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**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.:** 2010-1598-AIR-E **TCEQ ID:** RN100219708 **CASE NO.:** 40465  
**RESPONDENT NAME:** United Structures of America, Inc.

<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 checked="" 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 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> United Structures of America, 1912 Buschong Street, Houston, Harris County</p> <p><b>TYPE OF OPERATION:</b> Metal fabrication facility</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" 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 4, 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> Ms. Rebecca Johnson, Enforcement Division, Enforcement Team 5, MC R-14, (361) 825-3423; Ms. Laurie Eaves, Enforcement Division, (512) 239-4495  <b>Respondent:</b> Mr. Richard Drake, Registered Agent, United Structures of America, Inc., 1912 Buschong Street, Houston, Texas 77039  Mr. Dain R. Drake, Vice President, United Structures of America, Inc., 1912 Buschong Street, Houston, Texas 77039  <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 checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input 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 2, 2010</p> <p><b>Date of NOV/NOE Relating to this Case:</b> August 31, 2010 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>AIR</b></p> <p>1) Failed to submit an annual compliance certification and deviation report within 30 days after the end of the reporting period and include all instances of deviations. Specifically, during the investigation it was documented that the annual compliance certification for the July 1, 2009 to June 30, 2010 reporting period had not been submitted, the deviation report submitted on July 1, 2009 for the January 8, 2009 to June 30, 2009 reporting period did not include all instances of deviation, and the deviation report for the July 1, 2009 to December 31, 2009 reporting period had not been submitted [Federal Operating Permit ("FOP") No. O-01107, General Terms and Conditions and Special Terms and Conditions No. 7, 30 TEX. ADMIN. CODE §§ 122.143(4), 122.145(2)(A) and (C), and 122.146(1), and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>2) Failed to produce monthly reports that demonstrate the emissions from each emission point number ("EPN"), the coatings' volatile organic compounds ("VOC") content, and the coatings' hazardous air pollutant ("HAP") content. Specifically, during the investigation it was documented that the three required monthly reports were not being produced [FOP No. O-01107, Special Terms and Conditions No. 4, New Source Review ("NSR")]</p>	<p><b>Total Assessed:</b> \$66,048</p> <p><b>Total Deferred:</b> \$13,209  <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 (Due) to General Revenue:</b> \$1,494 (remaining amount of \$51,345 will be paid in 35 monthly payments of \$1,467 each)</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> <p><b>Findings Orders Justification:</b></p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures:</p> <p>a. Began conducting quarterly opacity readings for EPNs 1, 2, 3, and 4 on November 17, 2010;</p> <p>b. Submitted monthly reports demonstrating the emissions from each EPN, the VOC content of the coatings, and the HAP content of the coatings for the months of January 2010 through June 2010, on December 6, 2010;</p> <p>c. Submitted an annual compliance certification for the July 1, 2009 through June 30, 2010 reporting period on December 8, 2010; and</p> <p>d. Submitted an initial notification and initial compliance report for 40 CFR Part 63, Subpart Mmmm on December 8, 2010.</p> <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a) Within 30 days after the effective date of this Agreed Order:</p> <p>i. Implement measures designed to ensure that previously unreported deviations are reported during the next reporting period, and the deviation reports are submitted no later than 30 days after the end of each reporting period;</p> <p>ii. Submit a revision to FOP No. O-01107 that includes the applicability of 40 CFR Part 63, Subpart Mmmm; and</p> <p>iii. Implement measures designed to ensure that semi-annual compliance reports are submitted.</p> <p>b) Within 45 days after the effective date of this Agreed Order, submit written certification to demonstrate compliance with Ordering Provision a.;</p>

<p>Permit No. 18557, Special Conditions Nos. 9C, 9F, and 9H, 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>3) Failed to conduct quarterly opacity readings. Specifically, during the investigation it was documented that the Respondent has not been conducting the required quarterly opacity readings for EPNs 1, 2, 3, and 4 [FOP No. O-01107, Special Terms and Conditions No. 3.A.(iv)1, 30 TEX. ADMIN. CODE § 122.143(4), and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>4) Failed to include the applicability of 40 CFR Part 63, Subpart MMMM in FOP No. O-01107. Specifically, during the investigation it was documented that the Respondent is subject to the industry specific rules for HAPs, however, the applicable requirements were not included in FOP No. O-01107 [30 TEX. ADMIN. CODE § 122.142(b)(2)(A) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>5) Failed to submit an initial notification and initial compliance report for 40 CFR Part 63, Subpart MMMM. Specifically, during the investigation it was documented that the initial notification and the initial compliance report were required to be submitted by April 27, 2005, and have not been submitted [FOP No. O-01107, Special Terms and Conditions No. 4, NSR Permit No. 18557, Special Conditions No. 3.B., 40 CFR § 63.3910(b) and (c), 30 TEX. ADMIN. CODE §§ 113.960, 116.115(c), and 122.143(4), and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>6) Failed to submit semi-annual compliance reports for 40 CFR Part 63, Subpart MMMM. Specifically, during the investigation it was documented that the Respondent did not submit the HAPs reports that were required to be submitted semi-annually, since July 31, 2005 [FOP No. O-01107, Special Terms and Conditions No. 4, NSR Permit No. 18557, Special Conditions No. 3.B., 40 CFR § 63.3920(a), 30 TEX. ADMIN. CODE §§ 113.960, 116.115(c) and 122.143(4), and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>		<p>c. Respond completely and adequately, as determined by the Air Permits Division, to all letter requesting information concerning the revision to FOP No. O-01107 within 30 days of the date of such letter, or by any other deadline specified in writing; and</p> <p>d. Within 180 days after the effective date of this Agreed Order, submit written certification to demonstrate compliance with Commission rules regarding authorization to operate a source of air emissions under the Operating Permits Program or cease operations until appropriate authorization is obtained. The certifications shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance.</p>
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# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	13-Sep-2010	<b>Screening</b>	27-Sep-2010	<b>EPA Due</b>	28-May-2011
	<b>PCW</b>	27-Sep-2010				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	United Structures of America, Inc.		
<b>Reg. Ent. Ref. No.</b>	RN100219708		
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Major

## CASE INFORMATION

<b>Enf./Case ID No.</b>	40465	<b>No. of Violations</b>	6
<b>Docket No.</b>	2010-1598-AIR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Rebecca Johnson
		<b>EC's Team</b>	Enforcement Team 5
<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** **\$51,600**

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

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

**Compliance History** **28.0%** Enhancement **Subtotals 2, 3, & 7** **\$14,448**

Notes: Enhancement for four dissimilar NOVs and one agreed order with 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** **\$0**

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

Total EB Amounts	\$882
Approx. Cost of Compliance	\$4,450

\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$66,048**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount** **\$66,048**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$66,048**

**DEFERRAL** **20.0%** Reduction **Adjustment** **-\$13,209**

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

Notes:

Deferral offered for expedited settlement.

**PAYABLE PENALTY** **\$52,839**

**Screening Date** 27-Sep-2010

**Docket No.** 2010-1598-AIR-E

**PCW**

**Respondent** United Structures of America, Inc.

Policy Revision 2 (September 2002)

**Case ID No.** 40465

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN100219708

**Media [Statute]** Air

**Enf. Coordinator** Rebecca Johnson

### 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> )	0	0%
	Other written NOVs	4	8%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%

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)** 28%

>> **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 four dissimilar NOVs and one agreed order with denial.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 28%

Screening Date 27-Sep-2010

Docket No. 2010-1598-AIR-E

PCW

Respondent United Structures of America, Inc.

Policy Revision 2 (September 2002)

Case ID No. 40465

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100219708

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

Violation Number 1

Rule Cite(s)

Federal Operating Permit ("FOP") No. O-01107, General Terms and Conditions and Special Terms and Conditions No. 7, 30 Tex. Admin. Code §§ 122.143(4), 122.145(2)(A) and (C), and 122.146(1), and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to submit an annual compliance certification and deviation report within 30 days after the end of the reporting period and include all instances of deviations. Specifically, during the August 2, 2010 investigation, it was documented that the annual compliance certification for the July 1, 2009 to June 30, 2010 reporting period had not been submitted, the deviation report submitted on July 1, 2009 for the January 8, 2009 to June 30, 2009 reporting period did not include all instances of deviation, and the deviation report for the July 1, 2009 to December 31, 2009 reporting period had not been submitted.

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%
100% of the rule requirements were not met.					

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 3 453 Number of violation days

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 based on the three reports that were not submitted as required.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$72

Violation Final Penalty Total \$9,600

This violation Final Assessed Penalty (adjusted for limits) \$9,600

# Economic Benefit Worksheet

**Respondent** United Structures of America, Inc.  
**Case ID No.** 40465  
**Req. Ent. Reference No.** RN100219708  
**Media** Air  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$750	1-Jul-2009	28-May-2011	1.91	\$72	n/a	\$72

**Notes for DELAYED costs**

Estimated cost to prepare and submit the annual compliance certification and deviation reports as required. The date required is the earliest occurrence of the violation. The final date is the projected date corrective measures will be completed.

**Avoided Costs**

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

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

**Notes for AVOIDED costs**

Approx. Cost of Compliance

\$750

**TOTAL**

\$72

Screening Date 27-Sep-2010

Docket No. 2010-1598-AIR-E

PCW

Respondent United Structures of America, Inc.

Policy Revision 2 (September 2002)

Case ID No. 40465

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100219708

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

Violation Number 2

Rule Cite(s)

FOP No. O-01107, Special Terms and Conditions No. 4, New Source Review ("NSR") Permit No. 18557, Special Conditions Nos. 9C, 9F, and 9H, 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to produce monthly reports that demonstrate the emissions from each emission point number ("EPN"), the coatings' volatile organic compound ("VOC") content, and the coatings' hazardous air pollutant ("HAP") content. Specifically, during the August 2, 2010 investigation, it was documented that the three required monthly reports were not being produced.

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 requirements were not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 3

56 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$7,500

Three single events are recommended based on the three reports that were not being produced at the time of the investigation.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

The Respondent completed corrective actions on December 6, 2010, which was after the November 9, 2010 initial settlement offer.

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$9,600

This violation Final Assessed Penalty (adjusted for limits) \$9,600

# Economic Benefit Worksheet

**Respondent** United Structures of America, Inc.  
**Case ID No.** 40465  
**Req. Ent. Reference No.** RN100219708  
**Media** Air  
**Violation No.** 2

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	2-Aug-2010	6-Dec-2010	0.35	\$2	n/a	\$2

**Notes for DELAYED costs**

Estimated cost to implement measures designed to ensure that the three monthly reports are produced. The date required is the date of the investigation. The final date is the date corrective measures were completed.

**Avoided Costs**

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

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

**Notes for AVOIDED costs**

Approx. Cost of Compliance

\$100

**TOTAL**

\$2

Screening Date 27-Sep-2010

Docket No. 2010-1598-AIR-E

PCW

Respondent United Structures of America, Inc.

Policy Revision 2 (September 2002)

Case ID No. 40465

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100219708

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

Violation Number 3

Rule Cite(s) FOP No. O-01107, Special Terms and Conditions No. 3.A.(iv)1, 30 Tex. Admin. Code § 122.143(4), and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to conduct quarterly opacity readings. Specifically, during the August 2, 2010 investigation, it was documented that the Respondent had not been conducting the required quarterly opacity readings for EPNs 1, 2, 3, and 4.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			x

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment could be exposed to insignificant amounts of pollutants as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 4

56 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$4,000

Four single events are recommended based on the opacity readings for the four EPNs that were not being conducted at the time of the August 2, 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 completed corrective actions on November 17, 2010, which was after the November 9, 2010 initial settlement offer.

Violation Subtotal \$4,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$7

Violation Final Penalty Total \$5,120

This violation Final Assessed Penalty (adjusted for limits) \$5,120

## Economic Benefit Worksheet

**Respondent** United Structures of America, Inc.

**Case ID No.** 40465

**Req. Ent. Reference No.** RN100219708

**Media** Air

**Violation No.** 3

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

**Item Cost    Date Required    Final Date    Yrs    Interest Saved    Onetime Costs    EB Amount**

**Item Description** No commas or \$

**Delayed Costs**

Equipment			0.00	\$0	\$0	\$0	
Buildings			0.00	\$0	\$0	\$0	
Other (as needed)			0.00	\$0	\$0	\$0	
Engineering/construction			0.00	\$0	\$0	\$0	
Land			0.00	\$0	n/a	\$0	
Record Keeping System			0.00	\$0	n/a	\$0	
Training/Sampling	\$500	2-Aug-2010	17-Nov-2010	0.29	\$7	n/a	\$7
Remediation/Disposal			0.00	\$0	n/a	\$0	
Permit Costs			0.00	\$0	n/a	\$0	
Other (as needed)			0.00	\$0	n/a	\$0	

**Notes for DELAYED costs**

Estimated cost to implement measures designed to ensure that quarterly opacity readings are conducted. The date required is the investigation date. The final date is the date corrective measures were completed.

**Avoided Costs**

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

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

**Notes for AVOIDED costs**

**Approx. Cost of Compliance** \$500

**TOTAL** \$7

Screening Date 27-Sep-2010

Docket No. 2010-1598-AIR-E

PCW

Respondent United Structures of America, Inc.

Policy Revision 2 (September 2002)

Case ID No. 40465

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100219708

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 122.142(b)(2)(A) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to include the applicability of 40 Code of Federal Regulations ("CFR") Part 63, Subpart MMMM in FOP No. O-01107. Specifically, during the August 2, 2010 investigation, it was documented that the Respondent is subject to the industry specific rules for HAPs, however, the applicable requirements were not included in FOP No. O-01107.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Matrix Notes	Falsification			Percent
	Major	Moderate	Minor	
			X	1%
Less than 30% of the applicable requirements were not included in FOP No. O-01107.				

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 1414

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

Violation Base Penalty \$100

One single event is recommended based on FOP No. O-01107 issued on November 13, 2006.

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 \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$340

Violation Final Penalty Total \$128

This violation Final Assessed Penalty (adjusted for limits) \$128

# Economic Benefit Worksheet

**Respondent** United Structures of America, Inc.  
**Case ID No.** 40465  
**Req. Ent. Reference No.** RN100219708  
**Media** Air  
**Violation No.** 4

<b>Percent Interest</b>	<b>Years of Depreciation</b>
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	\$1,500	13-Nov-2006	28-May-2011	4.54	\$340	n/a	\$340
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

Estimated cost to submit a permit revision to include the applicable HAP requirements. The date required is the date the FOP was issued. The final date is the projected date corrective measures will be 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**

\$1,500

**TOTAL**

\$340

Screening Date 27-Sep-2010

Docket No. 2010-1598-AIR-E

PCW

Respondent United Structures of America, Inc.

Policy Revision 2 (September 2002)

Case ID No. 40465

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100219708

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

Violation Number 5

Rule Cite(s)

FOP No. O-01107, Special Terms and Conditions No. 4, NSR Permit No. 18557, Special Condition No. 3.B., 40 CFR § 63.3910(b) and (c), 30 Tex. Admin. Code §§ 113.960, 116.115(c), and 122.143(4), and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to submit an initial notification and initial compliance report for 40 CFR Part 63, Subpart M. Specifically, during the August 2, 2010 investigation, it was documented that the initial notification and the initial compliance report were required to be submitted by April 27, 2005, and have not been submitted.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			25%

Matrix Notes

100% of the rule requirements were not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2 1979 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$5,000

Two single events are recommended based on the two documents that have not been submitted.

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 completed corrective actions on December 8, 2010, which was after the November 9, 2010 initial settlement offer.

Violation Subtotal \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$140

Violation Final Penalty Total \$6,400

This violation Final Assessed Penalty (adjusted for limits) \$6,400

# Economic Benefit Worksheet

**Respondent** United Structures of America, Inc.

**Case ID No.** 40465

**Req. Ent. Reference No.** RN100219708

**Media** Air

**Violation No.** 5

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

**Delayed Costs**

Equipment			0.00	\$0	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0	\$0
Engineering/construction			0.00	\$0	\$0	\$0	\$0
Land			0.00	\$0	n/a	\$0	\$0
Record Keeping System			0.00	\$0	n/a	\$0	\$0
Training/Sampling			0.00	\$0	n/a	\$0	\$0
Remediation/Disposal			0.00	\$0	n/a	\$0	\$0
Permit Costs			0.00	\$0	n/a	\$0	\$0
Other (as needed)	\$500	27-Apr-2005	8-Dec-2010	5.62	\$140	n/a	\$140

**Notes for DELAYED costs**

Estimated cost to prepare and submit the initial notification and the initial compliance report. The date required is the earliest occurrence of the violation. The final date is the date corrective measures were completed.

**Avoided Costs**

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

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

**Notes for AVOIDED costs**

**Approx. Cost of Compliance**

\$500

**TOTAL**

\$140

Screening Date 27-Sep-2010

Docket No. 2010-1598-AIR-E

PCW

Respondent United Structures of America, Inc.

Policy Revision 2 (September 2002)

Case ID No. 40465

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100219708

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

Violation Number 6

Rule Cite(s)

FOP No. O-01107, Special Terms and Conditions No. 4, NSR Permit No. 18557, Special Condition No. 3.B., 40 CFR § 63.3920(a), 30 Tex. Admin. Code §§ 113.960, 116.115(c), and 122.143(4), and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to submit semi-annual compliance reports for 40 CFR Part 63, Subpart MMMM. Specifically, during the August 2, 2010 investigation, it was documented that the Respondent did not submit the HAPs reports that were required to be submitted semi-annually, since July 31, 2005.

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 requirements were not met.

Adjustment \$7,500

\$2,500

Violation Events

11

1884 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$27,500

Eleven single events are recommended based on the 11 reports that were not submitted from July 31, 2005 to July 31, 2010.

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 \$27,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$321

Violation Final Penalty Total \$35,200

This violation Final Assessed Penalty (adjusted for limits) \$35,200

# Economic Benefit Worksheet

**Respondent** United Structures of America, Inc.

**Case ID No.** 40465

**Req. Ent. Reference No.** RN100219708

**Media** Air

**Violation No.** 6

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,100	31-Jul-2005	28-May-2011	5.83	\$321	n/a	\$321

**Notes for DELAYED costs**

Estimated cost to prepare and submit the semi-annual reports. The date required is the earliest occurrence of the violation. The final date is the projected date corrective measures will be completed.

**Avoided Costs**

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

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

**Notes for AVOIDED costs**

**Approx. Cost of Compliance**

\$1,100

**TOTAL**

\$321

# Compliance History Report

Customer/Respondent/Owner-Operator: CN600130421 United Structures of America, Inc. Classification: AVERAGE Rating: 1.12  
Regulated Entity: RN100219708 UNITED STRUCTURES OF AMERICA Classification: AVERAGE Site Rating: 1.12  
ID Number(s):  
AIR OPERATING PERMITS ACCOUNT NUMBER HG1387C  
AIR OPERATING PERMITS PERMIT 1107  
INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # 39226  
(SWR)  
INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXR000063701  
WASTEWATER PERMIT WQ0012765001  
WASTEWATER EPA ID TX0093556  
AIR NEW SOURCE PERMITS PERMIT 18557  
AIR NEW SOURCE PERMITS ACCOUNT NUMBER HG1387C  
AIR NEW SOURCE PERMITS AFS NUM 4820100545  
PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1012871  
STORMWATER PERMIT TXR05T699  
WASTEWATER LICENSING LICENSE WQ0012765001  
WATER LICENSING LICENSE 1012871  
AIR EMISSIONS INVENTORY ACCOUNT NUMBER HG1387C

Location: 1912 BUSCHONG ST, HOUSTON, TX, 77039

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: September 22, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: September 22, 2005 to September 22, 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: 9/1/2010 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: 04/03/2008

ADMINORDER 2007-1575-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.146(2)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: General Terms and Conditions OP

Description: Failed to submit an annual compliance certification within 30 days after the end of the January 1, 2006 to December 31, 2006 certification period.

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	11/17/2005	(477988)
2	01/06/2006	(477989)
3	01/06/2006	(477990)
4	01/06/2006	(477991)
5	05/23/2006	(464790)
6	05/30/2006	(504387)
7	05/30/2006	(504388)
8	05/30/2006	(504389)
9	05/30/2006	(504390)
10	06/14/2006	(504391)
11	07/05/2006	(480020)
12	07/28/2006	(489035)
13	08/11/2006	(526712)
14	11/16/2006	(626345)
15	11/16/2006	(626347)
16	11/16/2006	(626349)
17	11/16/2006	(626351)
18	01/10/2007	(626353)
19	01/10/2007	(626355)
20	01/10/2007	(626357)
21	02/20/2007	(536069)
22	02/27/2007	(539629)
23	04/11/2007	(626340)
24	04/11/2007	(626341)
25	08/30/2007	(573892)
26	10/10/2007	(626342)
27	10/10/2007	(626343)
28	11/19/2007	(626344)
29	11/19/2007	(626346)
30	11/21/2007	(626348)
31	11/21/2007	(626350)
32	01/14/2008	(626352)
33	01/14/2008	(626354)
34	01/14/2008	(626356)
35	01/14/2008	(626358)
36	02/19/2008	(617097)
37	02/29/2008	(675893)
38	03/05/2008	(610457)
39	04/10/2008	(694276)
40	05/12/2008	(694277)
41	03/25/2009	(754675)
42	03/25/2009	(754676)
43	03/25/2009	(754677)
44	03/25/2009	(754678)
45	03/25/2009	(754679)
46	03/25/2009	(754680)
47	03/25/2009	(754681)
48	03/25/2009	(754682)
49	03/25/2009	(754683)
50	03/25/2009	(754684)
51	03/25/2009	(754685)
52	05/18/2009	(738930)
53	05/21/2009	(771905)

54 05/21/2009 (771906)  
 55 10/28/2009 (779465)  
 56 12/08/2009 (815730)  
 57 12/08/2009 (815731)  
 58 12/08/2009 (815732)  
 59 12/08/2009 (815735)  
 60 12/08/2009 (815736)  
 61 12/11/2009 (815733)  
 62 12/11/2009 (815734)  
 63 02/01/2010 (815737)  
 64 03/29/2010 (815729)  
 65 04/05/2010 (834721)  
 66 05/12/2010 (834722)  
 67 08/25/2010 (846003)  
 68 08/31/2010 (794105)

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

**Date: 07/05/2006 (480020)**

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)  
 TPDES MSGP Part III, Section A(5)(a) PERMIT

Description: Failure to practice good housekeeping measures.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)  
 TPDES MSGP Part III, Section A(5)(b)(2) PERMIT

Description: Failure to provide a secondary containment structure around the above ground diesel storage tank.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)  
 TDPES MSGP Part III, Section A(5)(f)(1) PERMIT

Description: Failure to conduct employee training during the term of the permit.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)  
 TPDES MSGP Part III, Section A(7)(c) PERMIT

Description: Failure to conduct the annual comprehensive site compliance evaluations.

**Date: 12/31/2006 (626357)**

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: 02/15/2007 (536069)**

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 317 317.4(a)(8)

Description: Failure to provide vacuum breakers and a copy of an annual test report form for the back flow prevention device.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to properly report flow and parameter loading on the February 2006 Discharge Monitoring Report (DMR).

**Date: 05/18/2009 (738930)**

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(11)(B)

Description: Failure to provide and maintain the sludge management records.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 319, SubChapter A 319.7(e)

Description: Failure to accurately report the analytical results on the discharge monitoring report (DMR).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 319, SubChapter A 319.6  
30 TAC Chapter 319, SubChapter A 319.9(c)  
Description: Failure to provide records of the total chlorine residual Quality Assurance/Quality Control (QA/QC) procedures.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 319, SubChapter A 319.7(d)  
Description: Failure to submit discharge monitoring reports (DMR).  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)  
Description: Failure to maintain the backflow prevention device.

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  
UNITED STRUCTURES OF  
AMERICA, INC.  
RN100219708**

§  
§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2010-1598-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 United Structures of America, Inc. ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a metal fabrication facility at 1912 Buschong Street in Houston, Harris County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about 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 Sixty-Six Thousand Forty-Eight Dollars (\$66,048) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Thousand Four Hundred Ninety-Four Dollars (\$1,494) of the administrative penalty and Thirteen Thousand Two Hundred Nine Dollars (\$13,209) 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, including the penalty payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Fifty-One Thousand Three Hundred Forty-Five Dollars (\$51,345) of the administrative penalty shall be payable in 35 monthly payments of One Thousand Four Hundred Sixty-Seven Dollars (\$1,467) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

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:
  - a. Began conducting quarterly opacity readings for emission point numbers ("EPN") 1, 2, 3, and 4 on November 17, 2010;
  - b. Submitted monthly reports demonstrating the emissions from each EPN, the volatile organic compounds ("VOC") content of the coatings, and the hazardous air pollutant ("HAP") content of the coatings for the months of January 2010 through June 2010, on December 6, 2010;
  - c. Submitted an annual compliance certification for the July 1, 2009 through June 30, 2010 reporting period on December 8, 2010; and
  - d. Submitted an initial notification and initial compliance report for 40 CODE OF FEDERAL REGULATIONS ("CFR") Part 63, Subpart M on December 8, 2010.
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:

1. Failed to submit an annual compliance certification and deviation report within 30 days after the end of the reporting period and include all instances of deviations, in violation of Federal Operating Permit ("FOP") No. O-01107, General Terms and Conditions and Special Terms and Conditions No. 7, 30 TEX. ADMIN. CODE §§ 122.143(4), 122.145(2)(A) and (C), and 122.146(1), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on August 2, 2010. Specifically, during the investigation it was documented that the annual compliance certification for the July 1, 2009 to June 30, 2010 reporting period had not been submitted, the deviation report submitted on July 1, 2009 for the January 8, 2009 to June 30, 2009 reporting period did not include all instances of deviation, and the deviation report for the July 1, 2009 to December 31, 2009 reporting period had not been submitted.
2. Failed to produce monthly reports that demonstrate the emissions from each EPN, the coatings' VOC content, and the coatings' HAP content, in violation of FOP No. O-01107, Special Terms and Conditions No. 4, New Source Review ("NSR") Permit No. 18557, Special Conditions Nos. 9C, 9F, and 9H, 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on August 2, 2010. Specifically, during the investigation it was documented that the three required monthly reports were not being produced.
3. Failed to conduct quarterly opacity readings, in violation of FOP No. O-01107, Special Terms and Conditions No. 3.A.(iv)1, 30 TEX. ADMIN. CODE § 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on August 2, 2010. Specifically, during the investigation it was documented that the Respondent has not been conducting the required quarterly opacity readings for EPNs 1, 2, 3, and 4.
4. Failed to include the applicability of 40 CFR Part 63, Subpart M in FOP No. O-01107, in violation of 30 TEX. ADMIN. CODE § 122.142(b)(2)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on August 2, 2010. Specifically, during the investigation it was documented that the Respondent is subject to the industry specific rules for HAPs, however, the applicable requirements were not included in FOP No. O-01107.

5. Failed to submit an initial notification and initial compliance report for 40 CFR Part 63, Subpart Mmmm, in violation of FOP No. O-01107, Special Terms and Conditions No. 4, NSR Permit No. 18557, Special Conditions No. 3.B., 40 CFR § 63.3910(b) and (c), 30 TEX. ADMIN. CODE §§ 113.960, 116.115(c), and 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on August 2, 2010. Specifically, during the investigation it was documented that the initial notification and the initial compliance report were required to be submitted by April 27, 2005, and have not been submitted.
6. Failed to submit semi-annual compliance reports for 40 CFR Part 63, Subpart Mmmm, in violation of FOP No. O-01107, Special Terms and Conditions No. 4, NSR Permit No. 18557, Special Conditions No. 3.B., 40 CFR § 63.3920(a), 30 TEX. ADMIN. CODE §§ 113.960, 116.115(c) and 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on August 2, 2010. Specifically, during the investigation it was documented that the Respondent did not submit the HAPs reports that were required to be submitted semi-annually, since July 31, 2005.

### **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: United Structures of America, Inc., Docket No. 2010-1598-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. 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:
    - i. Implement measures designed to ensure that previously unreported deviations are reported during the next reporting period, and the deviation reports are submitted no later than 30 days after the end of each reporting period;

- ii. Submit a revision to FOP No. O-01107 that includes the applicability of 40 CFR Part 63, Subpart Mmmm, in accordance with 30 TEX. ADMIN. CODE § 122.210; and
  - iii. Implement measures designed to ensure that semi-annual compliance reports are submitted in accordance with the schedule prescribed in 40 CFR Part 63, Subpart Mmmm.
- b. Within 45 days after the effective date of this Agreed Order, submit written certification to demonstrate compliance with Ordering Provision No. 2.a., as described in Ordering Provision 2.d.;
  - c. Respond completely and adequately, as determined by the Air Permits Division, to all letter requesting information concerning the revision to FOP No. O-01107 within 30 days of the date of such letter, or by any other deadline specified in writing; and
  - d. Within 180 days after the effective date of this Agreed Order, submit written certification to demonstrate compliance with Commission rules regarding authorization to operate a source of air emissions under the Operating Permits Program or cease operations until appropriate authorization is obtained. The certifications shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. The certifications 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:

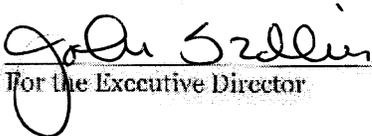
Air Section, Manager  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Avenue, Suite H  
Houston, Texas 77023-1486

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 Plant 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

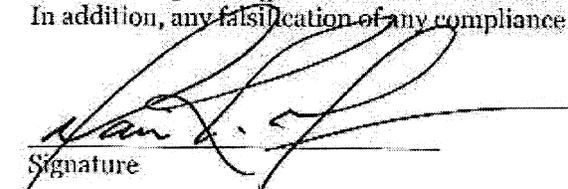
\_\_\_\_\_  
Date 5/3/2011

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

4-27-11

DAIN R. DRAKE  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
United Structures of America, Inc.

\_\_\_\_\_  
Title

Vice President

**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.