

**Executive Summary – Enforcement Matter – Case No. 46384  
Shintech Incorporated  
RN100213198  
Docket No. 2013-0470-AIR-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

AIR

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

Shintech Freeport Plant, 5618 East Highway 332, Freeport, Brazoria County

**Type of Operation:**

Polyvinyl chloride resins production plant

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** July 19, 2013

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$45,000

**Amount Deferred for Expedited Settlement:** \$9,000

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$36,000

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - Satisfactory

**Major Source:** Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2011

**Executive Summary – Enforcement Matter – Case No. 46384**

**Shintech Incorporated**

**RN100213198**

**Docket No. 2013-0470-AIR-E**

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** December 6, 2012

**Date(s) of NOE(s):** February 27, 2013

***Violation Information***

Failed to obtain authorization to construct and operate a source of air emissions. Specifically, Respondent failed to obtain authorization to operate polyvinyl chloride resin heels storage tank T-3510 [30 TEX. ADMIN. CODE §§ 116.110(a) and 122.143(4), TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b), and Federal Operating Permit No. O1361, General Terms and Conditions].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

Respondent has implemented the following corrective measures:

- a. On July 26, 2012, tank T-3510 was taken out of service; and
- b. On November 15, 2012, a permit amendment application for New Source Review ("NSR") Permit No. 9347 was submitted to obtain authorization to operate tank T-3510.

**Technical Requirements:**

The Order will require Respondent to:

- a. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit amendment application for NSR Permit No. 9347, within 30 days after the date of such requests, or by any other deadline specified in writing; and
- b. Within 180 days, submit written certification that NSR Permit No. 9347 has been amended or that operation of tank T-3510 has ceased until such time that appropriate authorization is obtained.

***Litigation Information***

**Date Petition(s) Filed:** N/A

**Date Answer(s) Filed:** N/A

**SOAH Referral Date:** N/A

**Hearing Date(s):** N/A

**Executive Summary – Enforcement Matter – Case No. 46384  
Shintech Incorporated  
RN100213198  
Docket No. 2013-0470-AIR-E**

**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Rachel Bekowies, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-2608; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

**TCEQ SEP Coordinator:** N/A

**Respondent:** John Timothy O'Brien, Plant Manager, Shintech Incorporated, 3 Greenway Plaza, Suite 1150, Houston, Texas 77046

Y. Saiton, President, Shintech Incorporated, 3 Greenway Plaza, Suite 1150, Houston, Texas 77046

**Respondent's Attorney:** N/A





# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

<b>DATES</b>	<b>Assigned</b>	4-Mar-2013	<b>Screening</b>	5-Mar-2013	<b>EPA Due</b>	
	<b>PCW</b>	5-Mar-2013				

<b>RESPONDENT/FACILITY INFORMATION</b>			
<b>Respondent</b>	Shintech Incorporated		
<b>Reg. Ent. Ref. No.</b>	RN100213198		
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	46384	<b>No. of Violations</b>	1
<b>Docket No.</b>	2013-0470-AIR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Rachel Bekowies
		<b>EC's Team</b>	Enforcement Team 4
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$30,000
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<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>			
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.			
<b>Compliance History</b>	50.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$15,000

Notes: Enhancement for six NOVs with dissimilar violations and two orders with denial of liability. Reduction for two Notices of Intent to conduct audits.

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts \$661  
 Approx. Cost of Compliance \$6,000  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$45,000
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Notes: Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Final Penalty Amount</b>	\$45,000
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$45,000
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	-\$9,000
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$36,000
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**Screening Date** 5-Mar-2013

**Docket No.** 2013-0470-AIR-E

**PCW**

**Respondent** Shintech Incorporated

Policy Revision 3 (September 2011)

**Case ID No.** 46384

PCW Revision August 3, 2011

**Reg. Ent. Reference No.** RN100213198

**Media [Statute]** Air

**Enf. Coordinator** Rachel Bekowies

**Compliance History Worksheet**

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	6	12%
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)** 50%

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

No

**Adjustment Percentage (Subtotal 3)** 0%

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

Satisfactory Performer

**Adjustment Percentage (Subtotal 7)** 0%

>> **Compliance History Summary**

**Compliance History Notes**

Enhancement for six NOVs with dissimilar violations and two orders with denial of liability.  
Reduction for two Notices of Intent to conduct audits.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 50%

>> **Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** 50%

**Screening Date** 5-Mar-2013  
**Respondent** Shintech Incorporated  
**Case ID No.** 46384  
**Reg. Ent. Reference No.** RN100213198  
**Media [Statute]** Air  
**Enf. Coordinator** Rachel Bekowies

**Docket No.** 2013-0470-AIR-E

**PCW**

Policy Revision 3 (September 2011)  
 PCW Revision August 3, 2011

**Violation Number**

**Rule Cite(s)** 30 Tex. Admin. Code §§ 116.110(a) and 122.143(4), Tex. Health & Safety Code §§ 382.0518(a) and 382.085(b), and Federal Operating Permit No. O1361, General Terms and Conditions

**Violation Description** Failed to obtain authorization to construct and operate a source of air emissions. Specifically, the Respondent failed to obtain authorization to operate polyvinyl chloride resin heels storage tank T-3510.

**Base Penalty**

**>> Environmental, Property and Human Health Matrix**

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="15.0%"/>

Matrix Notes

100% of the rule requirement was not met.

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

mark only one with an x	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input checked="" type="checkbox"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

**Violation Base Penalty**

Eight monthly events are recommended based on the December 22, 2011 deviation report submission date to the July 26, 2012 tank termination of service date.

**Good Faith Efforts to Comply**

Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/>	(mark with x)

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

**Violation Subtotal**

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount**

**Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent** Shintech Incorporated  
**Case ID No.** 46384  
**Reg. Ent. Reference No.** RN100213198  
**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				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$6,000	22-Dec-2011	5-Mar-2014	2.20	\$661	n/a	\$661
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to obtain a permit amendment. The date required is the date the violation was reported.  
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

\$6,000

**TOTAL**

\$661



# Compliance History Report

**PUBLISHED** Compliance History Report for CN600128425, RN100213198, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

<b>Customer, Respondent, or Owner/Operator:</b>	CN600128425, Shintech Incorporated	<b>Classification:</b>	SATISFACTORY	<b>Rating:</b>	5.43
<b>Regulated Entity:</b>	RN100213198, SHINTECH FREEPORT PLANT	<b>Classification:</b>	SATISFACTORY	<b>Rating:</b>	5.43
<b>Complexity Points:</b>	28	<b>Repeat Violator:</b>	NO		
<b>CH Group:</b>	05 - Chemical Manufacturing				
<b>Location:</b>	5618 EAST HIGHWAY 332 FREEPORT, TEXAS 77541-3113, BRAZORIA COUNTY				
<b>TCEQ Region:</b>	REGION 12 - HOUSTON				

**ID Number(s):**

- |   |  |
|---|--|
| <b>AIR OPERATING PERMITS</b> ACCOUNT NUMBER BL0051F           | <b>AIR OPERATING PERMITS</b> PERMIT 1361                                     |
| <b>AIR OPERATING PERMITS</b> PERMIT 1361                      | <b>POLLUTION PREVENTION PLANNING</b> ID NUMBER P00625                        |
| <b>PUBLIC WATER SYSTEM/SUPPLY</b> REGISTRATION 0200598        | <b>AIR NEW SOURCE PERMITS</b> PERMIT 682E                                    |
| <b>AIR NEW SOURCE PERMITS</b> PERMIT 36277                    | <b>AIR NEW SOURCE PERMITS</b> ACCOUNT NUMBER BL0051F                         |
| <b>AIR NEW SOURCE PERMITS</b> PERMIT 9347                     | <b>AIR NEW SOURCE PERMITS</b> PERMIT 8299                                    |
| <b>AIR NEW SOURCE PERMITS</b> EPA PERMIT PSDTX285M5           | <b>AIR NEW SOURCE PERMITS</b> EPA PERMIT PSDTX285M2                          |
| <b>AIR NEW SOURCE PERMITS</b> EPA PERMIT PSDTX285M3           | <b>AIR NEW SOURCE PERMITS</b> EPA PERMIT PSDTX285M4                          |
| <b>AIR NEW SOURCE PERMITS</b> EPA PERMIT PSDTX285M1           | <b>AIR NEW SOURCE PERMITS</b> EPA PERMIT PSDTX671                            |
| <b>AIR NEW SOURCE PERMITS</b> EPA PERMIT PSDTX285             | <b>AIR NEW SOURCE PERMITS</b> REGISTRATION 91375                             |
| <b>AIR NEW SOURCE PERMITS</b> REGISTRATION 94336              | <b>AIR NEW SOURCE PERMITS</b> AFS NUM 4803900012                             |
| <b>WASTEWATER</b> EPA ID TX0053813                            | <b>WASTEWATER</b> PERMIT WQ0004818000  |
| <b>WASTEWATER</b> EPA ID TX0053813                            | <b>AIR EMISSIONS INVENTORY</b> ACCOUNT NUMBER BL0051F                        |
| <b>INDUSTRIAL AND HAZARDOUS WASTE</b> EPA ID TXD065095390     | <b>INDUSTRIAL AND HAZARDOUS WASTE</b> SOLID WASTE REGISTRATION # (SWR) 31121 |
| <b>PETROLEUM STORAGE TANK REGISTRATION</b> REGISTRATION 85044 |  |

<b>Compliance History Period:</b>	September 01, 2007 to August 31, 2012	<b>Rating Year:</b>	2012	<b>Rating Date:</b>	09/01/2012
<b>Date Compliance History Report Prepared:</b>	March 05, 2013				
<b>Agency Decision Requiring Compliance History:</b>	Enforcement				
<b>Component Period Selected:</b>	March 05, 2008 to March 05, 2013				

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**

**Name:** Rachel Bekowies **Phone:** (512) 239-2608

**Site and Owner/Operator History:**

- |  |     |
|--|-----|
| 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 for #2, who is the current owner/operator?   | N/A |
| 4) If YES for #2, who was/were the prior owner(s)/operator(s)?                                     | N/A |
| 5) If YES, when did the change(s) in owner or operator occur?                                      | N/A |

**Components (Multimedia) for the Site Are Listed in Sections A - J**

**A. Final Orders, court judgments, and consent decrees:**

1 Effective Date: 08/31/2009 ADMINORDER 2009-0402-AIR-E (1660 Order-Agreed Order With Denial)  
 Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.145(2)(A)  
5C THSC Chapter 382 382.085(b)

Rqmt Prov: O-01361 General Terms and Conditions OP

Description: Failed to submit accurate information detailing the units, all instances of the deviations including the cause and corrective actions or preventative measures addressed in the permit. (Category A9c Violation)

2 Effective Date: 01/28/2010 ADMINORDER 2009-1133-AIR-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter B 115.144(3)(F)  
5C THSC Chapter 382 382.085(b)

Description: Failed to continuously monitor and record the condenser vapor outlet temperature of steam stripper equipment, as documented during a record review conducted on April 28, 2009. Specifically, condenser vapor outlet temperature for units PL1WWSTRIP, PL2WWSTRIP, and PL3WWSTRIP was not monitored from November 25, 2007 through May 24, 2008.

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

**D. The approval dates of investigations (CEDS Inv. Track. No.):**

Item 1	December 05, 2008	(641684)
Item 2	July 23, 2010	(1064110)
Item 3	September 09, 2010	(829547)
Item 4	December 13, 2010	(1064119)
Item 5	February 01, 2011	(878159)
Item 6	March 30, 2011	(859965)
Item 7	May 20, 2011	(1064105)
Item 8	June 20, 2011	(1064107)
Item 9	July 19, 2011	(1064109)
Item 10	August 17, 2011	(1064111)
Item 11	September 19, 2011	(1064113)
Item 12	October 14, 2011	(1064115)
Item 13	February 15, 2012	(1064100)
Item 14	April 23, 2012	(1064104)
Item 15	May 21, 2012	(1064106)
Item 16	June 21, 2012	(1064108)
Item 17	October 22, 2012	(1064116)
Item 18	November 19, 2012	(1064118)
Item 19	December 21, 2012	(1064121)
Item 20	January 28, 2013	(1055241)

**E. Written notices of violations (NOV) (CEDS Inv. Track. No.):**

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1	Date: 06/06/2012 (997302)	CN600128425	
	Self Report? NO	Classification: Moderate	
	Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) E.L.&M.R., pg.2,2(a)&2(b),No.1 PERMIT E.L.&M.R.,pg.2(d),2(e)&2(f),No.1 PERMIT E.L.&M.R.,pg.2(g),No.1 PERMIT		
	Description: Failed to maintain compliance with the permitted effluent limits.		
2	Date: 07/31/2012 (1064112)	CN600128425	
	Self Report? YES	Classification: Moderate	
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description: Failure to meet the limit for one or more permit parameter		
3	Date: 08/21/2012 (952198)	CN600128425	
	Self Report? NO	Classification: Moderate	

**Published Compliance History Report for CN600128425, RN100213198, Rating Year 2012 which includes Compliance History (CH) components from March 05, 2008, through March 05, 2013.**

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 19 PERMIT  
 Special Term and Condition 10 OP  
 Description: Failure to continuously monitor and maintain the minimum pH level of the solution exiting the absorbers (EPNs: LV-5, UN-2703A, and UN-3703B) (Category B19.g.1)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 5C THSC Chapter 382 382.085(b)  
 Special Condition 17 PERMIT  
 Special Term and Condition 10 OP  
 Description: Failure to continuously monitor and record the temperature in the combustion chamber of the incinerators (EPN: UN-2703A) (Category B19.g.1)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
 30 TAC Chapter 122, SubChapter B 122.145(2)(A)  
 5C THSC Chapter 382 382.085(b)  
 General Terms and Conditions OP  
 Description: Failure to report all instances of deviations within the required timeframe (Category B3)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 5C THSC Chapter 382 382.085(b)  
 Special Condition 10 PERMIT  
 Special Term and Condition 10 OP  
 Description: Failure to maintain records of hourly fuel usage for the boilers (Category B3 Violation)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 117, SubChapter B 117.354(a)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 5C THSC Chapter 382 382.085(b)  
 Special Term and Condition 1 OP  
 Description: Failure to maintain a final control plan for attainment demonstration with NOx emission specifications (Category B3 Violation)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 5C THSC Chapter 382 382.085(b)  
 Special Term and Condition 2F OP  
 Description: Failure to maintain a final record for a non-reportable emission event (Category B3 Violation)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 40 CFR Chapter 61, SubChapter C, PT 61, SubPT F 61.71(a)(1)  
 5C THSC Chapter 382 382.085  
 Special Condition 4 PERMIT  
 Special Terms and Conditions 1 and 10 OP  
 Description: Failure to maintain a record of fugitive leak detection times (Category C3)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 40 CFR Chapter 61, SubChapter C, PT 61, SubPT F 61.71(a)(2)  
 5C THSC Chapter 382 382.085(b)  
 Special Condition 4 PERMIT  
 Special Terms and Conditions 1 and 10 OP  
 Description: Failure to submit complete NESHAP Quarterly Leak Check Summaries (Category C3)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 5C THSC Chapter 382 382.085(b)  
 Special Condition 11 PERMIT  
 Special Term and Condition 10 OP  
 Description: Failure to identify and mark all equipment that has the potential of emitting air contaminants (Category B19.g.1)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 117, SubChapter B 117.310(f)

30 TAC Chapter 122, SubChapter B 122.143(4)  
 5C THSC Chapter 382 382.085(b)  
 Special Condition 1 OP  
 Description: Failure to meet the operating restrictions from 6:00 am to noon for all engines (Category B19.g.1)  
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.7(f)  
 5C THSC Chapter 382 382.085(b)  
 Special Condition 5 PERMIT  
 Special Terms and Conditions 7 and 10 OP  
 Description: Failure to maintain records showing compliance with NSPS emission standards (Category B3)  
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 117, SubChapter B 117.345(f)(10)(D)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 5C THSC Chapter 382 382.085(b)  
 Special Term and Condition 1 OP  
 Description: Failure to maintain records of annual operating hours for all engines (Category B3)  
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 5C THSC Chapter 382 382.085(b)  
 Special Condition 27G PERMIT  
 Special Term and Condition 10 OP  
 Description: Failure to maintain and submit instances of monitor downtime for the vinyl chloride incinerator (Category B3)

4 Date: 08/31/2012 (1064114) CN600128425  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

5 Date: 12/04/2012 (1044086) CN600128425  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 5C THSC Chapter 382 382.085(b)  
 Description: Shintech failed to properly maintenance the double dampers for C Dryer( DR-2401C), resulting in an excess opacity of 75 % opacity for a duration of 1 hours, and 20 minutes.

6 Date: 02/28/2013 (1029215) CN600128425  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
 30 TAC Chapter 122, SubChapter B 122.145(2)(B)  
 5C THSC Chapter 382 382.085(b)  
 General Terms & Conditions OP  
 Description: Failure to report deviations within the required timeframe. (Category C.3)  
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 5C THSC Chapter 382 382.085(b)  
 Special Condition 24 F PERMIT  
 Description: Failure to perform annual compliance testing. (Category B.1)  
 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 11 F PERMIT  
 Special Terms & Conditions 10 OP  
 Description: Failure to complete semi-annual fugitive emissions monitoring. (Category C.1)  
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 5C THSC Chapter 382 382.085(b)  
 Special Condition 29 PERMIT  
 Special Terms & Conditions 10 OP  
 Description: Failure to maintain records of maintenance, startup, and shutdown (MSS) activities. (Category C.3)

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 18 PERMIT Special Terms & Conditions 10 OP		
Description:	Failure to calibrate absorber flow monitoring devices on an annual basis. (Category C.1)		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THSC Chapter 382 382.085(b) Special Condition 1 PERMIT Special Terms & Conditions 10 OP		
Description:	Failure to limit particulate matter (PM) emissions rate to permitted limits. (Category B.13)		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 122, SubChapter B 122.143(4) 5C THSC Chapter 382 382.085(b) Special Terms & Conditions 3 OP		
Description:	Failure to perform visible emissions observations. (Category C1)		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 115, SubChapter B 115.144(3)(F) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THSC Chapter 382 382.085(b) Special Terms & Conditions 5 OP		
Description:	Failure to monitor and record operating parameters of wastewater treatment system. (Category C1)		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THSC Chapter 382 382.085(b) Special Condition (SC) 18 PERMIT Special Terms & Conditions (ST&C) 10 OP		
Description:	Failure to maintain minimum solution flow rate in scrubber. (Category B.13)		

**F. Environmental audits:**

Notice of Intent Date: 11/03/2010 (879176)  
No DOV Associated

Notice of Intent Date: 07/13/2012 (1020731)  
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  
SHINTECH INCORPORATED  
RN100213198**

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§  
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§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2013-0470-AIR-E**

**I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Shintech Incorporated ("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 together stipulate that:

1. The Respondent owns and operates a polyvinyl chloride resins production plant at 5618 East Highway 332 in Freeport, Brazoria 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 Executive Director 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 March 4, 2013.
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 Forty-Five Thousand Dollars (\$45,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Thirty-Six Thousand Dollars (\$36,000) of the administrative penalty and Nine Thousand Dollars (\$9,000) 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 and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
  9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:
    - a. On July 26, 2012, tank T-3510 was taken out of service; and
    - b. On November 15, 2012, a permit amendment application for New Source Review Permit No. 9347 was submitted to obtain authorization to operate tank T-3510.
  10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
  11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
  12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## **II. ALLEGATIONS**

As owner and operator of the Plant, the Respondent is alleged to have failed to obtain authorization to construct and operate a source of air emissions, in violation of 30 TEX. ADMIN. CODE §§ 116.110(a) and 122.143(4), TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b), and Federal Operating Permit No. O1361, General Terms and Conditions, as documented during a record review conducted on December 6, 2012 through January 2, 2013. Specifically, the Respondent failed to obtain authorization to operate polyvinyl chloride resin heels storage tank T-3510.

## **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: Shintech Incorporated, Docket No. 2013-0470-AIR-E" to:

Financial Administration Division, Revenue Operations 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. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit amendment application for New Source Review Permit No. 9347, within 30 days after the date of such requests, or by any other deadline specified in writing; and
- b. Within 180 days after the effective date of this Agreed Order, submit written certification that New Source Review Permit No. 9347 has been amended or that operation of tank T-3510 has ceased until such time that appropriate authorization is obtained. The certification shall include detailed supporting documentation including receipts and/or other records to demonstrate compliance, 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.

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

Pam Maurer  
For the Executive Director

8/22/13  
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.

John Timothy O'Brien  
Signature

4-16-2013  
Date

John Timothy O'Brien  
Name (Printed or typed)  
Authorized Representative of  
Shintech Incorporated

Plant Manager  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.