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EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2010-1652-AIR-E **TCEQ ID:** RN100524008 **CASE NO.:** 40512
RESPONDENT NAME: Sunoco, Inc. (R&M)

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Sunoco Bayport BPT1, 5761 Underwood Road, Pasadena, Harris County</p> <p>TYPE OF OPERATION: Polypropylene plant</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</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 March 14, 2011. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Miriam Hall, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-1044; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. David A. Sexton, Vice President and General Manager of Chemicals, Sunoco, Inc. (R&M), 100 West Delaware Avenue, Marcus Hook, Pennsylvania, 19061-0426 Mr. Cary Soule, Director of Environmental Policy and Government, Sunoco, Inc. (R&M), 100 West Delaware Avenue, Marcus Hook, Pennsylvania, 19061-0426 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: August 23, 2010</p> <p>Date of NOV/NOE Relating to this Case: August 31, 2010 (NOE)</p> <p>Background Facts: This was a records review.</p> <p>AIR</p> <p>Failed to submit the annual permit compliance certification ("PCC") for the reporting period of February 3, 2009 through February 2, 2010 and two semi-annual deviation reports for the same period. Specifically, on February 3 and 11, 2009, the net heating value of the vent gas stream being combusted at the flare fell below the minimum requirement of 300 British thermal units per standard cubic foot for a total of two hours. This deviation should have been reported on a semi-annual report for the period of February 3, 2009 through August 2, 2009. Because this report was not submitted, another semi-annual report for the period of August 3, 2009 through February 2, 2010 should have been submitted for the reporting deviation [30 TEX. ADMIN. CODE §§ 122.143(4), 122.145(2), 122.146(1), and 122.146(2), Federal Operating Permit No. O2314 General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$15,825</p> <p>Total Deferred: \$3,165 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$12,660</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 on October 12, 2010, the Respondent submitted the annual PCC for the reporting period of February 3, 2009 through February 2, 2010 along with the deviation reports for the reporting period.</p>

Additional ID No(s): Air Account HG1996R



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	5-Oct-2010	Screening	5-Oct-2010	EPA Due	28-May-2011
	PCW	7-Oct-2010				

RESPONDENT/FACILITY INFORMATION

Respondent	Sunoco, Inc. (R&M)				
Reg. Ent. Ref. No.	RN100524008				
Facility/Site Region	12-Houston	Major/Minor Source	Major		

CASE INFORMATION

Enf./Case ID No.	40512	No. of Violations	1
Docket No.	2010-1652-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Miriam Hall
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$7,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **121.0%** Enhancement **Subtotals 2, 3, & 7** **\$9,075**

Notes: Enhancement for two same/similar NOV's, three dissimilar NOV's, four orders with denial, and one order without denial.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$750**

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

Total EB Amounts: \$28
 Approx. Cost of Compliance: \$500
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$15,825**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$15,825**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$15,825**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$3,165**

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 **\$12,660**

Screening Date 5-Oct-2010
Respondent Sunoco, Inc. (R&M)
Case ID No. 40512
Reg. Ent. Reference No. RN100524008
Media [Statute] Air
Enf. Coordinator Miriam Hall

Docket No. 2010-1652-AIR-E

PCW

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	2	10%
	Other written NOVs	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	4	80%
	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%
<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) 121%

>> **Repeat Violator (Subtotal 3)**

No

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

Enhancement for two same/similar NOVs, three dissimilar NOVs, four orders with denial, and one order without denial.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 121%

Screening Date 5-Oct-2010

Docket No. 2010-1652-AIR-E

PCW

Respondent Sunoco, Inc. (R&M)

Policy Revision 2 (September 2002)

Case ID No. 40512

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100524008

Media [Statute] Air

Enf. Coordinator Miriam Hall

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 122.143(4), 122.145(2), 122.146(1), and 122.146(2), Federal Operating Permit No. O2314 General Terms and Conditions, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to submit the annual permit compliance certification ("PCC") for the reporting period of February 3, 2009 through February 2, 2010 and two semi-annual deviation reports for the same period. Specifically, on February 3 and 11, 2009, the net heating value of the vent gas stream being combusted at the flare fell below the minimum requirement of 300 British thermal units per standard cubic foot for a total of two hours. This deviation should have been reported on a semi-annual report for the period of February 3, 2009 through August 2, 2009. Because this report was not submitted, another semi-annual report for the period of August 3, 2009 through February 2, 2010 should have been submitted for the reporting deviation.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			25%

The Respondent failed to comply with 100% of the rule requirement.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 3 Number of violation days 399

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

Violation Base Penalty \$7,500

Three single events are recommended: Two for the deviation reports and the other for the annual PCC.

Good Faith Efforts to Comply

10.0% Reduction

\$750

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

Notes The NOE was issued on August 31, 2010, and the Respondent came into compliance on October 12, 2010.

Violation Subtotal \$6,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$28

Violation Final Penalty Total \$15,825

This violation Final Assessed Penalty (adjusted for limits) \$15,825

Economic Benefit Worksheet

Respondent Sunoco, Inc. (R&M)
Case ID No. 40512
Req. Ent. Reference No. RN100524008
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	1-Sep-2009	12-Oct-2010	1.11	\$28	n/a	\$28

Notes for DELAYED costs

The estimated cost of preparing the PCC and deviation reports from the due date of the first deviation report to the compliance date. The plant was permanently shutdown on March 16, 2009 and totally demolished by April 1, 2010.

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

3

Approx. Cost of Compliance	\$500	TOTAL	\$28
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Compliance History Report

Customer/Respondent/Owner-Operator:	CN601179914 Sunoco, Inc. (R&M)	Classification: AVERAGE	Rating: 13.37
Regulated Entity:	RN100524008 SUNOCO BAYPORT BPT1	Classification: AVERAGE	Site Rating: 7.57
ID Number(s):	INDUSTRIAL AND HAZARDOUS WASTE	EPA ID	TXD020800371
	INDUSTRIAL AND HAZARDOUS WASTE	SOLID WASTE REGISTRATION # (SWR)	30486
	WASTEWATER	PERMIT	WQ0002600000
	WASTEWATER	EPA ID	TX0091073
	AIR OPERATING PERMITS	ACCOUNT NUMBER	HG1996R
	AIR OPERATING PERMITS	ACCOUNT NUMBER	HGA009I
	AIR OPERATING PERMITS	ACCOUNT NUMBER	HG1996R
	AIR OPERATING PERMITS	PERMIT	2314
	AIR OPERATING PERMITS	PERMIT	1373
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HGA009I
	AIR NEW SOURCE PERMITS	AFS NUM	4820101559
	AIR NEW SOURCE PERMITS	PERMIT	3126A
	AIR NEW SOURCE PERMITS	REGISTRATION	78241
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG0621B
	AIR NEW SOURCE PERMITS	REGISTRATION	81326
	AIR NEW SOURCE PERMITS	REGISTRATION	81341
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HGA070R
	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1010818
	AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	HGA009I
Location:	5761 UNDERWOOD RD, PASADENA, TX, 77507		
TCEQ Region:	REGION 12 - HOUSTON		
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: Miriam Hall Phone: (512) 239-1044

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	Sunoco, Inc. (R&M)
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4. If Yes, who was/were the prior owner(s)/operator(s)?

OWN	Lyondell Chemical Company
OWNOPR	Chevron Pipe Line Company
OWNOPR	BP Pipelines (North America) Inc.
OWNOPR	Equistar Chemicals, LP
5. When did the change(s) in owner or operator occur?

03/16/2006	OPR	Equistar Chemicals, LP
	OWNOPR	Equistar Chemicals, LP
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: 12/15/2005

ADMINORDER 2004-1918-IHW-E

Classification: Major

Citation: 30 TAC Chapter 335, SubChapter A 335.2(b)

Description: On June 18, 2004, Sunoco failed to prevent the disposal of two (2) containers of hazardous waste at a non-hazardous landfill (Gulf West landfill).

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)(3)
40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(a)(3)

Description: Sunoco and its contractors failed to properly label containers of solid waste. As a result of the lack of proper labeling, two roll-off containers of hazardous waste were manifested and transported as a Class 1 waste to the Gulf West landfill.

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter A 335.10(b)(18)
30 TAC Chapter 335, SubChapter A 335.10(b)(22)

Description: Sunoco failed to indicate the proper waste classification on two manifests for the hazardous wastes.

Effective Date: 03/06/2006 ADMINORDER 2005-1150-AIR-E

Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter H 115.783(5)
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: 3126A, Special Condition 2E PERMIT

Description: Failure to construct so that no valves shall be installed or operated at the end of a pipe or line containing highly-reactive volatile organic compounds (HRVOC) unless the pipes or line is sealed with a second valve, a blind flange, or a tightly-fitting plug or cap.

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter D 115.355(1)
30 TAC Chapter 115, SubChapter H 115.781(b)
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: 3126A, Special Condition 2F PERMIT

Description: Failure to adequately identify and monitor all accessible valves by leak-checking for fugitive emissions at least quarterly using an approved gas analyzer.

Effective Date: 05/12/2006 ADMINORDER 2005-0164-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: 4157A: Special Condition 1 PERMIT

Description: Failed to prevent the unauthorized emission of a highly reactive volatile organic compound (HRVOC) exceeding the maximum allowable emission rate from the Emission Point Nos. (EPN) 1-167 and 1-175 on June 1 through June 30, 2003.

Classification: Moderate

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

Rqmt Prov: 4157A Special Condition 1 PERMIT

Description: Failed to prevent the unauthorized emission of a highly reactive volatile organic compound (HRVOC) exceeding the maximum allowable emission rate from the Emission Point No. (EPN) 1-175 on March 15, 2004.

Effective Date: 03/05/2007 ADMINORDER 2006-0783-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: TCEQ Air Permit #3126A, SC #1 PERMIT

Description: Failed to prevent unauthorized emissions on July 14, 2004.

Effective Date: 08/15/2008 ADMINORDER 2008-0070-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: FOP O-02314 SC 6 OP
NSR 3126A GC 8 PA
NSR 3126A SC 1 PA

Description: The PP Flare (EPN 3-209) was permitted for 5.33 tons per year ("tpy") of NOx and 38.47 tpy of CO, however, the NOx emissions released from the PP Flare were 14.10 tpy in 2005, and 10.63 tpy in 2006, and the CO emissions were 52.41 tpy in 2006.

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. (CEEDS Inv. Track. No.)

1	10/24/2005	(477616)
2	12/01/2005	(477617)
3	12/27/2005	(477618)
4	01/23/2006	(477619)
5	02/24/2006	(477614)
6	03/23/2006	(477615)
7	04/12/2006	(456595)
8	04/24/2006	(504125)
9	05/23/2006	(504126)
10	05/25/2006	(349344)
11	05/25/2006	(349800)
12	05/25/2006	(349804)
13	05/25/2006	(373694)
14	05/25/2006	(374827)
15	05/31/2006	(335268)
16	06/19/2006	(504127)
17	07/24/2006	(526504)
18	08/21/2006	(526505)
19	09/25/2006	(526506)
20	10/18/2006	(550711)
21	11/08/2006	(514527)
22	11/20/2006	(550712)
23	12/07/2006	(488934)
24	12/08/2006	(550713)
25	01/09/2007	(586987)
26	02/22/2007	(586982)
27	02/23/2007	(539537)
28	03/22/2007	(586983)
29	04/24/2007	(586984)
30	05/22/2007	(586985)
31	06/12/2007	(556473)
32	06/25/2007	(586986)
33	06/26/2007	(556479)
34	07/23/2007	(604880)
35	08/23/2007	(604881)
36	08/28/2007	(566792)
37	09/06/2007	(569828)
38	09/24/2007	(604882)
39	10/15/2007	(596226)
40	10/23/2007	(625653)
41	11/26/2007	(625654)
42	11/30/2007	(594939)
43	12/20/2007	(625655)
44	01/29/2008	(675713)
45	02/25/2008	(694050)
46	03/26/2008	(675711)
47	04/18/2008	(675712)
48	05/20/2008	(694051)
49	06/19/2008	(694052)
50	07/24/2008	(715394)
51	08/18/2008	(715395)
52	09/24/2008	(715396)
53	10/21/2008	(731187)
54	11/24/2008	(731188)
55	12/19/2008	(731189)
56	01/19/2009	(731190)
57	02/20/2009	(754457)

58 03/23/2009 (771720)
 59 08/25/2009 (747831)
 60 09/08/2009 (768019)
 61 01/26/2010 (789466)
 62 07/14/2010 (845936)
 63 08/31/2010 (803160)
 64 09/20/2010 (864023)

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

Date: 01/31/2007 (586982) **CN601179914**
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 08/30/2007 (566792)
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(C)
 5C THC Chapter 382, SubChapter D 382.085(b)
 Description: Sunoco failed to submit the deviation report, dated September 26, 2006, by the submittal due date of September 3, 2006 [FOP O-02314].
 Date: 11/30/2007 (599719)
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 122, SubChapter C 122.210(a)
 5C THC Chapter 382, SubChapter D 382.085(b)
 Description: Sunoco failed to submit a revision application for FOP O-02314 after changes had been made to the NSR Permit 3216A. This is a violation of 122.217. [NSR 3216A; FOP O-02314]
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 115, SubChapter C 115.247(2)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THC Chapter 382, SubChapter D 382.085(b)
 FOP O-02314 SC 5D OP
 Description: Sunoco failed to submit gasoline exemption records. This is a violation of 115.247(2). No further action is required to resolve this violation. In the deviation report dated March 20, 2007. [NSR 3126A; FOP O-02314]
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THC Chapter 382, SubChapter D 382.085(b)
 FOP O-02314 SC6 OP
 NSR 3126A SC 6 PA
 Description: Sunoco failed to update MSS records as required. This is a violation of NSR Permit 3126A Special Condition (SC) 6. No further action is required to resolve this violation. In the deviation report dated March 20, 2007, Sunoco reported that proper recordkeeping was initiated in 2007. The inspection of the MSS records confirmed that these records are being maintained as required. [NSR 3126A; FOP O-02314]
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THC Chapter 382, SubChapter D 382.085(b)
 FOP O-02314 SC 6 OP
 FOP O-02314 SC1A OP
 NSR 3126A SC 18E PA
 Description: Sunoco failed to seal open-ended lines. This is a violation of NSR 3126A SC 18E. Sunoco reported in the deviation reports dated September 26, 2006, and March 20, 2007 that caps/plugs were installed upon discovery of the open-ended lines. [NSR 3126A; FOP O-02314]
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(3)(ii)
 5C THC Chapter 382, SubChapter D 382.085(b)
 FOP O-02314 SC 6 OP

NSR 3126A SC 5A PA

Description: Sunoco failed to maintain flare Btu at the required levels. The PP Flare Btu fell below 300 Btu/scf for at least 1 hour on several occasions. No further action is required to resolve this violation. The deviation reports dated September 26, 2006, and March 20, 2007, Sunoco reported that natural gas flow was increased to the flare after each time the Btu fell below the required value. [NSR 3126A; FOP O-02314]

Date: 08/25/2009 (747831)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Condition #5A PERMIT
Special Terms and Conditions #7 OP

Description: Failure to maintain the net heating value of the event gas stream combusted at the flare, EPN: 3-209(PP Flare), which fell below the minimum 300 Btu/scf. (Category C4 violation)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter D 115.352(2)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Condition #18I PERMIT
Special Terms and Condition #1A OP
Special Terms and Condition #7 OP

Description: Failure to perform the following Leak Detection and Repair requirements. (Category C10 violation)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Condition #18E PERMIT
Special Terms and Condition #1A OP
Special Terms and Condition #7 OP

Description: Failure to plug or cap an open-ended line. (Category C10 violation)

Date: 07/14/2010 (845936) CN601179914

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

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

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

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		
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		
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.
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
SUNOCO, INC. (R&M)
RN100524008**

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§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2010-1652-AIR-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Sunoco, Inc. (R&M) ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owned and operated a polypropylene plant at 5761 Underwood Road in Pasadena, Harris County, Texas (the "Plant") which was permanently shutdown on October 16, 2009 and totally demolished by April 1, 2010.
2. The Plant consisted of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about September 5, 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 Fifteen Thousand Eight Hundred Twenty-Five Dollars (\$15,825) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Twelve Thousand Six Hundred Sixty Dollars (\$12,660) of the administrative penalty and Three Thousand One Hundred Sixty-Five Dollars (\$3,165) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that on October 12, 2010, the Respondent submitted the annual permit compliance certification ("PCC") for the reporting period of February 3, 2009 through February 2, 2010 along with the deviation reports for the reporting period.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have failed to submit the annual PCC for the reporting period of February 3, 2009 through February 2, 2010 and two semi-annual deviation reports for the same period, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4), 122.145(2), 122.146(1), and 122.146(2), Federal Operating Permit No. O2314 General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on August 23, 2010. Specifically, on February 3 and 11, 2009, the net heating value of the vent gas stream being combusted at the flare fell below the minimum requirement of 300 British thermal units per standard cubic foot for a total of two hours. This deviation should have been reported on a semi-annual report for the period of February 3, 2009 through August 2, 2009. Because this report was not submitted, another semi-annual report for the period of August 3, 2009 through February 2, 2010 should have been submitted for the reporting deviation.

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: Sunoco, Inc. (R&M), Docket No. 2010-1652-AIR-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

Sunoco, Inc. (R&M)

DOCKET NO. 2010-1652-AIR-E

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5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Zedler
For the Executive Director

3/23/2011
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

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

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

David A Sexton
Signature

DECEMBER 22, 2010
Date

DAVID A SEXTON
Name (Printed or typed)
Authorized Representative of
Sunoco, Inc. (R&M)

VP and GM, CHEMICALS
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.