

**Executive Summary – Enforcement Matter – Case No. 49847**

**E.R. Carpenter, L.P.**

**RN100210830**

**Docket No. 2014-1890-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 19, 2015

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$12,038

**Amount Deferred for Expedited Settlement:** \$2,407

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

**Total Paid to General Revenue:** \$4,816

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

Payment Plan: N/A

**Supplemental Environmental Project ("SEP") Conditional Offset:** \$4,815

Name of SEP: Houston-Galveston Area Council (Third-Party Pre-Approved)

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - Satisfactory

**Major Source:** Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** April 2014

**Executive Summary – Enforcement Matter – Case No. 49847**

**E.R. Carpenter, L.P.**

**RN100210830**

**Docket No. 2014-1890-AIR-E**

***Investigation Information***

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

**Complaint Information:** N/A

**Date(s) of Investigation:** October 20, 2014

**Date(s) of NOE(s):** December 5, 2014

***Violation Information***

1. Failed to submit the Permit Compliance Certification (“PCC”) within 30 days after the end of the certification period. Specifically, the PCC for the certification period from July 15, 2013 through July 14, 2014 was due on August 13, 2014, but was not submitted until October 13, 2014 [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.146(2), Federal Operating Permit (“FOP”) No. O1443, General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

2. Failed to report all instances of deviations. Specifically, the Respondent reported that no deviations occurred during the January 15, 2014 through July 14, 2014 reporting period; however, the Respondent did not report the ten ongoing self-audit disclosure deviations that were disclosed on November 4, 2013 [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), FOP No. O1443, General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Respondent has implemented the following corrective measures:

- a. On October 13, 2014, submitted the PCC; and
- b. On December 10, 2014, submitted an updated deviation report to report ongoing self-audit disclosure violations.

**Technical Requirements:**

The Order will require the Respondent to implement and complete a SEP (see SEP Attachment 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

**Executive Summary – Enforcement Matter – Case No. 49847**

**E.R. Carpenter, L.P.**

**RN100210830**

**Docket No. 2014-1890-AIR-E**

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Raime Hayes-Falero, Enforcement Division, Enforcement Team 4, MC R-12, (713) 767-3567; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

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

**Respondent:** Chris J. Ruchte, Vice President & General Manager, E.R. Carpenter, L.P., 11002 Choate Road, Pasadena, Texas 77507

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



**Attachment A**  
**Docket Number: 2014-1890-AIR-E**  
**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>E.R. Carpenter, L.P.</b>
<b>Penalty Amount:</b>	<b>Nine Thousand Six Hundred Thirty-One Dollars (\$9,631)</b>
<b>SEP Offset Amount:</b>	<b>Four Thousand Eight Hundred Fifteen Dollars (\$4,815)</b>
<b>Type of SEP:</b>	<b>Contribution to a Third-Party Pre-Approved SEP</b>
<b>Third-Party Administrator:</b>	<b>Houston-Galveston Area Council-AERCO ("AERCO")</b>
<b>Project Name:</b>	<b><i>Clean Vehicles Partnership Project</i></b>
<b><u>Location of SEP:</u> 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</b>	

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.

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

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.

**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. Recognition**

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 4 (April 2014)

PCW Revision March 26, 2014

<b>DATES</b>	Assigned	8-Dec-2014	<b>Screening</b>	17-Dec-2014	<b>EPA Due</b>	
	PCW	3-Mar-2015				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	E.R. Carpenter, L.P.
Reg. Ent. Ref. No.	RN100210830
Facility/Site Region	12-Houston
<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>			
Enf./Case ID No.	49847	No. of Violations	2
Docket No.	2014-1890-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Raime Hayes-Falero
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$7,500</b>
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	<b>78.0%</b> Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$5,850</b>
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Notes: Enhancement for three NOVs with dissimilar violations, two orders with denial of liability, and one court order without a denial of liability. Reduction for one notice of intent to conduct an audit and one disclosure of violations.

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>-\$1,312</b>
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<b>Economic Benefit</b>	<b>0.0%</b> Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts \$6  
 Estimated Cost of Compliance \$500  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$12,038</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>0.0%</b>	<b>Adjustment</b>	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

<b>Final Penalty Amount</b>	<b>\$12,038</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$12,038</b>
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<b>DEFERRAL</b>	<b>20.0%</b> Reduction	<b>Adjustment</b>	<b>-\$2,407</b>
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	<b>\$9,631</b>
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Screening Date 17-Dec-2014

Docket No. 2014-1890-AIR-E

PCW

Respondent E.R. Carpenter, L.P.

Policy Revision 4 (April 2014)

Case ID No. 49847

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100210830

Media [Statute] Air

Enf. Coordinator Raime Hayes-Falero

### 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	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of 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> )	1	-2%

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) 78%

#### >> 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 three NOVs with dissimilar violations, two orders with denial of liability, and one court order without a denial of liability. Reduction for one notice of intent to conduct an audit and one disclosure of violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 78%

#### >> Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 78%

**Screening Date** 17-Dec-2014  
**Respondent** E.R. Carpenter, L.P.  
**Case ID No.** 49847  
**Reg. Ent. Reference No.** RN100210830  
**Media [Statute]** Air  
**Enf. Coordinator** Raime Hayes-Falero

**Docket No.** 2014-1890-AIR-E

**PCW**

Policy Revision 4 (April 2014)  
 PCW Revision March 26, 2014

**Violation Number**

**Rule Cite(s)** 30 Tex. Admin. Code §§ 122.143(4) and 122.146(2), Federal Operating Permit ("FOP") No. O1443, General Terms and Conditions, and Tex. Health & Safety Code § 382.085(b)

**Violation Description** Failed to submit the Permit Compliance Certification ("PCC") within 30 days after the end of the certification period. Specifically, the PCC for the certification period from July 15, 2013 through July 14, 2014 was due on August 13, 2014, but was not submitted until October 13, 2014.

**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="0.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="text" value="15.0%"/>
<p>100% of the rule requirement was not met.</p>					

**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="checkbox"/>	

**Violation Base Penalty**

One single event is recommended.

**Good Faith Efforts to Comply**

Reduction

	Before NOE/NOV	NOE/NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input checked="" type="checkbox"/>	<input type="text"/>
N/A	<input type="text"/>	(mark with x)

**Notes** The Respondent completed corrective action on October 13, 2014, before the December 5, 2014 Notice of Enforcement ("NOE").

**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** E.R. Carpenter, L.P.  
**Case ID No.** 49847  
**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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$250	13-Aug-2014	13-Oct-2014	0.17	\$2	n/a	\$2

Notes for DELAYED costs

Estimated cost to submit the PCC. The Date Required is the date the PCC was due. The Final Date is the date the PCC was submitted.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$250

**TOTAL**

\$2

**Screening Date** 17-Dec-2014  
**Respondent** E.R. Carpenter, L.P.  
**Case ID No.** 49847  
**Reg. Ent. Reference No.** RN100210830  
**Media [Statute]** Air  
**Enf. Coordinator** Raime Hayes-Falero

**Docket No.** 2014-1890-AIR-E

**PCW**

Policy Revision 4 (April 2014)  
 PCW Revision March 26, 2014

**Violation Number**

**Rule Cite(s)**

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

**Violation Description**

Failed to report all instances of deviations. Specifically, the Respondent reported that no deviations occurred during the January 15, 2014 through July 14, 2014 reporting period; however, the Respondent did not report the ten ongoing instances of deviations from the self-audit disclosure dated November 4, 2013.

**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	Harm		
	Major	Moderate	Minor
<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>

**Percent**

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

**Notes**

The Respondent completed corrective action on December 10, 2014, after the December 5, 2014 NOE.

**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** E.R. Carpenter, L.P.  
**Case ID No.** 49847  
**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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$250	13-Aug-2014	10-Dec-2014	0.33	\$4	n/a	\$4

Notes for DELAYED costs

Estimated cost to submit an updated deviation report to report ongoing self-audit disclosure violations. The Date Required is the date the initial deviation report was due. The Final Date is the 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

\$250

**TOTAL**

\$4



# Compliance History Report

**PUBLISHED** Compliance History Report for CN600125058, RN100210830, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

<b>Customer, Respondent, or Owner/Operator:</b>	CN600125058, E. R. Carpenter, L.P.	<b>Classification:</b>	SATISFACTORY	<b>Rating:</b>	5.02
<b>Regulated Entity:</b>	RN100210830, ROGER W POWELL PLANT	<b>Classification:</b>	SATISFACTORY	<b>Rating:</b>	10.05
<b>Complexity Points:</b>	18	<b>Repeat Violator:</b>	NO		
<b>CH Group:</b>	05 - Chemical Manufacturing				
<b>Location:</b>	11002 CHOATE RD PASADENA, TX 77507-1500, HARRIS COUNTY				
<b>TCEQ Region:</b>	REGION 12 - HOUSTON				

## ID Number(s):

- |  |   |
|--|---|
| <b>AIR OPERATING PERMITS</b> ACCOUNT NUMBER HG0141U                          | <b>AIR OPERATING PERMITS</b> PERMIT 1443                  |
| <b>PUBLIC WATER SYSTEM/SUPPLY</b> REGISTRATION 1012855                       | <b>AIR NEW SOURCE PERMITS</b> AFS NUM 4820100292          |
| <b>AIR NEW SOURCE PERMITS</b> REGISTRATION 92908                             | <b>AIR NEW SOURCE PERMITS</b> REGISTRATION 30064          |
| <b>AIR NEW SOURCE PERMITS</b> ACCOUNT NUMBER HG0141U                         | <b>AIR NEW SOURCE PERMITS</b> PERMIT 301                  |
| <b>AIR NEW SOURCE PERMITS</b> PERMIT 3678                                    | <b>AIR NEW SOURCE PERMITS</b> PERMIT 4757                 |
| <b>AIR NEW SOURCE PERMITS</b> REGISTRATION 10948                             | <b>AIR NEW SOURCE PERMITS</b> REGISTRATION 15161          |
| <b>AIR NEW SOURCE PERMITS</b> REGISTRATION 17780                             | <b>AIR NEW SOURCE PERMITS</b> REGISTRATION 26403          |
| <b>AIR NEW SOURCE PERMITS</b> REGISTRATION 54697                             | <b>AIR NEW SOURCE PERMITS</b> REGISTRATION 73653          |
| <b>AIR NEW SOURCE PERMITS</b> REGISTRATION 74632                             | <b>AIR NEW SOURCE PERMITS</b> REGISTRATION 75297          |
| <b>AIR NEW SOURCE PERMITS</b> REGISTRATION 78536                             | <b>AIR NEW SOURCE PERMITS</b> REGISTRATION 78684          |
| <b>AIR NEW SOURCE PERMITS</b> REGISTRATION 79155                             | <b>AIR NEW SOURCE PERMITS</b> REGISTRATION 80206          |
| <b>AIR NEW SOURCE PERMITS</b> REGISTRATION 80032                             | <b>AIR NEW SOURCE PERMITS</b> REGISTRATION 81463          |
| <b>AIR NEW SOURCE PERMITS</b> REGISTRATION 84022                             | <b>AIR NEW SOURCE PERMITS</b> REGISTRATION 83948          |
| <b>AIR NEW SOURCE PERMITS</b> REGISTRATION 86763                             | <b>AIR NEW SOURCE PERMITS</b> REGISTRATION 88674          |
| <b>AIR NEW SOURCE PERMITS</b> REGISTRATION 85695                             | <b>AIR NEW SOURCE PERMITS</b> REGISTRATION 85690          |
| <b>AIR NEW SOURCE PERMITS</b> REGISTRATION 88688                             | <b>AIR NEW SOURCE PERMITS</b> REGISTRATION 92683          |
| <b>AIR NEW SOURCE PERMITS</b> REGISTRATION 92099                             | <b>AIR NEW SOURCE PERMITS</b> REGISTRATION 93442          |
| <b>AIR NEW SOURCE PERMITS</b> REGISTRATION 98536                             | <b>AIR NEW SOURCE PERMITS</b> REGISTRATION 101563         |
| <b>AIR NEW SOURCE PERMITS</b> REGISTRATION 104015                            | <b>AIR NEW SOURCE PERMITS</b> REGISTRATION 104445         |
| <b>AIR NEW SOURCE PERMITS</b> REGISTRATION 103150                            | <b>AIR NEW SOURCE PERMITS</b> REGISTRATION 110561         |
| <b>AIR NEW SOURCE PERMITS</b> PERMIT 122449                                  | <b>AIR NEW SOURCE PERMITS</b> REGISTRATION 105409         |
| <b>AIR NEW SOURCE PERMITS</b> REGISTRATION 124309                            | <b>AIR NEW SOURCE PERMITS</b> REGISTRATION 106292         |
| <b>AIR NEW SOURCE PERMITS</b> REGISTRATION 115843                            | <b>AIR NEW SOURCE PERMITS</b> REGISTRATION 104791         |
| <b>AIR NEW SOURCE PERMITS</b> REGISTRATION 106822                            | <b>AIR NEW SOURCE PERMITS</b> PERMIT 123305               |
| <b>AIR NEW SOURCE PERMITS</b> REGISTRATION 117617                            | <b>INDUSTRIAL AND HAZARDOUS WASTE</b> EPA ID TXD077874576 |
| <b>INDUSTRIAL AND HAZARDOUS WASTE</b> SOLID WASTE REGISTRATION # (SWR) 31017 | <b>STORMWATER</b> PERMIT TXR05L659                        |
| <b>AIR EMISSIONS INVENTORY</b> ACCOUNT NUMBER HG0141U                        | <b>POLLUTION PREVENTION PLANNING</b> ID NUMBER P00109     |

<b>Compliance History Period:</b>	September 01, 2009 to August 31, 2014	<b>Rating Year:</b>	2014	<b>Rating Date:</b>	09/01/2014
<b>Date Compliance History Report Prepared:</b>	February 11, 2015				
<b>Agency Decision Requiring Compliance History:</b>	Enforcement				
<b>Component Period Selected:</b>	February 11, 2010 to February 11, 2015				

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

**Name:** Raime Hayes-Falero **Phone:** (713) 767-3567

## 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.
- 3 Effective Date: 10/05/2014 ADMINORDER 2014-0424-AIR-E (1660 Order-Agreed Order With Denial)  
 Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 116, SubChapter B 116.116(a)  
 30 TAC Chapter 116, SubChapter B 116.116(b)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 5C THSC Chapter 382 382.085(b)  
 Rqmt Prov: FOP Special Term & Condition 10 OP  
 NSR Special Condition 1 PERMIT  
 NSR Special Condition 16 PERMIT  
 Description: Failed to comply with permit representations and emissions limits.  
 Classification: Minor  
 Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)  
 30 TAC Chapter 115, SubChapter D 115.354(2)(C)  
 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 63.168(c)  
 5C THSC Chapter 382 382.085(b)  
 Rqmt Prov: FOP Special Term & Condition 10 OP

FOP Special Term & Condition 1A OP

NSR Special Condition 6F PERMIT

Description: Failed to monitor a fugitive valve with a hydrocarbon gas analyzer. [C1]

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)

30 TAC Chapter 122, SubChapter B 122.145(2)(A)

5C THSC Chapter 382 382.085(b)

Rqmt Prov: FOP General Terms & Conditions OP

Description: Failure to report all deviations. [B3]

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

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

Item 1	March 26, 2012	(968865)
Item 2	May 11, 2012	(996489)
Item 3	September 11, 2013	(1117029)
Item 4	October 24, 2014	(1204191)

**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.

1	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]

2 Date: 04/07/2014 (1115402) CN600125058

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(3)(G)

Description: Failure to obtain an exception letter from the agency for the use of a disinfection treatment other than chlorine. The water system is using chloramines for its disinfection residual without an exception letter issued by the agency. At the time of the investigation, the system had not yet applied for an exception to use chloramines. Although your system purchases water from another system, your system is required to apply for its own exception to use chloramination as disinfection.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(C)(i)

Description: Failure by the regulated entity to verify the accuracy of the manual disinfectant residual analyzer at least once every 90 days by calibrating it with chlorine solutions of a known concentration. At the time of the investigation, the total chlorine residual was being analyzed in the facility laboratory with a benchtop spectrophotometer and no standards were being analyzed.

3 Date: 12/05/2014 (1192853) CN600125058

Self Report? NO Classification: Minor

Citation: 1443, Special Term & Condition 10 PERMIT  
1443, Special Term & Condition 1A PERMIT

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)  
301, NSR Special Condition 6E PERMIT  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT PPP 63.1434(a)  
5C THSC Chapter 382 382.085(b)  
Description: Failure to seal open-ended valve or line with cap, blind flange, plug or a secondary valve (category C violation).  
Self Report? NO Classification: Minor  
Citation: 301 Special Condition # 9B PERMIT  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(2)  
5C THSC Chapter 382 382.085(b)  
Description: Failure to maintain flare pilot lights for flares P3 and P5 (category C violation).

**F. Environmental audits:**

Notice of Intent Date: 12/04/2012 (1058247)  
Disclosure Date: 11/04/2013  
Viol. Classification: Moderate  
Citation: 30 TAC Chapter 106, SubChapter A 106.6(b)  
Description: Failed to accurately represent MSS emissions in the permit by rule registration 88674, resulting in emissions greater than what was represented from EPNs P1FL1[4], P1FL1[5], P3FL1, P4FL1, P5FL1, and P6FL1.

**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. 2014-1890-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 December 10, 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 Twelve Thousand Thirty-Eight Dollars (\$12,038) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Four Thousand Eight Hundred Sixteen Dollars (\$4,816) of the administrative penalty and Two Thousand Four Hundred

Seven Dollars (\$2,407) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Four Thousand Eight Hundred Fifteen Dollars (\$4,815) 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 October 13, 2014, submitted the Permit Compliance Certification ("PCC"); and
  - b. On December 10, 2014, submitted an updated deviation report to report ongoing self-audit disclosure violations.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

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

1. Failed to submit the PCC within 30 days after the end of the certification period, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.146(2), Federal Operating Permit ("FOP") No. O1443, General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on October 20, 2014. Specifically, the PCC for the certification period from July 15, 2013 through July 14, 2014 was due on August 13, 2014, but was not submitted until October 13, 2014.

2. Failed to report all instances of deviations, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), FOP No. 01443, General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on October 20, 2014. Specifically, the Respondent reported that no deviations occurred during the January 15, 2014 through July 14, 2014 reporting period; however, the Respondent did not report the ten ongoing self-audit disclosure deviations that were disclosed on November 4, 2013.

### 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. 2014-1890-AIR-E" to:  

Financial Administration Division, Revenue Operations Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088
2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Four Thousand Eight Hundred Fifteen Dollars (\$4,815) of the assessed administrative penalty shall be offset with the condition that the SEP defined in Attachment A, incorporated herein by reference, is implemented by the Respondent. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes

aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

Ramona Garcia  
For the Executive Director

8/24/15  
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

5-18-15  
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: 2014-1890-AIR-E**  
**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>E.R. Carpenter, L.P.</b>
<b>Penalty Amount:</b>	<b>Nine Thousand Six Hundred Thirty-One Dollars (\$9,631)</b>
<b>SEP Offset Amount:</b>	<b>Four Thousand Eight Hundred Fifteen Dollars (\$4,815)</b>
<b>Type of SEP:</b>	<b>Contribution to a Third-Party Pre-Approved SEP</b>
<b>Third-Party Administrator:</b>	<b>Houston-Galveston Area Council-AERCO ("AERCO")</b>
<b>Project Name:</b>	<b><i>Clean Vehicles Partnership Project</i></b>
<b>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</b>	

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.

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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.

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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.

**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:

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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. Recognition**

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.