

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 2  
**DOCKET NO.:** 2010-1645-IWD-E **TCEQ ID:** RN100590207 **CASE NO.:** 40508  
**RESPONDENT NAME:** Alloy Polymers Orange, LLC

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> <b>1660 AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS ORDER FOLLOWING SOAH HEARING</b>
<input type="checkbox"/> <b>FINDINGS DEFAULT ORDER</b>	<input type="checkbox"/> <b>SHUTDOWN ORDER</b>	<input type="checkbox"/> <b>IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER</b>
<input type="checkbox"/> <b>AMENDED ORDER</b>	<input type="checkbox"/> <b>EMERGENCY ORDER</b>	
<b>CASE TYPE:</b>		
<input type="checkbox"/> <b>AIR</b>	<input type="checkbox"/> <b>MULTI-MEDIA (check all that apply)</b>	<input type="checkbox"/> <b>INDUSTRIAL AND HAZARDOUS WASTE</b>
<input type="checkbox"/> <b>PUBLIC WATER SUPPLY</b>	<input type="checkbox"/> <b>PETROLEUM STORAGE TANKS</b>	<input type="checkbox"/> <b>OCCUPATIONAL CERTIFICATION</b>
<input checked="" type="checkbox"/> <b>WATER QUALITY</b>	<input type="checkbox"/> <b>SEWAGE SLUDGE</b>	<input type="checkbox"/> <b>UNDERGROUND INJECTION CONTROL</b>
<input type="checkbox"/> <b>MUNICIPAL SOLID WASTE</b>	<input type="checkbox"/> <b>RADIOACTIVE WASTE</b>	<input type="checkbox"/> <b>DRY CLEANER REGISTRATION</b>
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Alloy Polymers, 6522 Interstate Highway 10 West, approximately one mile east of State Highway 62 and west of Orange, Orange County</p> <p><b>TYPE OF OPERATION:</b> Plastic compounding plant with an associated wastewater treatment facility</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on March 21, 2011. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Mr. Jorge Ibarra, P.E., Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5890; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> Mr. Fred H. Fisher, Director of Operations South, Alloy Polymers Orange, LLC, 6522 Interstate Highway 10 West, Orange, Texas 77632  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> August 24, 2010</p> <p><b>Date of NOV/NOE Relating to this Case:</b> October 1, 2010 (NOE)</p> <p><b>Background Facts:</b> This was a records review.</p> <p><b>WATER</b></p> <p>Failed to comply with permit effluent limits for biochemical oxygen demand, total suspended solids, and total zinc [Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0002835000, Effluent Limitations and Monitoring Requirements No. 1 for Outfalls 002 and 003 and 30 TEX. ADMIN. CODE § 305.125(1)].</p>	<p><b>Total Assessed:</b> \$17,160</p> <p><b>Total Deferred:</b> \$3,432  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$13,728</p> <p><b>Compliance History Classifications:</b>                      Person/CN - Average                      Site/RN - Average</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>The Respondent shall, within 180 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0002835000, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.</p>

Additional ID No(s): WQ0002835000



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	4-Oct-2010			
	<b>PCW</b>	14-Dec-2010	<b>Screening</b>	5-Oct-2010	<b>EPA Due</b>

<b>RESPONDENT/FACILITY INFORMATION</b>					
<b>Respondent</b>	Alloy Polymers Orange, LLC				
<b>Reg. Ent. Ref. No.</b>	RN100590207				
<b>Facility/Site Region</b>	10-Beaumont	<b>Major/Minor Source</b>	Minor		

<b>CASE INFORMATION</b>					
<b>Enf./Case ID No.</b>	40508	<b>No. of Violations</b>	1		
<b>Docket No.</b>	2010-1645-IWD-E	<b>Order Type</b>	1660		
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	No		
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Jorge Ibarra, P.E.		
		<b>EC's Team</b>	Enforcement Team 3		
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000		

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** \$6,000

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History** **Subtotals 2, 3, & 7** \$12,060

**Notes** Enhancement for one order without denial, two orders with denial, three NOV's with dissimilar violations, and 26 months of self-reported effluent violations.

**Culpability** **Subtotal 4** \$0

**Notes** The Respondent does not meet the culpability criteria.

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

**Economic Benefit** **Subtotal 6** \$0

Total EB Amounts \$3,599  
 Approx. Cost of Compliance \$30,000  
 \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** \$18,060

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **Adjustment** -\$900

Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes** Recommend reduction in penalty amount so that monthly self-reported violations do not overly impact the penalty.

**Final Penalty Amount** \$17,160

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** \$17,160

**DEFERRAL** **Adjustment** -\$3,432

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** \$13,728

Screening Date 5-Oct-2010

Docket No. 2010-1645-IWD-E

PCW

Respondent Alloy Polymers Orange, LLC

Policy Revision 2 (September 2002)

Case ID No. 40508

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100590207

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

### 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> )	26	130%
	Other written NOVs	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%

Please Enter Yes or No

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

Adjustment Percentage (Subtotal 2) 201%

>> 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 order without denial, two orders with denial, three NOVs with dissimilar violations, and 26 months of self-reported effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 201%

Screening Date 5-Oct-2010

Docket No. 2010-1645-IWD-E

PCW

Respondent Alloy Polymers Orange, LLC

Policy Revision 2 (September 2002)

Case ID No. 40508

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100590207

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 1

Rule Cite(s) Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0002835000, Effluent Limitations and Monitoring Requirements No. 1 for Outfalls 002 and 003, and 30 Tex. Admin. Code § 305.125(1)

Violation Description Failed to comply with permit effluent limits. See attached Effluent Limit Violation Table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			x	10%
Potential				

>> 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 environment receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 6 Number of violation days 272

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$6,000

Six quarterly events are recommended based on the months the permitted limits were exceeded for Outfalls 002 (3 quarters) and 003 (3 quarters).

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$6,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3,599

Violation Final Penalty Total \$17,160

This violation Final Assessed Penalty (adjusted for limits) \$17,160

## Economic Benefit Worksheet

**Respondent** Alloy Polymers Orange, LLC  
**Case ID No.** 40508  
**Reg. Ent. Reference No.** RN100590207  
**Media** Water Quality  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment	\$5,000	30-Sep-2009	30-Dec-2011	2.25	\$37	\$750	\$787
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)	\$25,000	30-Sep-2009	30-Dec-2011	2.25	\$2,812	n/a	\$2,812

Notes for DELAYED costs

Estimated cost to evaluate the Facility, purchase any needed equipment, perform any labor associated with equipment repairs/replacements, and develop and implement procedures to ensure compliance with permit effluent limits. Date Required is the first day of non-compliance, Final Date is the expected 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

\$30,000

TOTAL

\$3,599

Effluent Limit Violation Table

table rev

Alloy Polymers Orange, LLC
RN100590207, Case No. 40508
2010-1645-IWD-E
Jorge Ibarra, P.E.

Corresponds to Violation Number:

1

**EFFLUENT PARAMETER**

**Permit Limit Outfall 002**

	BOD5 Daily Maximum Concentration	TSS Daily Maximum Concentration	Total Zn Daily Average Concentration	Total Zn Daily Maximum Concentration					
<i>Month/Year</i>	26 mg/L	19 mg/L	0.075 mg/L	0.16 mg/L					
September 2009	37.2	c	c	c					
November 2009	c	25.5	0.134	c					
December 2009	c	36	0.599	1.65					
January 2010	c	c	0.692	2.35					
February 2010	c	c	0.73	2.42					
March 2010	43.2	c	0.824	2.72					
April 2010	c	c	1.955	6.7					
May 2010	c	c	0.236	0.356					

**EFFLUENT PARAMETER**

**Permit Limit Outfall 003**

	Total Zn Daily Average Concentration	Total Zn Daily Maximum Concentration							
<i>Month/Year</i>	0.075 mg/L	0.16 mg/L							
November 2009	0.117	0.184							
December 2009	0.275	0.528							
January 2010	0.147	0.255							
February 2010	0.239	0.33							
March 2010	0.364	0.474							
April 2010	0.432	1.07							
May 2010	0.347	0.943							

Name	Abbreviation
milligram per liter	mg/L
Biochemical Oxygen Demand (5-day)	BOD5
Total Suspended Solids	TSS
Zinc	Zn
compliant	c

# Compliance History Report

Customer/Respondent/Owner-Operator: CN603334343 Alloy Polymers Orange LLC Classification: AVERAGE Rating: 4.10

Regulated Entity: RN100590207 ALLOY POLYMERS Classification: AVERAGE Site Rating: 4.10

ID Number(s):

AIR NEW SOURCE PERMITS	REGISTRATION	14104
AIR NEW SOURCE PERMITS	REGISTRATION	14840
AIR NEW SOURCE PERMITS	REGISTRATION	23030
AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	OC0056T
AIR NEW SOURCE PERMITS	AFS NUM	4836100044
PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1810187
WASTEWATER	PERMIT	WQ0002835000
WASTEWATER	EPA ID	TX0104710
AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	OC0056T

Location: located at 6522 Interstate Highway 10 West, approximately one mile east of State Highway 62 and west of Orange in Orange County, Texas

TCEQ Region: REGION 10 - BEAUMONT

Date Compliance History Prepared: October 04, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: October 04, 2005 to October 04, 2010

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

Name: Jorge Ibarra, P.E. Phone: (817) 588-5890

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? Yes
3. If Yes, who is the current owner/operator? OWNOPR Alloy Polymers Orange LLC
4. If Yes, who was/were the prior owner(s)/operator(s)? OWNOPR A. Schulman, Inc.
5. When did the change(s) in owner or operator occur? 03/17/2008
6. Rating Date: 9/1/2010 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 2005-0523-IWD-E

Classification: Moderate

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

Rqmt Pr Effluent Limits PERMIT

Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.

Effective Date: 08/23/2007 ADMINORDER 2006-2243-MLM-E

Classification: Minor

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

Rqmt Pr Other Requirements PERMIT

Description: Failure to use a test method sensitive enough to detect the minimum analytical level ("MAL") of 0.005 milligrams per liter ("mg/L") for total zinc.

Classification: Minor

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

Rqmt Pr Mon. and Rep. Requirements No. 7c PERMIT

Description: Failure to submit noncompliance notification to the TCEQ for effluent violations which deviated from the permitted limit by more than 40% within five working days of become aware of the noncompliance

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 335, SubChapter A 335.4

Rqmt Prov: Permit Conditions 2g PERMIT

Description: Failure to prevent the unauthorized discharge of industrial waste into or adjacent to waters of the state.

Effective Date: 03/08/2010

ADMINORDER 2009-1325-IWD-E

Classification: Moderate

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

Rqmt Prov: Effluent Limits PERMIT

Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.

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	10/09/2005	(479388)
2	11/21/2005	(479389)
3	12/20/2005	(479390)
4	01/18/2006	(479391)
5	02/22/2006	(479386)
6	03/16/2006	(479387)
7	04/19/2006	(505140)
8	05/19/2006	(505141)
9	06/09/2006	(505142)
10	07/18/2006	(527440)
11	08/14/2006	(527441)
12	09/12/2006	(527442)
13	10/18/2006	(551176)
14	11/14/2006	(551177)
15	11/15/2006	(518641)
16	01/08/2007	(551178)
17	01/22/2007	(587820)
18	02/12/2007	(587814)
19	03/14/2007	(587815)
20	04/20/2007	(587816)
21	05/22/2007	(587817)
22	06/18/2007	(587818)
23	07/15/2007	(645293)
24	07/19/2007	(587819)
25	08/15/2007	(605224)
26	09/20/2007	(605225)
27	10/01/2007	(645928)
28	10/22/2007	(605226)
29	12/17/2007	(628648)
30	01/18/2008	(628649)
31	01/25/2008	(613283)
32	02/18/2008	(676483)
33	03/07/2008	(676484)

34	04/10/2008	(676485)
35	04/10/2008	(676486)
36	05/14/2008	(694951)
37	05/23/2008	(466607)
38	06/19/2008	(694952)
39	07/17/2008	(694953)
40	08/19/2008	(716446)
41	09/19/2008	(716447)
42	10/14/2008	(716448)
43	11/13/2008	(731918)
44	12/18/2008	(731919)
45	01/20/2009	(731920)
46	02/09/2009	(755306)
47	03/19/2009	(755307)
48	04/09/2009	(755308)
49	05/12/2009	(772398)
50	06/04/2009	(772399)
51	07/24/2009	(749509)
52	08/18/2009	(817221)
53	09/18/2009	(817222)
54	10/02/2009	(817220)
55	10/19/2009	(817223)
56	11/20/2009	(817224)
57	12/17/2009	(817225)
58	01/15/2010	(817226)
59	02/19/2010	(817219)
60	03/19/2010	(835264)
61	03/31/2010	(797000)
62	04/16/2010	(835265)
63	05/20/2010	(835266)
64	06/18/2010	(847613)
65	07/15/2010	(862015)
66	10/01/2010	(850270)

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

Date:	11/30/2005	(479390)	CN603334343		
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:	01/31/2006	(479386)			
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:	03/31/2007	(587816)			
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:	05/31/2007	(587818)			
Self Report?	YES			Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)				
Description:	Failure to meet the limit for one or more permit parameter				
Date:	06/30/2007	(587819)	CN603334343		

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:	07/15/2007	(645293)	CN603334343
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.109(f)(4)		
Description:	BACT - MONITORING/REPORTING VIOLATIONS		
Date:	10/01/2007	(645928)	CN603334343
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.122(b)(1)(A)		
Description:	PUBLIC NOTICE		
Date:	11/30/2007	(628648)	CN603334343
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:	12/31/2007	(628649)	CN603334343
Self Report?	YES	Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	01/25/2008	(613283)	CN603334343
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.45(d)(2)(A)(ii)		
Description:	Failure to provide pressure maintenance facilities, which include pressure tank capacity.		
Date:	01/31/2008	(676483)	CN603334343
Self Report?	YES	Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	06/30/2008	(694953)	CN603334343
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:	07/31/2008	(716446)	CN603334343
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:	08/31/2008	(716447)	CN603334343
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:	09/30/2008	(716448)	CN603334343
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:	10/31/2008	(731918)	CN603334343
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:	12/31/2008	(731920)	CN603334343
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:	02/28/2009	(755307)	CN603334343
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:	03/31/2009	(755308)	CN603334343
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:	04/30/2009	(772398)	CN603334343
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:	09/30/2009	(817223)	CN603334343
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:	11/30/2009	(817225)	CN603334343
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:	12/31/2009	(817226)	CN603334343
Self Report?	YES		Classification Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)		
	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	01/31/2010	(817219)	CN603334343
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:	02/28/2010	(835264)	CN603334343
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:	03/31/2010	(835265)	CN603334343
Self Report?	YES		Classification Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)		

Description:	30 TAC Chapter 305, SubChapter F 305.125(1) Failure to meet the limit for one or more permit parameter		
Date:	04/30/2010	(835266)	CN603334343
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:	05/31/2010	(847613)	CN603334343
Self Report?	YES		Classification Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	06/30/2010	(862015)	CN603334343
Self Report?	YES		Classification Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		

- F. Environmental audits.  
N/A
  - G. Type of environmental management systems (EMSs).  
N/A
  - H. Voluntary on-site compliance assessment dates.  
N/A
  - I. Participation in a voluntary pollution reduction program.  
N/A
  - J. Early compliance.  
N/A
- Sites Outside of Texas  
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
ALLOY POLYMERS ORANGE,  
LLC  
RN100590207

§           BEFORE THE  
§  
§  
§           TEXAS COMMISSION ON  
§  
§           ENVIRONMENTAL QUALITY

**AGREED ORDER**  
**DOCKET NO. 2010-1645-IWD-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 Alloy Polymers Orange, LLC ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. 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 plastic compounding plant with an associated wastewater treatment facility located at 6522 Interstate Highway 10 West, approximately one mile east of State Highway 62 and west of Orange in Orange County, Texas (the "Facility").
2. The Respondent has discharged industrial waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
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 October 6, 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 Seventeen Thousand One Hundred Sixty Dollars (\$17,160) is assessed by the Commission in settlement of the violations alleged in

Section II ("Allegations"). The Respondent has paid Thirteen Thousand Seven Hundred Twenty-Eight Dollars (\$13,728) of the administrative penalty and Three Thousand Four Hundred Thirty-Two Dollars (\$3,432) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## **II. ALLEGATIONS**

As owner and operator of the Facility, the Respondent is alleged to have failed to comply with permit effluent limits, in violation of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0002835000, Effluent Limitations and Monitoring Requirements No. 1 for Outfalls 002 and 003 and 30 TEX. ADMIN. CODE § 305.125(1), as documented during a record review conducted on August 24, 2010 and shown in the tables below:

<b>EFFLUENT PARAMETER</b>				
<b>Permit Limit Outfall 002</b>				
	BOD <sub>5</sub> Daily Maximum Concentration	TSS Daily Maximum Concentration	Total Zn Daily Average Concentration	Total Zn Daily Maximum Concentration
<b>Month/Year</b>	26 mg/L	19 mg/L	0.075 mg/L	0.16 mg/L
September 2009	37.2	c	c	c
November 2009	c	25.5	0.134	c
December 2009	c	36	0.599	1.65
January 2010	c	c	0.692	2.35
February 2010	c	c	0.73	2.42
March 2010	43.2	c	0.824	2.72
April 2010	c	c	1.955	6.7
May 2010	c	c	0.236	0.356

<b>EFFLUENT PARAMETER</b>		
<b>Permit Limit Outfall 003</b>		
	Total Zn Daily Average	Total Zn Daily Maximum
<b>Month/Year</b>	0.075 mg/L	0.16 mg/L
November 2009	0.117	0.184
December 2009	0.275	0.528
January 2010	0.147	0.255
February 2010	0.239	0.33
March 2010	0.364	0.474
April 2010	0.432	1.07
May 2010	0.347	0.943

BOD<sub>5</sub> = biochemical oxygen demand (5-day) TSS = total suspended solids Zinc = Zn  
 c = compliant mg/L = milligrams per liter

### 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: Alloy Polymers Orange, LLC, Docket No. 2010-1645-IWD-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, within 180 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0002835000, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. 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 this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

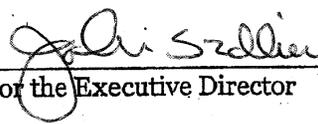
Water Section, Manager  
Beaumont Regional Office  
Texas Commission on Environmental Quality  
3870 Eastex Freeway  
Beaumont, Texas 77703-1892

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in 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.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

  
\_\_\_\_\_  
For the Executive Director

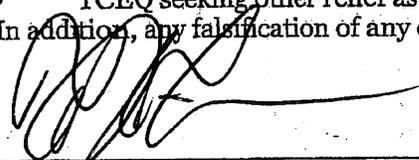
\_\_\_\_\_  
Date 2/25/2011

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

\_\_\_\_\_  
Date 1/4/11

Fred H Fisher  
Name (Printed or typed)  
Authorized Representative of  
Alloy Polymers Orange, LLC

Director Operations South  
Title

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