

Executive Summary – Enforcement Matter – Case No. 47163
U.S. Silica Company
RN100215672
Docket No. 2013-1261-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

US Silica, 4171 Farm-to-Market Road 2749, Kosse, Limestone County

Type of Operation:

Sand and clay mining and processing plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: November 15, 2013

Comments Received: No

Penalty Information

Total Penalty Assessed: \$11,251

Amount Deferred for Expedited Settlement: \$2,250

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$4,501

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$4,500

Name of SEP: Texas PTA- Texas PTA Clean School Buses

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: March 1, 2013 to March 15, 2013

Date(s) of NOE(s): May 31, 2013

Executive Summary – Enforcement Matter – Case No. 47163
U.S. Silica Company
RN100215672
Docket No. 2013-1261-AIR-E

Violation Information

1. Failed to submit a Permit Compliance Certification ("PCC") no later than 30 days from the end of the certification period. Specifically, Respondent did not submit the PCC for Federal Operating Permit ("FOP") No. O1044 for the November 29, 2011 through November 28, 2012 certification period until February 5, 2013 [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.146(2), TEX. HEALTH & SAFETY CODE § 382.085(b), and FOP No. O1044, General Terms and Conditions ("GTC")].
2. Failed to report all instances of deviations. Specifically, Respondent did not report 153 deviations in the report dated February 5, 2013, for the November 29, 2011 through May 28, 2012 reporting period [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), TEX. HEALTH & SAFETY CODE § 382.085(b), and FOP No. O1044, GTC].
3. Failed to maintain records. Specifically, Respondent failed to maintain daily records to document monitoring for liquid supply pressure for two monitoring devices (SD1SCRUB and SD2SCRUB) [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.144(1), TEX. HEALTH & SAFETY CODE § 382.085(b), and FOP No. O1044, Special Terms and Conditions No. 6].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent has implemented the following corrective measures:

- a. By May 17, 2013, implemented measures to ensure that the Environmental, Health and Safety Coordinator must submit, by the third day of each month, the Compliance Assurance Monitoring readings and the deviation report from the previous month to a Corporate Environmental Project Manager for a completeness and accuracy review, before forwarding those documents to the Director of Operations and Maintenance Excellence for review; and
- b. By May 30, 2013, instructed responsible employees to always maintain records of document submittals, and to perform internal self-audits on a quarterly basis for the purpose of determining permit compliance and to serve as an additional reminder of reporting requirements. In addition, the Vice President of Operations was designated as the responsible official to be personally involved with the review of all compliance certifications and deviation reports to ensure they are complete and timely submitted.

Technical Requirements:

The Order will require Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

Executive Summary – Enforcement Matter – Case No. 47163
U.S. Silica Company
RN100215672
Docket No. 2013-1261-AIR-E

SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Heather Podlipny, Enforcement Division,
Enforcement Team 4, MC 149, (512) 239-2603; Candy Garrett, Enforcement Division,
MC 219, (512) 239-1456

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

Respondents: Mack Jones, Plant Manager, U.S. Silica Company, 4171 Farm-to-
Market Road 2749, Kosse, Texas 76653

James I. Manion, Deputy General Counsel & Associate Secretary, U.S. Silica Company,
8490 Progress Drive, Suite 300, Frederick, Maryland 21701

Respondent's Attorney: N/A



Attachment A
Docket Number: 2013-1261-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	U.S. Silica Company
Penalty Amount:	Nine Thousand One Dollars (\$9,001)
SEP Offset Amount:	Four Thousand Five Hundred Dollars (\$4,500)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Texas PTA - <i>Texas PTA Clean School Buses</i>
Location of SEP:	Texas Air Quality Control Region 212 - Austin - Waco

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 **Texas PTA** for the *Texas PTA Clean School Buses Program* as set forth in an agreement between the Third-Party Administrator and the TCEQ. Specifically, the contribution will be used to reimburse local school districts for the cost of the following activities to reduce emissions: 1) replacing older diesel buses with alternative fueled or clean diesel buses; or 2) retrofitting older diesel buses with new, cleaner technology. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

Respondent certifies that it has no prior commitment to make this contribution and that it is being done solely in an effort to settle this enforcement action.

b. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing particulate emissions from buses by more than 90% below today's level and by reducing hydrocarbons.

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 mail a copy of the Agreed Order with the contribution to:

Director of Finance
Texas PTA
7600 Chevy Chase Drive
Building 2, Suite 300
Austin, Texas 78752

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, Respondent shall provide the Enforcement Division 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:

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

4. Failure to Fully Perform

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

In the event of incomplete performance, Respondent shall include on the check the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. Respondent shall make the payment for the amount due to "Texas Commission on Environmental Quality" and mail it to:

U.S. Silica Company
Agreed Order - Attachment A

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

5. Publicity

Any public statements concerning this SEP 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 identified in this 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

DATES	Assigned	3-Jun-2013	Screening	10-Jun-2013	EPA Due	25-Feb-2014
	PCW	10-Sep-2013				

RESPONDENT/FACILITY INFORMATION	
Respondent	U.S. Silica Company
Reg. Ent. Ref. No.	RN100215672
Facility/Site Region	9-Waco
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	47163	No. of Violations	3
Docket No.	2013-1261-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Heather Podlipny
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$15,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1		
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.		
Compliance History	0.0% Enhancement Subtotals 2, 3, & 7	\$0

Notes: No adjustment for compliance history.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$3,749
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
Total EB Amounts	\$544	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$12,075		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$11,251
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
Reduces or enhances the Final Subtotal by the indicated percentage.			

Notes:

Final Penalty Amount	\$11,251
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$11,251
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DEFERRAL	20.0% Reduction	Adjustment	-\$2,250
Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)			

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$9,001
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Screening Date 10-Jun-2013

Docket No. 2013-1261-AIR-E

PCW

Respondent U.S. Silica Company

Policy Revision 3 (September 2011)

Case ID No. 47163

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100215672

Media [Statute] Air

Enf. Coordinator Heather Podlipny

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

>> 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

No adjustment for compliance history.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date 10-Jun-2013
Respondent U.S. Silica Company
Case ID No. 47163

Docket No. 2013-1261-AIR-E

PCW

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100215672

Media [Statute] Air

Enf. Coordinator Heather Podlipny

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 122.143(4) and 122.146(2), Tex. Health & Safety Code § 382.085(b), and Federal Operating Permit ("FOP") No. O1044, General Terms and Conditions ("GTC")

Violation Description

Failed to submit a Permit Compliance Certification ("PCC") no later than 30 days from the end of the certification period. Specifically, the Respondent did not submit the PCC for FOP No. O1044 for the November 29, 2011 through November 28, 2012 certification period until February 5, 2013.

Base Penalty \$25,000

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

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor
	x		

Percent 15.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1 337 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$3,750

One single event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$937

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

Notes The Respondent returned to compliance on May 30, 2013 and the NOE is dated May 31, 2013.

Violation Subtotal \$2,813

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$540

Violation Final Penalty Total \$2,813

This violation Final Assessed Penalty (adjusted for limits) \$2,813

Economic Benefit Worksheet

Respondent U.S. Silica Company

Case ID No. 47163

Reg. Ent. Reference No. RN100215672

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)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$11,700	27-Jun-2012	30-May-2013	0.92	\$540	n/a	\$540
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 costs to implement improvements to the recordkeeping system to ensure that PCCs and deviation reports are submitted in a complete and timely manner. The Date Required is the date the deviation report was due and the Final Date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$11,700

TOTAL

\$540

Screening Date 10-Jun-2013
Respondent U.S. Silica Company
Case ID No. 47163
Reg. Ent. Reference No. RN100215672
Media [Statute] Air
Enf. Coordinator Heather Podlipny
Violation Number 2
Rule Cite(s)

Docket No. 2013-1261-AIR-E

PCW

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

30 Tex. Admin. Code §§ 122.143(4) and 122.145(2)(A), Tex. Health & Safety Code § 382.085(b), and FOP No. O1044, GTC

Violation Description

Failed to report all instances of deviations. Specifically, the Respondent did not report 153 deviations in the report dated February 5, 2013, for the November 29, 2011 through May 28, 2012 reporting period.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			15.0%

Matrix Notes

More than 70% of the rule requirement was not met.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$3,750

One single event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$937

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

Notes: The Respondent returned to compliance by May 30, 2013 and the NOE is dated May 31, 2013.

Violation Subtotal \$2,813

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$2,813

This violation Final Assessed Penalty (adjusted for limits) \$2,813

Economic Benefit Worksheet

Respondent U.S. Silica Company
Case ID No. 47163
Reg. Ent. Reference No. RN100215672
Media Air
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

See the economic benefit for violation no. 1.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

Screening Date 10-Jun-2013
Respondent U.S. Silica Company
Case ID No. 47163
Reg. Ent. Reference No. RN100215672
Media [Statute] Air
Enf. Coordinator Heather Podlipny

Docket No. 2013-1261-AIR-E

PCW

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

Violation Number 3
Rule Cite(s)

30 Tex. Adm. Code §§ 122.143(4) and 122.144(1), Tex. Health & Safety Code § 382.085(b), and FOP No. O1044, Special Terms and Conditions No. 6

Violation Description

Failed to maintain records. Specifically, the Respondent failed to maintain daily records to document monitoring for liquid supply pressure for two monitoring devices (SD1SCRUB and SD2SCRUB).

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 15.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events

Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$7,500

Two single events are recommended for the two sets of records that were not maintained.

Good Faith Efforts to Comply

25.0% Reduction

\$1,875

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

Notes: The Respondent returned to compliance by May 17, 2013 and the NOE is dated May 31, 2013.

Violation Subtotal \$5,625

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4

Violation Final Penalty Total \$5,625

This violation Final Assessed Penalty (adjusted for limits) \$5,625

Economic Benefit Worksheet

Respondent U.S. Silica Company
Case ID No. 47163
Reg. Ent. Reference No. RN100215672
Media Air
Violation No. 3

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)			0.00	\$0	\$0	\$0	
Engineering/construction			0.00	\$0	\$0	\$0	
Land			0.00	\$0	N/A	\$0	
Record Keeping System	\$375	1-Mar-2013	17-May-2013	0.21	\$4	N/A	\$4
Training/Sampling			0.00	\$0	N/A	\$0	
Remediation/Disposal			0.00	\$0	N/A	\$0	
Permit Costs			0.00	\$0	N/A	\$0	
Other (as needed)			0.00	\$0	N/A	\$0	

Notes for DELAYED costs

Estimated costs to implement Improvements to training procedures and the recordkeeping system to ensure that complete and accurate records are kept. The Date Required is the investigation date and the Final Date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$375

TOTAL

\$4

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN600128268, RN100215672, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN600128268, U.S. Silica Company **Classification:** SATISFACTORY **Rating:** 0.20

Regulated Entity: RN100215672, US SILICA **Classification:** SATISFACTORY **Rating:** 0.36

Complexity Points: 10 **Repeat Violator:** NO

CH Group: 04 - Mining

Location: 4171 FARM TO MARKET ROAD 2749, KOSSE, TX 76653-3839, LIMESTONE COUNTY

TCEQ Region: REGION 09 - WACO

ID Number(s):

AIR OPERATING PERMITS ACCOUNT NUMBER LI0008P

INDUSTRIAL AND HAZARDOUS WASTE EPA ID

TXD043313790

PETROLEUM STORAGE TANK REGISTRATION

REGISTRATION 52718

AIR NEW SOURCE PERMITS ACCOUNT NUMBER LI0008P

AIR NEW SOURCE PERMITS REGISTRATION 72474

AIR NEW SOURCE PERMITS REGISTRATION 81565

AIR EMISSIONS INVENTORY ACCOUNT NUMBER LI0008P

AIR OPERATING PERMITS PERMIT 1044

INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE

REGISTRATION # (SWR) 33978

AIR NEW SOURCE PERMITS REGISTRATION 40499

AIR NEW SOURCE PERMITS AFS NUM 4829300001

AIR NEW SOURCE PERMITS PERMIT 77337

AIR NEW SOURCE PERMITS REGISTRATION 94243

Compliance History Period: September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

Date Compliance History Report Prepared: June 10, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: June 10, 2008 to June 10, 2013

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

Name: Heather Podlipny

Phone: (512) 239-2603

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:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	June 18, 2008	(680593)
Item 2	April 27, 2009	(741467)
Item 3	June 16, 2010	(826180)
Item 4	February 16, 2011	(891752)

E. Written notices of violations (NOV) (CCEDS 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.

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
U.S. SILICA COMPANY
RN100215672

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2013-1261-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 U.S. Silica Company ("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 sand and clay mining and processing plant at 4171 Farm-to-Market Road 2749 in Kosse, Limestone 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 June 5, 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 Eleven Thousand Two Hundred Fifty-One Dollars (\$11,251) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Four Thousand Five Hundred One Dollars (\$4,501) of the administrative penalty and Two Thousand Two Hundred Fifty

Dollars (\$2,250) 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. Four Thousand Five Hundred Dollars (\$4,500) 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 recognizes that the Respondent has implemented the following corrective measures at the Plant:
 - a. By May 17, 2013, implemented measures to ensure that the Environmental, Health and Safety Coordinator must submit, by the third day of each month, the Compliance Assurance Monitoring readings and the deviation report from the previous month to a Corporate Environmental Project Manager for a completeness and accuracy review, before forwarding those documents to the Director of Operations and Maintenance Excellence for review; and
 - b. By May 30, 2013, instructed responsible employees to always maintain records of document submittals, and to perform internal self-audits on a quarterly basis for the purpose of determining permit compliance and to serve as an additional reminder of reporting requirements. In addition, the Vice President of Operations was designated as the responsible official to be personally involved with the review of all compliance certifications and deviation reports to ensure they are complete and timely submitted.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have:

1. Failed to submit a Permit Compliance Certification ("PCC") no later than 30 days from the end of the certification period, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.146(2); TEX. HEALTH & SAFETY CODE § 382.085(b), and Federal Operating Permit ("FOP") No. 01044, General Terms and Conditions ("GTC"), as documented during an investigation conducted on March 1, 2013 to March 15, 2013. Specifically, the Respondent did not submit the PCC for FOP No. 01044 for the November 29, 2011 through November 28, 2012 certification period until February 5, 2013.
2. Failed to report all instances of deviations, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), TEX. HEALTH & SAFETY CODE § 382.085(b), and FOP No. 01044, GTC, as documented during an investigation conducted on March 1, 2013 to March 15, 2013. Specifically, the Respondent did not report 153 deviations in the report dated February 5, 2013, for the November 29, 2011 through May 28, 2012 reporting period.
3. Failed to maintain records, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.144(1), TEX. HEALTH & SAFETY CODE § 382.085(b), and FOP No. 01044, Special Terms and Conditions No. 6, as documented during an investigation conducted on March 1, 2013 to March 15, 2013. Specifically, the Respondent failed to maintain daily records to document monitoring for liquid supply pressure for two monitoring devices (SD1SCRUB and SD2SCRUB).

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: U.S. Silica Company, Docket No. 2013-1261-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, Four Thousand Five Hundred Dollars (\$4,500) of the assessed administrative penalty shall be offset with the condition that the SEP defined in Attachment A, incorporated herein by reference, is implemented by the Respondent. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Barbara J. [Signature]
For the Executive Director

12/16/13
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]
Signature

October 15, 2013
Date

James I. Manion
Name (Printed or typed)
Authorized Representative of
U.S. Silica Company

Deputy General Counsel & Asst. Secretary
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: 2013-1261-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: U.S. Silica Company
Penalty Amount: Nine Thousand One Dollars (\$9,001)
SEP Offset Amount: Four Thousand Five Hundred Dollars (\$4,500)
Type of SEP: Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator: Texas PTA - *Texas PTA Clean School Buses*
Location of SEP: Texas Air Quality Control Region 212 - Austin - Waco

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 **Texas PTA** for the *Texas PTA Clean School Buses Program* as set forth in an agreement between the Third-Party Administrator and the TCEQ. Specifically, the contribution will be used to reimburse local school districts for the cost of the following activities to reduce emissions: 1) replacing older diesel buses with alternative fueled or clean diesel buses; or 2) retrofitting older diesel buses with new, cleaner technology. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

Respondent certifies that it has no prior commitment to make this contribution and that it is being done solely in an effort to settle this enforcement action.

b. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing particulate emissions from buses by more than 90% below today's level and by reducing hydrocarbons.

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 mail a copy of the Agreed Order with the contribution to:

Director of Finance
Texas PTA
7600 Chevy Chase Drive
Building 2, Suite 300
Austin, Texas 78752

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, Respondent shall provide the Enforcement Division 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:

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

4. Failure to Fully Perform

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

In the event of incomplete performance, Respondent shall include on the check the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. Respondent shall make the payment for the amount due to "Texas Commission on Environmental Quality" and mail it to:

U.S. Silica Company
Agreed Order - Attachment A

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

5. Publicity

Any public statements concerning this SEP 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 identified in this 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.