

**Executive Summary – Enforcement Matter – Case No. 48435
E. R. Carpenter, L.P.
RN100210830
Docket No. 2014-0424-AIR-E**

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

Roger W Powell Plant, 11002 Choate Road, 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: June 27, 2014

Comments Received: No

Penalty Information

Total Penalty Assessed: \$57,405

Amount Deferred for Expedited Settlement: \$11,480

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$22,963

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$22,962

Name of SEP: Houston-Galveston Area Council-AERCO

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002 and September 2011

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: October 8, 2013 through January 6, 2014

Date(s) of NOE(s): February 28, 2014

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E. R. Carpenter, L.P.
RN100210830
Docket No. 2014-0424-AIR-E

Violation Information

1. Failed to comply with permit representations and emissions limits. Specifically, the Respondent stored a mannich polyol product in Tank F1308F from January 1, 2010 to January 14, 2013 and was not authorized to store this product, resulting in 1.78 pounds of unauthorized methanol emissions [30 TEX. ADMIN. CODE §§ 116.115(c), 116.116(a) and (b), and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), Federal Operating Permit ("FOP") No. O1443, Special Terms and Conditions ("STC") No. 10, and New Source Review Permit ("NSRP") No. 4757, Special Conditions ("SC") Nos. 1 and 16].
2. Failed to monitor a fugitive valve with a hydrocarbon gas analyzer. Specifically, the Respondent inadvertently deleted Valve PSV2111 from the fugitive component monitoring list, and the valve was not monitored for the second and third quarters of 2012 [30 TEX. ADMIN. CODE §§ 101.20(2), 115.354(2)(C), 116.115(c), and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), 40 CODE OF FEDERAL REGULATIONS § 63.168(c), FOP No. O1443, STC Nos. 1A and 10, and NSRP No. 301, SC No. 6.F].
3. Failed to include all instances of deviations. Specifically, the deviation reports covering from July 15, 2010 through January 14, 2013 did not include unauthorized emissions and storage of mannich polyol in Tank F1308F and the failure to quarterly monitor Valve PSV2111 [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), TEX. HEALTH & SAFETY CODE § 382.085(b), and FOP No. O1443, General Terms and Conditions].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent has implemented the following corrective measures:

- a. On November 14, 2012, monitored Valve PSV2111 and added it to the fugitive component monitoring list; and
- b. On January 14, 2013, transferred the mannich polyol product from Tank F1308F into totes.

Technical Requirements:

1. The Order will require the Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)
2. The Order will also require the Respondent to:
 - a. Within 30 days, implement improvements to the recordkeeping system to ensure that all instances of deviations are included in deviation reports; and

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Docket No. 2014-0424-AIR-E**

b. Within 45 days, submit written certification to demonstrate 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: Rajesh Acharya, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-0577; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456
TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565
Respondent: Christopher J. Ruchte, Vice President and General Manager, E. R. Carpenter, L.P., 11002 Choate Road, Pasadena, Texas 77507
Respondent's Attorney: N/A

Attachment A
Docket Number: 2014-0424-AIR-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	E. R. Carpenter, L.P.
Penalty Amount:	Forty-Five Thousand Nine Hundred Twenty-Five Dollars (\$45,925)
SEP Offset Amount:	Twenty-Two Thousand Nine Hundred Sixty-Two Dollars (\$22,962)
Type of SEP:	Contribution to a Third-Party Administrator SEP
Third-Party Administrator:	Houston-Galveston Area Council-AERCO ("AERCO")
Project Name:	<i>Clean Vehicles Partnership Project</i>
Location of SEP: Angelina, Austin, Brazoria, Chambers, Colorado, Fort Bend, Galveston, Hardin, Harris, Houston, Jasper, Jefferson, Liberty, Matagorda, Montgomery, Nacogdoches, Newton, Orange, Polk, Sabine, San Augustine, San Jacinto, Trinity, Tyler, Walker, Waller, and Wharton Counties	

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Houston-Galveston Area Council-AERCO** for the *Clean Vehicles Partnership 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 to replace old, higher emission buses that do not meet 2010 Environmental Protection Agency ("EPA") emissions standards ("Old Buses") with new, lower emission buses that meet the most recent EPA emissions standards ("New Buses") or to retrofit or convert Old Buses with emissions reducing equipment. The Third-Party Administrator shall allocate the SEP Offset Amount to public entities such as school districts, local governments, and public transit authorities ("SEP Administrators") that apply for replacement, retrofit, or conversion of buses.

The SEP Offset Amount may also be used for retrofit or conversion technology that brings an Old Bus up to current EPA emissions standards. New Buses may be

E. R. Carpenter, L.P.
Agreed Order - Attachment A

alternative-fueled. The SEP Offset Amount may be used for up to 100% of the replacement, conversion, or retrofit cost. The SEP Offset Amount will be used only for purchase of New Buses or conversion or retrofit equipment and contract labor for installation of equipment. The SEP Offset Amount will not be used for financing such a purchase through a lease-purchase or similar agreement.

Retrofitting means reducing exhaust emissions to current standards by installing devices that are verified or certified by the EPA or the California Air Resources Board as proven retrofit technologies. Converting means replacing an engine system with an alternative fuel engine system to bring the Old Bus within the current EPA emissions standards. Buses to be replaced, retrofitted, or converted must be in regular use (driven at least five hundred miles per year for at least the past two years) by the SEP Administrator and must not already be scheduled for replacement in the following twenty-four months. All replaced buses must be fully decommissioned. The Third-Party Administrator shall provide proof of decommissioning to TCEQ for each replaced vehicle by submitting a copy of the TCEQ SEP Vehicle Replacement Disposition Form. 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.

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

b. Environmental Benefit

This SEP will directly benefit air quality by reducing harmful exhaust emissions that contribute to the formation of ozone and may cause or exacerbate a number of respiratory diseases, including asthma. For example, by replacing a 1989 diesel bus with a 2010 ultra-low emission model, passengers' exposure to nitrogen oxides may be reduced by 98 percent; volatile organic compounds by 93 percent; carbon dioxide by 83 percent; and particulate matter by 99 percent. In addition, by encouraging less bus idling, this SEP contributes to public awareness of air pollution and air quality.

c. Minimum Expenditure

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

E. R. Carpenter, L.P.
Agreed Order - Attachment A

2. Performance Schedule

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

Houston-Galveston Area Council-AERCO
P.O. Box 22777
Houston, Texas 77227-2777

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. The Respondent shall mail a copy of the check and transmittal letter to:

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

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this 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 the Respondent failed to fully implement and complete the Project, the 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, the 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:

E. R. Carpenter, L.P.
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 the Respondent must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

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



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	4-Mar-2014	Screening	13-Mar-2014	EPA Due	
	PCW	13-Mar-2014				

RESPONDENT/FACILITY INFORMATION

Respondent	E. R. Carpenter, L.P.		
Reg. Ent. Ref. No.	RN100210830		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	48435	No. of Violations	2	
Docket No.	2014-0424-AIR-E	Order Type	1660	
Media Program(s)	Air	Government/Non-Profit	No	
Multi-Media		Enf. Coordinator	Rajesh Acharya	
		EC's Team	Enforcement Team 4	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement **Subtotals 2, 3, & 7**

Notes

Culpability Enhancement **Subtotal 4**

Notes

Good Faith Effort to Comply Total Adjustments **Subtotal 5**

Economic Benefit Enhancement* **Subtotal 6**

Total EB Amounts
 Approx. Cost of Compliance *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Notes

PAYABLE PENALTY

Screening Date 13-Mar-2014

Docket No. 2014-0424-AIR-E

PCW

Respondent E. R. Carpenter, L.P.

Policy Revision 2 (September 2002)

Case ID No. 48435

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100210830

Media [Statute] Air

Enf. Coordinator Rajesh Acharya

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 (number of NOVs meeting criteria)	2	10%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	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 (number of judgements or consent decrees meeting criteria)	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	1	35%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	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 (number of audits for which notices were submitted)	1	-1%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	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 two NOVs with same/similar violations, one order with a denial of liability, and one court order without a denial of liability. Reduction for one notice of intent to conduct an audit.

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

Screening Date 13-Mar-2014
 Respondent E. R. Carpenter, L.P.
 Case ID No. 48435

Docket No. 2014-0424-AIR-E

PCW

Policy Revision 2 (September 2002)
 PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100210830

Media [Statute] Air

Enf. Coordinator Rajesh Acharya

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(c), 116.116(a) and (b), and 122.143(4), Tex. Health & Safety Code § 382.085(b), Federal Operating Permit No. 01443, Special Terms and Conditions No. 10, and New Source Review Permit No. 4757, Special Conditions Nos. 1 and 16

Violation Description Failed to comply with permit representations and emissions limits. Specifically, the Respondent stored a mannich polyol product in Tank F1308F from January 1, 2010 to January 14, 2013 and was not authorized to store this product, resulting in 1.78 pounds of unauthorized methanol emissions.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			x	25%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				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 the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 13 1109 Number of violation days

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

Violation Base Penalty \$32,500

Thirteen quarterly events are recommended from January 1, 2010 through January 14, 2013.

Good Faith Efforts to Comply

25.0% Reduction \$8,125

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

Notes

The Respondent came into compliance on January 14, 2013, before the Notice of Enforcement dated February 28, 2014.

Violation Subtotal \$24,375

Economic Benefit (EB) for this violation

Estimated EB Amount \$760

Statutory Limit Test

Violation Final Penalty Total \$45,175

This violation Final Assessed Penalty (adjusted for limits) \$45,175

Economic Benefit Worksheet

Respondent E. R. Carpenter, L.P.
Case ID No. 48435
Reg. Ent. Reference No. RN100210830
Media Air
Violation No. 1

Percent Interest 5.0
Years of Depreciation 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)	\$5,000	1-Jan-2010	14-Jan-2013	3.04	\$760	n/a	\$760

Notes for DELAYED costs

Estimated cost to transfer mannich polyol product into totes. Date Required is the first date of non-compliance. Final Date is the date mannich polyol product was transferred to the totes.

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 \$5,000

TOTAL \$760

Screening Date 13-Mar-2014

Docket No. 2014-0424-AIR-E

PCW

Respondent E. R. Carpenter, L.P.

Policy Revision 2 (September 2002)

Case ID No. 48435

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100210830

Media [Statute] Air

Enf. Coordinator Rajesh Acharya

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 122.143(4) and 122.145(2)(A), Tex. Health & Safety Code § 382.085(b), and FOP No. O1443, General Terms and Conditions

Violation Description Failed to include all instances of deviations. Specifically, the deviation report covering from July 15, 2010 through January 14, 2011 did not include unauthorized emissions and storage of mannich polyol in Tank F1308F.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
			x	1%

Matrix Notes Less than 20% of the rule requirement was not met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 183

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

Violation Base Penalty \$100

One single event is recommended.

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 \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$92

Violation Final Penalty Total \$164

This violation Final Assessed Penalty (adjusted for limits) \$164

Economic Benefit Worksheet

Respondent E. R. Carpenter, L.P.

Case ID No. 48435

Reg. Ent. Reference No. RN100210830

Media Air

Violation No. 2

Percent Interest 5.0 | **Years of Depreciation** 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)	\$500	14-Feb-2011	15-Oct-2014	3.67	\$92	n/a	\$92

Notes for DELAYED costs

Estimated cost to implement improvements to the recordkeeping system to ensure that all deviations are completely reported. Date Required is the date the first complete deviation report was due. Final Date is the estimated date of compliance.

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

\$500

TOTAL

\$92



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ
DATES

Assigned	4-Mar-2014	Screening	13-Mar-2014	EPA Due	
PCW	13-Mar-2014				

RESPONDENT/FACILITY INFORMATION

Respondent	E. R. Carpenter, L.P.		
Reg. Ent. Ref. No.	RN100210830		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	48435	No. of Violations	2	
Docket No.	2014-0424-AIR-E	Order Type	1660	
Media Program(s)	Air	Government/Non-Profit	No	
Multi-Media		Enf. Coordinator	Rajesh Acharya	
		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**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement **Subtotals 2, 3, & 7**

Notes: Enhancement for two NOV's with same/similar violations, one order with a denial of liability, and one court order without a denial of liability. Reduction for one notice of intent to conduct an audit.

Culpability Enhancement **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5**

Economic Benefit Enhancement* **Subtotal 6**

Total EB Amounts
Approx. Cost of Compliance
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided cost of compliance associated with Violation No. 1.

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Screening Date 13-Mar-2014

Docket No. 2014-0424-AIR-E

PCW

Respondent E. R. Carpenter, L.P.

Policy Revision 3 (September 2011)

Case ID No. 48435

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100210830

Media [Statute] Air

Enf. Coordinator Rajesh Acharya

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>)	2	10%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	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 judgments 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	1	35%
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) 64%

>> 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 NOVs with same/similar violations, one order with a denial of liability, and one court order without a denial of liability. Reduction for one notice of intent to conduct an audit.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 64%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 64%

Screening Date 13-Mar-2014
 Respondent E. R. Carpenter, L.P.
 Case ID No. 48435

Docket No. 2014-0424-AIR-E

PCW

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

Reg. Ent. Reference No. RN100210830

Media [Statute] Air

Enf. Coordinator Rajesh Acharya

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 101.20(2), 115.354(2)(C), 116.115(c), and 122.143(4),
 Tex. Health & Safety Code § 382.085(b), 40 Code of Federal Regulations §
 63.168(c), Federal Operating Permit ("FOP") No. O1443, Special Terms and
 Conditions Nos. 1A and 10, and New Source Review Permit No. 301, Special
 Conditions No. 6.F

Violation Description

Failed to monitor a fugitive valve with a hydrocarbon gas analyzer. Specifically, the Respondent inadvertently deleted Valve PSV2111 from the fugitive component monitoring list, and the valve was not monitored for the second and third quarters of 2012.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	15.0%
Potential				

>> 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 the violation. Estimated emissions of 1.21 pounds of volatile organic compounds for the months not monitored were calculated utilizing the Facility/Compound Specific Fugitive Emission Factors in the "Air Permits Technical Guidance for Chemical Sources: Equipment Leak Fugitives."

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 2 Number of violation days 137

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

Violation Base Penalty \$7,500

Two quarterly events are recommended for the two quarters that the valve was not monitored.

Good Faith Efforts to Comply

25.0% Reduction \$1,875

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

Notes The Respondent came into compliance on November 14, 2012, before the NOE dated February 28, 2014.

Violation Subtotal \$5,625

Economic Benefit (EB) for this violation

Estimated EB Amount \$5

Statutory Limit Test

Violation Final Penalty Total \$10,426

This violation Final Assessed Penalty (adjusted for limits) \$10,426

Economic Benefit Worksheet

Respondent E. R. Carpenter, L.P.
Case ID No. 48435
Reg. Ent. Reference No. RN100210830
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$200	30-Jun-2012	14-Nov-2012	0.38	\$4	n/a	\$4

Notes for DELAYED costs

Estimated cost to implement procedures to monitor the fugitive valve on a quarterly basis. Date Required is the initial date of noncompliance. Final Date is the compliance date.

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	\$3	30-Jun-2012	30-Sep-2012	0.25	\$0	\$1	\$1
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

Estimated cost to monitor the valve (\$0.65 per quarter per component * 1 component * 4 quarters/year). Date Required is the date the 2012 second quarter monitoring was due. Final Date is the 2012 third quarter monitoring was due.

Approx. Cost of Compliance

\$203

TOTAL

\$5

Screening Date 13-Mar-2014
 Respondent E. R. Carpenter, L.P.
 Case ID No. 48435

Docket No. 2014-0424-AIR-E

PCW

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

Reg. Ent. Reference No. RN100210830
 Media [Statute] Air
 Enf. Coordinator Rajesh Acharya
 Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 122.143(4) and 122.145(2)(A), Tex. Health & Safety Code § 382.085(b), and FOP No. O1443, General Terms and Conditions

Violation Description

Failed to include all instances of deviations. Specifically, the deviation reports covering from January 15, 2011 through January 14, 2013 did not include unauthorized emissions and storage of mannich polyol in Tank F1308F and the failure to quarterly monitor Valve PSV2111.

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	1.0%

Matrix Notes

Less than 20% of the rule requirement was not met.

Adjustment \$24,750

\$250

Violation Events

Number of Violation Events 4 730 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,000

Five single events (one for each incomplete deviation report) are recommended.

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 \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$1,640

This violation Final Assessed Penalty (adjusted for limits) \$1,640

Economic Benefit Worksheet

Respondent E. R. Carpenter, L.P.
Case ID No. 48435
Reg. Ent. Reference No. RN100210830
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

Economic Benefit calculated in accompanying PCW.

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

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.



Compliance History Report

PUBLISHED Compliance History Report for CN600125058, RN100210830, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

Customer, Respondent, or Owner/Operator: CN600125058, E. R. Carpenter, L.P. **Classification:** SATISFACTORY **Rating:** 4.50
Regulated Entity: RN100210830, ROGER W POWELL PLANT **Classification:** SATISFACTORY **Rating:** 9.00
Complexity Points: 18 **Repeat Violator:** NO
CH Group: 05 - Chemical Manufacturing
Location: 11002 CHOATE RD PASADENA, TX 77507-1500, HARRIS COUNTY
TCEQ Region: REGION 12 - HOUSTON

ID Number(s):

**AIR OPERATING PERMITS ACCOUNT NUMBER HG0141U
PUBLIC WATER SYSTEM/SUPPLY REGISTRATION
1012855
AIR NEW SOURCE PERMITS REGISTRATION 92908
AIR NEW SOURCE PERMITS ACCOUNT NUMBER HG0141U
AIR NEW SOURCE PERMITS PERMIT 3678
AIR NEW SOURCE PERMITS REGISTRATION 10948
AIR NEW SOURCE PERMITS REGISTRATION 17780
AIR NEW SOURCE PERMITS REGISTRATION 54697
AIR NEW SOURCE PERMITS REGISTRATION 74632
AIR NEW SOURCE PERMITS REGISTRATION 78536
AIR NEW SOURCE PERMITS REGISTRATION 79155
AIR NEW SOURCE PERMITS REGISTRATION 80032
AIR NEW SOURCE PERMITS REGISTRATION 84022
AIR NEW SOURCE PERMITS REGISTRATION 86763
AIR NEW SOURCE PERMITS REGISTRATION 85695
AIR NEW SOURCE PERMITS REGISTRATION 88688
AIR NEW SOURCE PERMITS REGISTRATION 92099
AIR NEW SOURCE PERMITS REGISTRATION 98536
AIR NEW SOURCE PERMITS REGISTRATION 104015
AIR NEW SOURCE PERMITS REGISTRATION 103150
AIR NEW SOURCE PERMITS REGISTRATION 105409
AIR NEW SOURCE PERMITS REGISTRATION 115843
AIR NEW SOURCE PERMITS REGISTRATION 106822**

**INDUSTRIAL AND HAZARDOUS WASTE EPA ID
TXD077874576
STORMWATER PERMIT TXR05L659**

**POLLUTION PREVENTION PLANNING ID NUMBER
P00109**

**AIR OPERATING PERMITS PERMIT 1443
AIR NEW SOURCE PERMITS AFS NUM 4820100292
AIR NEW SOURCE PERMITS REGISTRATION 30064
AIR NEW SOURCE PERMITS PERMIT 301
AIR NEW SOURCE PERMITS PERMIT 4757
AIR NEW SOURCE PERMITS REGISTRATION 15161
AIR NEW SOURCE PERMITS REGISTRATION 26403
AIR NEW SOURCE PERMITS REGISTRATION 73653
AIR NEW SOURCE PERMITS REGISTRATION 75297
AIR NEW SOURCE PERMITS REGISTRATION 78684
AIR NEW SOURCE PERMITS REGISTRATION 80206
AIR NEW SOURCE PERMITS REGISTRATION 81463
AIR NEW SOURCE PERMITS REGISTRATION 83948
AIR NEW SOURCE PERMITS REGISTRATION 88674
AIR NEW SOURCE PERMITS REGISTRATION 85690
AIR NEW SOURCE PERMITS REGISTRATION 92683
AIR NEW SOURCE PERMITS REGISTRATION 93442
AIR NEW SOURCE PERMITS REGISTRATION 101563
AIR NEW SOURCE PERMITS REGISTRATION 104445
AIR NEW SOURCE PERMITS REGISTRATION 110561
AIR NEW SOURCE PERMITS REGISTRATION 106292
AIR NEW SOURCE PERMITS REGISTRATION 104791
AIR NEW SOURCE PERMITS REGISTRATION 117617
INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE
REGISTRATION # (SWR) 31017
AIR EMISSIONS INVENTORY ACCOUNT NUMBER
HG0141U**

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

Date Compliance History Report Prepared: March 12, 2014

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: March 12, 2009 to March 12, 2014

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

Name: Rajesh Acharya

Phone: (512) 239-0577

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: 02/08/2011 COURTORDER (Final Judgement-Agreed Order Without Denial)
Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(H)(i)
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)
Rqmt Prov:301, Special Condition 1 PERMIT
Description: Failed to prevent an unauthorized emission.

- 2 Effective Date: 09/16/2012 ADMINORDER 2012-0784-AIR-E (1660 Order-Agreed Order With Denial)
Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.163(b)(1)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT PPP 63.1434(a)
5C THSC Chapter 382 382.085(b)
Rqmt Prov:General Terms and Conditions OP
SC 2 PERMIT
Description: Failed to conduct monthly LDAR monitoring on pumps in HAP service. Specifically, two pumps, EPNs G2104A and G2104B, were in HAP service for two days.
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:SC 11C PERMIT
ST&C 10 OP
Description: Failed to prevent visible emissions from the flare from exceeding a total of five minutes during any two consecutive hours. Specifically, there were intermittent visible emissions from the flare, EPN P3FL1, on May 4, 2011 from 20:45 to 21:00, and on May 11, 2011 from 15:00 to 15:15, while pulling a vacuum on an MX product batch.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

- Item 1 March 26, 2012 (968865)
- Item 2 May 11, 2012 (996489)
- Item 3 September 11, 2013 (1117029)

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

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

- 1 Date: 08/06/2013 (1028737) CN600125058
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)(ii)

30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
FOP, Special Term and Condition 1A OP

Description: Failure to record 98% of the required flare observations. Category C3 violation
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT PPP 63.1434(a)
5C THSC Chapter 382 382.085(b)
FOP, Special Term and Condition (STC) 1A OP
FOP, STC 10 OP
NSR, SC 3H PERMIT
NSR, Special Condition (SC) 2 PERMIT

Description: Failure to repair a leaking pump seal (ID G3306K) within 15 days. Category B1 violation

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.167(a)(1)
5C THSC Chapter 382 382.085(b)
FOP, STC 10 OP
NSR, SC 3C PERMIT
NSR, SC 6E PERMIT

Description: Failure to equip open-ended lines (OELs) with a cap, plug, flange or second valve. Category C10 violation

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
FOP, STC 10 OP
NSR, SC 3H PERMIT

Description: Failure to tag a leaking connector. Category C3 violation

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
FOP, General Terms and Conditions OP

Description: Failure to obtain authorization for diethylene glycol monobutyl ether emissions from the P1 flare when used a reactant at the P1 reactor, and particulate emissions from the P1 filterdeck during solids addition to a mix tank. Category B3 violation

2 Date: 02/28/2014 (1116459) CN600125058

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
FOP Special Term & Condition 10 OP
NSR Special Condition 13B PERMIT

Description: Failure to maintain 1,2-Dimethylimidazole (DMI) in only two tanks at any one time. [C4]

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)(ii)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
FOP Special Term & Condition 1A OP

Description: Failure to record 98% of the daily flare observation for EPN P1FL1 and P6FL1. [C3]

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.11(b)(5)
5C THSC Chapter 382 382.085(b)
FOP Special Term & Condition 10 OP
FOP Special Term & Condition 1A OP
NSR Special Condition 11B PERMIT

Description: Failure to continuously monitor the flare's (EPN P6FL1) thermocouple. [C1]

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter D 115.354(5)
30 TAC Chapter 116, SubChapter B 116.115(c)

30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT PPP 63.1434(a)
5C THSC Chapter 382 382.085(b)
FOP Special Term & Condition 10 OP

FOP Special Term & Condition 1A OP
NSR Special Condition 4H PERMIT
NSR Special Condition 6H PERMIT

Description: Failure to tag a leaking pump seal (G-306D) and valve (P2PUFE). [C4]
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT PPP 63.1434(a)
5C THSC Chapter 382 382.085(b)
FOP Special Term & Condition 10 OP
FOP Special Term & Condition 1A OP
NSR Special Condition 6E PERMIT

Description: Failure to seal an open-ended valve or line with a cap, blind flange, plug, or a second valve. [C10]

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT PPP 63.1430(d)(1)
5C THSC Chapter 382 382.085(b)
FOP Special Term & Condition 10 OP
FOP Special Term & Condition 1A OP
NSR Special Condition 2 PERMIT

Description: Failure to maintain flare (P4FL1) pilot temperature. [C1]
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.11(b)(4)
5C THSC Chapter 382 382.085(b)
FOP Special Term & Condition 10 OP
FOP Special Term & Condition 1A OP
NSR Special Condition 11C PERMIT
NSR Special Condition 8C PERMIT
NSR Special Condition 9C PERMIT

Description: Failure to prevent unauthorized visible emissions from flares (P1FL1 & P3FL1). [B14]

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.11(b)(6)(ii)
5C THSC Chapter 382 382.085(b)
FOP Special Condition 1A OP
FOP Special Term & Condition 10 OP
NSR Special Condition 11A PERMIT

Description: Failure to maintain flare (P5FL1) heating value above 200 Btu/scf. [C4]
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.142(b)(2)(A)
5C THSC Chapter 382 382.085(b)
FOP General Terms and Conditions OP

Description: Failure to include PBR 106.373 in Title V permit O-01443. [B3]
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 106, SubChapter A 106.6(b)
30 TAC Chapter 116, SubChapter B 116.110(a)(4)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
FOP Special Term & Condition 11 OP

Description: Failure to authorize methanol and formaldehyde emissions and to prevent unauthorized storage of Mannich polyol product from tank (F310D). [B14]

F. Environmental audits:

Notice of Intent Date: 12/04/2012 (1058247)
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
E. R. CARPENTER, L.P.
RN100210830**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2014-0424-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 E. R. Carpenter, L.P. ("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 11002 Choate Road 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 March 5, 2014.
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 Fifty-Seven Thousand Four Hundred Five Dollars (\$57,405) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Twenty-Two Thousand Nine Hundred Sixty-Three Dollars (\$22,963) of the administrative penalty and Eleven

Thousand Four Hundred Eighty Dollars (\$11,480) 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. Twenty-Two Thousand Nine Hundred Sixty-Two Dollars (\$22,962) 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. On November 14, 2012, monitored Valve PSV2111 and added it to the fugitive component monitoring list; and
 - b. On January 14, 2013, transferred the mannich polyol product from Tank F1308F into totes.
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 comply with permit representations and emissions limits, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c), 116.116(a) and (b), and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), Federal Operating Permit ("FOP") No. 01443, Special Terms and Conditions ("STC") No. 10, and New Source Review Permit ("NSRP") No. 4757, Special Conditions ("SC") Nos. 1 and 16, as documented during an investigation conducted on October 8, 2013 through January 6, 2014. Specifically, the Respondent stored a mannich polyol product in Tank F1308F from January 1, 2010 to January 14,

2013 and was not authorized to store this product, resulting in 1.78 pounds of unauthorized methanol emissions.

2. Failed to monitor a fugitive valve with a hydrocarbon gas analyzer, in violation of 30 TEX. ADMIN. CODE §§ 101.20(2), 115.354(2)(C), 116.115(c), and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), 40 CODE OF FEDERAL REGULATIONS § 63.168(c), FOP No. O1443, STC Nos. 1A and 10, and NSRP No. 301, SC No. 6.F, as documented during an investigation conducted on October 8, 2013 through January 6, 2014. Specifically, the Respondent inadvertently deleted Valve PSV2111 from the fugitive component monitoring list, and the valve was not monitored for the second and third quarters of 2012.
3. Failed to include 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. O1443, General Terms and Conditions, as documented during an investigation conducted on October 8, 2013 through January 6, 2014. Specifically, the deviation reports covering from July 15, 2010 through January 14, 2013 did not include unauthorized emissions and storage of mannich polyol in Tank F1308F and the failure to quarterly monitor Valve PSV2111.

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: E. R. Carpenter, L.P., Docket No. 2014-0424-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, Twenty-Two Thousand Nine Hundred Sixty-Two Dollars (\$22,962) of the assessed administrative penalty shall be offset with the condition that the Respondent implements 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, implement improvements to the recordkeeping system to ensure that all instances of deviations are included in deviation reports; and
 - 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

Pamela Marie J
For the Executive Director

7/23/14
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.

Chris J. Ruchte
Signature

5-29-14
Date

CHRIS J. RUCHE
Name (Printed or typed)
Authorized Representative of
E. R. Carpenter, L.P.

VP of Ops
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: 2014-0424-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	E. R. Carpenter, L.P.
Penalty Amount:	Forty-Five Thousand Nine Hundred Twenty-Five Dollars (\$45,925)
SEP Offset Amount:	Twenty-Two Thousand Nine Hundred Sixty-Two Dollars (\$22,962)
Type of SEP:	Contribution to a Third-Party Administrator SEP
Third-Party Administrator:	Houston-Galveston Area Council-AERCO ("AERCO")
Project Name:	<i>Clean Vehicles Partnership Project</i>
Location of SEP: Angelina, Austin, Brazoria, Chambers, Colorado, Fort Bend, Galveston, Hardin, Harris, Houston, Jasper, Jefferson, Liberty, Matagorda, Montgomery, Nacogdoches, Newton, Orange, Polk, Sabine, San Augustine, San Jacinto, Trinity, Tyler, Walker, Waller, and Wharton Counties	

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Houston-Galveston Area Council-AERCO** for the *Clean Vehicles Partnership 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 to replace old, higher emission buses that do not meet 2010 Environmental Protection Agency ("EPA") emissions standards ("Old Buses") with new, lower emission buses that meet the most recent EPA emissions standards ("New Buses") or to retrofit or convert Old Buses with emissions reducing equipment. The Third-Party Administrator shall allocate the SEP Offset Amount to public entities such as school districts, local governments, and public transit authorities ("SEP Administrators") that apply for replacement, retrofit, or conversion of buses.

The SEP Offset Amount may also be used for retrofit or conversion technology that brings an Old Bus up to current EPA emissions standards. New Buses may be

alternative-fueled. The SEP Offset Amount may be used for up to 100% of the replacement, conversion, or retrofit cost. The SEP Offset Amount will be used only for purchase of New Buses or conversion or retrofit equipment and contract labor for installation of equipment. The SEP Offset Amount will not be used for financing such a purchase through a lease-purchase or similar agreement.

Retrofitting means reducing exhaust emissions to current standards by installing devices that are verified or certified by the EPA or the California Air Resources Board as proven retrofit technologies. Converting means replacing an engine system with an alternative fuel engine system to bring the Old Bus within the current EPA emissions standards. Buses to be replaced, retrofitted, or converted must be in regular use (driven at least five hundred miles per year for at least the past two years) by the SEP Administrator and must not already be scheduled for replacement in the following twenty-four months. All replaced buses must be fully decommissioned. The Third-Party Administrator shall provide proof of decommissioning to TCEQ for each replaced vehicle by submitting a copy of the TCEQ SEP Vehicle Replacement Disposition Form. 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.

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

b. Environmental Benefit

This SEP will directly benefit air quality by reducing harmful exhaust emissions that contribute to the formation of ozone and may cause or exacerbate a number of respiratory diseases, including asthma. For example, by replacing a 1989 diesel bus with a 2010 ultra-low emission model, passengers' exposure to nitrogen oxides may be reduced by 98 percent; volatile organic compounds by 93 percent; carbon dioxide by 83 percent; and particulate matter by 99 percent. In addition, by encouraging less bus idling, this SEP contributes to public awareness of air pollution and air quality.

c. Minimum Expenditure

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

E. R. Carpenter, L.P.
Agreed Order - Attachment A

2. Performance Schedule

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

Houston-Galveston Area Council-AERCO
P.O. Box 22777
Houston, Texas 77227-2777

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. The Respondent shall mail a copy of the check and transmittal letter to:

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

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this 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 the Respondent failed to fully implement and complete the Project, the 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, the 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:

E. R. Carpenter, L.P.
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 the Respondent must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

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