

Executive Summary – Enforcement Matter – Case No. 41037

Kaneka Texas Corporation

RN100218841

Docket No. 2011-0142-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

Kaneka Texas, 6161 Underwood Road, Pasadena, Harris County

Type of Operation:

Polymer manufacturing plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: May 6, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$12,150

Amount Deferred for Expedited Settlement: \$2,430

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$9,720

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Executive Summary – Enforcement Matter – Case No. 41037

Kaneka Texas Corporation

RN100218841

Docket No. 2011-0142-AIR-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: November 4 to 16, 2010

Date(s) of NOE(s): January 12, 2011

Violation Information

1. Failed to submit the annual Permit Compliance Certification (“PCC”) report for the certification period of February 13, 2009 through February 12, 2010 within the required time frame. Specifically, the PCC should have been submitted by March 13, 2010, but was not submitted until May 5, 2010, which was 53 days late [30 TEX. ADMIN. CODE § 122.146(2), Federal Operating Permit (“FOP”) No. O-1152, General Terms and Conditions and TEX. HEALTH & SAFETY CODE § 382.085(b)].

2. Failed to submit semi-annual deviation reports within 30 days of the end of the reporting period. Specifically, the semi-annual deviation reports for February 13, 2009 through August 12, 2009 and August 13, 2009 through February 12, 2010 were submitted on May 5, 2010. The reports were late by 236 and 52 days, respectively [30 TEX. ADMIN. CODE § 122.145(2)(C), FOP No. O-1152, General Terms and Conditions and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Executive Director recognizes that on May 5, 2010, the Respondent submitted the two semi-annual deviation reports and the annual PCC.

Technical Requirements:

1. Within 30 days after the effective date of this Agreed Order, implement measures to ensure that all deviation reports and PCCs are submitted to the TCEQ in a timely manner; and
2. Within 45 days after the effective date of this Agreed Order, submit written certification demonstrating compliance.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

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RN100218841

Docket No. 2011-0142-AIR-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Ms. Nadia Hameed, Enforcement Division, Enforcement Team 5, MC R-12, (713) 767-3629; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495

TCEQ SEP Coordinator: N/A

Respondent: Mr. Thomas Garrisi, Safety, Health and Environmental Manager, Kaneka Texas Corporation, 6161 Underwood Road, Pasadena, Texas 77507
Mr. Steven Skarke, Sr. Vice President, Kaneka Texas Corporation, 6161 Underwood Road, Pasadena, Texas 77507

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

| | | | | | | |
|--------------|-----------------|-------------|------------------|-------------|----------------|------------|
| DATES | Assigned | 18-Jan-2011 | Screening | 20-Jan-2011 | EPA Due | 9-Oct-2011 |
| | PCW | 20-Jan-2011 | | | | |

RESPONDENT/FACILITY INFORMATION

| | | | | | |
|-----------------------------|--------------------------|---------------------------|-------|--|--|
| Respondent | Kaneka Texas Corporation | | | | |
| Reg. Ent. Ref. No. | RN100218841 | | | | |
| Facility/Site Region | 12-Houston | Major/Minor Source | Major | | |

CASE INFORMATION

| | | | |
|--|-----------------|------------------------------|--------------------|
| Enf./Case ID No. | 41037 | No. of Violations | 2 |
| Docket No. | 2011-0142-AIR-E | Order Type | 1660 |
| Media Program(s) | Air | Government/Non-Profit | No |
| Multi-Media | | Enf. Coordinator | Nadia Hameed |
| | | 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** **\$7,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **62.0%** Enhancement **Subtotals 2, 3, & 7** **\$4,650**

Notes: Enhancement for two orders with denial of liability, four same/similar NOVs and two dissimilar NOVs. Reduction for two Notices of Intent.

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 **\$37**
 Approx. Cost of Compliance **\$1,000**
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$12,150**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$12,150**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$12,150**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$2,430**

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 **\$9,720**

Screening Date 20-Jan-2011

Docket No. 2011-0142-AIR-E

PCW

Respondent Kaneka Texas Corporation

Policy Revision 2 (September 2002)

Case ID No. 41037

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100218841

Media [Statute] Air

Enf. Coordinator Nadia Hameed

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>) | 4 | 20% |
| | Other written NOVs | 2 | 4% |
| Orders | Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>) | 2 | 40% |
| | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 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>) | 2 | -2% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>) | 0 | 0% |
| <i>Please Enter Yes or No</i> | | | |
| Other | Environmental management systems in place for one year or more | No | 0% |
| | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program | No | 0% |
| | Participation in a voluntary pollution reduction program | No | 0% |
| | Early compliance with, or offer of a product that meets future state or federal government environmental requirements | No | 0% |

Adjustment Percentage (Subtotal 2) 62%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for two orders with denial of liability, four same/similar NOVs and two dissimilar NOVs. Reduction for two Notices of Intent.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 62%

Screening Date 20-Jan-2011

Docket No. 2011-0142-AIR-E

PCW

Respondent Kaneka Texas Corporation

Policy Revision 2 (September 2002)

Case ID No. 41037

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100218841

Media [Statute] Air

Enf. Coordinator Nadia Hameed

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 122.146(2), Federal Operating Permit ("FOP") No. O-1152, General Terms and Conditions and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to submit the annual permit compliance certification ("PCC") for the certification period of February 13, 2009 through February 12, 2010 within the required time frame. Specifically, the PCC should have been submitted by March 13, 2010, but was not submitted until May 5, 2010, which was 53 days late.

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 percent of the rule requirement was not met. | | | | | |

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 53 Number of violation days

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

Violation Base Penalty \$2,500

One single event is recommended for the one late report.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$37

Violation Final Penalty Total \$4,050

This violation Final Assessed Penalty (adjusted for limits) \$4,050

Economic Benefit Worksheet

Respondent Kaneka Texas Corporation
Case ID No. 41037
Reg. Ent. Reference No. RN100218841
Media Air
Violation No. 1

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| 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 | 13-Mar-2010 | 11-Jul-2011 | 1.33 | \$33 | n/a | \$33 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | \$500 | 13-Mar-2010 | 5-May-2010 | 0.15 | \$4 | n/a | \$4 |

Notes for DELAYED costs

Estimated cost for timely submitting the reports (completed 05/05/2010) and to implement measures to ensure that all deviation reports and permit compliance certifications are submitted in a timely manner. The date required is based on the date the first report was due. The final dates are the dates the corrective actions were completed, or are expected to 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

\$1,000

TOTAL

\$37

Screening Date 20-Jan-2011

Docket No. 2011-0142-AIR-E

PCW

Respondent Kaneka Texas Corporation

Policy Revision 2 (September 2002)

Case ID No. 41037

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100218841

Media [Statute] Air

Enf. Coordinator Nadia Hameed

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 122.145(2)(C), FOP No. O-1152, General Terms and Conditions and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to submit semi-annual deviation reports within 30 days of the end of the reporting period. Specifically, the semi-annual deviation reports for February 13, 2009 through August 12, 2009 and August 13, 2009 through February 12, 2010 were submitted on May 5, 2010. The reports were late by 236 and 52 days, respectively.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | | Percent |
|-----------|-------|----------|-------|---------|
| | Major | Moderate | Minor | |
| Actual | | | | 0% |
| Potential | | | | |

>> Programmatic Matrix

| Falsification | Harm | | | Percent |
|---------------|-------|----------|-------|---------|
| | Major | Moderate | Minor | |
| | x | | | 25% |

Matrix Notes 100 percent of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2 Number of violation days 236

mark only one with an x

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | |
| quarterly | |
| semiannual | |
| annual | |
| single event | x |

Violation Base Penalty \$5,000

Two single events are recommended for the two late reports.

Good Faith Efforts to Comply

0.0% Reduction \$0

| | Reduction | |
|---------------|------------|-------------------------------|
| | 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 \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$8,100

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

Economic Benefit Worksheet

Respondent Kaneka Texas Corporation
Case ID No. 41037
Reg. Ent. Reference No. RN100218841
Media Air
Violation No. 2

| | |
|-------------------------|------------------------------|
| Percent Interest | Years of Depreciation |
| 5.0 | 15 |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| 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) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

See Economic Benefit under Violation No. 1.

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

\$0

TOTAL

\$0

Compliance History

Customer/Respondent/Owner-Operator: CN600129928 Kaneka Texas Corporation Classification: AVERAGE Rating: 6.03
 Regulated Entity: RN100218841 KANEKA TEXAS Classification: AVERAGE Site Rating: 4.83

| | | | |
|---------------|--------------------------------|----------------------------------|--------------|
| ID Number(s): | AIR OPERATING PERMITS | ACCOUNT NUMBER | HG1065E |
| | AIR OPERATING PERMITS | PERMIT | 1152 |
| | AIR OPERATING PERMITS | PERMIT | 2800 |
| | AIR OPERATING PERMITS | PERMIT | 3392 |
| | AIR OPERATING PERMITS | PERMIT | 3394 |
| | POLLUTION PREVENTION PLANNING | ID NUMBER | P00362 |
| | INDUSTRIAL AND HAZARDOUS WASTE | EPA ID | TXD980870349 |
| | INDUSTRIAL AND HAZARDOUS WASTE | SOLID WASTE REGISTRATION # (SWR) | 34477 |
| | AIR EMISSIONS INVENTORY | ACCOUNT NUMBER | HG1065E |
| | AIR EMISSIONS INVENTORY | ACCOUNT NUMBER | HG1065E |
| | AIR NEW SOURCE PERMITS | REGISTRATION | 92843 |
| | AIR NEW SOURCE PERMITS | REGISTRATION | 92986 |
| | AIR NEW SOURCE PERMITS | PERMIT | 9092 |
| | AIR NEW SOURCE PERMITS | REGISTRATION | 25333 |
| | AIR NEW SOURCE PERMITS | REGISTRATION | 44212 |
| | AIR NEW SOURCE PERMITS | ACCOUNT NUMBER | HG1065E |
| | AIR NEW SOURCE PERMITS | REGISTRATION | 76329 |
| | AIR NEW SOURCE PERMITS | AFS NUM | 4820100496 |
| | AIR NEW SOURCE PERMITS | REGISTRATION | 74157 |
| | AIR NEW SOURCE PERMITS | PERMIT | 77886 |
| | AIR NEW SOURCE PERMITS | PERMIT | 80931 |

Location: 6161 UNDERWOOD RD, PASADENA, TX, 77507

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: January 19, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: January 19, 2006 to January 19, 2011

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

Name: NHameed Phone: (713) 767-3629

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: 07/22/2006 ADMINORDER 2005-1943-AIR-E

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(2)(D)
5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failed to identify the proper process unit or area on the initial and final emissions event notification form for a reportable emissions event (Incident No. 51334)

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 116, SubChapter B 116.116(a)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: 9092, Special Condition 1 PERMIT

Description: Failed to prevent the unauthorized release of air contaminants into the atmosphere (Incident Nos. 51334, 60824 and 62519)

Effective Date: 08/23/2009 ADMINORDER 2008-1466-AIR-E

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)

Rqmt Prov: O-01152 OP

Description: Failed to submit an annual permit compliance certification ("ACC") for the period February 13, 2006 through February 12, 2007, and the associated deviation report for the period August 14, 2006 through February 12, 2007, within 30 days from the end of the 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 | 05/24/2006 | (463568) |
| 2 | 04/19/2007 | (536401) |
| 3 | 04/19/2007 | (537829) |
| 4 | 04/27/2007 | (555169) |
| 5 | 02/20/2008 | (616181) |
| 6 | 05/06/2008 | (637111) |
| 7 | 05/08/2008 | (638865) |
| 8 | 06/18/2008 | (682365) |
| 9 | 07/02/2008 | (684466) |
| 10 | 08/31/2008 | (700764) |

11 05/08/2009 (743350)
 12 05/22/2009 (743835)
 13 06/26/2009 (744348)
 14 09/03/2009 (759267)
 15 07/01/2009 (759376)
 16 03/19/2010 (767577)
 17 10/23/2009 (779279)
 18 02/18/2010 (781336)
 19 05/07/2010 (789567)
 20 06/15/2010 (824792)
 21 09/24/2010 (844141)
 22 10/19/2010 (858117)
 23 01/12/2011 (858263)

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

Date: 04/26/2007 (555169)CN600129928
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 5C THC Chapter 382, SubChapter D 382.085(b)
 TCEQ Air Permit No. 9092 PERMIT
 Description: Kaneka failed to properly maintain the manway gaskets on the top of the Modifier
 1 Line Unit B Reactor.

Date: 07/02/2008 (684466)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 101, SubChapter A 101.10(e)
 5C THSC Chapter 382 382.085(b)
 Description: Failure to submit a 2007 Emissions Inventory: Category B19 (g)(3)

Date: 05/08/2009 (743350) CN600129928
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 5C THSC Chapter 382 382.085(b)
 SPECIAL CONDITION 1 PERMIT
 Description: Kaneka Texas failed to comply with all special conditions of permit 9092 by failing
 to prevent the release of 271 pounds of 1,3 Butadiene.

Date: 05/22/2009 (743835) CN600129928
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 101, SubChapter F 101.211(a)(1)(I)
 5C THSC Chapter 382 382.085(b)
 Description: Failure to include the preconstruction authorization number in the incident report.

Date: 02/11/2010 (781336) CN600129928
 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-01152 OP

Description: Failed to submit an annual permit compliance certification ("ACC") for the period February 13, 2006 through February 12, 2007, and the associated deviation report for the period August 14, 2006 through February 12, 2007, within 30 days from the end of the certification period.

Date: 01/12/2011 (858263) CN600129928
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 122, SubChapter B 122.143(2)
5C THSC Chapter 382 382.085(b)
Special Condition 6 (A) PERMIT
Special Term and Condition 9 OP

Description: Failure to demonstrate continuous compliance for the flare. (Category C1 Violation)

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP

Description: Failure to submit an accurate deviation report. (Category C3 Violation)

F. Environmental audits.

Notice of Intent Date: 11/17/2006 (533609)

No DOV Associated

Notice of Intent Date: 01/27/2010 (828351)

No DOV Associated

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
KANEKA TEXAS CORPORATION
RN100218841**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2011-0142-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 Kaneka Texas Corporation ("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 polymer manufacturing plant at 6161 Underwood Road in Pasadena, 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 January 17, 2011.
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 Twelve Thousand One Hundred Fifty Dollars (\$12,150) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Nine Thousand Seven Hundred Twenty

Dollars (\$9,720) of the administrative penalty and Two Thousand Four Hundred Thirty Dollars (\$2,430) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that on May 5, 2010, the Respondent submitted the two semi-annual deviation reports and the annual Permit Compliance Certification ("PCC").
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 the annual PCC report for the certification period of February 13, 2009 through February 12, 2010 within the required time frame, in violation of 30 TEX. ADMIN. CODE § 122.146(2), Federal Operating Permit ("FOP") No. O-1152, General Terms and Conditions and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on November 4 to 16, 2010. Specifically, the PCC should have been submitted by March 13, 2010, but was not submitted until May 5, 2010, which was 53 days late.
2. Failed to submit semi-annual deviation reports within 30 days of the end of the reporting period, in violation of 30 TEX. ADMIN. CODE § 122.145(2)(C), FOP No. O-1152, General Terms and Conditions and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on November 4 to 16, 2010. Specifically, the semi-annual deviation reports for February 13, 2009 through August 12, 2009 and August 13, 2009 through February 12, 2010 were submitted on May 5, 2010. The reports were late by 236 and 52 days, respectively.

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: Kaneka Texas Corporation, Docket No. 2011-0142-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, implement measures to ensure that all deviation reports and PCCs are submitted to the TCEQ in a timely manner; and
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

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

5/16/2011

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.



Signature

05/11/10

Date

Steven C. Skarke

Name (Printed or typed)
Authorized Representative of
Kaneka Texas Corporation

Sr. Vice President

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.