

Executive Summary – Enforcement Matter – Case No. 42561

Kuraray America, Inc.

RN100212216

Docket No. 2011-1701-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

EVAL Business Unit, 11500 Bay Area Boulevard, Pasadena, Harris County

Type of Operation:

Chemical plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: February 10, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$95,193

Amount Deferred for Expedited Settlement: \$19,038

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$38,078

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$38,077

Name of SEP: Sheltering Arms Weatherization Assistance Program

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

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Kuraray America, Inc.

RN100212216

Docket No. 2011-1701-AIR-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: July 18, 2011

Date(s) of NOE(s): August 30, 2011

Violation Information

1. Failed to maintain records of daily visible emission observations for all filter vents, quarterly visible emission observations for all stationary vents, and audio, olfactory and visual checks for anhydrous ammonia leaks during each shift during Plant operations [30 TEX. ADMIN. CODE § 122.143(4), Federal Operating Permit (“FOP”) No. O-1561 Special Terms and Conditions (“STC”) 3(A)(iv)(3), and TEX. HEALTH & SAFETY CODE § 382.085(b)].
2. Failed to correctly list the proper applicable requirements for the main process vents (Emission Point No. MAINPROC) in FOP O-1561. Specifically, the vent gas streams exceeded the volatile organic compound concentration limit required to be exempt from 30 TEX. ADMIN. CODE § 115.121(a)(1) [30 TEX. ADMIN. CODE §§ 122.142(b)(2)(B)(i) and 122.143(4), FOP O-1561, General Terms and Conditions (“GTC”), and TEX. HEALTH & SAFETY CODE § 382.085(b)].
3. Failed to submit the initial notification and semi-annual compliance reports for Units V5101, V5102, V5103, V5104, V5105, V5106, V5107, V5108, V5109, V5110, V5111, V5112, V5113, V5114, V5115, V5116, V5117, V5118, V5119, V5120, V5122AATK, V5123WATK, V5129, V5301, V5302, V5304, V5307, V5310, V5318, V5319, V5401, V5402, V5412, V8104VACTK, V8105METK, V8107BRTK, V8301MEOAC, V8305 and V8307BRTK which are subject to 40 CFR Part 63, Subpart EEEE. The initial notification should have been submitted by June 2, 2004 and the initial and subsequent semi-annual compliance reports were due on July 31, 2004, January 31, 2005, July 31, 2005, January 31, 2006, July 31, 2006, January 31, 2007, July 31, 2007, January 31, 2008, July 31, 2008, January 31, 2009, July 31, 2009, January 31, 2010, July 31, 2010, January 31, 2011 and July 31, 2011 [30 TEX. ADMIN. CODE §§ 122.143(4) and 113.880, 40 CODE OF FEDERAL REGULATIONS (“CFR”) §§ 63.2382(b)(1) and 63.2386(b), FOP O-1561 STC 1.H., and TEX. HEALTH & SAFETY CODE § 382.085(b)].
4. Failed to submit the initial notification and semi-annual compliance reports for Units PRO1100LINE, PRO1200LINE, PRO1300LINE, PRO1400LINE, MEOHPRCVT1, MEOHPRCVT2, 407, AREA 1, AREA 2, AREA 3, AREA 4, AREA 5, PLANT, COOLTOW-A, COOLTOW-B, LOADUNLOAD, V5107, V5108, V5109, V5110, V5111, V5112, V5113, V5114, V5115, V5117, V5118, V5120, V5123WATK, V5129, V5307, V5310, V5318, V8105METK, V8107BRTK, V8301MEOAC, V8305 and V8307BRTK which are subject to 40 CFR Part 63, Subpart FFFF. The initial notification should have been submitted by March 9, 2004 and the initial and subsequent semi-annual compliance reports were due on February 28, 2009, August 31, 2009, February 28, 2010, August 31, 2010, February

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28, 2011 and August 31, 2011 [30 TEX. ADMIN. CODE §§ 122.143(4) and 113.890, 40 CFR §§ 63.2515(b) and 63.2520(b), FOP O-1561 STC 1.I., and TEX. HEALTH & SAFETY CODE § 382.085(b)].

5. Failed to report all instances of deviation. Specifically, the semi-annual deviation reports for the April 15, 2010 through October 14, 2010 and October 14, 2010 through April 14, 2011 reporting periods did not include all instances of deviation for the time periods [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), FOP O-1561 GTC and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent has implemented the following corrective measures at the Plant:

- a. By September 9, 2011, began maintaining records of daily visible emission observations for all filter vents, quarterly visible emission observations for all stationary vents, and audio, olfactory and visual checks for anhydrous ammonia leaks during each shift during Plant operations;
- b. By September 15, 2011, implemented and reviewed with Plant personnel a Startup, Shutdown and Malfunction Plan for National Emission Standards for Hazardous Air Pollutants to ensure future deviation reports include all deviations; and
- c. On October 27, 2011, submitted the initial compliance status notifications for all sources at the Plant subject to 40 CFR Part 63, Subparts EEEE and FFFF.

Technical Requirements:

1. The Order will require the Respondent to implement and complete a Supplemental Environmental Project (“SEP”). (See SEP Attachment A)
2. The Order will also require the Respondent to:
 - a. Within 30 days:
 - i. Submit an administratively complete permit amendment application to correctly list the proper applicable requirements for the main process vents in FOP O-1561;
 - ii. Implement measures designed to ensure that all semi-annual compliance reports for all sources subject to 40 CFR Part 63, Subparts EEEE and FFFF are completed and submitted timely and accurately;

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- b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit amendment application within 30 days after the date of such requests, or by any other deadline specified in writing;
- c. Within 45 days, certify compliance with Ordering Provision a.ii.;
- d. Within 180 days, submit written certification that the applicable requirements for the main process vents (Emission Point No. MAINPROC) have been properly listed in FOP O-1561; and
- e. Submit required written certifications 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

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Trina Grieco, Enforcement Division, Enforcement Team 5, MC R-13, (210) 403-4006; Debra Barber, Enforcement Division, MC 219, (512) 239-0412
TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565
Respondent: Glen Pubentz, Vice President of Manufacturing / Plant Manager, Kuraray America, Inc., 11500 Bay Area Boulevard, Pasadena, Texas 77507
Stan Lewis, Director of Health, Safety and Environmental Quality, Kuraray America, Inc., 11500 Bay Area Boulevard, Pasadena, Texas 77507
Respondent's Attorney: N/A

Attachment A
Docket Number: 2011-1701-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

The Respondent: Kuraray America, Inc.

Penalty Amount: Seventy-Six Thousand One Hundred Fifty-Five Dollars (\$76,155)

SEP Offset Amount: Thirty-Eight Thousand Seventy-Seven Dollars (\$38,077)

Type of SEP: Pre-approved SEP

Third-Party Recipient: The Sheltering Arms

Project Name: Sheltering Arms Weatherization Assistance Program

Location of SEP: Harris 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 offset 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 the SEP offset amount to the Third-Party Recipient named above. The contribution will be to **The Sheltering Arms** to be used for the Sheltering Arms Weatherization Assistance Program as set forth in the Agreement between the Third-Party Recipient and TCEQ. The SEP offset amount shall be used to perform energy efficiency upgrades on low-income homes in Harris County. Specifically, the SEP offset amount may only be used for: 1) purchase and installation of compact fluorescent light bulbs; 2) the incremental cost of replacement of energy-inefficient fans and refrigerators with energy-efficient models; 3) the incremental cost of replacement of energy-inefficient washers and dryers with energy-efficient models; 4) sheetrock repairs to sustain and protect new attic insulation; 5) floor repairs to prevent air leaks; 6) repairs to patches made to sheetrock during the addition of all new insulation; and 7) other direct costs authorized in advance by TCEQ.

The SEP offset amount shall not be used to perform weatherization inspections and generate computerized audits for the proposed weatherization work where Federal Weatherization Assistance Program ("WAP") and Federal Low Income Home Energy Assistance Funds ("LIHEAP") are available. The WAP and LIHEAP funds are currently limited to \$4,000 per house by regulation. The WAP and LIHEAP funds will also be used for 1) replacement of stoves, space heaters, and water heaters that leak carbon monoxide; 2) purchase and installation of carbon monoxide detectors; 3) replacement of central air conditioning systems and window units; 4) addition of wall and attic insulation; 5) caulking and weather-stripping; 6) replacement of window panels; 7) addition of solar screens; 7) new windows and doors. The SEP Offset Amount shall be used to enhance the proposed weatherization work not covered by the WAP and LIHEAP funds. The results of the weatherization audits along with any proposed modifications and associated budgets and scope of work shall be submitted to TCEQ. The SEP offset amount will be used solely for the direct cost of performing the project and no portion will be spent on administrative costs.

The Respondent certifies that it has no prior commitment to make this contribution to the Third-Party Recipient and that the SEP offset amount is being contributed solely in an effort to settle this enforcement action.

b. Environmental Benefit

Implementation of this project will reduce fuel and electricity usage for heating and cooling and day-to-day living operations. These reductions will reduce emissions of particulate matter; volatile organic carbon compounds, nitrogen oxides, and other pollutants associated with combustion of fuel and generation of electricity.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP offset 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 shall contribute the SEP offset amount to the Third-Party Recipient. The Respondent shall make the contribution check payable to "The Sheltering Arms" and mail a copy of the Agreed Order with the check to:

Kuraray America, Inc.
Agreed Order - Attachment A

The Sheltering Arms
Attention: Lynne Cooke, Vice President
3838 Aberdeen Way
Houston, Texas 77025

3. Records and Reporting

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

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
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 Offset 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 Offset Amount.

In the event of incomplete performance, the Respondent shall submit a check for any remaining amount due made payable to "Texas Commission on Environmental Quality" with the notation "SEP Refund" and the docket number of the case, and shall send it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

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 a 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	6-Sep-2011	Screening	19-Sep-2011	EPA Due	
	PCW	16-Nov-2011				

RESPONDENT/FACILITY INFORMATION	
Respondent	Kuraray America, Inc.
Reg. Ent. Ref. No.	RN100212216
Facility/Site Region	12-Houston
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	42561	No. of Violations	5
Docket No.	2011-1701-AIR-E	Order Type	1660
Media Program(s)	AIF	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Allison Fischer
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$62,700
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	49.0% Enhancement	Subtotals 2, 3, & 7	\$30,723
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Notes Enhancement for one NOV with same/similar violations and two NOVs with dissimilar violations and two orders with denial of liability.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$270
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$2,999
Approx. Cost of Compliance	\$7,180

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$93,153
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OTHER FACTORS AS JUSTICE MAY REQUIRE	2.2%	Adjustment	\$2,040
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Recommended enhancement to capture the avoided costs associated with violation nos. 3 and 4.

Final Penalty Amount	\$95,193
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$95,193
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DEFERRAL	20.0% Reduction	Adjustment	-\$19,038
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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	\$76,155
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Screening Date 19-Sep-2011

Docket No. 2011-1701-AIR-E

PCW

Respondent Kuraray America, Inc.

Policy Revision 2 (September 2002)

Case ID No. 42561

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100212216

Media [Statute] Air

Enf. Coordinator Allison Fischer

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	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>)	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) 49%

>> 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 NOV with same/similar violations and two NOVs with dissimilar violations and two orders with denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 49%

Screening Date 19-Sep-2011

Docket No. 2011-1701-AIR-E

PCW

Respondent Kuraray America, Inc.

Policy Revision 2 (September 2002)

Case ID No. 42561

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100212216

Media [Statute] Air

Enf. Coordinator Allison Fischer

Violation Number

Rule Cite(s)

30 Tex. Admin. Code § 122.143(4), Federal Operating Permit ("FOP") No. O-1561 Special Terms and Conditions ("STC") 3(A)(IV)(3), and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to maintain records of daily visible emission observations for all filter vents, quarterly visible emission observations for all stationary vents, and audio, olfactory and visual checks for anhydrous ammonia leaks during each shift during Plant operations.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	X		

Percent 25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

53 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

mark only one with an x

Violation Base Penalty \$2,500

One single event is recommended.

Good Faith Efforts to Comply

10.0% Reduction

\$250

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	X
N/A	(mark with x)

Notes

The Respondent returned to compliance on September 9, 2011 and the NOE is dated August 30, 2011.

Violation Subtotal \$2,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4

Violation Final Penalty Total \$3,551

This violation Final Assessed Penalty (adjusted for limits) \$3,551

Economic Benefit Worksheet

Respondent Kuraray America, Inc.
Case ID No. 42561
Reg. Ent. Reference No. RN100212216
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
<small>No commas or \$</small>							

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	\$500	18-Jul-2011	9-Sep-2011	0.15	\$4	n/a	\$4
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

Estimated cost to develop and implement a record keeping system to demonstrate compliance for the visible emissions inspections required by FOP O-1561. The date required is the date of the investigation and the final date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$4

Screening Date 19-Sep-2011

Docket No. 2011-1701-AIR-E

PCW

Respondent Kuraray America, Inc.

Policy Revision 2 (September 2002)

Case ID No. 42561

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100212216

Media [Statute] Air

Enf. Coordinator Allison Fischer

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code 55.122.142(b)(2)(B)(i) and 122.143(4), FOP O-1561, General Terms and Conditions ("GTC"), and Tex. Health & Safety Code 5.382.085(b)

Violation Description

Failed to correctly list the proper applicable requirements for the main process vents (Emission Point No. MAINPROC) in FOP O-1561. Specifically, the vent gas streams exceeded the volatile organic compound concentration limit required to be exempt from 30 Tex. Admin. Code 5.115.121(a)(1).

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	X		

Percent 25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

63 Number of violation days

daily	
weekly	
monthly	
quarterly	
semannual	
annual	
single event	X

mark only one with an x

Violation Base Penalty \$2,500

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

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

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$83

Violation Final Penalty Total \$3,807

This violation Final Assessed Penalty (adjusted for limits) \$3,807

Economic Benefit Worksheet

Respondent Kuraray America, Inc.
Case ID No. 42561
Req. Ent. Reference No. RN100212216
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	\$2,500	18-Jul-2011	15-Mar-2012	0.66	\$83	n/a	\$83
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to amend FOP O-1561 to correct the applicable requirements for the main process vents. The date required is the investigation date. The final date is the estimated date of compliance.

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

\$2,500	TOTAL	\$83
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Screening Date 19-Sep-2011

Docket No. 2011-1701-AIR-E

PCW

Respondent Kuraray America, Inc.

Policy Revision 2 (September 2002)

Case ID No. 42561

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100212216

Media [Statute] Air

Enf. Coordinator Allison Fischer

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code §§ 122.143(4) and 113.880, 40 Code of Federal Regulations ("CFR") §§ 63.2382(b)(1) and 63.2386(b), FOP O-1561 STC 1.H., and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to submit the initial notification and semi-annual compliance reports for Units V5101, V5102, V5103, V5104, V5105, V5106, V5107, V5108, V5109, V5110, V5111, V5112, V5113, V5114, V5115, V5116, V5117, V5118, V5119, V5120, V5122AATK, V5123WATK, V5129, V5301, V5302, V5304, V5307, V5310, V5318, V5319, V5401, V5402, V5412, V8104VACTK, V8105METK, V8107BRTK, V8301MEOAC, V8305 and V8307BRTK which are subject to 40 CFR Part 63, Subpart EEEE. The initial notification should have been submitted by June 2, 2004 and the initial and subsequent semi-annual compliance reports were due on July 31, 2004; January 31, 2005, July 31, 2005, January 31, 2006, July 31, 2006; January 31, 2007, July 31, 2007, January 31, 2008, July 31, 2008; January 31, 2009, July 31, 2009, January 31, 2010, July 31, 2010; January 31, 2011 and July 31, 2011.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	X		

Percent 25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 16

2565 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

mark only one with an x

Violation Base Penalty \$40,000

Sixteen single events are recommended based on sixteen missed reports.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

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

Violation Subtotal \$40,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,990

Violation Final Penalty Total \$60,905

This violation Final Assessed Penalty (adjusted for limits) \$60,905

Economic Benefit Worksheet

Respondent Kuraray America, Inc.
Case ID No. 42561
Req. Ent. Reference No. RN100212216
Media Air
Violation No. 3

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	\$1,000	2-Jun-2004	15-Mar-2012	7.79	\$389	N/A	\$389
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)	\$80	2-Jun-2004	27-Oct-2011	7.41	\$30	N/A	\$30

Notes for DELAYED costs

Estimated other cost for submitting the notification. The date required is based on the date the initial notification was due. The final date is the date the notification was submitted. Estimated record keeping cost for implementing measures to ensure semi-annual reports are submitted. The date required is based on the date the initial semi-annual report was due and the final date is the date corrective actions 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)	\$1,120	31-Jul-2004	19-Sep-2011	8.06	\$451	\$1,120	\$1,571

Notes for AVOIDED costs

Estimated avoided cost for submitting compliance reports (fourteen missed semi-annual reports at \$80 per report). The date required is the date when the first report would have been due. The final date is the screening date.

Approx. Cost of Compliance

\$2,200

TOTAL

\$1,990

Screening Date 19-Sep-2011

Docket No. 2011-1701-AIR-E

PCW

Respondent Kuraray America, Inc.

Policy Revision 2 (September 2002)

Case ID No. 42561

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100212216

Media [Statute] Air

Enf. Coordinator Allison Fischer

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code 55.122.143(4) and 113.890, 40 CFR 55.63.2515(b) and 63.2520(b), FOP O-1561 STC 1.1, and Tex. Health & Safety Code 5.382.065(b)

Violation Description

Failed to submit the initial notification and semi-annual compliance reports for Units PRO1100LINE, PRO1200LINE, PRO1300LINE, PRO1400LINE, MEOHPRCVT1, MEOHPRCVT2, 407, AREA 1, AREA 2, AREA 3, AREA 4, AREA 5, PLANT, COOLTOW-A, COOLTOW-B, LOADUNLOAD, V5107, V5108, V5109, V5110, V5111, V5112, V5113, V5114, V5115, V5117, V5118, V5120, V5123WATK, V5129, V5307, V5310, V5318, V8105METK, V8107BRTK, V8301MEOAC, V8305 and V8307BRTK which are subject to 40 CFR Part 63, Subpart FFFF. The initial notification should have been submitted by March 9, 2004 and the initial and subsequent semi-annual compliance reports were due on February 28, 2009, August 31, 2009, February 28, 2010, August 31, 2010, February 28, 2011 and August 31, 2011.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	X		

Percent 25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 7

2750 Number of violation days

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

Violation Base Penalty \$17,500

Seven single events are recommended based on seven missed reports.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$17,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$901

Violation Final Penalty Total \$26,646

This violation Final Assessed Penalty (adjusted for limits) \$26,646

Economic Benefit Worksheet

Respondent: Kuraray America, Inc.
Case ID No.: 42561
Reg. Ent. Reference No.: RN100212216
Media: Air
Violation No.: 4

Percent Interest	Years of Depreciation
5.0	15

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$1,000	9-Mar-2004	15-Mar-2012	8.02	\$401	n/a	\$401
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)	\$80	9-Mar-2004	27-Oct-2011	7.64	\$31	n/a	\$31

Notes for DELAYED costs

Estimated other cost for submitting the notification. The date required is based on the date the initial notification was due. The final date is the date the initial notification was submitted. Estimated record keeping cost for implementing measures to ensure semi-annual reports are submitted. The date required is based on the date the initial semi-annual report was due and the final date is the date corrective actions are expected to be completed.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)	\$400	28-Feb-2009	19-Sep-2011	3.47	\$69	\$400	\$469

Notes for AVOIDED costs

Estimated avoided cost for submitting compliance reports (five missed semi-annual reports at \$80 per report). The date required is the date when the first report would have been due. The final date is the screening date.

Approx. Cost of Compliance

\$1,480

TOTAL

\$901

Screening Date 19-Sep-2011

Docket No. 2011-1701-AIR-E

PCW

Respondent Kuraray America, Inc.

Policy Revision 2 (September 2002)

Case ID No. 42561

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100212216

Media [Statute] Air

Enf. Coordinator Allison Fischer

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code §§ 122.143(4) and 122.145(2)(A), FOP O-1561 GTC and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to report all instances of deviation. Specifically, the semi-annual deviation reports for the April 15, 2010 through October 14, 2010 and October 14, 2010 through April 14, 2011 reporting periods did not include all instances of deviation for the time periods.

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	1%
The Respondent met at least 70% of the rule requirement.					

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 2 Number of violation days 306

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$200

Two single events are recommended based on the two deficient deviation reports.

Good Faith Efforts to Comply

10.0% Reduction

\$20

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

Notes The Respondent returned to compliance on September 15, 2011 and the NOE is dated August 30, 2011.

Violation Subtotal \$180

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$21

Violation Final Penalty Total \$284

This violation Final Assessed Penalty (adjusted for limits) \$284

Economic Benefit Worksheet

Respondent: Kuraray America, Inc.
Case ID No.: 42561
Reg. Ent. Reference No.: RN100212216
Media: Air
Violation No.: 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No columns 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-Nov-2010	15-Sep-2011	0.84	\$21	n/a	\$21
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated expense to implement measures and procedures to ensure that all deviations are reported in the semi-annual deviation reports. The Date Required is the date the first deviation report was due. The Final Date is the date that corrective actions were completed.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$21

Compliance History

Customer/Respondent/Owner-Operator: CN603315953 Kuraray America, Inc. Classification: AVERAGE Rating: 4.65

Regulated Entity: RN100212216 EVAL BUSINESS UNIT Classification: AVERAGE Site Rating: 9.36

ID Number(s):

AIR OPERATING PERMITS	ACCOUNT NUMBER	HG13100
AIR OPERATING PERMITS	PERMIT	1561
POLLUTION PREVENTION PLANNING	ID NUMBER	P03126
AIR NEW SOURCE PERMITS	PERMIT	9576
AIR NEW SOURCE PERMITS	REGISTRATION	28727
AIR NEW SOURCE PERMITS	REGISTRATION	33413
AIR NEW SOURCE PERMITS	REGISTRATION	44286
AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG13100
AIR NEW SOURCE PERMITS	AFS NUM	4820100404
AIR NEW SOURCE PERMITS	REGISTRATION	80133
AIR NEW SOURCE PERMITS	REGISTRATION	81932
AIR NEW SOURCE PERMITS	REGISTRATION	84790
AIR NEW SOURCE PERMITS	REGISTRATION	96707
INDUSTRIAL AND HAZARDOUS WASTE	EPA ID	TXD981148059
INDUSTRIAL AND HAZARDOUS WASTE	SOLID WASTE REGISTRATION #	32728
	(SWR)	
STORMWATER	PERMIT	TXR05L364
PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1012402
AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	HG13100

Location: 11500 BAY AREA BOULEVARD, PASADENA, TX, 77507

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: September 12, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: September 12, 2006 to September 12, 2011

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

Name: Allison Fischer Phone: (512) 239 - 2574

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? Yes
3. If Yes, who is the current owner/operator?

OWNOPR	Eval Company of America
OWNOPR	Kuraray America, Inc.
4. If Yes, who was/were the prior owner(s)/operator(s)?

OPR	PETTY, BILL
-----	-------------
5. When did the change(s) in owner or operator occur?

06/13/2008	OPR	PETTY, BILL
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6. Rating Date: 9/1/2011 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: 02/08/2009 ADMINORDER 2008-0883-AIR-E

Classification: Moderate

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

5C THSC Chapter 382 382.085(b)

Rqmt Prov: Permit 9576, Special Condition 1 PERMIT

Description: Failed to maintain emissions at or below the rates listed in the maximum allowable emission rate table ("MAERT") for the Acetic Acid Scrubber (emission point number 403). Specifically, VOC emissions rate during stack tests conducted on February 8 and March 11, 2008 were 9.36 lbs/hr and 0.14 lbs/hr, respectively, but the MAERT limit was 0.08 lbs/hr.

Effective Date: 12/04/2010

ADMINORDER 2010-0962-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter H 115.722(c)

30 TAC Chapter 116, SubChapter B 116.115(c)

5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Condition 5 PERMIT

Description: Failed to properly fill the Ethylene Surge Drum (Emission Point No. V-1402) on March 7, 2010, resulting in the unauthorized release of 1,562 pounds of ethylene, a highly-reactive volatile organic compound, during a four-minute emissions event (Incident No. 136684). When a technician bypassed the standard operating procedure of filling the tank through the pressure control valve, the drum was over pressured blowing the rupture disk and releasing of ethylene through the relief valve. Because the

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 08/22/2007 (573261)
2 01/07/2008 (612101)
3 05/23/2008 (646252)
4 08/01/2008 (686782)
5 08/15/2008 (687031)
6 03/18/2009 (737818)
7 03/20/2009 (739261)
8 01/25/2010 (767630)
9 05/11/2010 (798193)
10 08/30/2011 (922776)
11 09/06/2011 (944858)

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

Date: 08/15/2008 (687031) CN603315953

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)
9576, Special Condition No. 1 PERMIT

Description: Kuraray failed to prevent a build-up of pressure in the line between Ethylene Recycle Compressor K-1101 and Ethylene Stripper C-1102.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)
5C THSC Chapter 382 382.085(b)

Description: Failure to submit Initial Notification to TCEQ Region Office within 24 hours of discovery.

Date: 01/25/2010 (767630) CN603315953

Self Report? NO Classification: Moderate

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 THSC Chapter 382 382.085(b)
Special Condition 14E PERMIT
Special Term and Condition 13 OP
Special Term and Condition 1A OP

Description: Failure to seal open-ended lines. (CATEGORY C10 violation)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter H 115.722(d)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(3)(ii)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.11(b)(6)
5C THSC Chapter 382 382.085(b)
Special Condition 6A PERMIT
Special Term and Condition 13 OP
Special Term and Condition 1A OP

Description: Failure to maintain a minimum net heating value of 300 BTU/scf for Flare EPN FL8432. (CATEGORY C4 violation)

Date: 08/30/2011 (922776)

CN603315953

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Condition 9 PERMIT
Special Terms & Conditions 13 OP

Description: Failure to maintain a minimum pH 8 in the acetic acid scrubber (EPN 403) on June 5, 2010, September 15, 2010, and October 27, 2010. [Category C4]

Self Report? NO

Classification: Minor

Citation: 40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(3)(ii)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.11(b)(6)(ii)
5C THSC Chapter 382 382.085(b)
Special Terms & Conditions 1A OP

Description: Failure to maintain a minimum BTU/hr of 300 for the flare (EPN 400) on September 7, 2010, March 8, 2011, and March 9, 2011. [Category C4]

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 THSC Chapter 382 382.085(b)
Special Condition 15E PERMIT
Special Terms & Conditions 13 OP
Special Terms & Conditions 1A OP

Description: Failure to cap 321 open-ended lines discovered from April 15, 2010 through April 12, 2011. [Category B19(g)(6)]

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
KURARAY AMERICA, INC.
RN100212216

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

AGREED ORDER
DOCKET NO. 2011-1701-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 Kuraray America, Inc. ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a chemical plant at 11500 Bay Area Boulevard 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 September 4, 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 Ninety-Five Thousand One Hundred Ninety-Three Dollars (\$95,193) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Thirty-Eight Thousand

Seventy-Eight Dollars (\$38,078) of the administrative penalty and Nineteen Thousand Thirty-Eight Dollars (\$19,038) 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. Thirty-Eight Thousand Seventy-Seven Dollars (\$38,077) 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 has implemented the following corrective measures at the Plant:
 - a. By September 9, 2011, began maintaining records of daily visible emission observations for all filter vents, quarterly visible emission observations for all stationary vents, and audio, olfactory and visual checks for anhydrous ammonia leaks during each shift during Plant operations;
 - b. By September 15, 2011, implemented and reviewed with Plant personnel a Startup, Shutdown and Malfunction Plan for National Emission Standards for Hazardous Air Pollutants to ensure future deviation reports include all deviations; and
 - c. On October 27, 2011, submitted the initial compliance status notifications for all sources at the Plant subject to 40 CODE OF FEDERAL REGULATIONS ("CFR") Part 63, Subparts EEEE and FFFF.
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 maintain records of daily visible emission observations for all filter vents, quarterly visible emission observations for all stationary vents, and audio, olfactory and visual checks for anhydrous ammonia leaks during each shift during Plant operations, in violation of 30 TEX. ADMIN. CODE § 122.143(4), Federal Operating Permit ("FOP") No. O-1561 Special Terms and Conditions ("STC") 3(A)(iv)(3), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on July 18, 2011.
2. Failed to correctly list the proper applicable requirements for the main process vents (Emission Point No. MAINPROC) in FOP O-1561, in violation of 30 TEX. ADMIN. CODE §§ 122.142(b)(2)(B)(i) and 122.143(4), FOP O-1561, General Terms and Conditions ("GTC"), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on July 18, 2011. Specifically, the vent gas streams exceeded the volatile organic compound concentration limit required to be exempt from 30 TEX. ADMIN. CODE § 115.121(a)(1).
3. Failed to submit the initial notification and semi-annual compliance reports for Units V5101, V5102, V5103, V5104, V5105, V5106, V5107, V5108, V5109, V5110, V5111, V5112, V5113, V5114, V5115, V5116, V5117, V5118, V5119, V5120, V5122AATK, V5123WATK, V5129, V5301, V5302, V5304, V5307, V5310, V5318, V5319, V5401, V5402, V5412, V8104VACTK, V8105METK, V8107BRTK, V8301MEOAC, V8305 and V8307BRTK which are subject to 40 CFR Part 63, Subpart EEEE, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 113.880, 40 CFR §§ 63.2382(b)(1) and 63.2386(b), FOP O-1561 STC 1.H., and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on July 18, 2011. The initial notification should have been submitted by June 2, 2004 and the initial and subsequent semi-annual compliance reports were due on July 31, 2004, January 31, 2005, July 31, 2005, January 31, 2006, July 31, 2006, January 31, 2007, July 31, 2007, January 31, 2008, July 31, 2008, January 31, 2009, July 31, 2009, January 31, 2010, July 31, 2010, January 31, 2011 and July 31, 2011.
4. Failed to submit the initial notification and semi-annual compliance reports for Units PRO1100LINE, PRO1200LINE, PRO1300LINE, PRO1400LINE, MEOHPRCVT1, MEOHPRCVT2, 407, AREA 1, AREA 2, AREA 3, AREA 4, AREA 5, PLANT, COOLTOW-A, COOLTOW-B, LOADUNLOAD, V5107, V5108, V5109, V5110, V5111, V5112, V5113, V5114, V5115, V5117, V5118, V5120, V5123WATK, V5129, V5307, V5310, V5318, V8105METK, V8107BRTK, V8301MEOAC, V8305 and V8307BRTK which are subject to 40 CFR Part 63, Subpart FFFF, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 113.890, 40 CFR §§ 63.2515(b) and 63.2520(b), FOP O-1561 STC 1.L., and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on July 18, 2011. The initial notification should have been submitted by March 9, 2004 and the initial and subsequent semi-annual compliance reports were due on February 28, 2009, August 31, 2009, February 28, 2010, August 31, 2010, February 28, 2011 and August 31, 2011.
5. Failed to report all instances of deviation, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), FOP O-1561 GTC and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on July 18, 2011. Specifically, the semi-annual deviation reports for the April 15, 2010 through October 14,

2010 and October 14, 2010 through April 14, 2011 reporting periods did not include all instances of deviation for the time periods.

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: Kuraray America, Inc., Docket No. 2011-1701-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, Thirty-Eight Thousand Seventy-Seven Dollars (\$38,077) 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. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days of the effective date of this Agreed Order:
 - i. Submit an administratively complete permit amendment application to correctly list the proper applicable requirements for the main process vents in FOP O-1561 to:

Air Permits Division, MC 163
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- ii. Implement measures designed to ensure that all semi-annual compliance reports for all sources subject to 40 CFR Part 63, Subparts EEEE and FFFF are completed and submitted timely and accurately.
- b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit amendment application within 30 days after the date of such requests, or by any other deadline specified in writing;
- c. Within 45 days after the effective date of this Agreed Order, certify compliance with Ordering Provision No. 3.a.ii., as described in Ordering Provision No. 3.e.;
- d. Within 180 days after the effective date of this Agreed Order, submit written certification, in accordance with Ordering Provision No. 3.e. that the applicable requirements for the main process vents (Emission Point No. MAINPROC) have been properly listed in FOP O-1561; and
- e. Submit required written certifications as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. 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

- 4. 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.

5. 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.
6. 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.
7. 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.
8. 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.
9. 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

R. D. Hyle
For the Executive Director

3/2/12
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.

Glen Pubentz
Signature

December 20, 2011
Date

Glen Pubentz
Name (Printed or typed)
Authorized Representative of
Kuraray America, Inc.

V. P. Manufacturing / 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: 2011-1701-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

The Respondent: Kuraray America, Inc.

Penalty Amount: Seventy-Six Thousand One Hundred Fifty-Five Dollars (\$76,155)

SEP Offset Amount: Thirty-Eight Thousand Seventy-Seven Dollars (\$38,077)

Type of SEP: Pre-approved SEP

Third-Party Recipient: The Sheltering Arms

Project Name: Sheltering Arms Weatherization Assistance Program

Location of SEP: Harris 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 offset 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 the SEP offset amount to the Third-Party Recipient named above. The contribution will be to **The Sheltering Arms** to be used for the Sheltering Arms Weatherization Assistance Program as set forth in the Agreement between the Third-Party Recipient and TCEQ. The SEP offset amount shall be used to perform energy efficiency upgrades on low-income homes in Harris County. Specifically, the SEP offset amount may only be used for: 1) purchase and installation of compact fluorescent light bulbs; 2) the incremental cost of replacement of energy-inefficient fans and refrigerators with energy-efficient models; 3) the incremental cost of replacement of energy-inefficient washers and dryers with energy-efficient models; 4) sheetrock repairs to sustain and protect new attic insulation; 5) floor repairs to prevent air leaks; 6) repairs to patches made to sheetrock during the addition of all new insulation; and 7) other direct costs authorized in advance by TCEQ.

The SEP offset amount shall not be used to perform weatherization inspections and generate computerized audits for the proposed weatherization work where Federal Weatherization Assistance Program ("WAP") and Federal Low Income Home Energy Assistance Funds ("LIHEAP") are available. The WAP and LIHEAP funds are currently limited to \$4,000 per house by regulation. The WAP and LIHEAP funds will also be used for 1) replacement of stoves, space heaters, and water heaters that leak carbon monoxide; 2) purchase and installation of carbon monoxide detectors; 3) replacement of central air conditioning systems and window units; 4) addition of wall and attic insulation; 5) caulking and weather-stripping; 5) replacement of window panels; 6) addition of solar screens; 7) new windows and doors. The SEP Offset Amount shall be used to enhance the proposed weatherization work not covered by the WAP and LIHEAP funds. The results of the weatherization audits along with any proposed modifications and associated budgets and scope of work shall be submitted to TCEQ. The SEP offset amount will be used solely for the direct cost of performing the project and no portion will be spent on administrative costs.

The Respondent certifies that it has no prior commitment to make this contribution to the Third-Party Recipient and that the SEP offset amount is being contributed solely in an effort to settle this enforcement action.

b. Environmental Benefit

Implementation of this project will reduce fuel and electricity usage for heating and cooling and day-to-day living operations. These reductions will reduce emissions of particulate matter, volatile organic carbon compounds, nitrogen oxides, and other pollutants associated with combustion of fuel and generation of electricity.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP offset 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 shall contribute the SEP offset amount to the Third-Party Recipient. The Respondent shall make the contribution check payable to "The Sheltering Arms" and mail a copy of the Agreed Order with the check to:

Kuraray America, Inc.
Agreed Order - Attachment A

The Sheltering Arms
Attention: Lynne Cooke, Vice President
3838 Aberdeen Way
Houston, Texas 77025

3. Records and Reporting

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

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
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 Offset 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 Offset Amount.

In the event of incomplete performance, the Respondent shall submit a check for any remaining amount due made payable to "Texas Commission on Environmental Quality" with the notation "SEP Refund" and the docket number of the case, and shall send it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

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 a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.