

Executive Summary – Enforcement Matter – Case No. 48109
JX Nippon Chemical Texas Inc.
RN102887270
Docket No. 2014-0047-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

Nisseki Chemical Texas, 10500 Bay Area Boulevard, Pasadena, 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: April 18, 2014

Comments Received: No

Penalty Information

Total Penalty Assessed: \$8,873

Amount Deferred for Expedited Settlement: \$1,774

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$7,099

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: September 27, 2013

Date(s) of NOE(s): November 21, 2013

Executive Summary – Enforcement Matter – Case No. 48109
JX Nippon Chemical Texas Inc.
RN102887270
Docket No. 2014-0047-AIR-E

Violation Information

1. Failed to certify compliance for at least each 12-month period following initial permit issuance. Specifically, the Respondent submitted an abbreviated Permit Compliance Certification ("PCC") on July 24, 2012 to change the certification period from November 2nd through November 1st to January 1st through December 31st, but did not include November 2 through December 31, 2011 in the PCC that was submitted on January 30, 2013 [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.146(1), TEX. HEALTH & SAFETY CODE § 382.085(b), and Federal Operating Permit ("FOP") No. O3068, General Terms and Conditions ("GTC") and Special Terms and Conditions No. 14].
2. Failed to submit a semi-annual deviation report within 30 days after the end of the reporting period. Specifically, the semi-annual deviation report for the reporting period from November 2, 2011 through May 2, 2012 was due on June 1, 2012, but was not submitted until June 18, 2012 [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(C), FOP No. O3068, GTC, and TEX. HEALTH & SAFETY CODE § 382.085(b)].
3. Failed to report all instances of deviations. Specifically, the semi-annual deviation report for the reporting period from May 3 through June 30, 2012 did not include a deviation for the late semi-annual deviation report that was submitted on June 18, 2012 [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), FOP No. O3068, GTC, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent has implemented the following corrective measures:

- a. On October 22, 2013, developed an internal tracking tool/spreadsheet to ensure timely submittal of semi-annual deviation reports and PCCs;
- b. On October 23, 2013, submitted a PCC for the certification period from November 2 through December 31, 2011; and
- c. By December 5, 2013, implemented measures to ensure that all deviations are identified and reported.

Technical Requirements:

N/A

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Docket No. 2014-0047-AIR-E

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: David Carney, Enforcement Division,
Enforcement Team 5, MC 149, (512) 239-2583; Candy Garrett, Enforcement Division,
MC 219, (512) 239-1456
TCEQ SEP Coordinator: N/A
Respondent: Webster W. Draughon, Vice President of Operations, JX Nippon
Chemical Texas Inc., 10500 Bay Area Boulevard, Pasadena, Texas 77507
Dennis Cranfill, Environmental Specialist, JX Nippon Chemical Texas Inc., 10500 Bay
Area Boulevard, Pasadena, Texas 77507
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	25-Nov-2013	Screening	6-Jan-2014	EPA Due	16-Aug-2014
	PCW	26-Feb-2014				

RESPONDENT/FACILITY INFORMATION

Respondent	JX Nippon Chemical Texas Inc.				
Reg. Ent. Ref. No.	RN102887270				
Facility/Site Region	12-Houston	Major/Minor Source	Major		

CASE INFORMATION

Enf./Case ID No.	48109	No. of Violations	3
Docket No.	2014-0047-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Kimberly Morales
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$7,750**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **39.0%** Enhancement **Subtotals 2, 3, & 7** **\$3,022**

Notes: Enhancement for two orders with denial of liability. Reduction for one notice 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** **-\$1,899**

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

Total EB Amounts \$109
 Approx. Cost of Compliance \$2,250
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$8,873**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$8,873**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$8,873**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$1,774**

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 **\$7,099**

Screening Date 6-Jan-2014

Docket No. 2014-0047-AIR-E

PCW

Respondent JX Nippon Chemical Texas Inc.

Policy Revision 3 (September 2011)

Case ID No. 48109

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102887270

Media [Statute] Air

Enf. Coordinator Kimberly Morales

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>)	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	1	-1%
	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) 39%

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

No

Adjustment Percentage (Subtotal 3) 0%

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

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

Enhancement for two orders with denial of liability. Reduction for one notice of intent to conduct an audit.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 39%

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 39%

Screening Date 6-Jan-2014

Docket No. 2014-0047-AIR-E

PCW

Respondent JX Nippon Chemical Texas Inc.

Policy Revision 3 (September 2011)

Case ID No. 48109

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102887270

Media [Statute] Air

Enf. Coordinator Kimberly Morales

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 122.143(4) and 122.146(1), Tex. Health & Safety Code § 382.085(b), and Federal Operating Permit ("FOP") No. O3068, General Terms and Conditions ("GTC") and Special Terms and Conditions No. 14

Violation Description Failed to certify compliance for at least each 12-month period following initial permit issuance. Specifically, the Respondent submitted an abbreviated annual compliance certification on July 24, 2012 to change the certification period from November 2nd through November 1st to January 1st through December 31st, but did not include November 2 through December 31, 2011 in the permit compliance certification ("PCC") that was submitted on January 30, 2013.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			15.0%

Matrix Notes The Respondent failed to comply with 100% of the rule requirement.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1 Number of violation days 266

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 for the incomplete PCC.

Good Faith Efforts to Comply

25.0% Reduction

\$937

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

Notes The Respondent completed corrective actions on October 23, 2013, before the November 21, 2013 NOE.

Violation Subtotal \$2,813

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$22

Violation Final Penalty Total \$4,276

This violation Final Assessed Penalty (adjusted for limits) \$4,276

Economic Benefit Worksheet

Respondent JX Nippon Chemical Texas Inc.
Case ID No. 48109
Reg. Ent. Reference No. RN102887270
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				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)	\$250	30-Jan-2012	23-Oct-2013	1.73	\$22	n/a	\$22

Notes for DELAYED costs

Estimated cost to submit a PCC for the certification period from November 2 through December 31, 2011. The date required is the date the PCC was due. The final date is the date that corrective actions were completed.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$250

TOTAL

\$22

Screening Date 6-Jan-2014

Docket No. 2014-0047-AIR-E

PCW

Respondent JX Nippon Chemical Texas Inc.

Policy Revision 3 (September 2011)

Case ID No. 48109

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102887270

Media [Statute] Air

Enf. Coordinator Kimberly Morales

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code §§ 122.143(4) and 122.145(2)(C), FOP No. O3068, GTC, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to submit a semi-annual deviation report within 30 days after the end of the reporting period. Specifically, the semi-annual deviation report for the reporting period from November 2, 2011 through May 2, 2012 was due on June 1, 2012, but was not submitted until June 18, 2012.

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

The Respondent failed to comply with 100% of the rule requirement.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

17 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$3,750

One single event is recommended for the late deviation report.

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 completed corrective actions on October 22, 2012, before the November 21, 2013 NOE.

Violation Subtotal \$2,813

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$20

Violation Final Penalty Total \$4,276

This violation Final Assessed Penalty (adjusted for limits) \$4,276

Economic Benefit Worksheet

Respondent JX Nippon Chemical Texas Inc.
Case ID No. 48109
Reg. Ent. Reference No. RN102887270
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
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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	1-Jun-2012	22-Oct-2012	0.39	\$20	n/a	\$20

Notes for DELAYED costs

Estimated cost to develop an internal tracking tool/spreadsheet to ensure timely submittal of semi-annual deviation reports and PCCs. The date required was the due date for the deviation report. The final date is the date that corrective actions were completed.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$20

Screening Date 6-Jan-2014

Docket No. 2014-0047-AIR-E

PCW

Respondent JX Nippon Chemical Texas Inc.

Policy Revision 3 (September 2011)

Case ID No. 48109

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102887270

Media [Statute] Air

Enf. Coordinator Kimberly Morales

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code §§ 122.143(4) and 122.145(2)(A), FOP No. O3068, GTC, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to report all instances of deviations. Specifically, the semi-annual deviation report for the reporting period from May 3 through June 30, 2012 did not include a deviation for the late semi-annual deviation report that was submitted on June 18, 2012.

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 1.0%

Matrix Notes

The Respondent failed to comply with less than 30% of the rule requirement.

Adjustment \$24,750

\$250

Violation Events

Number of Violation Events 1

58 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$250

One single event is recommended for the incomplete deviation report.

Good Faith Efforts to Comply

10.0% Reduction

\$25

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

Notes

The Respondent completed corrective actions by December 5, 2013, after the November 21, 2013 NOE.

Violation Subtotal \$225

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$68

Violation Final Penalty Total \$323

This violation Final Assessed Penalty (adjusted for limits) \$323

Economic Benefit Worksheet

Respondent JX Nippon Chemical Texas Inc.
Case ID No. 48109
Reg. Ent. Reference No. RN102887270
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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				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	30-Jul-2012	5-Dec-2013	1.35	\$68	n/a	\$68

Notes for DELAYED costs

Estimated cost to implement measures to ensure that all deviations are identified and reported. The date required was the due date for the deviation report. The final date is the date that corrective actions were completed.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$68



Compliance History Report

PUBLISHED Compliance History Report for CN600569701, RN102887270, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

Customer, Respondent, or Owner/Operator:	CN600569701, JX Nippon Chemical Texas Inc.	Classification: SATISFACTORY	Rating: 3.87
Regulated Entity:	RN102887270, NISSEKI CHEMICAL TEXAS	Classification: SATISFACTORY	Rating: 3.87
Complexity Points:	21	Repeat Violator:	NO
CH Group:	05 - Chemical Manufacturing		
Location:	10500 BAY AREA BLVD PASADENA, TX 77507-1722, HARRIS COUNTY		
TCEQ Region:	REGION 12 - HOUSTON		

ID Number(s):

POLLUTION PREVENTION PLANNING ID NUMBER P01839	AIR NEW SOURCE PERMITS PERMIT 19624
AIR NEW SOURCE PERMITS ACCOUNT NUMBER HG3626Q	AIR NEW SOURCE PERMITS AFS NUM 4820101289
AIR NEW SOURCE PERMITS REGISTRATION 72263	AIR NEW SOURCE PERMITS REGISTRATION 110889
AIR NEW SOURCE PERMITS REGISTRATION 108918	AIR NEW SOURCE PERMITS REGISTRATION 111016
AIR NEW SOURCE PERMITS REGISTRATION 111014	AIR NEW SOURCE PERMITS REGISTRATION 113590
AIR NEW SOURCE PERMITS REGISTRATION 110888	AIR NEW SOURCE PERMITS REGISTRATION 115384
INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXD988040796	INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 82920
WASTEWATER EPA ID TX0124818	AIR OPERATING PERMITS ACCOUNT NUMBER HG3626Q
AIR OPERATING PERMITS PERMIT 3068	AIR OPERATING PERMITS PERMIT 3068
STORMWATER PERMIT TXR05AJ13	AIR EMISSIONS INVENTORY ACCOUNT NUMBER HG3626Q

Compliance History Period: September 01, 2008 to August 31, 2013 **Rating Year:** 2013 **Rating Date:** 09/01/2013

Date Compliance History Report Prepared: January 06, 2014

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: January 06, 2009 to January 06, 2014

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

Name: Kimberly Morales

Phone: (713) 422-8938

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: 10/27/2012 ADMINORDER 2011-2250-AIR-E (1660 Order-Agreed Order With Denial)
Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Rqmt Prov: Special Conditions No. 16 PERMIT
Special Terms and Conditions No. 11 OP

Description: Failure to conduct monthly monitoring of volatile organic compounds ("VOC") leakage from a cooling tower, Emission Point Number ("EPN") CT-4. Specifically, monthly monitoring for VOC leakage from heat exchangers was required, beginning May 15, 2007

2 Effective Date: 08/08/2013 ADMINORDER 2013-0136-AIR-E (1660 Order-Agreed Order With Denial)
Classification: Moderate
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(C)
5C THSC Chapter 382 382.085(b)
Description: Failure to submit a semiannual deviation report within the required time frame.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	August 06, 2009	(749757)
Item 2	February 10, 2010	(791392)
Item 3	May 19, 2011	(896109)
Item 4	December 05, 2012	(1050217)
Item 5	April 05, 2013	(1076405)

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:

Notice of Intent Date: 07/03/2012 (1016050)

No DOV Associated

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
JX NIPPON CHEMICAL TEXAS
INC.
RN102887270**

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

**AGREED ORDER
DOCKET NO. 2014-0047-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 JX Nippon Chemical Texas Inc. ("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 10500 Bay Area Boulevard in Pasadena, Harris County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The 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 November 26, 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 Eight Thousand Eight Hundred Seventy-Three Dollars (\$8,873) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Seven Thousand Ninety-

Nine Dollars (\$7,099) of the administrative penalty and One Thousand Seven Hundred Seventy-Four Dollars (\$1,774) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:
 - a. On October 22, 2013, developed an internal tracking tool/spreadsheet to ensure timely submittal of semi-annual deviation reports and Permit Compliance Certifications ("PCCs");
 - b. On October 23, 2013, submitted a PCC for the certification period from November 2 through December 31, 2011; and
 - c. By December 5, 2013, implemented measures to ensure that all deviations are identified and reported.
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 certify compliance for at least each 12-month period following initial permit issuance, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.146(1), TEX. HEALTH & SAFETY CODE § 382.085(b), and Federal Operating Permit ("FOP") No. O3068, General Terms and Conditions ("GTC") and Special Terms and Conditions No. 14, as documented during a record review conducted on September 27, 2013. Specifically, the Respondent

submitted an abbreviated PCC on July 24, 2012 to change the certification period from November 2nd through November 1st to January 1st through December 31st, but did not include November 2 through December 31, 2011 in the PCC that was submitted on January 30, 2013.

2. Failed to submit a semi-annual deviation report within 30 days after the end of the reporting period, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(C), FOP No. O3068, GTC, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on September 27, 2013. Specifically, the semi-annual deviation report for the reporting period from November 2, 2011 through May 2, 2012 was due on June 1, 2012, but was not submitted until June 18, 2012.
3. Failed to report all instances of deviations, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), FOP No. O3068, GTC, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on September 27, 2013. Specifically, the semi-annual deviation report for the reporting period from May 3 through June 30, 2012 did not include a deviation for the late semi-annual deviation report that was submitted on June 18, 2012.

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: JX Nippon Chemical Texas Inc., Docket No. 2014-0047-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 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.
3. 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.

4. 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.
5. 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

Pamela Navie
For the Executive Director

5/26/14
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.

W. W. Draughon
Signature

MARCH 18, 2014
Date

WEBSTER W. DRAUGHON
Name (Printed or typed)
Authorized Representative of
JX Nippon Chemical Texas Inc.

VICE PRESIDENT OPERATIONS
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.