

**Executive Summary – Enforcement Matter – Case No. 45312**  
**Oxy Vinyls, LP**  
**RN100224674**  
**Docket No. 2012-2179-AIR-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

AIR

**Small Business:**

No

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

Geon-Oxy Vinyl, 2400 Miller Cut Off Road, La Porte, Harris County

**Type of Operation:**

Chemical manufacturing plant

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** March 22, 2013

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$16,000

**Amount Deferred for Expedited Settlement:** \$3,200

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

**Total Paid to General Revenue:** \$6,400

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

Payment Plan: N/A

**SEP Conditional Offset:** \$6,400

Name of SEP: Harris County - Ambient Air Pollutants Monitoring Study

**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. 45312**  
**Oxy Vinyls, LP**  
**RN100224674**  
**Docket No. 2012-2179-AIR-E**

***Investigation Information***

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

**Complaint Information:** N/A

**Date(s) of Investigation:** August 20, 2012 and September 7, 2012

**Date(s) of NOE(s):** October 19, 2012 and October 30, 2012

***Violation Information***

1. Failed to prevent unauthorized emissions. Specifically, Respondent released 438 pounds ("lbs") of vinyl chloride monomer ("VCM") from the VCM Storage Tanks, Facility Identification No. F-P08, during an emissions event (Incident No. 172423) that began on August 16, 2012 and lasted 37 minutes. The event occurred when the seal flush tubing fractured as a result of fatigue caused by cyclic stress at a stress-concentrating groove produced by the rear ferrule of a double-ferrule style compression fitting while transferring VCM using export pump GA-6425B. Since this emissions event could have been avoided through better operational or maintenance practices, Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), Federal Operating Permit ("FOP") No. O1324, Special Terms and Conditions ("STC") No. 24, and New Source Review ("NSR") Permit No. 3855B, Special Conditions ("SC") No. 1].
2. Failed to include the permit authorization on the final report for Incident Nos. 171901 and 172423 [TEX. ADMIN. CODE § 101.201(b)(1)(H), TEX. HEALTH & SAFETY CODE § 382.085(b), and FOP No. O1324, General Terms and Conditions and STC No. 2F].
3. Failed to prevent unauthorized emissions. Specifically, Respondent released 380 lbs of VCM during an emissions event (Incident No. 171901) that began on August 3, 2012, and lasted for 37 minutes. The event occurred during the loading of a third party VCM railcar. The connection between the angle vapor valve and the vapor balance vent pipe came loose due to mechanical failure of the pipe threads. Since this emissions event could have been avoided through better operational or maintenance practices, Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), FOP No. O1324, STC No. 24, and NSR Permit No. 3855B, SC No. 1].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Executive Summary – Enforcement Matter – Case No. 45312**

**Oxy Vinyls, LP**

**RN100224674**

**Docket No. 2012-2179-AIR-E**

**Technical Requirements:**

1. The Order will require Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)
2. The Order will also require Respondent to:
  - a. Within 30 days:
    - i. Implement measures to prevent recurrence of emissions events due to the same cause as Incident Nos. 171901 and 172423; and
    - ii. Implement measures and/or procedures to ensure emissions event reports are complete and accurate.
  - b. Within 45 days, submit written certification demonstrating compliance with Ordering Provision a.

***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:** Nadia Hameed, Enforcement Division, Enforcement Team 5, MC R-12, (713) 767-3629; Debra Barber, Enforcement Division, MC 219, (512) 239-0412

**TCEQ SEP Coordinator:** Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565

**Respondent:** James J. Segada, Assistant Plant Manager, Oxy Vinyls, LP, 2400 Miller Cut Off Road, La Porte, Texas 77571

Thomas F. Feeney, Senior Vice President Manufacturing, Engineering and Technical, Oxy Vinyls, LP, 2400 Miller Cut Off Road, La Porte, Texas 77571

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



**Attachment A**  
**Docket Number: 2012-2179-AIR-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	Oxy Vinyls, LP
<b>Penalty Amount:</b>	Twelve Thousand Eight Hundred Dollars (\$12,800)
<b>SEP Offset Amount:</b>	Six Thousand Four Hundred Dollars (\$6,400)
<b>Type of SEP:</b>	Contribution to a Third-Party Pre-Approved SEP
<b>Third-Party Administrator:</b>	Harris County
<b>Project Name:</b>	<i>Ambient and Meteorological Air Monitoring</i>
<b>Location of SEP:</b>	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 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

Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to **Harris County** for the *Ambient and Meteorological Air Monitoring* project. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to operate, maintain, and potentially expand portions of its existing ambient air quality monitoring network in the Harris County area in order to continue to provide information on data quality and trends to the public, TCEQ, and industry representatives. SEP Offset Amount may be used to operate a single monitoring site or multiple sites contingent upon the amount of SEP Offset Amount provided. Future sites and parameters may be added (as identified through specific work plans and upon approval by TCEQ), depending on availability of SEP Offset Amount. SEP Offset Amount may be used to purchase equipment, hardware, software, and licenses to enable the monitoring of ambient air pollutants. SEP Offset Amount may also be used for maintenance of the air monitoring equipment and for the contracting of air monitoring services. No portion of the SEP Offset Amount will be used for administrative costs or salaries of Third-Party Administrator's personnel. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of implementing the Project, including, but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

Respondent's signature affixed to this Agreed Order certifies that Respondent has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

Implementation of this SEP will allow continuation of ambient air monitoring in this region to collect near real-time volatile organic compounds, ozone, and/or meteorological data sets that can be used to evaluate and track air pollution emission events as they occur, and to assess potential ambient community exposure to a limited number of Hazardous Air Pollutants. Data from the monitors will be used with data from other monitors to provide critical information that can be used to evaluate the effectiveness of current and proposed emission control strategies aimed at achieving compliance with the National Ambient Air Quality Standard 8-hour ozone standard and it provides a key source of information that is essential to furthering overall understanding of those emission sources that contribute to ambient community exposure to toxic air contaminants. Because the information is available in near real-time, it can be used to provide both agency staff and industry personnel with time critical information to investigate emission events in a timely fashion. Another key benefit is the ability to measure the change in the ambient air concentration of the individual target species and quantify control measure effectiveness. Data from these monitors will also be publicly accessible through the TCEQ's website and will be used in evaluating air quality in the area, including ozone forecasts and ozone warnings. Thus, the public will directly benefit by having access to the data and the forecasting and notification tools which can be used for public awareness, and indirectly by providing data useful in addressing Houston's ozone non-attainment status.

The Meteorological Monitoring program will provide data relating to wind direction, ambient temperature, and ultraviolet ray intensity for use in understanding ozone production and travel. This real-time data will be accessible for air quality regulators and the public via the TCEQ's ambient air quality database.

c. Minimum Expenditure

Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

## **2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. Respondent shall make the check payable to **Harris County SEP** and shall mail the contribution with a copy of the Agreed Order to:

Harris County  
Attention: Latrice Babin  
101 South Richey, Suite H  
Pasadena, Texas 77506

## **3. Records and Reporting**

Concurrent with the payment of the SEP Offset Amount, Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. 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 Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that Respondent failed to fully implement and complete the Project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

Oxy Vinyls, LP  
Agreed Order - Attachment A

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 and/or project, made by or on behalf of 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**

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, 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 Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for 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 3 (September 2011)

PCW Revision August 3, 2011

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	22-Oct-2012
	<b>PCW</b>	14-Dec-2012
	<b>Screening</b>	26-Oct-2012
	<b>EPA Due</b>	

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Oxy Vinyls, LP	
<b>Reg. Ent. Ref. No.</b>	RN100224674	
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b> Major

## CASE INFORMATION

<b>Enf./Case ID No.</b>	45312	<b>No. of Violations</b>	3
<b>Docket No.</b>	2012-2179-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>	Audra Benoit
		<b>EC's Team</b>	Enforcement Team 5
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$8,000**

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

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

**Compliance History** **100.0%** Enhancement **Subtotals 2, 3, & 7** **\$8,000**

Notes: Enhancement for one NOV with same/similar violations, one NOV with dissimilar violations, four orders containing a denial of liability, and one order without a denial of liability. Reduction for two notices of intent to conduct an audit.

**Culpability** **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5** **\$0**

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

Total EB Amounts **\$224**  
 Approx. Cost of Compliance **\$5,000**  
 \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$16,000**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount** **\$16,000**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$16,000**

**DEFERRAL** **20.0%** Reduction **Adjustment** **-\$3,200**

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

Notes: Deferral offered for expedited settlement.

**PAYABLE PENALTY** **\$12,800**

Screening Date 26-Oct-2012

Docket No. 2012-2179-AIR-E

PCW

Respondent Oxy Vinyls, LP

Policy Revision 3 (September 2011)

Case ID No. 45312

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100224674

Media [Statute] Air

Enf. Coordinator Audra Benoit

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	1	5%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	4	80%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	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%

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)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with same/similar violations, one NOV with dissimilar violations, four orders containing a denial of liability, and one order without a denial of liability. Reduction for two notices of intent to conduct an audit.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100%

Screening Date 26-Oct-2012

Docket No. 2012-2179-AIR-E

PCW

Respondent Oxy Vinyls, LP

Policy Revision 3 (September 2011)

Case ID No. 45312

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100224674

Media [Statute] Air

Enf. Coordinator Audra Benoit

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), Tex. Health & Safety Code § 382.085(b), Federal Operating Permit ("FOP") No. O1324, Special Terms and Conditions ("STC") No. 24, and New Source Review ("NSR") Permit No. 3855B, Special Conditions ("SC") No. 1

Violation Description Failed to prevent unauthorized emissions, as documented during a record review conducted on September 7, 2012. Specifically, the Respondent released 438 pounds ("lbs") of vinyl chloride monomer ("VCM") from the VCM Storage Tanks, Facility Identification No. ("FIN") F-P08, during an emissions event (Incident No. 172423) that began on August 16, 2012 and lasted 37 minutes. The event occurred when the seal flush tubing fractured as a result of fatigue caused by cyclic stress at a stress-concentrating groove produced by the rear ferrule of a double-ferrule style compression fitting while transferring VCM using export pump GA-6425B. Since this emissions event could have been avoided through better operational or maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 Tex. Admin. Code § 101.222.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (15.0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (0.0%).

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

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1 Number of violation days 1

Table with columns: Frequency (daily, weekly, monthly, quarterly, semiannual, annual, single event) and a grid for marking events.

Violation Base Penalty \$3,750

One quarterly event is recommended.

Good Faith Efforts to Comply

0.0% Reduction Before NOV NOV to EDPRP/Settlement Offer \$0

Table with columns: Effort Type (Extraordinary, Ordinary, N/A) and a grid for marking compliance.

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

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$131

Violation Final Penalty Total \$7,500

This violation Final Assessed Penalty (adjusted for limits) \$7,500

# Economic Benefit Worksheet

**Respondent** Oxy Vinyls, LP  
**Case ID No.** 45312  
**Reg. Ent. Reference No.** RN100224674  
**Media** Air  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

**Delayed Costs**

Equipment			0.00	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0
Other (as needed)	\$2,500	16-Aug-2012	16-May-2013	0.75	\$6	\$125
Engineering/construction			0.00	\$0	\$0	\$0
Land			0.00	\$0	n/a	\$0
Record Keeping System			0.00	\$0	n/a	\$0
Training/Sampling			0.00	\$0	n/a	\$0
Remediation/Disposal			0.00	\$0	n/a	\$0
Permit Costs			0.00	\$0	n/a	\$0
Other (as needed)			0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

Estimated cost to implement measures to prevent recurrence of emissions events due to the same cause as Incident No. 172423. The date required is the date of the emissions event. 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**      \$131

Screening Date 26-Oct-2012

Docket No. 2012-2179-AIR-E

PCW

Respondent Oxy Vinyls, LP

Policy Revision 3 (September 2011)

Case ID No. 45312

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100224674

Media [Statute] Air

Enf. Coordinator Audra Benoit

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 101.201(b)(1)(H), Tex. Health & Safety Code § 382.085(b), and FOP No. 01324, General Terms and Conditions and STC No. 2F

Violation Description

Failed to include the permit authorization on the final report for Incident No. 171901 and Incident No. 172423.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1.0%

Matrix Notes

At least 70% of the rule requirement was met.

Adjustment \$24,750

\$250

Violation Events

Number of Violation Events 2

2 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$500

Two single events are recommended for the two incomplete reports.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$37

Violation Final Penalty Total \$1,000

This violation Final Assessed Penalty (adjusted for limits) \$1,000

# Economic Benefit Worksheet

**Respondent** Oxy Vinyls, LP  
**Case ID No.** 45312  
**Reg. Ent. Reference No.** RN100224674  
**Media** Air  
**Violation No.** 2

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

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

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,000	17-Aug-2012	16-May-2013	0.75	\$37	n/a	\$37

**Notes for DELAYED costs**

Estimated cost to implement measures and/or procedures to ensure emissions event reports are complete and accurate. The date required is the date the first final report was due. 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**

	\$1,000
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<b>TOTAL</b>	\$37
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Screening Date 26-Oct-2012

Docket No. 2012-2179-AIR-E

PCW

Respondent Oxy Vinyls, LP

Policy Revision 3 (September 2011)

Case ID No. 45312

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100224674

Media [Statute] Air

Enf. Coordinator Audra Benoit

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), Tex. Health & Safety Code § 382.085(b), FOP No. O1324, STC No. 24, NSR Permit No. 3855B, SC No. 1

Violation Description

Failed to prevent unauthorized emissions as documented during a record review conducted on August 20, 2012. Specifically, the Respondent released 380 lbs of VCM during an emissions event (Incident No. 171901) that began on August 3, 2012, and lasted for 37 minutes. The event occurred during the loading of a third party VCM railcar. The connection between the angle vapor valve and the vapor balance vent pipe came loose due to mechanical failure of the pipe threads. Since this emissions event could have been avoided through better operational or maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 Tex. Admin. Code § 101.222.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm		
		Major	Moderate	Minor
Actual				X
Potential				

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

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

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

1 Number of violation days

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

Violation Base Penalty \$3,750

One quarterly event is recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

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

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

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Estimated EB Amount \$56

Statutory Limit Test

Violation Final Penalty Total \$7,500

This violation Final Assessed Penalty (adjusted for limits) \$7,500

# Economic Benefit Worksheet

**Respondent** Oxy Vinyls, LP  
**Case ID No.** 45312  
**Reg. Ent. Reference No.** RN100224674  
**Media** Air  
**Violation No.** 3

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

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

**Delayed Costs**

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	3-Aug-2012	3-May-2013	0.75	\$56	n/a	\$56

**Notes for DELAYED costs**

Estimated cost to implement measures to prevent recurrence of emissions events due to the same cause as Incident No. 171901. The date required is the date of the emissions event. The final date is the estimated date of compliance.

**Avoided Costs**

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

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

**Approx. Cost of Compliance**

\$1,500

**TOTAL**

\$56



# Compliance History Report

**PUBLISHED** Compliance History Report for CN600129126, RN100224674, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

<b>Customer, Respondent, or Owner/Operator:</b>	CN600129126, Oxy Vinyls, LP	<b>Classification:</b>	SATISFACTORY	<b>Rating:</b>	2.11
<b>Regulated Entity:</b>	RN100224674, GEON-OXY VINYL	<b>Classification:</b>	SATISFACTORY	<b>Rating:</b>	7.41
<b>Complexity Points:</b>	22	<b>Repeat Violator:</b>	NO		
<b>CH Group:</b>	13 - Pipeline Transportation of Natural Gas, Refined Petroleum, and All Other Products				
<b>Location:</b>	2400 MILLER CUT OFF RD LA PORTE, TX 77571-9759, HARRIS COUNTY				
<b>TCEQ Region:</b>	REGION 12 - HOUSTON				

**ID Number(s):**

<b>AIR OPERATING PERMITS</b> ACCOUNT NUMBER HG0193B	<b>AIR OPERATING PERMITS</b> PERMIT 1324
<b>WASTEWATER PERMIT</b> WQ0002097000	<b>WASTEWATER</b> EPA ID TX0070416
<b>PETROLEUM STORAGE TANK REGISTRATION</b> REGISTRATION 12124	<b>AIR NEW SOURCE PERMITS</b> PERMIT 3855B
<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 31148	<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 40916
<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 41432	<b>AIR NEW SOURCE PERMITS</b> ACCOUNT NUMBER HG0193B
<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 52249	<b>AIR NEW SOURCE PERMITS</b> AFS NUM 4820100320
<b>AIR NEW SOURCE PERMITS</b> EPA PERMIT PSDTX876	<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 92878
<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 94363	<b>INDUSTRIAL AND HAZARDOUS WASTE</b> EPA ID TXD070133319
<b>INDUSTRIAL AND HAZARDOUS WASTE</b> SOLID WASTE REGISTRATION # (SWR) 31077	<b>PUBLIC WATER SYSTEM/SUPPLY</b> REGISTRATION 1011153
<b>IHW CORRECTIVE ACTION</b> SOLID WASTE REGISTRATION # (SWR) 31077	<b>AIR EMISSIONS INVENTORY</b> ACCOUNT NUMBER HG0193B
<b>POLLUTION PREVENTION PLANNING</b> ID NUMBER P00718	

<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>	December 12, 2012				
<b>Agency Decision Requiring Compliance History:</b>	Enforcement				
<b>Component Period Selected:</b>	November 01, 2007 to November 01, 2012				

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

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

**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: 04/28/2008 ADMINORDER 2007-1731-AIR-E (1660 Order-Agreed Order With Denial)  
 Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: Permit No. 3855B and PSD-TX-876, MAERT PERMIT  
Description: Failure to prevent an unauthorized emission due to operation issues.

- 2 Effective Date: 02/08/2009 ADMINORDER 2008-1053-AIR-E **(1660 Order-Agreed Order With Denial)**  
Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
Rqmt Prov: 3855B, Special Condition 1 PERMIT  
Description: The Respondent is alleged to have failed to prevent unauthorized emissions during Incident No. 105535
- 3 Effective Date: 03/08/2010 ADMINORDER 2009-1079-AIR-E **(Findings Order-Agreed Order Without Denial)**  
Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
Rqmt Prov: Special Condition 1 PERMIT  
Description: The Respondent failed to prevent unauthorized emissions during Incident No. 112879.  
Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
Rqmt Prov: Special Condition 1 PERMIT  
Description: The Respondent failed to prevent unauthorized emissions during Incident No. 123174.
- 4 Effective Date: 06/07/2012 ADMINORDER 2011-1928-AIR-E **(1660 Order-Agreed Order With Denial)**  
Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
Rqmt Prov: No.3855B, Special Condition #1 PERMIT  
Special Conditions No. 1 PERMIT  
Special Terms and Cond. Nos. 1 and 21 PERMIT  
Description: Failed to prevent unauthorized emissions. Specifically, 467 pounds of vinyl chloride monomer were released from a piping tee in the Cracking and Purification Unit during an avoidable emission event (Incident No. 156401) that began on July 3, 2011 and lasted ten minutes. The release occurred when a rupture disk failed on a 2" Vent Chiller Pumpout Line. Although the disk failed as designed, due to hydraulic shock, the piping tee was missing a plug. Since the emission event was avoidable by bet
- 5 Effective Date: 08/05/2012 ADMINORDER 2011-2352-AIR-E **(1660 Order-Agreed Order With Denial)**  
Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
Rqmt Prov: SC-1 PERMIT  
Special Terms & Conditions No. 21 OP  
Description: Failed to prevent unauthorized emissions.

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

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

Item 1	November 19, 2007	(623029)
Item 2	December 13, 2007	(610860)
Item 3	December 20, 2007	(599139)
Item 4	February 19, 2008	(674447)
Item 5	March 17, 2008	(674448)
Item 6	April 23, 2008	(692787)

Item 7	April 30, 2008	(641245)
Item 8	May 16, 2008	(692788)
Item 9	June 20, 2008	(692789)
Item 10	July 22, 2008	(333288)
Item 11	August 11, 2008	(713944)
Item 12	October 17, 2008	(729932)
Item 13	November 24, 2008	(729933)
Item 14	December 22, 2008	(729934)
Item 15	February 23, 2009	(753164)
Item 16	March 23, 2009	(753165)
Item 17	April 22, 2009	(770702)
Item 18	May 21, 2009	(770703)
Item 19	June 15, 2009	(927634)
Item 20	July 17, 2009	(927635)
Item 21	August 10, 2009	(749546)
Item 22	August 12, 2009	(927636)
Item 23	September 28, 2009	(927637)
Item 24	October 01, 2009	(776818)
Item 25	October 19, 2009	(927638)
Item 26	November 16, 2009	(781888)
Item 27	November 18, 2009	(811915)
Item 28	December 18, 2009	(786150)
Item 29	December 21, 2009	(811916)
Item 30	January 22, 2010	(845262)
Item 31	February 19, 2010	(811914)
Item 32	February 24, 2010	(793016)
Item 33	March 15, 2010	(833367)
Item 34	March 31, 2010	(796980)
Item 35	April 16, 2010	(833368)
Item 36	May 20, 2010	(845261)
Item 37	June 21, 2010	(847048)
Item 38	July 19, 2010	(867824)
Item 39	August 02, 2010	(842807)
Item 40	August 20, 2010	(867825)
Item 41	August 25, 2010	(830073)
Item 42	September 01, 2010	(827164)
Item 43	September 03, 2010	(830348)
Item 44	October 19, 2010	(874781)
Item 45	November 23, 2010	(882370)
Item 46	December 22, 2010	(888823)
Item 47	January 06, 2011	(897183)
Item 48	January 20, 2011	(903086)
Item 49	February 18, 2011	(909958)
Item 50	March 21, 2011	(917200)
Item 51	April 20, 2011	(927633)
Item 52	May 16, 2011	(938897)
Item 53	June 10, 2011	(912348)
Item 54	June 13, 2011	(946271)
Item 55	July 20, 2011	(953542)
Item 56	August 18, 2011	(960170)
Item 57	September 19, 2011	(966223)
Item 58	October 21, 2011	(972242)
Item 59	December 19, 2011	(985212)
Item 60	January 19, 2012	(991485)
Item 61	February 17, 2012	(998835)
Item 62	March 08, 2012	(976090)
Item 63	March 12, 2012	(1004365)
Item 64	March 28, 2012	(983535)
Item 65	April 11, 2012	(983123)
Item 66	April 20, 2012	(1010928)



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
OXY VINYLs, LP  
RN100224674**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2012-2179-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 Oxy Vinyls, LP ("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 chemical manufacturing plant at 2400 Miller Cut Off Road in La Porte, 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 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 notices of the violations alleged in Section II ("Allegations") on or about October 24, 2012 and November 4, 2012.
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 Sixteen Thousand Dollars (\$16,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Six Thousand Four Hundred Dollars (\$6,400) of the administrative penalty and Three Thousand Two Hundred Dollars (\$3,200) 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. Six Thousand Four Hundred Dollars (\$6,400) 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 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 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.
10. 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.
11. 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 prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), Federal Operating Permit ("FOP") No. 01324, Special Terms and Conditions ("STC") No. 24, and New Source Review ("NSR") Permit No. 3855B, Special Conditions ("SC") No. 1, as documented during a record review conducted on September 7, 2012. Specifically, the Respondent released 438 pounds ("lbs") of vinyl chloride monomer ("VCM") from the VCM Storage Tanks, Facility Identification No. ("FIN") F-P08, during an emissions event (Incident No. 172423) that began on August 16, 2012 and lasted 37 minutes. The event occurred when the seal flush tubing fractured as a result of fatigue caused by cyclic stress at a stress-concentrating groove produced by the rear ferrule of a double-ferrule style compression fitting while transferring VCM using export pump GA-6425B. Since this emissions event could have been avoided through better operational or maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.
2. Failed to include the permit authorization on the final report for Incident Nos. 171901 and 172423, in violation of 30 TEX. ADMIN. CODE § 101.201(b)(1)(H), TEX. HEALTH & SAFETY CODE § 382.085(b), and FOP No. 01324, General Terms and Conditions and STC

No. 2F, as documented during record reviews conducted on August 20, 2012 and September 7, 2012.

3. Failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), FOP No. 01324, STC No. 24, and NSR Permit No. 3855B, SC No. 1, as documented during a record review conducted on August 20, 2012. Specifically, the Respondent released 380 lbs of VCM during an emissions event (Incident No. 171901) that began on August 3, 2012, and lasted for 37 minutes. The event occurred during the loading of a third party VCM railcar. The connection between the angle vapor valve and the vapor balance vent pipe came loose due to mechanical failure of the pipe threads. Since this emissions event could have been avoided through better operational or maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.

### 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: Oxy Vinyls, LP, Docket No. 2012-2179-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. 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, Six Thousand Four Hundred Dollars (\$6,400) 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 after the effective date of this Agreed Order:
    - i. Implement measures to prevent recurrence of emissions events due to the same cause as Incident Nos. 171901 and 172423; and
    - ii. Implement measures and/or procedures to ensure emissions event reports are complete and accurate, in accordance with 30 TEX. ADMIN. CODE § 101.201.
  - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

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

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.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

  
\_\_\_\_\_  
For the Executive Director

4/9/13  
\_\_\_\_\_  
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.

  
\_\_\_\_\_  
Signature

2/8/2013  
\_\_\_\_\_  
Date

Thomas F. Feeney  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Oxy Vinyls, LP

Sr. V.P. Manufacturing, Engr. & Tech.  
\_\_\_\_\_  
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.

**Attachment A**  
**Docket Number: 2012-2179-AIR-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	Oxy Vinyls, LP
<b>Penalty Amount:</b>	Twelve Thousand Eight Hundred Dollars (\$12,800)
<b>SEP Offset Amount:</b>	Six Thousand Four Hundred Dollars (\$6,400)
<b>Type of SEP:</b>	Contribution to a Third-Party Pre-Approved SEP
<b>Third-Party Administrator:</b>	Harris County
<b>Project Name:</b>	<i>Ambient and Meteorological Air Monitoring</i>
<b>Location of SEP:</b>	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 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

Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to **Harris County** for the *Ambient and Meteorological Air Monitoring* project. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to operate, maintain, and potentially expand portions of its existing ambient air quality monitoring network in the Harris County area in order to continue to provide information on data quality and trends to the public, TCEQ, and industry representatives. SEP Offset Amount may be used to operate a single monitoring site or multiple sites contingent upon the amount of SEP Offset Amount provided. Future sites and parameters may be added (as identified through specific work plans and upon approval by TCEQ), depending on availability of SEP Offset Amount. SEP Offset Amount may be used to purchase equipment, hardware, software, and licenses to enable the monitoring of ambient air pollutants. SEP Offset Amount may also be used for maintenance of the air monitoring equipment and for the contracting of air monitoring services. No portion of the SEP Offset Amount will be used for administrative costs or salaries of Third-Party Administrator's personnel. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of implementing the Project, including, but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

Respondent's signature affixed to this Agreed Order certifies that Respondent has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

Implementation of this SEP will allow continuation of ambient air monitoring in this region to collect near real-time volatile organic compounds, ozone, and/or meteorological data sets that can be used to evaluate and track air pollution emission events as they occur, and to assess potential ambient community exposure to a limited number of Hazardous Air Pollutants. Data from the monitors will be used with data from other monitors to provide critical information that can be used to evaluate the effectiveness of current and proposed emission control strategies aimed at achieving compliance with the National Ambient Air Quality Standard 8-hour ozone standard and it provides a key source of information that is essential to furthering overall understanding of those emission sources that contribute to ambient community exposure to toxic air contaminants. Because the information is available in near real-time, it can be used to provide both agency staff and industry personnel with time critical information to investigate emission events in a timely fashion. Another key benefit is the ability to measure the change in the ambient air concentration of the individual target species and quantify control measure effectiveness. Data from these monitors will also be publicly accessible through the TCEQ's website and will be used in evaluating air quality in the area, including ozone forecasts and ozone warnings. Thus, the public will directly benefit by having access to the data and the forecasting and notification tools which can be used for public awareness, and indirectly by providing data useful in addressing Houston's ozone non-attainment status.

The Meteorological Monitoring program will provide data relating to wind direction, ambient temperature, and ultraviolet ray intensity for use in understanding ozone production and travel. This real-time data will be accessible for air quality regulators and the public via the TCEQ's ambient air quality database.

c. Minimum Expenditure

Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. Respondent shall make the check payable to **Harris County SEP** and shall mail the contribution with a copy of the Agreed Order to:

Harris County  
Attention: Latrice Babin  
101 South Richey, Suite H  
Pasadena, Texas 77506

**3. Records and Reporting**

Concurrent with the payment of the SEP Offset Amount, Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. 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 Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that Respondent failed to fully implement and complete the Project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

Oxy Vinyls, LP  
Agreed Order - Attachment A

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 and/or project, made by or on behalf of 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**

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, 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 Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.