

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE No. 47904
SOUTHERN MANUFACTURING CO., L.L.C.
RN100218957
Docket No. 2013-2026-AIR-E

Order Type:

Agreed Order

Media:

AIR

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

6287 Gulfway Drive, Groves, Jefferson County

Type of Operation:

fiberglass manufacturing plant

Other Significant Matters:

Additional Pending Enforcement Actions: None
Past-Due Penalties: None
Past-Due Fees: \$36.79 (Account No. 0501945)
Other: None
Interested Third-Parties: None

Texas Register Publication Date: May 8, 2015

Comments Received: None

Penalty Information

Total Penalty Assessed: \$12,000

Deferred for Financial Inability to Pay: \$10,800

Total Paid to General Revenue: \$100

Total Due to General Revenue: \$1,100

Payment Plan: 11 payments of \$100 each

Compliance History Classifications:

Person/CN – Satisfactory
Site/RN – Satisfactory

Major Source: Yes

Statutory Limit Adjustment: None

Applicable Penalty Policy: September 2002 (PCW 1); September 2011 (PCW 2)

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: September 30, 2013; October 25, 2013

Date(s) of NOV(s): N/A

Date(s) of NOE(s): October 11, 2013

Violation Information

1. Failed to certify compliance with the terms and conditions of Federal Operating Permit (“FOP”) No. O2880 for at least each twelve-month period following initial permit issuance, and failed to submit a semi-annual deviation report no later than thirty days after the reporting period (permit compliance certifications (“PCCs”) and semi-annual deviation reports) [TEX. HEALTH & SAFETY CODE § 382.085(b); 30 TEX. ADMIN. CODE §§ 122.143(4), 122.145(2)(B), and 122.146; and FOP No. O2880, General Terms and Conditions].
2. Failed to pay toxic release inventory reporting fees and/or any associated late fees for TCEQ Financial Administration (“FA”) Account No. 0501945 for Reporting Year 2009 [TEX. WATER CODE § 5.702 and TEX. HEALTH & SAFETY CODE § 370.008].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent voided its Title V FOP (No. O2880) on July 10, 2014.

Technical Requirements:

1. Within 30 days:
 - a. Submit the PCCs for the July 26, 2010 through July 25, 2011 and July 26, 2011 through July 25, 2012 certification periods, and the semi-annual deviation report for the July 26, 2011 through January 25, 2012 reporting period; and
 - b. Submit payment for all outstanding fees, including any associated penalties and interest, for FA Account No. 0501945.
2. Within 45 days, submit written certification to demonstrate compliance.

Litigation Information

Date Petition(s) Filed: March 10, 2014 (EDPRP); March 12, 2015 (EDFARP)
Date Answer Filed: May 30, 2014
SOAH Referral Date: July 2, 2014
Hearing Date(s):
Preliminary hearing: September 4, 2014
Evidentiary hearing: May 8, 2015 (scheduled)
Settlement Date: March 29, 2015

Contact Information

TCEQ Attorneys: Jess Robinson, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Eli Martinez, Public Interest Counsel, (512) 239-6363
TCEQ Enforcement Coordinator: Jessica Schildwachter, Enforcement Division, (512) 239-2617
TCEQ Regional Contact: Sarah Kirksey, Beaumont Regional Office, (409) 898-3838
Respondent Contact: Valeri Varnado, Director, SOUTHERN MANUFACTURING CO., L.L.C.,
P.O. Box 849, Groves, Texas 77619
Respondent's Attorney: Brian Mills, Creighton, Fox, Johnson & Mills, PLLC, 3535 Calder Avenue,
Suite 310, Beaumont, Texas 77706



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

| | | | | | |
|--------------|-----------------|-------------|------------------|------------|---------------------------|
| DATES | Assigned | 14-Oct-2013 | | | |
| | PCW | 31-Jan-2014 | Screening | 1-Nov-2013 | EPA Due 8-Jul-2014 |

RESPONDENT/FACILITY INFORMATION

| | | |
|-----------------------------|------------------------------------|---------------------------------|
| Respondent | SOUTHERN MANUFACTURING CO., L.L.C. | |
| Reg. Ent. Ref. No. | RN100218957 | |
| Facility/Site Region | 10-Beaumont | Major/Minor Source Major |

CASE INFORMATION

| | | | |
|--|-----------------|------------------------------|-----------------------|
| Enf./Case ID No. | 47904 | No. of Violations | 1 |
| Docket No. | 2013-2026-AIR-E | Order Type | 1660 |
| Media Program(s) | Air | Government/Non-Profit | No |
| Multi-Media | | Enf. Coordinator | Jessica Schildwachter |
| | | EC's Team | Enforcement Team 5 |
| Admin. Penalty \$ Limit Minimum | \$0 | Maximum | \$10,000 |

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$2,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **20.0%** Enhancement **Subtotals 2, 3, & 7** **\$500**

Notes Enhancement for one order with denial of liability.

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

Notes The Respondent does not meet the culpability criteria.

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

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

Total EB Amounts \$0
Approx. Cost of Compliance \$0

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$3,000**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$3,000**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$3,000**

DEFERRAL **0.0%** Reduction **Adjustment** **\$0**

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

Notes

Deferral not offered for non-expedited settlement.

PAYABLE PENALTY **\$3,000**

Screening Date 1-Nov-2013

Docket No. 2013-2026-AIR-E

PCW

Respondent SOUTHERN MANUFACTURING CO., L.L.C.

Policy Revision 2 (September 2002)

Case ID No. 47904

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100218957

Media [Statute] Air

Enf. Coordinator Jessica Schildwachter

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>) | 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 judgements or consent decrees meeting criteria</i>) | 0 | 0% |
| | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government | 0 | 0% |
| Convictions | Any criminal convictions of this state or the federal government (<i>number of counts</i>) | 0 | 0% |
| Emissions | Chronic excessive emissions events (<i>number of events</i>) | 0 | 0% |
| Audits | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>) | 0 | 0% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>) | 0 | 0% |
| <i>Please Enter Yes or No</i> | | | |
| Other | Environmental management systems in place for one year or more | No | 0% |
| | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program | No | 0% |
| | Participation in a voluntary pollution reduction program | No | 0% |
| | Early compliance with, or offer of a product that meets future state or federal government environmental requirements | No | 0% |

Adjustment Percentage (Subtotal 2)

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

Adjustment Percentage (Subtotal 3)

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

Adjustment Percentage (Subtotal 7)

>> **Compliance History Summary**

Compliance History Notes

Enhancement for one order with denial of liability.

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

| | | | | |
|--------------------------------|------------------------------------|-------------------|-----------------|---|
| Screening Date | 1-Nov-2013 | Docket No. | 2013-2026-AIR-E | PCW |
| Respondent | SOUTHERN MANUFACTURING CO., L.L.C. | | | <i>Policy Revision 2 (September 2002)</i> |
| Case ID No. | 47904 | | | <i>PCW Revision October 30, 2008</i> |
| Reg. Ent. Reference No. | RN100218957 | | | |
| Media [Statute] | Air | | | |
| Enf. Coordinator | Jessica Schildwachter | | | |

Violation Number

Rule Cite(s) 30 Tex. Admin. Code §§ 122.143(4) and 122.146, Tex. Health & Safety Code § 382.085(b), and Federal Operating Permit No. O2880, General Terms and Conditions

Violation Description Failed to certify compliance with the terms and conditions of the permit for at least each 12-month period following initial permit issuance. Specifically, the permit compliance certification was not submitted for the July 26, 2010 through July 25, 2011 certification period.

Base Penalty

>> Environmental, Property and Human Health Matrix

| OR | Release | Harm | | | Percent |
|----|-----------|----------------------|----------------------|----------------------|---------------------------------|
| | | Major | Moderate | Minor | |
| | Actual | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text" value="0%"/> |
| | Potential | <input type="text"/> | <input type="text"/> | <input type="text"/> | |

>> Programmatic Matrix

| | Falsification | Major | Moderate | Minor | Percent |
|--|----------------------|---|----------------------|----------------------|----------------------------------|
| | <input type="text"/> | <input checked="" type="text" value="x"/> | <input type="text"/> | <input type="text"/> | <input type="text" value="25%"/> |

Matrix Notes

100% of the rule requirement was not met.

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

| | |
|--------------|---|
| daily | <input type="text"/> |
| weekly | <input type="text"/> |
| monthly | <input type="text"/> |
| quarterly | <input type="text"/> |
| semiannual | <input type="text"/> |
| annual | <input type="text"/> |
| single event | <input checked="" type="text" value="x"/> |

Violation Base Penalty

One single event is recommended.

Good Faith Efforts to Comply

Reduction

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

Notes

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

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent SOUTHERN MANUFACTURING CO., L.L.C.
Case ID No. 47904
Reg. Ent. Reference No. RN100218957
Media Air
Violation No. 1

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

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

Delayed Costs

| | | | | | | |
|--------------------------|--|--|------|-----|-----|-----|
| Equipment | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | 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 included in Violation No.1 of 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

TOTAL



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

| | | | | | |
|--------------|-----------------|-------------|------------------|------------|----------------|
| DATES | Assigned | 14-Oct-2013 | | | |
| | PCW | 11-Mar-2015 | Screening | 1-Nov-2013 | EPA Due |
| | | | | | 8-Jul-2014 |

RESPONDENT/FACILITY INFORMATION

| | | | | | |
|-----------------------------|------------------------------------|---------------------------|-------|--|--|
| Respondent | SOUTHERN MANUFACTURING CO., L.L.C. | | | | |
| Reg. Ent. Ref. No. | RN100218957 | | | | |
| Facility/Site Region | 10-Beaumont | Major/Minor Source | Major | | |

CASE INFORMATION

| | | | | | |
|--|-----------------|------------------------------|-----------------------|--|--|
| Enf./Case ID No. | 47904 | No. of Violations | 2 | | |
| Docket No. | 2013-2026-AIR-E | Order Type | 1660 | | |
| Media Program(s) | Air | Government/Non-Profit | No | | |
| Multi-Media | | Enf. Coordinator | Jessica Schildwachter | | |
| | | 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**

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 1-Nov-2013 | Docket No. 2013-2026-AIR-E | PCW |
| Respondent SOUTHERN MANUFACTURING CO., L.L.C. | <i>Policy Revision 3 (September 2011)</i> | |
| Case ID No. 47904 | <i>PCW Revision August 3, 2011</i> | |
| Reg. Ent. Reference No. RN100218957 | | |
| Media [Statute] Air | | |
| Enf. Coordinator Jessica Schildwachter | | |

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>) | 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 judgements or consent decrees meeting criteria</i>) | 0 | 0% |
| | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government | 0 | 0% |
| Convictions | Any criminal convictions of this state or the federal government (<i>number of counts</i>) | 0 | 0% |
| Emissions | Chronic excessive emissions events (<i>number of events</i>) | 0 | 0% |
| Audits | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>) | 0 | 0% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>) | 0 | 0% |
| <i>Please Enter Yes or No</i> | | | |
| Other | Environmental management systems in place for one year or more | No | 0% |
| | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program | No | 0% |
| | Participation in a voluntary pollution reduction program | No | 0% |
| | Early compliance with, or offer of a product that meets future state or federal government environmental requirements | No | 0% |

Adjustment Percentage (Subtotal 2) 20%

>> **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 one order with denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 20%

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 20%

Screening Date 1-Nov-2013 **Docket No.** 2013-2026-AIR-E **PCW**
Respondent SOUTHERN MANUFACTURING CO., L.L.C. *Policy Revision 3 (September 2011)*
Case ID No. 47904 *PCW Revision August 3, 2011*
Reg. Ent. Reference No. RN100218957
Media [Statute] Air
Enf. Coordinator Jessica Schildwachter

Violation Number 1
Rule Cite(s) 30 Tex. Admin. Code §§ 122.143(4), 122.145(2)(B), and 122.146, Tex. Health & Safety Code § 382.085(b), and Federal Operating Permit No. O2880, General Terms and Conditions
Violation Description Failed to certify compliance with the terms and conditions of the permit for at least each 12-month period following initial permit issuance. Also, failed to submit a deviation report no later than 30 days after the reporting period. Specifically, the permit compliance certification ("PCC") was not submitted for the July 26, 2011 through July 25, 2012 certification period. The semi-annual deviation report was not submitted for the July 26, 2011 through January 25, 2012 reporting period to report the failure to submit the PCC.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

| OR | Release | Harm | | | Percent |
|-----------|---------|--------|----------|-------|---------|
| | | Major | Moderate | Minor | |
| | | Actual | | | |
| Potential | | | | | |

>> Programmatic Matrix

| Matrix Notes | Falsification | Major | Moderate | Minor | Percent |
|--------------|---------------|-------|----------|-------|---------|
| | | | x | | |

100% of the rule requirement was not met.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events: 2 365 Number of violation days

mark only one with an x

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | |
| quarterly | |
| semiannual | |
| annual | |
| single event | x |

Violation Base Penalty \$7,500

Two single events are recommended, one for the certification and one for the report.

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 \$7,500

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$173 **Violation Final Penalty Total** \$9,000

This violation Final Assessed Penalty (adjusted for limits) \$9,000

Economic Benefit Worksheet

Respondent SOUTHERN MANUFACTURING CO., L.L.C.
Case ID No. 47904
Reg. Ent. Reference No. RN100218957
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) | \$1,250 | 24-Aug-2011 | 31-May-2014 | 2.77 | \$173 | n/a | \$173 |

Notes for DELAYED costs

Estimated cost to prepare and submit the PCCs and semi-annual deviation report. The Date Required is the date the earliest PCC was due. The Final Date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,250

TOTAL

\$173

Screening Date 1-Nov-2013 **Docket No.** 2013-2026-AIR-E **PCW**
Respondent SOUTHERN MANUFACTURING CO., L.L.C. *Policy Revision 3 (September 2011)*
Case ID No. 47904 *PCW Revision August 3, 2011*
Reg. Ent. Reference No. RN100218957
Media [Statute] Air
Enf. Coordinator Jessica Schildwachter

Violation Number

Rule Cite(s)

Tex. Water Code § 5.702 and Tex. Health & Safety Code § 370.008

Violation Description

Failed to pay toxic release inventory reporting fees and/or any associated late fees for TCEQ Financial Administration Account No. 0501945 for Reporting Year 2009.

Base Penalty

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

OR

| Release | Harm | | |
|-----------|----------------------|----------------------|----------------------|
| | Major | Moderate | Minor |
| Actual | <input type="text"/> | <input type="text"/> | <input type="text"/> |
| Potential | <input type="text"/> | <input type="text"/> | <input type="text"/> |

Percent

>> **Programmatic Matrix**

| Falsification | Major | Moderate | Minor |
|----------------------|----------------------|----------------------|----------------------|
| <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> |

Percent

Matrix Notes

Adjustment

Violation Events

Number of Violation Events

Number of violation days

mark only one with an x

| | |
|--------------|----------------------|
| daily | <input type="text"/> |
| weekly | <input type="text"/> |
| monthly | <input type="text"/> |
| quarterly | <input type="text"/> |
| semiannual | <input type="text"/> |
| annual | <input type="text"/> |
| single event | <input type="text"/> |

Violation Base Penalty

All penalties and interest will be determined by the Financial Administration Division at the next billing cycle.

Good Faith Efforts to Comply

Reduction

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

Notes

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

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent SOUTHERN MANUFACTURING CO., L.L.C.
Case ID No. 47904
Reg. Ent. Reference No. RN100218957
Media Air
Violation No. 2

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

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

Delayed Costs

| | | | | | | | |
|--------------------------|--|--|--|------|-----|-----|-----|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 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

Not applicable.

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

Not applicable.

Approx. Cost of Compliance

TOTAL

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

PENDING Compliance History Report for CN600124564, RN100218957, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

Customer, Respondent, or Owner/Operator: CN600124564, SOUTHERN MANUFACTURING CO., L.L.C. **Classification:** SATISFACTORY **Rating:** 4.00

Regulated Entity: RN100218957, Southern Mfg Fiberglass Facility **Classification:** SATISFACTORY **Rating:** 4.00

Complexity Points: 9 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 6287 GULFWAY DR GROVES, TX 77619-4220, JEFFERSON COUNTY

TCEQ Region: REGION 10 - BEAUMONT

ID Number(s):

| | | | |
|--------------------------------|------------------------|--------------------------------------|--------------------|
| AIR OPERATING PERMITS | PERMIT O2880 | AIR NEW SOURCE PERMITS | PERMIT 27354 |
| AIR OPERATING PERMITS | ACCOUNT NUMBER JE0168B | AIR NEW SOURCE PERMITS | AFS NUM 4824500160 |
| AIR NEW SOURCE PERMITS | ACCOUNT NUMBER JE0168B | POLLUTION PREVENTION PLANNING | ID NUMBER P03050 |
| AIR EMISSIONS INVENTORY | ACCOUNT NUMBER JE0168B | | |

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

Date Compliance History Report Prepared: October 25, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: October 25, 2008 to October 25, 2013

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

Name: Jessica Schildwachter

Phone: (512) 239-2617

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If YES for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

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

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

- 1 **Effective Date:** 08/21/2010 **ADMINORDER** 2009-1126-AIR-E (1660 Order-Agreed Order With Denial)

Classification: Major

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

Rqmt Prov: General Terms and Conditions OP

Description: Failure to accurately and timely report deviations. Specifically, the semiannual deviation report for the period ending January 25, 2008 was missing a deviation and was not submitted until August 25, 2008 as an attachment to the next annual compliance certification.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1 November 13, 2009 (778870)

Item 2 February 28, 2012 (981550)

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

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

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
SOUTHERN
MANUFACTURING CO., L.L.C.;
RN100218957**

§
§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2013-2026-AIR-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding SOUTHERN MANUFACTURING CO., L.L.C. ("Respondent") under the authority of TEX. WATER CODE chs. 5 and 7 and TEX. HEALTH & SAFETY CODE chs. 370 and 382. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, represented by Brian Mills of the law firm Creighton, Fox, Johnson & Mills, PLLC, together stipulate that:

1. Respondent owned and operated a fiberglass manufacturing plant located at 6287 Gulfway Drive in Groves, Jefferson County, Texas (the "Plant"). The Plant consisted of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. The Executive Director and Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.051 and 7.070, and that Respondent is subject to the TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 5, TEX. HEALTH & SAFETY CODE chs. 370 and 382, and TCEQ rules.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of twelve thousand dollars (\$12,000.00) is assessed by the Commission in settlement of the violations alleged in Section II. The Revenue Operations Section of the TCEQ's Financial Administration Division reviewed financial documentation submitted by Respondent and determined Respondent is unable to pay all or part of the penalty. Therefore, ten thousand eight hundred dollars (\$10,800.00) is deferred contingent upon Respondent's timely and satisfactory compliance with all the terms of this Order, and shall be waived only upon full compliance with this Order. If Respondent fails to timely and satisfactorily comply with any requirement contained in this Order, including any payment schedule, the Executive Director may require Respondent to pay all or part of the deferred administrative penalty.

Respondent paid one hundred dollars (\$100.00) of the one thousand two hundred dollar (\$1,200.00) undeferred penalty. The remaining amount of one thousand one hundred dollars (\$1,100.00) of the undeferred penalty shall be paid in eleven (11) monthly payments of one hundred dollars (\$100.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until the penalty is paid in full. If Respondent fails to

timely and satisfactorily comply with the payment requirements of this Order, including the payment schedule, the Executive Director may accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. Respondent's failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance constitutes the failure by Respondent to timely and satisfactorily comply with all the terms of this Order and the Executive Director may demand payment of all or part of the deferred penalty amount.

5. 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.
6. The Executive Director and Respondent agree on a settlement of the matters addressed in this Order, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
7. 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 Respondent has not complied with one or more of the terms or conditions contained in this Order.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The provisions of this Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
10. The Executive Director recognizes Respondent voided its Title V Federal Operating Permit No. O2880 (the "Operating Permit") for the Plant on July 10, 2014.

II. ALLEGATIONS

1. During a record review conducted on September 30, 2013, an investigator documented that Respondent failed to certify compliance with the terms and conditions of the Operating Permit for at least each twelve-month period following initial permit issuance and failed to submit a semi-annual deviation report no later than thirty days after the reporting period, in violation of TEX. HEALTH & SAFETY CODE § 382.085(b); 30 TEX. ADMIN. CODE §§ 122.143(4), 122.145(2)(B), and 122.146; and Federal Operating Permit No. O2880, General Terms and Conditions. Specifically, permit compliance certifications ("PCCs") were not submitted for the July 26, 2010 through July 25, 2011, and July 26, 2011 through July 25, 2012 certification periods. Additionally, a semi-annual deviation report was not submitted for the July 26, 2011 through January 25, 2012 reporting period to report the failure to submit a PCC.
2. During a record review conducted on October 25, 2013, TCEQ Central Office staff documented that Respondent failed to pay toxic release inventory reporting fees and/or any associated late fees for TCEQ Financial Administration Account No. 0501945 for Reporting Year 2009, in violation of TEX. WATER CODE § 5.702 and TEX. HEALTH & SAFETY CODE § 370.008.

III. DENIALS

Respondent generally denies each Allegation in Section II.

IV. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Respondent is assessed an administrative penalty as set forth in Section I, Paragraph 4. The payment of this penalty and Respondent's compliance with all of the requirements set forth in this Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations not raised here. Penalty payments shall be made payable to the TCEQ and shall be sent with the notation "Re: SOUTHERN MANUFACTURING CO., L.L.C., Docket No. 2013-2026-AIR-E" to:

Financial Administration Division, Revenue Operations Section
Texas Commission on Environmental Quality
Attention: Cashier's Office, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

2. Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order, Respondent shall:
 - i. Submit the PCCs for the July 26, 2010 through July 25, 2011 and July 26, 2011 through July 25, 2012 certification periods and the semi-annual deviation report for the July 26, 2011 through January 25, 2012 reporting period, in accordance with 30 TEX. ADMIN. CODE §§ 122.145 and 122.146; and
 - ii. Submit payment for all outstanding fees for TCEQ Financial Administration Account No. 0501945, including any associated penalties and interest, with the notation, "SOUTHERN MANUFACTURING CO., L.L.C., Financial Administration Account No. 0501945," to the Financial Administration Division, Revenue Operations Section, at the address provided above.
 - b. Within 45 days after the effective date of this Order, submit written certification to demonstrate compliance with Ordering Provisions Nos. 2.a.i. and 2.a.ii. The certification shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by Respondent, and shall 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 based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the submitted information is true, accurate, and complete. I am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Respondent shall submit the written certification and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

Air Section Manager
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1830

3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon Respondent.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Order Compliance Team at the address listed above.
6. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
7. This Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order, or (2) pursue violations of a statute within the TCEQ's jurisdiction or of a rule adopted or an order or permit issued by the TCEQ under such a statute.
8. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this 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 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. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Order is the date of hand delivery of the fully executed Order to Respondent, or three days after the date on which the Commission mails a copy of the fully executed Order to Respondent, whichever is earlier. The Chief Clerk shall provide a copy of the fully executed Order to each of the parties.

SOUTHERN MANUFACTURING CO., L.L.C.
Docket No. 2013-2026-AIR-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

CM Keener
For the Executive Director

May 29, 2015
Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, 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 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;
- 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
- The TCEQ seeking other relief as authorized by law.

In addition, I understand that any falsification of any compliance documents may result in criminal prosecution.

Valeri Varnado
Signature - Valeri Varnado, Director
SOUTHERN MANUFACTURING CO., L.L.C.
P.O. Box 849
Groves, Texas 77619

3/29/15
Date

If mailing address has changed, please check this box and provide the new address below:
