions of an extension request. Specifically, a request was submitted to extend the compliance deadline for 40 CODE OF FEDERAL REGULATIONS Part 63 Subpart FFFF requirements on May 7, 2008, but Federal Operating Permit No. O-01301 was never amended to include the conditions of the extension.

Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT FFFF 63.2445(b)
5C THSC Chapter 382 382.085(b)

Description: Failed to demonstrate compliance with 40 CODE OF FEDERAL REGULATIONS Part 63 Subpart FFFF before the May 10, 2008 deadline.

Classification: Moderate
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(A)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: General Terms and Conditions OP

Description: Failed to report each instance of a deviation in the semi-annual deviation reports, as documented during an investigation conducted on July 2, 2009. Specifically, the Respondent failed to include the conditions of an extension request in the Federal Operating Permit and exceedances of the Maximum Allowable Emission Rate Table in New Source Review Permit No. 19074 on March 24-27, 2008,

April 23-24, 2008, June 2-3, 2008, October 21-23, 2008, and November 4, 2008 were not included in the November

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

N/A

C. Chronic excessive emissions events.

N/A

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

1	08/25/2005	(406037)
2	09/28/2005	(432367)
3	02/08/2006	(440114)
4	05/30/2006	(459702)
5	05/09/2007	(543591)
6	10/05/2007	(573606)
7	06/18/2009	(759087)
8	07/01/2009	(747171)
9	08/18/2009	(743678)
10	07/23/2010	(790286)
11	08/04/2010	(843291)

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

Date: 05/08/2007 (543591) CN600127229

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THC Chapter 382, SubChapter D 382.085(b)
O-01301, SC 8 OP
Permit 19074, SC 12E PERMIT

Description: Failure to plug/cap all open-ended lines.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THC Chapter 382, SubChapter D 382.085(b)
O-01301, SC 8 OP
Permit 19074, GC 8 PERMIT

Description: Failure to comply with NSR Permit 19074 MAERT limits for building exhaust vents.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 106, SubChapter K 106.261(a)(2)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THC Chapter 382, SubChapter D 382.085(b)
O-01301, SC 8 OP

Description: Failure to maintain records to demonstrate compliance with emission limitations in a permit by rule

Date: 07/23/2010 (790286) CN600127229

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-6(a)(1)
5C THSC Chapter 382 382.085(b)
Special Condition 15E PERMIT
Special Terms and Condition 8 OP

Description: Failure to cap/plug ten open-ended lines. (Category C10 violation)

Self Report? NO Classification: Minor

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

Description: Noltex LLC failed to report all deviations in the corresponding semi-annual deviation report. (Category C3)

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.11(b)(6)(ii)
5C THSC Chapter 382 382.085(b)
SC 15F PERMIT
ST&C 8 OP

Description: NOL failed to monitor, as part of a directed maintenance program, a leaking O-ring at the same time it was repaired. (Category C1 violation)

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 115, SubChapter H 115.722(d)(1)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Part 60, Subpart A 60.18
5C THSC Chapter 382 382.085(b)
SC 7A PERMIT
ST&C 8 OP

Description: NOL failed to maintain the flare hourly heating value above the minimum hourly heating value of 11.2 MJ/scm. (Category C4 violation)

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(2)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.11(b)(3)
5C THSC Chapter 382 382.085(b)
SC 7B PERMIT
ST&C 8 OP

Description: NOL failed to operate the flare (EPN VS-65) with a constant pilot flame. (Category C4 violation)

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
SC 1 PERMIT
ST&C 8 OP

Description: NOL failed to maintain the VOC hourly emission rates below the maximum allowable emission rates set in the NSR Permit 19074 MAER Table. (Category B14 violation)

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
SC 1 PERMIT
ST&C 8 OP

Description: NOL failed to maintain VOC annual emissions below the maximum allowable emission rates set in their New Source Review Permit MAER Table. (Category B14 violation)

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
SC 8B PERMIT
ST&C 8 OP

Description: NOL failed to remove the bypass from the EVOH flare capture system, required as of December 2006. (Category C4 violation)

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT Kb 60.116b(c)
5C THSC Chapter 382 382.085(b)
ST&C 1A OP

Description: NOL failed to maintain 40 CFR Kb operational records for the wastewater tank. (EPN VS-118T)(Category B1 violation)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 117, SubChapter G 117.8100(a)(1)(C)
5C THSC Chapter 382 382.085(b)
GT&C OP

Description: NOL failed to conduct the 2009 third quarter CGA for the EVOH flare (EPN VS-65). (Category B1)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)
5C THSC Chapter 382 382.085(b)

Description: NOL failed to report all deviations in the semi-annual deviation report for the period of May 1, 2009 through October 31, 2009. (Category B1)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter H 115.782(c)(1)(B)(iii)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
SC 15H PERMIT
ST&C 1A OP

Description: Failure to repair HRVOC connector Tag #679 within 22 days of discovery. [Category C4]

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.142(b)(2)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
ST&C 1A OP

Description: Failure to include all EPNs in the Title V permit. [Category C9(C)]

F. Environmental audits.

Notice of Intent Date: 03/01/2010 (798021)

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	**§**	**BEFORE THE**
ENFORCEMENT ACTION	**§**	
CONCERNING	**§**	**TEXAS COMMISSION ON**
NOLTEX L.L.C.	**§**	
RN101049518	**§**	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2010-1386-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 Noltex L.L.C. ("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 chemical manufacturing plant located at 12220 Strang Road in La Porte, 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 August 9, 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 Six Thousand Two Hundred Dollars ($6,200) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Four Thousand Nine Hundred Sixty Dollars

($4,960) of the administrative penalty and One Thousand Two Hundred Forty Dollars ($1,240) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.

8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.

9. The Executive Director recognizes that on April 27, 2010, the Respondent made some operational changes and conducted a stack test on the Regenerative Thermal Oxidizer ("RTO") which demonstrated that the RTO was operating below the permitted emissions rates.

10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have failed to comply with the permitted emission rate for nitrogen oxides ("NOx"), carbon monoxide ("CO") and volatile organic compounds ("VOC"), in violation of 30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F), 117.310(c)(1) and 122.143(4), Standard Permit No. 88301, Federal Operating Permit No. O-01301 Standard Terms and Conditions No. 8, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on July 27, 2010. Specifically, during a reference method stack test conducted on February 16, 2010 on the RTO, it was determined that the NOx emission rate was 1.36 pound per hour ("lb/hr"), exceeding the maximum allowable emission rate ("MAER") of 0.81 lb/hr by 0.55 lb/hr; CO emission rate was 10.80 lb/hr, exceeding the MAER of 4.45 lb/hr by 6.35 lb/hr; the concentration of CO, corrected to 3 percent oxygen, was 2,294.82 parts per million volumetric dry ("ppmvd"), exceeding the 400 ppmvd permitted rate; VOC emission rate was 3.96 lb/hr, exceeding the MAER of 1.74 lb/hr by 2.22 lb/hr; and the destruction removal efficiency ("DRE") was 77.07% with an outlet concentration of 13.2 parts per million by volume ("ppmv") which was below the applicable DRE of 99% and exceeded the lower limit of 10 ppmv, by 21.93% and 3.2 ppmv, respectively. The unauthorized emissions from the RTO were 10,160 pounds ("lbs") of CO, 2,172 lbs of NOx and 3,258 lbs of VOCs based on 4,344 hours of operation.

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: Noltex L.L.C. Docket No. 2010-1386-AIR-E" to:

   Financial Administration Division, Revenues Section
   Attention: Cashier's Office, MC 214
   Texas Commission on Environmental Quality
   P.O. Box 13088
   Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.

3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

4. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the 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

_____ 12/16/2010
For the Executive Director 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.

_____ 11/9/10
Signature Date

RANDALL BOEDING EXECUTIVE V.P.
Name (Printed or typed) Title
Authorized Representative of
Noltex L.L.C.

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.