

Page 1 of 2

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2010-1112-IHW-E **TCEQ ID:** RN100218973 **CASE NO.:** 40000
RESPONDENT NAME: Formosa Plastics Corporation, Texas

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 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: Formosa Point Comfort Plant, 201 Formosa Drive, Point Comfort, Calhoun County</p> <p>TYPE OF OPERATION: Chemical manufacturing facility</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. 2010-0795-AIR-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 December 20, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732 TCEQ Enforcement Coordinator: Ms. Rebecca Johnson, Enforcement Division, Enforcement Team 5, MC R-14, (361) 825-3420; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Randall P. Smith, Vice President and General Manager, Formosa Plastics Corporation, Texas, P.O. Box 700, Point Comfort, Texas 77978 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 checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: May 4, 2010</p> <p>Date of NOV/NOE Relating to this Case: July 2, 2010 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WASTE</p> <p>1) Failed to prevent the storage of industrial solid waste in such a manner that would cause the discharge or imminent threat of discharge of industrial solid waste into or adjacent to water of the state. Specifically, spills to the ground were documented in the area near the civil maintenance shop [30 TEX. ADMIN. CODE § 335.4].</p> <p>2) Failed to provide written notification for all waste management units. Specifically, it was documented that notification was not submitted for the sump in the High Density Polyethylene ("HDPE") II process area that was being used to manage waste stream 0114119H [30 TEX. ADMIN. CODE § 335.6(c)].</p> <p>3) Failed to comply with the requirements of 40 CODE OF FEDERAL REGULATIONS ("CFR") Part 265, Subpart J, for tanks storing or treating hazardous waste. Specifically, during the May 4, 2010 investigation it was documented that the sump located in the HDPE II process area was being used to store hazardous waste stream 0114119H; however, it did not have adequate secondary containment, a leak detection system, or overflow controls or alarms. In addition, there were no records of tank inspections and a label was not observed [30 TEX. ADMIN. CODE §§ 335.112(a)(9) and 335.69(a)(1)(B) and 40 CFR §§ 262.34(a)(1)(ii), 265.190, 265.191, 265.193, 265.194, and 265.195(a), (b), (c), and (g)].</p>	<p>Total Assessed: \$67,675</p> <p>Total Deferred: \$13,535 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$27,070</p> <p>Total Paid to General Revenue: \$27,070</p> <p>Compliance History Classifications: Person/CN - Average Site/RN - Average</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. On May 27, 2010, documentation was submitted to the TCEQ Corpus Christi Regional Office demonstrating that the contaminated soil, from leaking drums in the area near the civil maintenance shop, was excavated and the contaminated area was cleaned up; and</p> <p>b. On July 27, 2010, the Notice of Registration was updated to mark hazardous waste stream 0114119H as inactive, and the wastewater in the HDPE II process area sump was re-classified as Class II non-hazardous waste stream 01611192.</p> <p>Ordering Provisions:</p> <p>1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p> <p>2) The Order will also require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, provide written notification for the sump in the HDPE II process area that was used as a waste management unit for waste stream 0114119H; 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 2.a.</p>

Additional ID No(s): Air Account No. 31945

Attachment A
Docket Number: 2010-1112-IHW-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Formosa Plastics Corporation, Texas
Penalty Amount:	Fifty-Four Thousand One Hundred Forty Dollars (\$54,140)
SEP Offset Amount:	Twenty-Seven Thousand Seventy Dollars (\$27,070)
Type of SEP:	Pre-approved SEP
Third-Party Recipient:	National Audubon Society – <i>Sundown Island Sanctuary Anti-erosion, Re-vegetation and Pest Control Project</i>
Location of SEP:	Calhoun County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP offset amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to the **National Audubon Society** for the *Sundown Sanctuary Island Anti-erosion, Re-vegetation and Pest Control Project*. The Sundown Island and four other small coastal islands located off Port O’Connor are major sites for nesting colonial waterbirds. These islands are increasingly subject to erosion and consequent land loss due to an increasing number of vessels, storm winds and surges, etc. Texas coastal sanctuary islands in this area host one of the largest roseate spoonbill, reddish egret and brown pelican colonies in the U.S. Colonial. The SEP offset amount will be used to restore the size of the islands utilizing dredge spoil, conduct re-vegetation using native plants, and treat vegetation to control pest populations.

The SEP will be done in accordance with all federal, state and local environmental laws and regulations. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The Respondent shall not profit from this SEP in any manner. The Respondent certifies that it has no prior commitment to make this contribution and that it is being done solely in an effort to settle this enforcement action.

B. Environmental Benefit

This project will provide an environmental benefit by stabilizing the island, reducing erosion, and ensuring the maintenance of the natural ecosystem. Waterbirds can only nest successfully on islands of adequate size that have appropriate vegetation and the absence of pests to ensure stable populations. The loss of native vegetation results in an increased potential for erosion. Re-vegetation will also help absorb pollutants and particulate matter and improve water quality. By restoring the natural vegetated areas, turbidity is reduced, and source water for recreation and human consumption is protected from further degradation

C. Minimum Expenditure

The Respondent shall contribute at least the SEP offset amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP offset amount to the Third-Party Recipient. The Respondent shall mail a copy of the Agreed Order with the contribution to the addressee listed below:

National Audubon Society
Attention: Executive Director
Audubon Texas
2904 Swiss Avenue
Dallas, TX 75204

3. Records and Reporting

Concurrent with the payment of the SEP offset amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP offset amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to the addressee listed below:

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

4. Failure to Fully Perform

If Respondent does not perform its obligations under this SEP in any way, including full expenditure of the SEP offset amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP offset amount.

In the event of incomplete performance, the Respondent shall include on the check the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. The Respondent shall make the payment for the amount due to "Texas Commission on Environmental Quality" and mail it to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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



Penalty Calculation Worksheet (PCW)

TCEQ

DATES	Assigned	6-Jul-2010	Screening	9-Jul-2010	EPA Due	N/A
	PCW	2-Sep-2010				

RESPONDENT/FACILITY INFORMATION	
Respondent	Formosa Plastics Corporation, Texas
Reg. Ent. Ref. No.	RN100218973
Facility/Site Region	14-Corpus Christi
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	40000	No. of Violations	3
Docket No.	2010-1112-IHW-E	Order Type	1660
Media Program(s)	Industrial and Hazardous Waste	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Rebecca Johnson
		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** **\$20,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **249.0%** Enhancement **Subtotals 2, 3, & 7** **\$49,800**

Notes
Enhancement for one same/similar NOV, 24 dissimilar NOVs, five agreed orders with a denial of liability and four agreed orders without a denial of liability. Reduction for two Notices of Intended Audits and one Disclosure of Violations submitted.

Culpability **0.0%** Enhancement **Subtotal 4** **\$0**

Notes
The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$2,125**

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

Total EB Amounts	\$28
Approx. Cost of Compliance	\$5,650

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$67,675**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$67,675**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$67,675**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$13,535**

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 **\$54,140**

Screening Date 9-Jul-2010

Docket No. 2010-1112-IHW-E

PCW

Respondent Formosa Plastics Corporation, Texas

Policy Revision 2 (September 2002)

Case ID No. 40000

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100218973

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Rebecca Johnson

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>)	1	5%
	Other written NOVs	24	48%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	5	100%
	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	4	100%
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</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>)	2	-2%
	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>)	1	-2%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 249%

>> **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 same/similar NOV, 24 dissimilar NOVs, five agreed orders with a denial of liability and four agreed orders without a denial of liability. Reduction for two Notices of Intended Audits and one Disclosure of Violations submitted.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 249%

Screening Date 9-Jul-2010

Docket No. 2010-1112-IHW-E

PCW

Respondent Formosa Plastics Corporation, Texas

Policy Revision 2 (September 2002)

Case ID No. 40000

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100218973

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Rebecca Johnson

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 335.4

Violation Description

Failed to prevent the storage of industrial solid waste in such a manner that would cause the discharge or imminent threat of discharge of industrial solid waste into or adjacent to water of the state. Specifically, during the May 4, 2010 investigation, spills to the ground were documented in the area near the civil maintenance shop.

Base Penalty \$10,000

>> 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 1

23 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

One quarterly event is recommended for the spills near the civil maintenance shop.

Good Faith Efforts to Comply

25.0% Reduction

\$625

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

Notes

The Respondent completed corrective actions on May 27, 2010, which was prior to the July 2, 2010 NOE.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$16

Violation Final Penalty Total \$8,100

This violation Final Assessed Penalty (adjusted for limits) \$8,100

Economic Benefit Worksheet

Respondent: Formosa Plastics Corporation, Texas
Case ID No.: 40000
Reg. Ent. Reference No.: RN100218973
Media: Industrial and Hazardous Waste
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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	\$5,000	4-May-2010	27-May-2010	0.06	\$16	n/a	\$16
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to remove and dispose of the waste materials and contaminated soils in the civil maintenance shop area. The date required is the investigation date. The final date is the date corrective actions were completed.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$16

Screening Date: 9-Jul-2010

Docket No.: 2010-1112-IHW-E

PCW

Respondent: Formosa Plastics Corporation, Texas

Policy Revision 2 (September 2002)

Case ID No.: 40000

PCW Revision October 30, 2008

Reg. Ent. Reference No.: RN100218973

Media [Statute]: Industrial and Hazardous Waste

Enf. Coordinator: Rebecca Johnson

Violation Number: 2

Rule Cite(s): 30 Tex. Admin. Code § 335.6(c)

Violation Description

Failed to provide written notification for all waste management units. Specifically, during the May 4, 2010 investigation, it was documented that notification was not submitted for the sump in the High Density Polyethylene ("HPDE") II process area that was being used to manage waste stream 0114119H.

Base Penalty: \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent: 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	X		

Percent: 25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment: \$7,500

\$2,500

Violation Events

Number of Violation Events: 1

66 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty: \$2,500

One single event is recommended based on documentation of the violation during the May 4, 2010 investigation.

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: \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount: \$7

Violation Final Penalty Total: \$8,725

This violation Final Assessed Penalty (adjusted for limits): \$8,725

Economic Benefit Worksheet

Respondent: Formosa Plastics Corporation, Texas

Case ID No.: 40000

Reg. Ent. Reference No.: RN100218973

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
<small>No commas or \$</small>							

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)	\$150	4-May-2010	28-Mar-2011	0.90	\$7	n/a	\$7

Notes for DELAYED costs

Estimated cost to provide notification of the sump in the HPDE II process area that was used to store hazardous waste. The date required is the investigation date. The final date is the projected compliance date.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$150

TOTAL

\$7

Screening Date: 9-Jul-2010

Docket No. 2010-1112-IHW-E

PCW

Respondent: Formosa Plastics Corporation, Texas

Policy Revision 2 (September 2002)

Case ID No. 40000

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100218973

Media [Statute]: Industrial and Hazardous Waste

Enf. Coordinator: Rebecca Johnson

Violation Number

3

Rule Cite(s)

30 Tex. Admin. Code §§ 335.112(a)(9) and 335.69(a)(1)(B) and 40 Code of Federal Regulations ("CFR") §§ 262.34(a)(1)(II), 265.190, 265.191, 265.193, 265.194, and 265.195(a), (b), (c), and (g)

Violation Description

Failure to comply with the requirements of 40 CFR Part 265, Subpart J, for tanks storing or treating hazardous waste. Specifically, during the May 4, 2010 investigation, it was documented that the sump located in the HDPE II process area was being used to store hazardous waste stream 0114119H; however, it did not have adequate secondary containment, a leak detection system, or overflow controls or alarms. In addition, there were no records documenting inspections and a label was not observed.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				50%
Potential	x			

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
				0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 3

66 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$15,000

Three monthly events are recommended from the investigation date of May 4, 2010 to the screening date of July 9, 2010.

Good Faith Efforts to Comply

10.0% Reduction

\$1,500

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

Notes

The Respondent completed corrective actions on July 27, 2010, which was prior to the initial settlement offer on July 30, 2010.

Violation Subtotal \$13,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$6

Violation Final Penalty Total \$50,850

This violation Final Assessed Penalty (adjusted for limits) \$50,850

Economic Benefit Worksheet

Respondent: Formosa Plastics Corporation, Texas
Case ID No.: 40000
Reg. Ent. Reference No.: RN100218973
Media: Industrial and Hazardous Waste
Violation No.: 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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)	\$500	4-May-2010	27-Jul-2010	0.23	\$6	n/a	\$6

Notes for DELAYED costs

Estimated cost to conduct analysis and re-classify the waste stream being stored in the sump as non-hazardous. The date required is the investigation date. The final date is the date corrective actions were completed.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$6

Compliance History Report

Customer/Respondent/Owner-Operator: CN600130017 Formosa Plastics Corporation, Texas Classification: AVERAGE Rating: 3.53
Regulated Entity: RN100218973 FORMOSA POINT COMFORT PLANT Classification: AVERAGE Site Rating: 8.64

ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	GB0038Q
	AIR OPERATING PERMITS	PERMIT	1484
	AIR OPERATING PERMITS	PERMIT	1951
	AIR OPERATING PERMITS	PERMIT	1953
	AIR OPERATING PERMITS	PERMIT	1954
	AIR OPERATING PERMITS	PERMIT	1955
	AIR OPERATING PERMITS	PERMIT	1956
	AIR OPERATING PERMITS	PERMIT	1957
	AIR OPERATING PERMITS	PERMIT	1958
	AIR NEW SOURCE PERMITS	AFS NUM	4805700015
	AIR NEW SOURCE PERMITS	PERMIT	91780
	AIR NEW SOURCE PERMITS	PERMIT	7699
	AIR NEW SOURCE PERMITS	PERMIT	17030
	AIR NEW SOURCE PERMITS	PERMIT	19166
	AIR NEW SOURCE PERMITS	PERMIT	19167
	AIR NEW SOURCE PERMITS	PERMIT	19188
	AIR NEW SOURCE PERMITS	PERMIT	19198
	AIR NEW SOURCE PERMITS	PERMIT	19199
	AIR NEW SOURCE PERMITS	PERMIT	19200
	AIR NEW SOURCE PERMITS	PERMIT	19201
	AIR NEW SOURCE PERMITS	PERMIT	19871
	AIR NEW SOURCE PERMITS	PERMIT	20203
	AIR NEW SOURCE PERMITS	REGISTRATION	24947
	AIR NEW SOURCE PERMITS	REGISTRATION	29765
	AIR NEW SOURCE PERMITS	REGISTRATION	31130
	AIR NEW SOURCE PERMITS	REGISTRATION	26267
	AIR NEW SOURCE PERMITS	REGISTRATION	26270
	AIR NEW SOURCE PERMITS	REGISTRATION	26351
	AIR NEW SOURCE PERMITS	REGISTRATION	26523
	AIR NEW SOURCE PERMITS	REGISTRATION	26266
	AIR NEW SOURCE PERMITS	REGISTRATION	35292
	AIR NEW SOURCE PERMITS	REGISTRATION	37070
	AIR NEW SOURCE PERMITS	PERMIT	40157
	AIR NEW SOURCE PERMITS	REGISTRATION	40293
	AIR NEW SOURCE PERMITS	REGISTRATION	41145

AIR NEW SOURCE PERMITS	REGISTRATION	43265
AIR NEW SOURCE PERMITS	REGISTRATION	44847
AIR NEW SOURCE PERMITS	REGISTRATION	44933
AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	CB0038Q
AIR NEW SOURCE PERMITS	REGISTRATION	52859
AIR NEW SOURCE PERMITS	REGISTRATION	52259
AIR NEW SOURCE PERMITS	EPA ID	HAP10
AIR NEW SOURCE PERMITS	REGISTRATION	75974
AIR NEW SOURCE PERMITS	PERMIT	76305
AIR NEW SOURCE PERMITS	PERMIT	76044
AIR NEW SOURCE PERMITS	EPA ID	PSDTX1053
AIR NEW SOURCE PERMITS	EPA ID	PSDTX699
AIR NEW SOURCE PERMITS	EPA ID	PSDTX760M3
AIR NEW SOURCE PERMITS	EPA ID	PSDTX760M4
AIR NEW SOURCE PERMITS	EPA ID	PSDTX1058
AIR NEW SOURCE PERMITS	EPA ID	PSDTX760M6
AIR NEW SOURCE PERMITS	REGISTRATION	78769
AIR NEW SOURCE PERMITS	REGISTRATION	79826
AIR NEW SOURCE PERMITS	REGISTRATION	80198
AIR NEW SOURCE PERMITS	REGISTRATION	81109
AIR NEW SOURCE PERMITS	EPA ID	HAP2
AIR NEW SOURCE PERMITS	EPA ID	HAP7
AIR NEW SOURCE PERMITS	REGISTRATION	PSDTX760M8
AIR NEW SOURCE PERMITS	REGISTRATION	83608
AIR NEW SOURCE PERMITS	PERMIT	87363
AIR NEW SOURCE PERMITS	REGISTRATION	84730
AIR NEW SOURCE PERMITS	REGISTRATION	85081
AIR NEW SOURCE PERMITS	REGISTRATION	91047
AIR NEW SOURCE PERMITS	REGISTRATION	85100
AIR NEW SOURCE PERMITS	REGISTRATION	88447
AIR NEW SOURCE PERMITS	REGISTRATION	83763
AIR NEW SOURCE PERMITS	REGISTRATION	86398
AIR NEW SOURCE PERMITS	REGISTRATION	83308
AIR NEW SOURCE PERMITS	REGISTRATION	86288
AIR NEW SOURCE PERMITS	REGISTRATION	83990
AIR NEW SOURCE PERMITS	REGISTRATION	84589
AIR NEW SOURCE PERMITS	REGISTRATION	83489
AIR NEW SOURCE PERMITS	REGISTRATION	84788

USED OIL	REGISTRATION	C86337
INDUSTRIAL AND HAZARDOUS WASTE	EPA ID	TXT490011293
INDUSTRIAL AND HAZARDOUS WASTE	SOLID WASTE REGISTRATION # (SWR)	31945
INDUSTRIAL AND HAZARDOUS WASTE	EPA ID	TX0000888164
INDUSTRIAL AND HAZARDOUS WASTE	SOLID WASTE REGISTRATION # (SWR)	82613
WASTEWATER	PERMIT	WQ0002436000
WASTEWATER	EPA ID	TX0085570
UNDERGROUND INJECTION CONTROL	PERMIT	WDW402
UNDERGROUND INJECTION CONTROL	PERMIT	WDW403
IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	31945
AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	CB0038Q

Location: 201 FORMOSA DR, POINT COMFORT, TX, 77978

TCEQ Region: REGION 14 - CORPUS CHRISTI

Date Compliance History Prepared: July 06, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: July 06, 2005 to July 06, 2010

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

Name: Rebecca Johnson Phone: (361) 825-3420

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.

Effective Date: 12/30/2005

ADMINORDER 2005-0125-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)(ii)

30 TAC Chapter 116, SubChapter B 116.115(c)

5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Special Condition No. 1 PERMIT

Special Condition No. 12 PERMIT

Description: Failure prevent unauthorized emissions from EPNs 1018 and 1067. Formosa failed to satisfy all demonstrations criteria as listed under 30 TAC 101.222(b) and gain regulatory authority for the emissions released from two emissions events, Incident Nos. 25241 and 25275, that occurred on July 15, 2003.

Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)(ii)

30 TAC Chapter 116, SubChapter B 116.115(c)

5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Special Condition 1 PERMIT
Special Condition 12 PERMIT

Description: Failure to prevent unauthorized emissions from EPN 1018. Formosa failed to satisfy all demonstration criteria in 30 TAC §101.222(b) and gain an affirmative defense for unauthorized emissions that were released from the Olefins 1 facility during an emissions event which occurred on or about June 30, 2004.

Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: 7699 / PSD-TX-226M6 PA

Description: Failure to prevent unauthorized emissions from EPN 999. Formosa failed to obtain regulatory authority or meet the demonstration requirements of 30 TAC 101.222 for vinyl chloride emissions involving Cooling Tower VW-CO1 during an emissions event which began on August 14, 2004.

Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter F 101.201(g)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to electronically provide rule required information in the rule required format. Specifically, the reportable emissions event was not reported via STEERS within 24 hours of discovery.

Effective Date: 06/26/2006 ADMINORDER 2005-0938-AIR-E

Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Special Condition 1 PERMIT

Description: Failure to maintain hydrogen chloride (HCl) emissions at or below the 0.14 lb/hr permitted limits. Specifically, emission test results of the Ethylene Dichloride Incinerator C (EPN 6002C), conducted on December 16, 2004, reported HCl emissions of 2.183 lb/hr.

Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Special Condition 1 PERMIT

Description: Failure to meet the demonstration requirements of 30 Texas Admin. Code §101.222(b), specifically (b)(1), and gain an affirmative defense for emissions released during two emissions events, TCEQ Incidents 52272 and 54851, which were discovered on December 3, 2004, and December 6, 2005, respectively.

Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to notify the TCEQ Corpus Christi Region Office within 24 hours after the discovery of an emissions event. Specifically, two planned start-up activities, TCEQ Incidents 49733 and 49731, which both occurred on November 20, 2004, became emissions events on December 3, 2004, and December 6, 2005, respectively.

Effective Date: 02/08/2008 ADMINORDER 2007-0771-AIR-E

Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
30 TAC Chapter 113, SubChapter C 113.100
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: TCEQ Air Permit Number 7699 PSD-TX-226M6 OP

Description: Failure to satisfy all demonstration criteria as listed under 30 TAC §101.222 for the emissions released from the emissions event, Incident Number 81836, that occurred on or about September 26, 2006.

Effective Date: 02/25/2008 ADMINORDER 2007-0230-AIR-E

Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: 7699/PSD-TX-226M6 PERMIT

Description: Failed to prevent the unauthorized release of air contaminants into the atmosphere. The

event did not meet the demonstration criteria necessary to present an affirmative defense for the unauthorized emissions.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(A)
30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)

5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failed to submit a timely and accurate initial notification of an emissions event within 24 hours of discovery.

Effective Date: 03/08/2008 ADMINORDER 2007-1227-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: 19168 OP

Description: failed to comply with the MAERT for particulate matter

Effective Date: 11/17/2008 ADMINORDER 2006-0429-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: MAERT PERMIT

Description: Formosa has failed to demonstrate compliance with applicable permit limits.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: SC 1 PA

Description: Formosa has failed to prevent unauthorized emissions during emissions events that occurred on September 26, 2005, September 28, 2005, November 2, 2005, November 11, 2005, and April 24, 2006. This violation includes violation tracking Nos 228481, 228556, and 231755.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)
5C THSC Chapter 382 382.085(b)

Description: Formosa has failed to submit an accurate final record of an emissions event no later than two weeks after the end of the event.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Permit No. 19168, SC 1 PERMIT
PSD-TX-760M7 PERMIT

Description: Formosa has failed to prevent the unauthorized release of air contaminants into the atmosphere.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 113, SubChapter C 113.100
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
40 CFR Chapter 61, SubChapter C, PT 61, SubPT A 61.12(c)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.6(e)
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: Permit No. 7699, SC No. 1 PERMIT

Description: Formosa has failed to maintain and operate the Vinyl Plant in a manner consistent with good air pollution control practices for minimizing emissions.

Effective Date: 02/22/2009

ADMINORDER 2008-0973-AIR-E

Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter F 101.211(a)
5C THSC Chapter 382 382.085(b)

Description: Failed to notify the TCEQ prior to conducting a reportable maintenance activity.

Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: NSR 7699 - SC 1 PA

Description: Failure to gain an affirmative defense against penalties for unauthorized reportable emissions that were released from the PVC Plant during a reportable maintenance activity which was conducted on January 15, 2008. By failing to notify the commission office according to rule requirements Formosa Plastics Corporation - Texas did not satisfy the applicable criteria in 30 TAC § 101.222 (c)(1).

Effective Date: 03/23/2009

ADMINORDER 2008-1412-AIR-E

Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Condition No. 1 PA
Special Condition No. 7 PA

Description: Failure to route displaced vapors from marine loading of ethylene dichloride (EDC) to the Dock Inclinerator/Scrubber [EPN: 8F-D02] as required by Special Condition No. 7 of TCEQ Air Permit No. 19871.

Effective Date: 10/04/2009

ADMINORDER 2009-0216-AIR-E

Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: Special Condition No. 1 PERMIT

Description: Failure to maintain PM emission rate at permitted limit of 0.98 lb/hr.

Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
40 CFR Chapter 61, SubChapter C, PT 61, SubPT F 61.67(a)
5C THSC Chapter 382 382.085(b)

Description: Failed to conduct an initial performance test of PVC Dryer I within 90 days after start-up. Specifically, PVC Dryer I was initially put into service on April 25, 2003, however the initial performance test was not conducted until December 20, 2006.

Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Condition No. 1 PERMIT

Description: Failed to prevent unauthorized emissions during Incident No. 109611.

Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: 19168 / Special Condition No. 1 PA

Description: Failure to prevent unauthorized emissions to the atmosphere during an emissions event which occurred on December 3, 2008, TCEQ Incident No. 117332. Specifically, on December 3, 2008, the Company released 118.07 lbs. volatile organic compounds (VOC), 83.63 lbs. carbon monoxide (CO), and 11.56 lbs. nitrogen oxides (NOx).

Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: 19168 / Special Condition No. 1 PA

Description: Failure to prevent unauthorized emissions to the atmosphere during an emissions event which occurred on December 4, 2008, TCEQ Incident No. 117340. Specifically, the Company released 333.54 lbs. volatile organic compounds (VOC), 113.05 lbs. carbon monoxide (CO), and 15.65 lbs. nitrogen oxides (NOx).

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	07/21/2005	(400202)
2	07/22/2005	(445391)
3	08/01/2005	(401922)
4	08/02/2005	(401840)
5	08/02/2005	(401946)
6	08/16/2005	(374480)
7	08/19/2005	(401926)
8	08/22/2005	(398698)
9	08/22/2005	(445392)
10	08/25/2005	(401908)
11	08/29/2005	(406996)
12	08/30/2005	(418480)
13	08/31/2005	(407352)
14	09/16/2005	(431883)
15	09/21/2005	(432632)
16	09/23/2005	(445393)
17	10/08/2005	(433294)
18	10/24/2005	(445394)
19	11/22/2005	(476821)
20	12/20/2005	(476822)
21	12/30/2005	(450540)
22	01/02/2006	(450795)
23	01/23/2006	(476823)
24	01/30/2006	(439909)
25	02/22/2006	(476819)
26	03/22/2006	(476820)
27	03/27/2006	(459161)
28	04/04/2006	(438249)
29	04/04/2006	(439904)
30	04/04/2006	(439905)
31	04/04/2006	(449815)
32	04/04/2006	(451199)
33	04/13/2006	(454110)
34	04/24/2006	(503676)
35	04/24/2006	(503679)
36	04/28/2006	(435129)
37	04/28/2006	(454108)
38	05/05/2006	(464365)
39	05/12/2006	(463945)
40	05/22/2006	(503677)
41	06/02/2006	(461335)
42	06/07/2006	(465772)
43	06/14/2006	(450942)
44	06/14/2006	(480076)
45	06/23/2006	(503678)
46	06/27/2006	(482129)
47	07/07/2006	(485310)
48	07/20/2006	(482883)
49	08/03/2006	(489597)
50	08/21/2006	(526033)
51	08/30/2006	(497562)

52 08/30/2006 (509837)
53 08/30/2006 (510729)
54 08/31/2006 (509975)
55 09/01/2006 (510775)
56 09/25/2006 (526034)
57 09/26/2006 (462238)
58 09/26/2006 (512144)
59 09/26/2006 (5144141)
60 10/09/2006 (513839)
61 10/12/2006 (514515)
62 10/12/2006 (515322)
63 10/19/2006 (513945)
64 10/23/2006 (550418)
65 10/26/2006 (513991)
66 11/03/2006 (516618)
67 11/06/2006 (514634)
68 11/15/2006 (519298)
69 11/17/2006 (519684)
70 11/20/2006 (550419)
71 11/21/2006 (515781)
72 11/30/2006 (532252)
73 12/08/2006 (519141)
74 12/15/2006 (517230)
75 12/20/2006 (550420)
76 12/21/2006 (516229)
77 01/16/2007 (532907)
78 01/17/2007 (550421)
79 01/18/2007 (535414)
80 01/24/2007 (511068)
81 02/01/2007 (531203)
82 02/01/2007 (538682)
83 02/08/2007 (538669)
84 02/16/2007 (540711)
85 02/16/2007 (550417)
86 03/09/2007 (538214)
87 03/13/2007 (538231)
88 03/18/2007 (586494)
89 03/22/2007 (541488)
90 04/20/2007 (586495)
91 04/20/2007 (586499)
92 04/26/2007 (557916)
93 05/01/2007 (554893)
94 05/03/2007 (532954)
95 05/03/2007 (539088)
96 05/04/2007 (558947)
97 05/08/2007 (543566)
98 05/17/2007 (586496)
99 05/21/2007 (539094)
100 05/22/2007 (518012)
101 06/01/2007 (560753)
102 06/05/2007 (561710)
103 06/06/2007 (561326)
104 06/20/2007 (586497)
105 06/22/2007 (564553)
106 07/02/2007 (562183)
107 07/02/2007 (564474)
108 07/03/2007 (564356)
109 07/09/2007 (565028)

110	07/17/2007	(556894)
111	07/18/2007	(567987)
112	07/19/2007	(586498)
113	08/06/2007	(570182)
114	08/09/2007	(571103)
115	08/10/2007	(571081)
116	08/17/2007	(572727)
117	08/20/2007	(608547)
118	08/23/2007	(570607)
119	08/27/2007	(573658)
120	08/28/2007	(571044)
121	08/28/2007	(573161)
122	08/29/2007	(573863)
123	08/30/2007	(571235)
124	08/30/2007	(573910)
125	08/31/2007	(573913)
126	09/05/2007	(573493)
127	09/14/2007	(593716)
128	09/17/2007	(594445)
129	09/18/2007	(608548)
130	09/25/2007	(594531)
131	09/26/2007	(594361)
132	09/26/2007	(595204)
133	10/15/2007	(597270)
134	10/17/2007	(596207)
135	10/19/2007	(597799)
136	10/19/2007	(608549)
137	11/01/2007	(598892)
138	11/14/2007	(600715)
139	11/19/2007	(624434)
140	12/19/2007	(624435)
141	01/03/2008	(612135)
142	01/03/2008	(613118)
143	01/11/2008	(594104)
144	01/22/2008	(615309)
145	02/01/2008	(616854)
146	02/19/2008	(675333)
147	02/20/2008	(619101)
148	02/21/2008	(619178)
149	02/21/2008	(636162)
150	02/22/2008	(636289)
151	02/22/2008	(636326)
152	02/22/2008	(636366)
153	02/28/2008	(636411)
154	03/19/2008	(675334)
155	03/20/2008	(638519)
156	03/25/2008	(638608)
157	03/31/2008	(639844)
158	04/01/2008	(639933)
159	04/10/2008	(641485)
160	04/15/2008	(646242)
161	04/16/2008	(675335)
162	04/17/2008	(640632)
163	04/21/2008	(641076)
164	04/25/2008	(636833)
165	04/29/2008	(646542)
166	04/29/2008	(653424)
167	05/09/2008	(646274)

168 05/12/2008 (636795)
169 05/20/2008 (693652)
170 05/21/2008 (671435)
171 05/30/2008 (681375)
172 06/17/2008 (682859)
173 06/17/2008 (683115)
174 06/20/2008 (693653)
175 06/24/2008 (683946)
176 06/24/2008 (683966)
177 06/24/2008 (683984)
178 07/10/2008 (685472)
179 07/16/2008 (684475)
180 07/18/2008 (693654)
181 07/22/2008 (685001)
182 07/29/2008 (685965)
183 07/30/2008 (543170)
184 07/30/2008 (687334)
185 08/01/2008 (688047)
186 08/07/2008 (685243)
187 08/19/2008 (714957)
188 08/22/2008 (684138)
189 08/26/2008 (700762)
190 08/27/2008 (700078)
191 08/28/2008 (688501)
192 08/28/2008 (688578)
193 08/28/2008 (688643)
194 09/05/2008 (701546)
195 09/08/2008 (701955)
196 09/19/2008 (714958)
197 09/24/2008 (703543)
198 09/30/2008 (703642)
199 10/20/2008 (714959)
200 10/28/2008 (705449)
201 10/29/2008 (704638)
202 10/29/2008 (705606)
203 10/30/2008 (706772)
204 10/30/2008 (706782)
205 10/30/2008 (706864)
206 10/31/2008 (706883)
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208 11/17/2008 (730834)
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210 12/03/2008 (707686)
211 12/03/2008 (708416)
212 12/03/2008 (709267)
213 12/16/2008 (721035)
214 12/17/2008 (754075)
215 12/18/2008 (721349)
216 12/18/2008 (721584)
217 01/15/2009 (723397)
218 01/19/2009 (730835)
219 01/27/2009 (722151)
220 01/28/2009 (723514)
221 02/02/2009 (722062)
222 02/02/2009 (725695)
223 02/18/2009 (725700)
224 02/18/2009 (735847)
225 02/18/2009 (754072)

226	02/26/2009	(736946)
227	02/27/2009	(736493)
228	02/27/2009	(737041)
229	03/13/2009	(738459)
230	03/16/2009	(738488)
231	03/17/2009	(754073)
232	03/26/2009	(738363)
233	04/07/2009	(573226)
234	04/08/2009	(741563)
235	04/17/2009	(754074)
236	04/28/2009	(743141)
237	04/30/2009	(742541)
238	05/07/2009	(739457)
239	05/18/2009	(745899)
240	05/18/2009	(771401)
241	06/12/2009	(771402)
242	06/22/2009	(759377)
243	06/28/2009	(749155)
244	06/28/2009	(759743)
245	07/09/2009	(759868)
246	07/09/2009	(760928)
247	07/16/2009	(814204)
248	07/19/2009	(745485)
249	08/02/2009	(763795)
250	08/03/2009	(748900)
251	08/07/2009	(749512)
252	08/12/2009	(748658)
253	08/15/2009	(760067)
254	08/18/2009	(814205)
255	08/24/2009	(765182)
256	08/24/2009	(765476)
257	08/24/2009	(766886)
258	08/28/2009	(764529)
259	08/28/2009	(766981)
260	08/29/2009	(767772)
261	08/31/2009	(767753)
262	09/18/2009	(814206)
263	09/30/2009	(776915)
264	10/07/2009	(777204)
265	10/13/2009	(777538)
266	10/19/2009	(814207)
267	11/02/2009	(779962)
268	11/12/2009	(782076)
269	11/18/2009	(814208)
270	12/01/2009	(783923)
271	12/18/2009	(814209)
272	01/11/2010	(827904)
273	01/12/2010	(787826)
274	01/20/2010	(814210)
275	01/22/2010	(789008)
276	02/12/2010	(791377)
277	02/12/2010	(791489)
278	02/12/2010	(791957)
279	02/16/2010	(789686)
280	02/19/2010	(814203)
281	02/22/2010	(792636)
282	02/25/2010	(793342)
283	02/25/2010	(793452)

284 02/26/2010 (793774)
 285 03/30/2010 (795495)
 286 03/30/2010 (795510)
 287 03/30/2010 (795682)
 288 04/27/2010 (800208)
 289 05/03/2010 (800275)
 290 05/07/2010 (788602)
 291 05/07/2010 (800835)
 292 05/17/2010 (759415)
 293 05/17/2010 (801200)
 294 05/28/2010 (825104)
 295 06/01/2010 (825231)
 296 06/11/2010 (801888)
 297 06/16/2010 (824688)
 298 07/01/2010 (799779)
 299 07/05/2010 (829642)

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

Date: 07/21/2005 (400202)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TPDES Permit No. WQ0002436-000 PERMIT
 Description: Failure to maintain the effluent quality within the permitted limits.

Date: 07/31/2005 (445392)
 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: 08/19/2005 (401926)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)
 Description: Failure to include all instances of deviations in the two Deviation Reports (DR) submitted in the April 19, 2004 through April 18, 2005 time period.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 122, SubChapter B 122.146(5)(D)
 Description: Failure to include or reference in the annual permit compliance certification (PCC) the identification of all other terms and conditions of the permit for which compliance was not achieved.

Date: 10/31/2005 (476821)
 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: 05/31/2006 (503678)
 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: 06/07/2006 (450942)
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)
 Description: Failure to submit all instances of deviations as required by rule.
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-6(a)(1)
 7699/Special Condition No. 13E PERMIT

Description: Failure to equip each open ended valve or line with a cap, blind flange, plug, or a second valve, as required by 40 Code of Federal Regulations (CFR) §60.482-6(a)(1).

Date: 07/20/2006 (482883)

Self Report? NO **Classification:** Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)

Description: Failure to comply with the Federal Operating Permit Compliance Certification Terms and Conditions. Formosa failed to report all instances of deviations in the Semi-Annual Compliance Certification for the certification period which began on October 22, 2004 through April 20, 2005.

Self Report? NO **Classification:** Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.146(5)(D)

Description: Failure to comply with the Federal Operating Permit Compliance Certification Terms and Conditions. Formosa failed to report all instances of deviations in the Annual Compliance Certification for the certification period which began on April 21, 2004 through April 20, 2005.

Date: 08/30/2006 (509837)

Self Report? NO **Classification:** Moderate

Citation: 19200, Special Condition 9A PERMIT
 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 FOP O-01956, Special Condition No. 13 OP

Description: Failure to maintain required records of monitoring data.

Date: 08/30/2006 (497582)

Self Report? NO **Classification:** Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 SC 20 PA
 Spec. Terms & Conditions (STC) No. 13 OP

Description: Failure to operate two incinerators according to the excess oxygen (O₂) and carbon monoxide (CO) limits defined by the HDPE I Plant air permit special condition.

Self Report? NO **Classification:** Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 SC 7 PA
 STC No. 13 OP

Description: Failure to demonstrate that monthly monitoring for VOC associated with cooling tower water had been conducted in January and February 2005.

Self Report? NO **Classification:** Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 STC No. 1 OP

Description: Failure to equip two open-ended lines (OELs) with a cap, blind flange, plug or a second valve.

Date: 11/06/2006 (514634)

Self Report? NO **Classification:** Moderate

Citation: Special Condition No. 1 PERMIT

Description: Failure to meet the demonstration requirements of 30 TAC §101.222 and gain an affirmative defense for emissions released during an emissions event (Incident No. 47973) which was discovered on October 17, 2004.

Self Report? NO **Classification:** Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 Special Condition No. 1 PERMIT

Description: Failure to meet the demonstration requirements of 30 TAC §101.222 and gain an

affirmative defense for thirty-one (31) non-reportable emissions events at the PVC Unit and at the VCM Unit.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(c)
Special Condition No. 1 PERMIT
Description: Failure to meet the demonstration requirements of 30 TAC §101.222 and gain an affirmative defense for thirty-eight (38) reportable quantity (RQ) releases of vinyl chloride from the VCM Unit, and eleven (11) RQ releases of vinyl chloride from the PVC Unit.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(c)
Special Condition No. 1 PERMIT
Description: Failure to meet the demonstration requirements of 30 TAC §101.222 and gain an affirmative defense for seven (7) non-reportable emissions events released between January 1 and December 31, 2004 at the EDC Unit.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)
Description: Complete failure to submit notification of reportable emissions events for the VCM and PVC Units.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)
Description: Failure to maintain complete non-reportable emissions event final records for the EDC, PVC, and VCM Units.

Date: 11/30/2006 (550420)

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: 12/18/2006 (517230)

Self Report? NO Classification: Moderate
Citation: TPDES Permit No. WQ0002436-008 PERMIT
TWC Chapter 26 26.121(a)(1)
Description: Failure to prevent an unpermitted discharge of cooling tower blow down water via outfall 008.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TPDES Permit No. WQ0002436-008 PERMIT
Description: Failure to meet daily maximum discharge loading limit for total zinc at outfall 001.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TPDES Permit No. WQ0002436-001 PERMIT
Description: Failure to meet effluent limitation for pH maximum and duration at outfall 001.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TPDES Permit No. WQ0002436-010 PERMIT
Description: Failure to meet effluent limitation for pH maximum at outfall 010.

Date: 05/22/2007 (618012)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
Federal Operating Permit Number O-01957 OP
TCEQ Air Permit Number 19201/PSD-TX-760M OP
Description: Failure to operate H923A and/or H923B Incinerators at not less than 2.0 percent oxygen and not more than 45 ppmvd carbon monoxide as required by Permit Number 19201, Special Condition 20.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)

TCEQ Air Permit No. 190201/PSD-TX-76M6 OP

Description: Failure to comply with 190201/PSD-TX-760M6, Special Condition 15 which states that Dryer Vents (D-301, 2D-301, and 3D-301) shall only be vented directly to the atmosphere when the VOC concentration of the vent streams reaches 25 percent of the lower explosive level.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
TCEQ Air Permit Number 20203/PSD-TX-76M6 OP

Description: Formosa failed to comply with Permit 20203/PSD-TX-760M6, Special Condition 8 which states that the LLDPE incinerator firebox exit temperature will be maintained at no less than 1500 degrees Fahrenheit.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
TCEQ Air Permit Number 20203/PSD-TX-760M OP

Description: Formosa failed to comply with Permit 20203/PSD-TX-760M6, Maximum Allowable Emission Rates (MAER) which indicates that the carbon monoxide pounds per hour emission rate of the emission point number LI-01 Incinerator shall be maintained at no greater than 8.98 pounds per hour.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
TCEQ Air Permit Number 20203/PSD-TX-760M OP

Description: Formosa failed to comply with Permit 20203/PSD-TX-760M6, Operational Standards Special Condition 5, which states that the facility covered by this permit shall not operate unless all associated air pollution abatement equipment is maintained in good working order and operating during normal facility operations.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
Federal Operating Permit Number O-01957 OP

Description: Formosa failed to comply with the periodic monitoring requirements included in the permit for the purpose of annual compliance certification under 30 TAC §122.146 by failing to conduct quarterly monitoring as required.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
Federal Operating Permit Number O-01957 OP
TCEQ Air Permit Number 40157/PSD-TX-760M OP

Description: Formosa failed to monitor accessible valves by leak-checking for fugitive emissions at least quarterly using an approved gas analyzer with a directed maintenance program.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)

Description: Formosa failed to submit accurate and complete Semi-Annual Deviation Reports.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)

Description: Failure to comply with permit reporting requirements as specified in terms and conditions of the permit regarding deviation reports.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 122, SubChapter B 122.146(5)(C)

Description: Formosa failed to submit complete annual compliance certification for reporting period 07/27/2004 through 07/26/2005.

Date: 08/31/2007 (571235)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(b)
TCEQ Air Permit 7699/PSD-TX-226M6 PERMIT

Description: Formosa failed to comply with the TCEQ Air Permit Numbers 7699 and PSD-TX-226M6, Special Conditions 1 and 2 and failed to prevent release of unauthorized emissions.

Date: 08/31/2007 (573913)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(c)
Permit No. 7699/PSD TX 226M, SC 8 PERMIT
Description: Failure to demonstrate compliance for daily visible emissions inspections following method 22 for baghouses covered under TCEQ Air Permit No. 7699 and PSD TX 226M6.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)
Description: Failure to submit all instances of deviations, the probable cause of the deviations, and any corrective actions or preventative measures taken for each emission unit addressed in the permit for the reporting period of August 9, 2004 through February 9, 2005.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(c)
Permit No. 7699/PSD-TX226, SC12 PERMIT
Description: Failure to maintain scrubber solution pH and scrubber solution flow at or above levels established during the last stack test, 7.95 pH and 45 gallons per minute (gpm), respectively. Specifically, VH-801A, 006A and VH-801B, 006B did not maintain scrubber solution pH and scrubber solution flows at or above the established levels and no cause was identified for their failures.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 113, SubChapter C 113.130
30 TAC Chapter 116, SubChapter B 116.115(c)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.174(a)
7699/PSD-TX-226, SC 9 PERMIT
Description: Failure to monitor components associated with the VR-401G System that had been added to the unit as a result of an upgrade in metallurgy, equipment and piping.

Date: 03/31/2008 (675335)

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: 05/31/2008 (693653)

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: 08/28/2008 (700078)

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)

5C THSC Chapter 382 382.085(b)
Description: Failure to include all instances of deviations for Federal Operating Permit (FOP) No. O-01956 in two semi-annual deviation reports dated May 18, 2007 and November 16, 2007. The regulated entity failed to include in the following deviation reports a total of three deviations from October 19, 2006 through October 18, 2007. This timeframe encompassed 2 six-month periods which included (1) October 19, 2006 through April 18, 2007, and (2) April 19, 2007 through October 18, 2007.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 122, SubChapter B 122.146(5)(D)
5C THSC Chapter 382 382.085(b)
Description: Failure to include or reference in the Federal Operating Permit (FOP) No. O-01956 Permit Compliance Certification the identification of all other terms and conditions of the permit for which compliance was not achieved. Specifically, by failing to

report all instances of deviations in the Permit Compliance Certification for certification period April 19, 2006 through April 18, 2007, the regulated entity failed to certify an accurate report for the period.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)
5C THSC Chapter 382 382.085(b)
Description: Failure to certify the first date of the reporting period represented in the semiannual deviation report dated February 23, 2007. Specifically, the regulated entity failed to certify the first day, July 27, 2006, of the reporting period, July 27, 2006 through January 25, 2007, by incorrectly using the date, July 28, 2006, as the first day of the reporting period.

Date: 08/31/2008 (714958)

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: 09/05/2008 (701546) CN600130017

Self Report? NO Classification: Minor
Citation: 01954 / Special Condition No. 18 OP
30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
7699 / Special Condition No. 8 PA
Description: Failure to conduct daily visible emission checks of silo bag house vents. Specifically, between August 14, 2006 through March 21, 2007, Formosa Point Comfort Plant personnel failed to conduct EPA Method 22 observations of various baghouse vents in the PVC Unit on 14 separate dates.

Self Report? NO Classification: Minor
Citation: 01954 / Special Condition No. 18 OP
30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
7699 / Special Condition No. 9 PA
Description: Failure to conduct weekly inspections of bag houses. Specifically, between June 26, 2006 through March 4, 2007, Formosa Point Comfort Plant personnel failed to conduct weekly inspections of various bag houses in the PVC Unit.

Self Report? NO Classification: Minor
Citation: 01954 / Special Condition No. 18 OP
30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
7699 / Special Condition No. 9 PA
Description: Failure to conduct semi-annual detailed inspections of bag houses. Specifically, between August 9, 2006 through February 8, 2007, Formosa Point Comfort Plant personnel failed to conduct semi-annual detailed inspections of various bag houses in the PVC Unit.

Self Report? NO Classification: Moderate
Citation: 01954 / Special Condition No. 18 OP
30 TAC Chapter 101, SubChapter A 101.20(1)
30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-6(a)(1)
7699 / Special Condition No. 16(E) PA
Description: Failure to equip each open-ended line with a cap, blind flange, plug, or a second valve. Specifically, on January 22, 2007, Formosa Point Comfort Plant personnel discovered an open-ended valve in the pipe rack behind PV 701D.

Self Report? NO Classification: Minor
Citation: 01954 / Special Condition No. 3(A)(iii) OP
30 TAC Chapter 122, SubChapter B 122.143(4)
Description: Failure to conduct quarterly visible emissions observations of bag houses. Specifically, between May 9, 2007 through August 8, 2007, Formosa Point

Comfort Plant personnel failed to conduct quarterly visible emissions observations of two bag houses in the VCM Unit in accordance with EPA Method 9.

Date: 04/30/2009 (771401)

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: 08/03/2009 (748900)

Self Report? NO **Classification:** Moderate
Citation: 30 TAC Chapter 335, SubChapter C 335.62
40 CFR Chapter 262, SubChapter I, PT 262, SubPT A 262.11
40 CFR Chapter 262, SubChapter I, PT 262, SubPT A 262.11(a)
40 CFR Chapter 262, SubChapter I, PT 262, SubPT A 262.11(b)
40 CFR Chapter 262, SubChapter I, PT 262, SubPT A 262.11(c)
40 CFR Chapter 262, SubChapter I, PT 262, SubPT A 262.11(c)(1)
40 CFR Chapter 262, SubChapter I, PT 262, SubPT A 262.11(c)(2)
40 CFR Chapter 262, SubChapter I, PT 262, SubPT A 262.11(d)

Description: Failure to conduct a waste determination for each solid waste generated.

Self Report? NO **Classification:** Moderate
Citation: 30 TAC Chapter 335, SubChapter A 335.6(c)
30 TAC Chapter 335, SubChapter A 335.6(c)(1)
30 TAC Chapter 335, SubChapter A 335.6(c)(2)
30 TAC Chapter 335, SubChapter A 335.6(c)(3)
30 TAC Chapter 335, SubChapter A 335.6(c)(4)
30 TAC Chapter 335, SubChapter A 335.6(c)(5)
30 TAC Chapter 335, SubChapter A 335.6(c)(5)(A)
30 TAC Chapter 335, SubChapter A 335.6(c)(5)(B)
30 TAC Chapter 335, SubChapter A 335.6(c)(5)(C)
30 TAC Chapter 335, SubChapter A 335.6(c)(5)(D)

Description: Failure to provide written notification for all industrial solid waste streams and associated management units.

Self Report? NO **Classification:** Minor
Citation: 30 TAC Chapter 335, SubChapter A 335.6(c)

Description: Failure to document changes or additional information with respect to that originally provided within 90 days of changes.

Self Report? NO **Classification:** Moderate
Citation: 30 TAC Chapter 335, SubChapter A 335.13(k)
30 TAC Chapter 335, SubChapter A 335.13(k)(1)
30 TAC Chapter 335, SubChapter A 335.13(k)(2)
40 CFR Chapter 262, SubChapter I, PT 262, SubPT D 262.42

Description: Failure to submit an exception report to TCEQ when the original copy of the manifest was not received back from the TSD within 45 days of the date of shipment.

Self Report? NO **Classification:** Moderate
Citation: 30 TAC Chapter 335, SubChapter A 335.13(j)
40 CFR Chapter 262, SubChapter I, PT 262, SubPT D 262.40(b)

Description: Failure to maintain manifests for at least three years from the date the waste was accepted by the initial transporter.

Date: 08/25/2009 (765182)

Self Report? NO **Classification:** Minor
Citation: 01957 / Special Condition No. 1(A) OP
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)

Description: Failure to conduct periodic monitoring as specified in the Federal Operating Permit. Specifically, between April 7, 2008 through April 13, 2008, Formosa Point

Comfort Plant personnel failed to conduct a weekly EPA Method 9 observation of their standby Thermal Incinerator (EPN H923B) located in the High Density Polyethylene Plant.

Date: 08/28/2009 (766981)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter G 116.715(a)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Condition No. 1 PERMIT
Special Terms and Conditions No. 17 OP

Description: Failure to comply with the special conditions contained in a permit. Specifically, the pound per hour (lb/hr) allowable emissions rate limits for carbon monoxide (CO) and nitrogen oxides (NOx) listed in TCEQ Air Permit No. 19168 and PDS-TX-760M7, Special Condition No. 1, was exceeded for Unit ID Nos. 1003, 1004, 1005, 1007, 1008, and 1009B on several dates as specified in the February 22, 2008 and August 25, 2008 semi-annual deviation reports for Federal Operating Permit No. O-01958.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter G 116.715(a)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Condition No. 7 PERMIT
Special Terms and Conditions OP

Description: Failure to comply with the special conditions contained in a permit. Specifically, the Catalyst Regeneration Heater (EPN: 8001B) exceeded its limit of 438 hours per year of operation on a rolling 12-month average on several dates listed as specified in the February 22, 2008 and August 25, 2008 semi-annual deviation reports for Federal Operating Permit No. O-01958.

Date: 01/11/2010 (827904)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

F. Environmental audits.

Notice of Intent Date: 08/03/2008 (574209)

Disclosure Date: 03/14/2008

Viol. Classification: Major

Citation: 40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.163(b)(1)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.168(b)(2)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.174(a)

Description: Failure to monitor LDAR components for the EDC and VCM Units by Method 21.

Notice of Intent Date: 09/29/2008 (705355)

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
FORMOSA PLASTICS
CORPORATION, TEXAS
RN100218973**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2010-1112-IHW-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 Formosa Plastics Corporation, Texas ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 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 facility at 201 Formosa Drive in Point Comfort, Calhoun County, Texas (the "Facility").
2. The Facility involves or involved the management of industrial solid waste and hazardous waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
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 July 7, 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 Sixty-Seven Thousand Six Hundred Seventy-Five Dollars (\$67,675) is assessed by the Commission in settlement of the violations

alleged in Section II ("Allegations"). The Respondent has paid Twenty-Seven Thousand Seventy Dollars (\$27,070) of the administrative penalty and Thirteen Thousand Five Hundred Thirty-Five Dollars (\$13,535) 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. Twenty-Seven Thousand Seventy Dollars (\$27,070) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. On May 27, 2010, documentation was submitted to the TCEQ Corpus Christi Regional Office demonstrating that the contaminated soil, from leaking drums in the area near the civil maintenance shop, was excavated and the contaminated area was cleaned up; and
 - b. On July 27, 2010, the Notice of Registration was updated to mark hazardous waste stream 0114119H as inactive, and the wastewater in the High Density Polyethylene ("HDPE") II process area sump was re-classified as Class II non-hazardous waste stream 01611192.
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 Facility, the Respondent is alleged to have:

1. Failed to prevent the storage of industrial solid waste in such a manner that would cause the discharge or imminent threat of discharge of industrial solid waste into or adjacent to

water of the state, in violation of 30 TEX. ADMIN. CODE § 335.4, as documented during an investigation conducted on May 4, 2010. Specifically, spills to the ground were documented in the area near the civil maintenance shop.

2. Failed to provide written notification for all waste management units, in violation of 30 TEX. ADMIN. CODE § 335.6(c), as documented during an investigation conducted on May 4, 2010. Specifically, it was documented that notification was not submitted for the sump in the HPDE II process area that was being used to manage waste stream 0114119H.
3. Failed to comply with the requirements of 40 CODE OF FEDERAL REGULATIONS ("CFR") Part 265, Subpart J, for tanks storing or treating hazardous waste, in violation of 30 TEX. ADMIN. CODE §§ 335.112(a)(9) and 335.69(a)(1)(B) and 40 CFR §§ 262.34(a)(1)(ii), 265.190, 265.191, 265.193, 265.194, and 265.195(a), (b), (c), and (g), as documented during an investigation conducted on May 4, 2010. Specifically, during the May 4, 2010 investigation it was documented that the sump located in the HDPE II process area was being used to store hazardous waste stream 0114119H; however, it did not have adequate secondary containment, a leak detection system, or overflow controls or alarms. In addition, there were no records of tank inspections and a label was not observed.

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: Formosa Plastics Corporation, Texas, Docket No. 2010-1112-IHW-E" to:

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

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Twenty-Seven Thousand Seventy Dollars (\$27,070) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.

3. It is further ordered that the Respondent shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order, provide written notification for the sump in the HDPE II process area that was used as a waste management unit for waste stream 0114119H, in accordance with 30 TEX. ADMIN. CODE § 335.6; 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. 3.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 fine 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:

Waste Section, Manager
Corpus Christi Regional Office
Texas Commission on Environmental Quality
6300 Ocean Drive, Suite 1200
Corpus Christi, Texas 78412-5503

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes

aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in 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.
9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Szolnier

For the Executive Director

Date 11/22/2010

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.

[Signature]

Signature

Date 10/21/10

RANDALL P. SMITH

Name (Printed or typed)
Authorized Representative of
Formosa Plastics Corporation, Texas

Title GENERAL
VP/MANAGER

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

Attachment A

Docket Number: 2010-1112-IHW-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Formosa Plastics Corporation, Texas

Penalty Amount: Fifty-Four Thousand One Hundred Forty Dollars
(\$54,140)

SEP Offset Amount: Twenty-Seven Thousand Seventy Dollars (\$27,070)

Type of SEP: Pre-approved SEP

Third-Party Recipient: National Audubon Society – *Sundown Island
Sanctuary Anti-erosion, Re-vegetation and Pest
Control Project*

Location of SEP: Calhoun County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP offset amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to the **National Audubon Society** for the *Sundown Sanctuary Island Anti-erosion, Re-vegetation and Pest Control Project*. The Sundown Island and four other small coastal islands located off Port O’Connor are major sites for nesting colonial waterbirds. These islands are increasingly subject to erosion and consequent land loss due to an increasing number of vessels, storm winds and surges, etc. Texas coastal sanctuary islands in this area host one of the largest roseate spoonbill, reddish egret and brown pelican colonies in the U.S. Colonial. The SEP offset amount will be used to restore the size of the islands utilizing dredge spoil, conduct re-vegetation using native plants, and treat vegetation to control pest populations.

The SEP will be done in accordance with all federal, state and local environmental laws and regulations. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The Respondent shall not profit from this SEP in any manner. The Respondent certifies that it has no prior commitment to make this contribution and that it is being done solely in an effort to settle this enforcement action.

B. Environmental Benefit

This project will provide an environmental benefit by stabilizing the island, reducing erosion, and ensuring the maintenance of the natural ecosystem. Waterbirds can only nest successfully on islands of adequate size that have appropriate vegetation and the absence of pests to ensure stable populations. The loss of native vegetation results in an increased potential for erosion. Re-vegetation will also help absorb pollutants and particulate matter and improve water quality. By restoring the natural vegetated areas, turbidity is reduced, and source water for recreation and human consumption is protected from further degradation

C. Minimum Expenditure

The Respondent shall contribute at least the SEP offset amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP offset amount to the Third-Party Recipient. The Respondent shall mail a copy of the Agreed Order with the contribution to the addressee listed below:

National Audubon Society
Attention: Executive Director
Audubon Texas
2904 Swiss Avenue
Dallas, TX 75204

3. Records and Reporting

Concurrent with the payment of the SEP offset amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP offset amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to the addressee listed below:

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

4. Failure to Fully Perform

If Respondent does not perform its obligations under this SEP in any way, including full expenditure of the SEP offset amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP offset amount.

In the event of incomplete performance, the Respondent shall include on the check the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. The Respondent shall make the payment for the amount due to "Texas Commission on Environmental Quality" and mail it to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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

