

CAPTION: Docket No. 2010-1909-AIR-E. Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of E. I. du Pont de Nemours and Company in Jefferson County; RN100216035; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Audra Benoit, Laurie Eaves)

Page 1 of 2

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2010-1909-AIR-E **TCEQ ID:** RN100216035 **CASE NO.:** 40765
RESPONDENT NAME: E. I. du Pont de Nemours and Company

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: DUPONT BEAUMONT WORKS INDUSTRIAL PARK, 5470 North Twin City Highway, Nederland, Jefferson County</p> <p>TYPE OF OPERATION: Industrial organic chemicals 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 one additional pending enforcement action regarding this facility location, Docket No. 2010-1556-AIR-E.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on April 18, 2011. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732 TCEQ Enforcement Coordinator: Ms. Audra Benoit, Enforcement Division, Enforcement Team 5, MC R-10, (409) 899-8799; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Thomas C. Davis, Plant Manager, E. I. du Pont de Nemours and Company, P.O. Box 3269, Beaumont, Texas 77704 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: October 7, 2010</p> <p>Date of NOV/NOE Relating to this Case: November 16, 2010 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>AIR</p> <p>Failed to prevent unauthorized emissions. Specifically, Incident No. 142451 occurred on July 17, 2010 at the Ammonia Oxidation Process ("AOP") Abater when operator error initiated the AOP unit's safety interlocking feature which shut down the unit due to the false reading, releasing 343.44 pounds of unauthorized nitrogen oxides for one hour and 54 minutes. Since the emissions event could have been avoided by better operational and/or maintenance practices, the demonstrations in 30 TEX. ADMIN. CODE § 101.222 necessary to present an affirmative defense were not met [30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and (c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), Air Permit No. 4351, Special Conditions No. 1, and Federal Operating Permit No. O-01961, General Terms and Conditions and Special Terms and Conditions No. 16].</p>	<p>Total Assessed: \$8,375</p> <p>Total Deferred: \$1,675 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$3,350</p> <p>Total Paid to General Revenue: \$3,350</p> <p>Compliance History Classifications: Person/CN - Average Site/RN - Average</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent implemented procedures and trained personnel to prevent recurrence of emissions events due to the same causes as Incident No. 142451, on August 20, 2010.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)</p>

Additional ID No(s): Air Account JE0033C

Attachment A
Docket Number: 2010-1909-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: E. I. du Pont de Nemours and Company

Payable Penalty Amount: Six Thousand Seven Hundred Dollars (\$6,700)

SEP Amount: Three Thousand Three Hundred Fifty Dollars (\$3,350)

Type of SEP: Pre-approved

Third-Party Recipient: Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Clean School Buses

Location of SEP: Texas Air Quality Control Region 106 – Southern Louisiana-Southeast Texas (preferred Jefferson County)

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

1. Project Description

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to aid local school districts, area transit agencies, and local governments in need of funding assistance to pay for the cost of the following activities to reduce emissions: 1) replacing older diesel buses with alternative fuelled or clean diesel buses; or 2) retrofitting older diesel buses with new, cleaner technology. The funds will be disbursed on a needs-rated basis, using non-attainment area status, condition of buses, and economic status of the recipient as possible rating factors if competition for the funds exists. To maximize funds, retrofitting will take priority over replacement of buses. Older buses deemed not suitable for retrofitting will be permanently retired and sold only for scrap.

Acceptable retrofit technologies include particulate matter traps, diesel particulate matter filters, nitrogen oxides (NO_x) reduction catalyst technology in combination with diesel particulate filters, and other emission control technologies that are developed and approved by the United States Environmental Protection Agency ("EPA") or the California Air Resources Board.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing particulate matter and hydrocarbon emissions from buses, to meet the new, more stringent emissions standards introduced by the EPA which will be phased in between 2007 and 2010.

C. Minimum Expenditure

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

2. Performance Schedule

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

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive, Suite 507
Bryan, Texas 77802-2700

3. Records and Reporting

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

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

4. Failure to Fully Perform

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

E. I. du Pont de Nemours and Company
Agreed Order - Attachment A

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

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

The Respondent shall also mail a copy of the check to the Enforcement Division SEP Coordinator at the address in Section 3 above.

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	22-Nov-2010			
	PCW	29-Nov-2010	Screening	29-Nov-2010	EPA Due 13-Aug-2011

RESPONDENT/FACILITY INFORMATION

Respondent	E. I. du Pont de Nemours and Company				
Reg. Ent. Ref. No.	RN100216035				
Facility/Site Region	10-Beaumont	Major/Minor Source	Major		

CASE INFORMATION

Enf./Case ID No.	40765	No. of Violations	1
Docket No.	2010-1909-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Audra Benoit
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$2,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **260.0%** Enhancement **Subtotals 2, 3, & 7** **\$6,500**

Notes: Enhancement for one same/similar NOV, five dissimilar NOVs, 11 orders with denial of liability, and one order without denial of liability.

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** **\$625**

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

Total EB Amounts: \$7
 Approx. Cost of Compliance: \$1,500
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$8,375**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$8,375**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$8,375**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$1,675**

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 **\$6,700**

Screening Date 29-Nov-2010

Docket No. 2010-1909-AIR-E

PCW

Respondent E. I. du Pont de Nemours and Company

Policy Revision 2 (September 2002)

Case ID No. 40765

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100216035

Media [Statute] Air

Enf. Coordinator Audra Benoit

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>)	1	5%
	Other written NOVs	5	10%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	11	220%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%

Please Enter Yes or No

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

Adjustment Percentage (Subtotal 2) 260%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one same/similar NOV, five dissimilar NOVs, 11 orders with denial of liability, and one order without denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 260%

Screening Date 29-Nov-2010

Docket No. 2010-1909-AIR-E

PCW

Respondent E. I. du Pont de Nemours and Company

Policy Revision 2 (September 2002)

Case ID No. 40765

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100216035

Media [Statute] Air

Enf. Coordinator Audra Benoit

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(b)(2)(F) and (c) and 122.143(4), Tex. Health & Safety Code § 382.085(b), Air Permit No. 4351, Special Conditions No. 1, and Federal Operating Permit No. O-01961, General Terms and Conditions and Special Terms and Conditions No. 16

Violation Description Failed to prevent unauthorized emissions. Specifically, Incident No. 142451 occurred on July 17, 2010, at the Ammonia Oxidation Process ("AOP") Abater when operator error initiated the AOP unit's safety interlocking feature which shut down the unit due to the false reading, releasing 343.44 pounds of unauthorized nitrogen oxides for one hour and 54 minutes. Since the emissions event could have been avoided by better operational and/or maintenance practices, the demonstrations in 30 Tex. Admin. Code § 101.222 necessary to present an affirmative defense were not met.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual			X	25%
	Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

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

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 1

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

Violation Base Penalty \$2,500

One quarterly event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$625

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

Notes The Respondent completed corrective actions for this violation on August 20, 2010, prior to the November 16, 2010 NOE.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$7

Violation Final Penalty Total \$8,375

This violation Final Assessed Penalty (adjusted for limits) \$8,375

Economic Benefit Worksheet

Respondent E. I. du Pont de Nemours and Company
Case ID No. 40765
Req. Ent. Reference No. RN100216035
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
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)	\$1,500	17-Jul-2010	20-Aug-2010	0.09	\$7	n/a	\$7

Notes for DELAYED costs

Estimated costs to implement procedures and train personnel to prevent recurrence of emissions events due to the same causes as Incident No. 142451. The date required is the initial date of non-compliance. The final date is the date compliance was achieved.

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

\$1,500

TOTAL

\$7

Compliance History

Customer/Respondent/Owner-Operator:	CN600128284 E. I. du Pont de Nemours and Company	Classification: AVERAGE	Rating: 4.90
Regulated Entity:	RN100216035 DUPONT BEAUMONT WORKS INDUSTRIAL PARK	Classification: AVERAGE	Site Rating: 10.89

ID Number(s):			
	AIR OPERATING PERMITS	ACCOUNT NUMBER	JE0033C
	AIR OPERATING PERMITS	PERMIT	1959
	AIR OPERATING PERMITS	PERMIT	1960
	AIR OPERATING PERMITS	PERMIT	1961
	INDUSTRIAL AND HAZARDOUS WASTE	PERMIT	50166
	INDUSTRIAL AND HAZARDOUS WASTE	EPA ID	TXD008081101
	INDUSTRIAL AND HAZARDOUS WASTE	SOLID WASTE REGISTRATION # (SWR)	30010
	AIR NEW SOURCE PERMITS	REGISTRATION	16323
	AIR NEW SOURCE PERMITS	PERMIT	18127
	AIR NEW SOURCE PERMITS	REGISTRATION	24141
	AIR NEW SOURCE PERMITS	REGISTRATION	29106
	AIR NEW SOURCE PERMITS	REGISTRATION	29192
	AIR NEW SOURCE PERMITS	REGISTRATION	31224
	AIR NEW SOURCE PERMITS	REGISTRATION	31444
	AIR NEW SOURCE PERMITS	REGISTRATION	36730
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	JE0033C
	AIR NEW SOURCE PERMITS	PERMIT	1743A
	AIR NEW SOURCE PERMITS	PERMIT	2053
	AIR NEW SOURCE PERMITS	PERMIT	2324
	AIR NEW SOURCE PERMITS	PERMIT	2340
	AIR NEW SOURCE PERMITS	PERMIT	2672
	AIR NEW SOURCE PERMITS	PERMIT	3310
	AIR NEW SOURCE PERMITS	PERMIT	3879
	AIR NEW SOURCE PERMITS	PERMIT	4351
	AIR NEW SOURCE PERMITS	PERMIT	4351A
	AIR NEW SOURCE PERMITS	PERMIT	4704
	AIR NEW SOURCE PERMITS	PERMIT	4752
	AIR NEW SOURCE PERMITS	PERMIT	5310
	AIR NEW SOURCE PERMITS	PERMIT	5777
	AIR NEW SOURCE PERMITS	PERMIT	6183
	AIR NEW SOURCE PERMITS	PERMIT	6301
	AIR NEW SOURCE PERMITS	PERMIT	8106
	AIR NEW SOURCE PERMITS	PERMIT	8143

AIR NEW SOURCE PERMITS	REGISTRATION	10013
AIR NEW SOURCE PERMITS	REGISTRATION	11844
AIR NEW SOURCE PERMITS	REGISTRATION	12208
AIR NEW SOURCE PERMITS	REGISTRATION	12368
AIR NEW SOURCE PERMITS	REGISTRATION	12835
AIR NEW SOURCE PERMITS	REGISTRATION	12888
AIR NEW SOURCE PERMITS	REGISTRATION	12894
AIR NEW SOURCE PERMITS	REGISTRATION	12895
AIR NEW SOURCE PERMITS	REGISTRATION	12896
AIR NEW SOURCE PERMITS	REGISTRATION	13542
AIR NEW SOURCE PERMITS	REGISTRATION	14020
AIR NEW SOURCE PERMITS	REGISTRATION	14134
AIR NEW SOURCE PERMITS	REGISTRATION	14489
AIR NEW SOURCE PERMITS	REGISTRATION	75778
AIR NEW SOURCE PERMITS	REGISTRATION	75676
AIR NEW SOURCE PERMITS	AFS NUM	4824500003
AIR NEW SOURCE PERMITS	REGISTRATION	71190
AIR NEW SOURCE PERMITS	REGISTRATION	71144
AIR NEW SOURCE PERMITS	REGISTRATION	52189
AIR NEW SOURCE PERMITS	REGISTRATION	54296
AIR NEW SOURCE PERMITS	REGISTRATION	50568
AIR NEW SOURCE PERMITS	REGISTRATION	52358
AIR NEW SOURCE PERMITS	REGISTRATION	71369
AIR NEW SOURCE PERMITS	REGISTRATION	54705
UNDERGROUND INJECTION CONTROL	PERMIT	WDW101
UNDERGROUND INJECTION CONTROL	PERMIT	WDW188
UNDERGROUND INJECTION CONTROL	PERMIT	WDW388
UNDERGROUND INJECTION CONTROL	PERMIT	WDW391
WASTEWATER	PERMIT	WQ0000473000
WASTEWATER	EPA ID	TX0004669
PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1230066
WATER LICENSING	LICENSE	1230066
IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	30010
AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	JE0033C

Location:

5470 N TWIN CITY HWY, NEDERLAND, TX, 77627

TCEQ Region:

REGION 10 - BEAUMONT

Date Compliance History Prepared:

November 29, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: November 29, 2005 to November 29, 2010

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

Name: Audra Benoit Phone: (409) 899-8799

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: 05/12/2006 ADMINORDER 2005-1978-AIR-E

Classification: Moderate

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

Rqmt Prov: 1743 PERMIT
1743/Special Condition 4 PERMIT

Description: Failure to comply with emissions limits found in the Maximum Allowable Emissions Rate Table (MAERT) in TCEQ Permit 1743.

Classification: Moderate

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

Rqmt Prov: 1743 PERMIT
1743/Special Conditions 4 PERMIT

Description: Failure to comply with emissions limits found in the Maximum Allowable Emissions Rate Table (MAERT) in TCEQ Permit 1743.

Classification: Moderate

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

Rqmt Prov: 1743 PERMIT
1743/Special Condition 4 PERMIT

Description: Failure to comply with Special Condition 1 and the limits specified in the MAERT constitutes violations of 30 TAC 116.115(c) and 30 TAC 116.115(b)(2)(F).

Effective Date: 08/31/2007 ADMINORDER 2003-1371-MLM-E

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
30 TAC Chapter 116, SubChapter B 116.115(c)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT Db 60.46b(e)(1)

Rqmt Prov: 2796A, Special Condition 12F PERMIT

Description: Failure to conduct valid stack sampling for nitrogen oxides ("NOx") on Boiler 7, Emission

Point Number ("EPN") P&S-BLR7, within 60 days, but no later than 180 days after the initial start up of the Plant, which occurred in December 2002.

Classification: Moderate

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

Rqmt Prov: Effluent Limits PERMIT

Description: Failure to comply with permitted effluent limitations at Outfall 001A and 101A as documented on December 8, 2003.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: 1743, SPECIAL CONDITION 1 PERMIT

Description: Failure to maintain an emission rate within the allowable emission limits in the Maximum Allowable Emissions Rate Table ("MAERT") of the permit as documented on April 16, 2004, thru April 19, 2004.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: 1743 PERMIT

Description: Failure to maintain an emission rate within the allowable emission limits in the MAERT of the permit, as documented on July 22, 2004.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: 1743 PERMIT

Description: Failure to maintain an emission rate within the allowable emission limits in the MAERT of the permit.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: 1 PERMIT

Operational Lilitations 4 PERMIT

Description: Failure to maintain an emission rate within the allowable emission limits in the MAERT of the permit as documented on September 1, 2004.

Classification: Moderate

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

Rqmt Prov: Special Condition 1 PERMIT

Description: Allowed unauthorized emissions from a dehydrating nitrogen line at the Aniline Unit on October 2, 2004.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)

Rqmt Prov: 1743, Special Condition 1 PERMIT

Description: Allowed unauthorized emissions from an absorber vent (EPN ACR-VNT 51) at the acrylonitrile process area on December 27, 2004.

Effective Date: 11/09/2007

ADMINORDER 2007-0155-IHW-E

Classification: Moderate

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

Description: Failure to prevent an unauthorized discharge.

Effective Date: 03/08/2008

ADMINORDER 2007-1308-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)(1)
5C THC Chapter 382, SubChapter A 382.0518(a)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: 1961, General Terms and Conditions OP

Description: Failed to prevent unauthorized emissions.

Effective Date: 08/29/2008

ADMINORDER 2007-2044-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 113, SubChapter C 113.120
30 TAC Chapter 115, SubChapter B 115.112(a)(1)

30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Part 63, Subpart G 63.120(d)(5)
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: FOP O-01960 General Terms and Conditions OP
FOP O-01960, Special Condition 19 OP
FOP O-01960, Special Condition 1A OP
FOP O-01960, Special Condition 1E OP
FOP O-01960, Special Condition 4 OP
NSR Permit 1743, Special Condition 10 PERMIT
NSR Permit 1743, Special Condition 2 PERMIT

Description: Failure to maintain the water flow to scrubber ACR/ABS61 as specified in the Notification of Compliance Status Report.

Classification: Moderate

Citation: 30 TAC Chapter 113, SubChapter C 113.120
30 TAC Chapter 115, SubChapter B 115.112(a)(1)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Part 63, Subpart G 63.120(d)(5)
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: FOP O-01960 General Terms and Conditions OP
FOP O-01960, Special Condition 19 OP
FOP O-01960, Special Condition 1A OP
FOP O-01960, Special Condition 1E OP
FOP O-01960, Special Condition 4 OP
NSR Permit 1743, Special Condition 10 PERMIT
NSR Permit 1743, Special Condition 2 PERMIT

Description: Failure to maintain the water flow to scrubber ACR/ABS156 as specified in the Notification of Compliance Status Report.

Classification: Moderate

Citation: 30 TAC Chapter 113, SubChapter C 113.120
30 TAC Chapter 115, SubChapter B 115.112(a)(1)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Part 63, Subpart G 63.120(d)(5)
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: FOP O-01960 General Terms and Conditions OP
FOP O-01960, Special Condition 19 OP
FOP O-01960, Special Condition 1A OP
FOP O-01960, Special Condition 1E OP
FOP O-01960, Special Condition 4 OP
NSR Permit 1743, Special Condition 10 PERMIT
NSR Permit 1743, Special Condition 2 PERMIT

Description: Failure to maintain the water flow to scrubber ACR/ABS159 as specified in the Notification of Compliance Status Report.

Classification: Moderate

Citation: 30 TAC Chapter 113, SubChapter C 113.120
30 TAC Chapter 115, SubChapter B 115.112(a)(1)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Part 63, Subpart G 63.120(d)(5)
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: FOP O-01960 General Terms and Conditions OP

FOP O-01960, Special Condition 19 OP
FOP O-01960, Special Condition 1A OP
FOP O-01960, Special Condition 1E OP
FOP O-01960, Special Condition 4 OP
NSR Permit 1743, Special Condition 10 PERMIT
NSR Permit 1743, Special Condition 2 PERMIT

Description: Failure to maintain the water flow to scrubber ACR/ABS218 as specified in the Notification of Compliance Status Report.

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(C)

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

Rqmt Prov: FOP O-01960 General Terms and Conditions OP

Description: Failure to submit the semi-annual deviation report for the period of September 22, 2005 through October 10, 2005, in a timely manner.

Effective Date: 03/12/2009

ADMINORDER 2008-1298-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: FOP O-01961, General Terms and Condition OP
FOP O-01961, Special Condition 2F OP

Description: Failed to notify the TCEQ Regional Office within the required 24 hours of a reportable emissions event. The emissions event occurred on January 7, 2008, but was not reported until January 9, 2008 (Incident No. 102237).

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
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)

Rqmt Prov: FOP O-01961, General Terms and Condition OP
FOP O-01961, Special Condition 16 OP
Permit 4351, Special Condition 1 OP

Description: Failed to prevent unauthorized emissions of 1,425.86 pounds of oxides of nitrogen from the Ammonia Oxidation Process Abater, Emissions Point Number ANI-STK83 due to a power outage damaging the catalyst and the unit shutdown for repair.

Effective Date: 03/23/2009

ADMINORDER 2008-1571-AIR-E

Classification: Moderate

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

Rqmt Prov: Permit 4351, Special Condition 1 PERMIT

Description: Failed to comply with permitted emissions limits. Specifically, during a 40-minute emissions event on January 17, 2008, the Ammonia Oxidation Process ("AOP") Abater, Emissions Point Number ANI-STK83, released 741.21 pounds of unauthorized nitrogen oxides. The abater was shutdown due to a loss of boiler feed water.

Effective Date: 07/20/2009

ADMINORDER 2009-0102-AIR-E

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: FOP O-01961, General Terms and Condition OP

FOP O-01961, Special Condition 2F OP

Description: Failed to submit a final emissions event report within two weeks after the end of the event (Incident No. 106111). Specifically, the event occurred and ended on April 9, 2008 and the report was due by April 23, 2008, but was not submitted until June 30, 2008.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
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)

Rqmt Prov: FOP O-01961, General Terms and Condition OP
FOP O-01961, Special Condition 16 OP
Permit 4351, Special Condition 1 PERMIT

Description: Failed to prevent unauthorized emissions. Specifically, unauthorized emissions of 473.93 pounds of nitrogen oxides were released from the Ammonia Oxidation Process Abater, emission point number ANI-STK83, during an emissions event (Incident No. 106111) that began during an April 9, 2008 shutdown activity and lasted 57 minutes. Since the emissions event was improperly reported, the demonstrations in 30 TEX. ADMIN. CODE § 101.222 necessary to present an affirmative defense were not met.

Effective Date: 11/13/2009

ADMINORDER 2009-0861-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
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)

Rqmt Prov: General Terms and Conditions OP
Special Condition 1 PERMIT
Special Condition 16 OP

Description: Failed to prevent unauthorized emissions during Incident No. 117097.

Effective Date: 02/22/2010

ADMINORDER 2009-1230-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
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)

Rqmt Prov: O-01961, General Terms and Condition OP
O-01961, Special Condition 16 OP
Permit 4351, Special Condition 1 PERMIT

Description: Failure to maintain an emission rate below the allowable emission limit.

EIC A8(c)(2)(A)(ii) MOD(2)(D)

Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
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)

Rqmt Prov: General Terms and Conditions OP
Special Condition 1 PERMIT
Special Condition 16 OP

Description: Failure to maintain an emission rate below the allowable emission limit.

Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
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)
 Rqmt Prov: General Terms and Conditions OP
 Special Condition 1 PERMIT
 Special Condition 16 OP
 Description: Failure to maintain an emission rate below the allowable emission limit for incident number 107521.
 Classification: Minor
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
 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)
 Rqmt Prov: General Terms and Conditions OP
 Special Condition 1 PERMIT
 Special Condition 16 OP
 Description: Failure to maintain an emission rate below the allowable emission limit.
 Classification: Minor
 Citation: 30 TAC Chapter 101, SubChapter F 101.211(b)
 5C THSC Chapter 382 382.085(b)
 Description: Failure to submit a final report within two weeks after completion of the maintenance activity.

Effective Date: 05/09/2010 ADMINORDER 2009-1887-AIR-E
 Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 5C THSC Chapter 382 382.085(b)
 Rqmt Prov: Special Condition 1 PERMIT
 Description: Failure to maintain an emission rate below the allowable emission limit.
 A8(c)(2)(A)(ii) MOD(2)(D)

Effective Date: 08/09/2010 ADMINORDER 2008-1529-IHW-E
 Classification: Major
 Citation: 30 TAC Chapter 335, SubChapter A 335.2(b)
 40 CFR Chapter 270, SubChapter I, PT 270, SubPT A 270.1(c)
 Description: Failure to prevent the disposal of industrial hazardous waste at an unauthorized facility. Specifically, an April 8, 2008 tank failure resulted in a discharge of approximately 2,655 gallons of a mixture of 75% sulfuric acid, 25% nitrobenzene and trace amounts of benzene and aniline.
 Classification: Moderate
 Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)(4)
 40 CFR Chapter 265, SubChapter I, PT 265, SubPT C 265.31
 Description: Failure to maintain and operate the facility to minimize the possibility of an unplanned release of hazardous waste to the air, soil and surface water which could threaten human health or the environment.

- 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
 12/29/2006 (344561)

2 08/31/2006 (438112)
3 04/18/2006 (439023)
4 08/31/2006 (449843)
5 02/27/2006 (453635)
6 02/23/2006 (454153)
7 05/16/2006 (461492)
8 06/08/2006 (461493)
9 08/31/2006 (463773)
10 06/09/2006 (464979)
11 06/08/2006 (465140)
12 05/16/2006 (465147)
13 05/12/2006 (465540)
14 09/10/2007 (466042)
15 07/20/2006 (481088)
16 06/23/2006 (481385)
17 06/23/2006 (483323)
18 07/20/2006 (484761)
19 08/23/2006 (486519)
20 08/23/2006 (486526)
21 08/23/2006 (486528)
22 08/30/2006 (487349)
23 08/31/2006 (497541)
24 08/31/2006 (509139)
25 10/30/2006 (511265)
26 11/17/2006 (513262)
27 12/20/2006 (514400)
28 11/15/2006 (515866)
29 11/08/2006 (518131)
30 11/07/2007 (518772)
31 11/10/2006 (518881)
32 12/19/2006 (531150)

33 01/30/2007 (538186)
34 02/12/2007 (539047)
35 04/12/2007 (543282)

36 04/12/2007 (543292)
37 04/12/2007 (543295)
38 04/25/2007 (555253)
39 04/25/2007 (557419)
40 06/13/2007 (559952)
41 06/20/2007 (560649)
42 07/13/2007 (563518)
43 06/18/2007 (563733)
44 08/29/2007 (567227)
45 09/17/2007 (572715)
46 10/19/2007 (573592)
47 11/05/2007 (594907)
48 12/14/2007 (597009)
49 12/17/2007 (599959)
50 12/19/2007 (611284)
51 04/04/2008 (618550)
52 03/31/2008 (638733)
53 04/29/2008 (640755)
54 06/18/2008 (656983)
55 05/27/2008 (671278)
56 05/30/2008 (671477)
57 08/01/2008 (681179)
58 07/09/2008 (684335)
59 08/12/2008 (685941)
60 08/04/2008 (687589)
61 10/06/2008 (688814)

62 09/10/2008 (699791)
63 10/22/2008 (700426)
64 11/19/2008 (700565)
65 11/17/2008 (706201)
66 11/13/2008 (706839)
67 12/09/2008 (707372)
68 12/04/2008 (708769)
69 12/04/2008 (709114)
70 12/04/2008 (709823)
71 01/15/2009 (710311)
72 12/31/2008 (722045)
73 03/23/2009 (726682)
74 06/02/2009 (726996)
75 03/11/2009 (735910)
76 03/10/2009 (736037)
77 04/06/2009 (738481)
78 06/04/2009 (743995)
79 05/29/2009 (744149)
80 06/04/2009 (744167)
81 06/11/2009 (744804)
82 06/11/2009 (744821)
83 07/02/2009 (745691)

84 07/07/2009 (746465)
85 04/13/2010 (749476)
86 07/29/2009 (749567)
87 06/24/2009 (759677)
88 07/30/2009 (760130)
89 07/14/2009 (760851)
90 08/03/2009 (761392)
91 07/29/2009 (761835)

92 07/30/2009 (762208)
93 02/16/2010 (762577)
94 09/21/2009 (763451)
95 11/05/2009 (765029)
96 08/11/2009 (765160)
97 09/14/2009 (765492)
98 10/05/2009 (765635)
99 08/31/2009 (767323)
100 11/02/2009 (776378)
101 10/30/2009 (776816)
102 10/14/2009 (777441)
103 10/30/2009 (778749)
104 11/02/2009 (778751)
105 11/13/2009 (779905)
106 12/04/2009 (782747)
107 12/04/2009 (783095)
108 12/04/2009 (783136)
109 01/21/2010 (783282)
110 02/16/2010 (783408)
111 02/16/2010 (783682)
112 01/19/2010 (785778)
113 02/23/2010 (787960)
114 02/08/2010 (787971)
115 06/01/2010 (788768)
116 02/01/2010 (788970)
117 02/16/2010 (789764)
118 02/16/2010 (789795)
119 03/11/2010 (792097)
120 04/21/2010 (795002)
121 03/23/2010 (795245)

122 05/21/2010 (798690)
 123 05/21/2010 (798964)
 124 06/18/2010 (799079)
 125 08/06/2010 (829595)
 126 08/04/2010 (829654)
 127 08/09/2010 (829932)
 128 08/13/2010 (830379)
 129 07/22/2010 (830528)
 130 08/24/2010 (842349)
 131 09/19/2010 (843190)
 132 09/16/2010 (864187)
 133 11/16/2010 (869930)
 134 11/12/2010 (872679)

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

Date: 07/21/2006 (481088) CN600128284
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.167(a)(1)
 5C THC Chapter 382, SubChapter A 382.085(b)
 O-01961 OP
 Permit 4351 PA
 Description: Failure to equip open-ended lines with a cap, blind flange, plug, or a second valve for lines in Volatile Organic Compound service.
 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 Db 60.43b(f)
 5C THC Chapter 382, SubChapter A 382.085(b)
 O-01961 OP
 Permit 2796A PA
 Description: Failure to conduct an alternate method of monitoring when the Continuous Emission Monitoring System (CEMS) of Nitrous Oxides at the Number 7 Boiler was malfunctioning.

Date: 06/14/2007 (559952) CN600128284
 Self Report? NO Classification: Moderate
 Citation: 1961, General Terms and Conditions OP
 1961, Special Terms and Conditions 16 OP
 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 4351, Special Condition 5.D. PERMIT
 5C THC Chapter 382, SubChapter A 382.085(b)
 Description: Failure to perform weekly calibrations for hydrogen concentration on a flare.
 Self Report? NO Classification: Moderate
 Citation: 1961, General Terms and Conditions OP
 1961, Special Terms and Conditions 16 OP

30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 4351, Special Condition 5.D. PERMIT
 5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to maintain minimum natural gas flow to flare.
 Self Report? NO Classification: Moderate
 Citation: 1961, General Terms and Conditions OP
 1961, Special Terms and Conditions 16 OP
 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 4351, Special Condition 5.D. PERMIT
 5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to perform weekly calibration on natural gas flow meter of flare.
 Self Report? NO Classification: Moderate
 Citation: 1961, General Terms and Conditions OP
 1961, Special Terms and Conditions 6.F. OP
 30 TAC Chapter 117, SubChapter C 117.413(b)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to perform daily calibrations on a Continuous Emission Monitoring System (CEMS).

Date: 12/14/2007 (597215) CN600128284

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 113, SubChapter C 113.100
 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Part 63, Subpart A 63.11(b)(5)

5C THC Chapter 382, SubChapter D 382.085(b)
 FOP O-01960 General Terms and Conditions OP
 FOP O-01960, Special Condition 19 OP
 FOP O-01960, Special Condition 1A OP
 NSR Permit 1743, Special Condition 2 PERMIT
 NSR Permit 1743, Special Condition 9 PERMIT

Description: Failure to operate Flare ACR/FLR57 with a pilot flame present at all times.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 115, SubChapter B 115.112(a)(1)
 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-01960 General Terms and Conditions OP
 FOP O-01960, Special Condition 19 OP
 FOP O-01960, Special Condition 4 OP
 NSR Permit 1743, Special Condition 13 PERMIT

Description: Failure to maintain the water flow to scrubber ACR/ABS59.
 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 THC Chapter 382, SubChapter D 382.085(b)
 FOP O-01960 General Terms and Conditions OP
 FOP O-01960, Special Condition 19 OP
 NSR Permit 1743, Special Condition 15 PERMIT

Description: Failure to perform the Second and Fourth Quarter 2005 CGAs of ACR/INC60.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 113, SubChapter C 113.130
 30 TAC Chapter 115, SubChapter D 115.352(4)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.167(a)(1)
 5C THC Chapter 382, SubChapter D 382.085(b)
 FOP O-01960 General Terms and Conditions OP
 FOP O-01960, Special Condition 19 OP
 FOP O-01960, Special Condition 1E OP
 NSR Permit 1743, Special Condition 16E PERMIT
 NSR Permit 1743, Special Condition 2 PERMIT

Description: Failure to maintain a cap or plug on an open-ended line.
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 THC Chapter 382, SubChapter D 382.085(b)
FOP O-01960 General Terms and Conditions OP
FOP O-01960, Special Condition 19 OP
NSR Permit 318, Special Condition 5 PERMIT

Description: Failure to perform Audio, Visual and Olfactory (AVO) inspections for Ammonia (NH3) leaks in EPN AMM/FDKAMB once per twelve hour shift.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 113, SubChapter C 113.120
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Part 63, Subpart G 63.118(f)(1)
FOP O-01960 General Terms and Conditions OP
FOP O-01960, Special Condition 19 OP
NSR Permit 1743, Special Condition 2 PERMIT

Description: Failure to include all daily averages of measured parameters in the HON Periodic Report for the period of October 11, 2005 through April 10, 2006.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 115, SubChapter B 115.112(a)(1)
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-01960 General Terms and Conditions OP
FOP O-01960, Special Condition 19 OP
FOP O-01960, Special Condition 4 OP
NSR Permit 1743, Special Condition 10 PERMIT

Description: Failure to maintain the water flow to scrubber ACR/ABS219.
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 THC Chapter 382, SubChapter D 382.085(b)
FOP O-01960 General Terms and Conditions OP
FOP O-01960, Special Condition 19 OP
NSR Permit 1743, Special Condition 12 PERMIT

Description: Failure to maintain the operating parameter of the Oxygen concentration and to continuously monitor the Oxygen concentration of the Unit ACR/INC60.
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)
FOP O-01960 General Terms and Conditions OP
FOP O-01960, Special Condition 19 OP
NSR Permit 1743, Special Condition 8C PERMIT

Description: Failure to maintain the operating temperature of Vapor Combustor Unit ACR/VC51.

Date: 03/31/2008 (638733) CN600128284
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 113, SubChapter C 113.130
30 TAC Chapter 115, SubChapter D 115.352(4)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.167(a)(1)
4351, Special Condition 8E PERMIT
5C THSC Chapter 382 382.085(b)
O-01961, General Terms and Conditions OP
O-01961, Special Condition 16 OP
O-01961, Special Condition 1A OP

Description: Failure to seal several open-ended lines with a cap, plug, or blind flange.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)

5C THSC Chapter 382 382.085(b)
O-01961 General Terms and Conditions OP
O-01961, Special Condition 3D OP

Description: Failure to perform quarterly visible emission observations (VEO).
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 335, SubChapter C 335.69(d)(1)
40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(c)(1)(i)
40 CFR Chapter 265, SubChapter I, PT 265, SubPT I 265.173(a)

Description: Failure to keep a container of hazardous waste closed in a satellite accumulation area (SAA).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(A)
5C THSC Chapter 382 382.085(b)
O-01961, General Terms and Conditions OP

Description: Failure to report the occurrence of deviations in semi-annual deviation reports.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.146(1)
30 TAC Chapter 122, SubChapter B 122.146(5)(C)
5C THSC Chapter 382 382.085(b)
O-01961, General Terms and Conditions OP

Description: Failure to accurately certify compliance in Annual Compliance Certifications (ACCs).
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)
O-01961, General Terms and Conditions OP
O-01961, Special Condition 16 OP
Permit 4351, Special Condition 5D PERMIT

Description: Failure to perform annual calibrations on the process flow monitor.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 113, SubChapter C 113.120
30 TAC Chapter 115, SubChapter B 115.114(a)(1)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT G 63.120(a)(2)(i)
5C THSC Chapter 382 382.085(b)
O-01961, General Terms and Conditions OP
O-01961, Special Condition 1A OP

Description: Failure to conduct inspections on the Benzene internal floating roof tank within the previous 12 months.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 113, SubChapter C 113.130
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.181(c)
5C THSC Chapter 382 382.085(b)
O-01961, General Terms and Conditions OP
O-01961, Special Condition 1A OP

Description: Failure to maintain the required audio, visual, olfactory (AVO) weekly inspections on the pumps and flanges.

Date: 07/29/2009 (749567) CN600128284

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)
30 TAC Chapter 113, SubChapter C 113.100
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)(1)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.11(b)(4)
5C THSC Chapter 382 382.085(b)
O-01961, General Terms and Conditions OP
O-01961, Special Condition 16 OP
Permit 4351, Special Condition 2 PERMIT

Permit 4351, Special Condition 8C PERMIT

Description: Failure to operate the emergency flare, ANI/FLR296, with no visible emissions on January 5 and 7, 2008.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(A)
 30 TAC Chapter 101, SubChapter F 101.201(b)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 O-01961 General Terms and Conditions OP
 O-01961 Special Condition 2F OP

Description: Failure to determine if the event in Violation Track Number (VTN) 368029 was a reportable or recordable emissions event.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 113, SubChapter C 113.100
 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(2)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.11(b)(5)
 5C THSC Chapter 382 382.085(b)
 O-01961 General Terms and Conditions OP
 O-01961 Special Condition 16 OP
 Permit 4351 Special Condition 4 PERMIT
 Permit 4351 Special Condition 8B PERMIT

Description: Failure to operate the NOx Fare, ANI/FLR373, with a flame present at all times while emissions are being routed to it.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 113, SubChapter C 113.120
 30 TAC Chapter 115, SubChapter B 115.136(a)(2)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 30 TAC Chapter 122, SubChapter B 122.144(1)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT G 63.143(e)
 5C THSC Chapter 382 382.085(b)
 O-01961 General Terms and Conditions OP
 O-01961 Special Condition 15 OP

Description: Failure to maintain monitoring data for the water scrubber (EPN: ANI/ABS62) due to a malfunction of the IP21 data historian system.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(E)
 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)
 O-01961 General Terms and Conditions OP
 O-01961 Special Condition 16 OP
 Permit 4351 Special Condition 8D PERMIT

Description: Failure to maintain natural gas flow continuous monitoring data.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter D 115.354(3)
 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)
 O-01961 General Terms and Conditions OP
 O-01961 Special Condition 16 OP
 Permit 4351 Special Condition 13E PERMIT

Description: Failure to conduct the required audio, visual, or olfactory (AVO) weekly inspections on connectors/flanges.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 113, SubChapter C 113.130
 30 TAC Chapter 115, SubChapter D 115.354(2)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.163(b)(1)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.168(c)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.173(a)(1)
 5C THSC Chapter 382 382.085(b)
 O-01961 General Terms and Conditions OP

O-01961 Special Condition 16 OP
Permit 4351 Special Condition 13F and G PERMIT
Permit 4351 Special Condition 4 PERMIT
Description: Failure to conduct the quarterly Leak Detection and Repair (LDAR) monitoring for the 3rd quarter of 2008.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(A)
5C THSC Chapter 382 382.085(b)
O-01961 General Terms and Conditions OP

Description: Failure to report all instances of deviations on the Semi-Annual Deviation Report (SDR) for the compliance period of December 28, 2007, through June 27, 2008.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.146(1)
30 TAC Chapter 122, SubChapter B 122.146(5)(C)(v)
30 TAC Chapter 122, SubChapter B 122.146(5)(D)
5C THSC Chapter 382 382.085(b)
O-01961 General Terms and Conditions OP

Description: Failure to accurately certify an Annual Compliance Certification (ACC) for the period of December 28, 2007, through December 27, 2008.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(C)
30 TAC Chapter 122, SubChapter B 122.146(2)
5C THSC Chapter 382 382.085(b)
O-01961 General Terms and Conditions OP
O-01961 Special Condition 18 OP

Description: Failure to submit an ACC and SDR in a timely manner.

Date: 04/22/2010 (795002) CN600128284

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.13(d)(1)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP

Special Condition 13 OP
Special Condition 15 PERMIT
Special Condition 2 PERMIT
Description: Failure to perform the daily zero and span calibration drifts on the Nitrogen Oxides (NOx) CEMS on March 14, 2009.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
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 60.13(a)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP
Special Condition 13 OP
Special Condition 15B PERMIT
Special Condition 2 PERMIT

Description: Failure to conduct the CEMS quarterly Cylinder Gas Audit (CGA) for the second quarter of 2009 (April - June).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 113, SubChapter C 113.130
30 TAC Chapter 115, SubChapter D 115.352(4)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-6(a)(1)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.167(a)(1)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP
Special Condition 13 OP
Special Condition 13E PERMIT

Special Condition 2 PERMIT
Special Condition 4 PERMIT

Description: Failure to equip each open ended line with a cap, blind-flange, plug, or a second valve.

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
E. I. DU PONT DE NEMOURS
AND COMPANY
RN100216035**

§
§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2010-1909-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 E. I. du Pont de Nemours and Company ("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 an industrial organic chemicals plant at 5470 North Twin City Highway in Nederland, Jefferson 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 November 21, 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 Eight Thousand Three Hundred Seventy-Five Dollars (\$8,375) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Thousand Three Hundred Fifty Dollars (\$3,350) of the administrative penalty and One Thousand Six Hundred Seventy-Five Dollars (\$1,675) 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. Three Thousand Three Hundred Fifty Dollars (\$3,350) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent implemented procedures and trained personnel to prevent recurrence of emissions events due to the same causes as Incident No. 142451, on August 20, 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 failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and (c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), Air Permit No. 4351, Special Conditions No. 1, and Federal Operating Permit No. O-01961, General Terms and Conditions and Special Terms and Conditions No. 16, as documented during an investigation conducted on October 7, 2010. Specifically, Incident No. 142451 occurred on July 17, 2010 at the Ammonia Oxidation Process ("AOP") Abater when operator error initiated the AOP unit's safety interlocking feature which shut down the unit due to the false reading, releasing 343.44 pounds of unauthorized nitrogen oxides for one hour and 54 minutes. Since the emissions event could have been avoided by better operational and/or maintenance practices, the demonstrations in 30 TEX. ADMIN. CODE § 101.222 necessary to present an affirmative defense were not met.

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: E. I. du Pont de Nemours and Company, Docket No. 2010-1909-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 Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Three Thousand Three Hundred Fifty Dollars (\$3,350) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. 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

John S. Solier
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.

DS CO
Signature

2-1-11
Date

Thomas C Davis
Name (Printed or typed)
Authorized Representative of
E. I. du Pont de Nemours and Company

Plant Manager
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.

Attachment A
Docket Number: 2010-1909-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: E. I. du Pont de Nemours and Company

Payable Penalty Amount: Six Thousand Seven Hundred Dollars (\$6,700)

SEP Amount: Three Thousand Three Hundred Fifty Dollars (\$3,350)

Type of SEP: Pre-approved

Third-Party Recipient: Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Clean School Buses

Location of SEP: Texas Air Quality Control Region 106 – Southern Louisiana-Southeast Texas (preferred Jefferson County)

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

1. Project Description

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to aid local school districts, area transit agencies, and local governments in need of funding assistance to pay for the cost of the following activities to reduce emissions: 1) replacing older diesel buses with alternative fuelled or clean diesel buses; or 2) retrofitting older diesel buses with new, cleaner technology. The funds will be disbursed on a needs-rated basis, using non-attainment area status, condition of buses, and economic status of the recipient as possible rating factors if competition for the funds exists. To maximize funds, retrofitting will take priority over replacement of buses. Older buses deemed not suitable for retrofitting will be permanently retired and sold only for scrap.

Acceptable retrofit technologies include particulate matter traps, diesel particulate matter filters, nitrogen oxides (NO_x) reduction catalyst technology in combination with diesel particulate filters, and other emission control technologies that are developed and approved by the United States Environmental Protection Agency ("EPA") or the California Air Resources Board.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing particulate matter and hydrocarbon emissions from buses, to meet the new, more stringent emissions standards introduced by the EPA which will be phased in between 2007 and 2010.

C. Minimum Expenditure

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

2. Performance Schedule

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

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive, Suite 507
Bryan, Texas 77802-2700

3. Records and Reporting

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

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

4. Failure to Fully Perform

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

E. I. du Pont de Nemours and Company
Agreed Order - Attachment A

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

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

The Respondent shall also mail a copy of the check to the Enforcement Division SEP Coordinator at the address in Section 3 above.

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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