

**Executive Summary – Enforcement Matter – Case No. 54494**  
**FORMOSA UTILITY VENTURE, LTD. and FORMOSA PLASTICS**  
**CORPORATION, TEXAS**  
**RN100218973**  
**Docket No. 2017-0737-IWD-E**

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

**Media:**

IWD

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

Formosa Point Comfort Plant, 201 Formosa Drive, one mile north of the intersection of State Highway 35 and Farm-to-Market Road 1593, northeast of Point Comfort, Calhoun County

**Type of Operation:**

Manufacturing facility

**Other Significant Matters:**

Additional Pending Enforcement Actions: Yes, Docket No. 2018-1384-AIR-E

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** May 25, 2018

**Comments Received:** Yes, one comment was received from Mr. David Frederick with the law firm of Frederick, Perales, Allmon & Rockwell P.C., for Ms. Diane Wilson and the San Antonio Bay Estuarine Waterkeeper

***Penalty Information***

**Total Penalty Assessed:** \$121,875

**Total Paid to General Revenue:** \$121,875

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

Payment Plan: N/A

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - Satisfactory

**Major Source:** Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** April 2014

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***Investigation Information***

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

**Complaint Information:** N/A

**Date(s) of Investigation:** April 4, 2017

**Date(s) of NOE(s):** May 1, 2017

***Violation Information***

1. Failed to prevent the discharge of solids in other than trace amounts into or adjacent to any water in the state [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0002436000, Effluent Limitations and Monitoring Requirements No. 3, Outfall Nos. 006, 008, and 009].

2. Failed to properly analyze effluent samples [30 TEX. ADMIN. CODE §§ 305.125(1) and 319.11(c) and TPDES Permit No. WQ0002436000, Monitoring and Reporting Requirements No. 2.a].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Respondents have implemented the following corrective measures:

- a. By June 29, 2017, collected and properly disposed of approximately 112,000 pounds of debris and plastic pellets from Lavaca Bay, and approximately 327,000 pounds of debris and plastic pellets from Cox Creek; and
- b. By July 31, 2017, determined the potential sources of the plastic pellets and implemented a pellet recovery system to minimize future discharges of solids, including plastic pellets from the Facility by installing a cone filter, floating booms, wedge and gate screens, and gabions.

**Technical Requirements:**

The Order will require the Respondents to:

- a. Within 30 days, implement a method to properly analyze effluent samples for chemical oxygen demand at the Facility;
- b. Within 45 days, submit written notification of compliance with a.;



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c. Within 60 days, and on a semi-annual basis thereafter, conduct a comprehensive evaluation of the Facility, Cox Creek, and Lavaca Bay, and remove and properly dispose of any discharged solids, including plastic pellets found during the evaluation of Cox Creek or Lavaca Bay and any pellet loss found during the evaluation of the Facility. Document the evaluation of each location and the resulting removal and disposal of any discharged solids, including plastic pellets. Ensure that all records of the evaluations and resulting removal and disposal are maintained at the Facility and made readily available for review upon request; and

d. Within 75 days, and on a semi-annual basis thereafter, submit written certification of compliance with c.

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Austin Henck, Enforcement Division, Enforcement Team 8, MC 219, (512) 239-6155; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

**Respondent:** Rick Crabtree, Vice President and General Manager, FORMOSA UTILITY VENTURE, LTD. and FORMOSA PLASTICS CORPORATION, TEXAS, 201 Formosa Drive, Point Comfort, Texas 77978

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

# TCEQ Interoffice Memorandum

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**To:** Commissioners

**Thru:** *BKS* Bryan Sinclair, Director, Enforcement Division

**From:** Melissa Cordell, Assistant Director, Enforcement Division

**Date:** November 27, 2018

**Subject:** Response to Comment(s) Received Concerning Proposed Agreed Enforcement Order; FORMOSA UTILITY VENTURE, LTD. and FORMOSA PLASTICS CORPORATION, TEXAS, Point Comfort, Calhoun County  
RN100218973; Docket No. 2017-0737-IWD-E; Enforcement Case No. 54494

In response to a publication in the Texas Register on May 25, 2018, TCEQ received one comment regarding a proposed agreed enforcement order requiring certain actions of FORMOSA UTILITY VENTURE, LTD. and FORMOSA PLASTICS CORPORATION, TEXAS. The comments were timely submitted by Mr. David Frederick of Frederick, Perales, Allmon & Rockwell P.C. for Ms. Diane Wilson and the San Antonio Bay Estuarine Waterkeeper.

The proposed order includes two violations documented during a record review conducted on April 4, 2017. The violations addressed in the proposed order include

- 1) the failure to prevent the discharge of solids in other than trace amounts into or adjacent to any water in the state, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0002436000, Effluent Limitations and Monitoring Requirements No. 3, Outfall Nos. 006, 008, and 009; and
- 2) the failure to properly analyze effluent samples, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.11(c) and TPDES Permit No. WQ0002436000, Monitoring and Reporting Requirements No. 2.a.

The proposed order assesses a penalty in the amount of \$121,875 and includes no deferral as the Findings Order criteria has been met. The comments are limited to provisions of the proposed order addressing the first violation. No changes to the proposed order were made in response to the comments. A summary of the comments and staff response to comments can be found below.

- *Comment 1.A* - Finding 2(a) supports a fair inference that the violation events on which enforcement is taken were unpermitted discharges from Outfalls 006, 008 and 009. However, a finding that simply states those are the violation events covered by the administrative order would lessen the risks of ambiguity about what, exactly, are the "matters set forth by this Order" that are said to be resolved.

*Response 1.A* - Commenters request that an additional finding of fact be added to the Order to reduce the ambiguity of what is being addressed in the Order and said to be resolved. At this time, no additional finding of fact is deemed necessary as the violations are clearly stated in the proposed agreed order and no violations have been resolved.

- *Comment 1.B* - Finding 2 states a record-review date, April 4, 2017. This date has no relevance under the guidance of the *Penalty Policy*, and the finding should be deleted. In its place should be finding of the date of initial noncompliance. That date, based on actual TCEQ observation, could be as early as June 16, 2010. In its report of a June 15-17



inspection, in which TCEQ's inspector Phyllis Cunningham participated, EPA reported:

The EPA inspection team observed plastic pellets on the downstream side of the outfall gate at the following outfalls: 006, 007, 008, and 009, which discharge into Cox Creek (see June 16, 2010 Photographs 77 through 81, 90 through 96, and 99 through 107). The inspection team also observed plastic pellets of the same size, shape and color at two locations on the shores of Lavaca Bay near Highway 3 5. EPA has received citizen reports of plastic pellets found near the Lavaca River. In addition, we observed vegetative and plastic debris on the screens covering the drainage gates at Outfalls 006, 007, and 009 (see June 16, 2010 Photographs 93, 96, and 118). [Many of these photographs are attached to these comments.]

The agency conducted no investigation to determine when Formosa knew or should have known of its noncompliance. (See, *Penalty Policy*, p. 14.) Had it done so, it might well have developed evidence of an earlier initial noncompliance date.

If the agency feels compelled to grant Formosa a more favorable initial noncompliance date, January 31, 2016, would be the most reasonable favorable date. That is the date on which the citizen complaint that led to the proposed administrative order reported sighting pellets in Cox Creek. The citizen complaint was confirmed by a TCEQ inspection on March 10, 2016.

*Response 1.B* - Commenters state that the April 4, 2017 record review date has no relevance and that the finding of fact should be deleted. April 4, 2017 does have relevance to this case as it is the date that a TCEQ investigator documented that compliance had not been achieved within an allotted timeframe established in the Notice of Violation resulting from the March 10-14, 2016 investigation. The penalty calculation in this instance is consistent with the TCEQ's application of the *Penalty Policy*.

- *Comment 1.C* - There should be, but is not, a finding on the end point for that assessed noncompliance events. *Penalty Policy*, p. 14. The noncompliance is ongoing, as reflected by this photo taken June 20, 2018, outside the boom Formosa has erected in State water immediately downstream from Outfall 006. In addition, TCEQ currently has an open investigation into citizen complaints about pellets and powders discharged from Formosa's facility from April through June 2018 (Incident Number 287060). Waterkeepers understand the facts of these recent pellet discharges has been confirmed by TCEQ inspectors, but Waterkeepers' attempt to secure documentation of this under the Public Information Act has been stymied by the agency. The *Penalty Policy* indicates either the return-to-compliance date or the enforcement screening date may be used as an end point date, as appropriate. Given the ongoing noncompliance, the end point date, May 17, 2017, which is the screen date noted in the penalty calculation worksheet for this proposed administrative order, would appear to be the "appropriate" end point date, and it should be stated as a finding of the final administrative order.

*Response 1.C* - Commenters request that an additional finding of fact be included in the Order to state the end date of the violation regarding the discharge of solids. This information is included in the Penalty Calculation Worksheet ("PCW") and it is not TCEQ's practice to include it in the Order as an additional finding of fact. Consistent with the TCEQ's *Penalty Policy*, the end date for continuing violations is the screening date for penalty calculation.



- *Comment 1.D* - From the penalty calculation worksheet it is clear the agency found the violation events to be "continuing events," as the term is used in the *Penalty Policy*, page 13. That should be stated as a finding.

*Response 1.D* - Commenters request an additional finding of fact be included in the Order stating that the violation regarding the discharge of solids is a continuing violation. It is not TCEQ's practice to state in the Order whether each violation is continuing or discrete.

- *Comment 1.E* - The exculpatory findings at paragraph 3 have no place in an enforcement order. Why would the enforcement authority burnish the stature of the violator? In any event, paragraph 3.a. should also include a finding of the extensive wetlands' destruction the violator wrought in its attempts to remedy in part the impacts of its violations. See, Photograph #2, which shows the hydroblasting of vegetation by Formosa contractors near Outfall 006, as they attempt to dislodge and set up for recovery discharged pellets. See, also, Photographs ##3 and 4, next page, which show, in before-and-after sequence, the sort of destruction Formosa's contractor is wrecking in its attempts to recover some of the discharged pellets.

*Response 1.E* - Commenters state that Findings of Fact Nos. 3.a and 3.b listing the corrective actions taken by the Respondents have no place in the Order. It is TCEQ's practice to recognize actions taken towards compliance.

- *Comment 1.F* - Paragraph 3.b. is another inappropriate burnishment of the stature of the violator, one that serves to help undermine the ongoing citizen enforcement action against the violator. It should be stricken. If some finding like it is retained, it should be made more clear. The fact that the discharges were not abated in mid-2017 and have not to this day been abated (see, Photograph #1) should be stated. The finding is factually erroneous, in that Formosa clearly has not to this day implemented a pellet recovery system that would minimize discharges of solids, so the finding should not say that Formosa has or had by any date implemented such a system. Whatever, if anything, is said about Formosa's efforts as of any date to reduce future discharges should detail much more precisely than paragraph 3.b currently does what Formosa has done.

*Response 1.F* - As stated in Response 1.E, it is TCEQ's practice to recognize actions taken towards compliance. Based on the actions taken by the Respondents, it is appropriate to say that such actions have been put in place to minimize the discharge of solids from the Facility.

- *Comment 1.G* - Paragraph 3.b, presently, is ambiguous as to the location of the floating booms to which it refers. To the extent it is retained, paragraph 3.b should be clarified to state that the floating booms referenced are on the Facility's property, to prevent the discharge of pellets and plastics prior to their release from the Facility. (If the reference is to the booms Formosa has installed downgradient from its discharge points and in State waters as a cleanup measure, the paragraph will likely have the effect of illegally amending the permit to allow otherwise unpermitted discharges from the outfalls.)

*Response 1.G* - Commenters state that Finding of Fact No. 3.b is ambiguous as to where the floating booms are located and that the Finding of Fact No. 3.b should be clarified to state that the floating booms are located within the Facility. Commenters expressed concern that the Order would illegally amend the permit. Finding of Fact No. 3.b recognizes actions to minimize discharges of solids from the Facility. Additional booms placed outside the Facility



are to contain and remove solids as needed. The Order does not modify or amend the permit.

- *Comment 1.H* - The proposed order should include a finding of fact or a paragraph among the ordering provisions stating a recognition by the Respondents that the penalty and remedial measures set forth in the order are only acceptable to the agency because they resolve the matters set forth in the order without litigation.

*Response 1.H* - Commenters request an additional finding of fact stating that the penalty and remedial measures are only acceptable to TCEQ because they resolve the enforcement action without litigation. The fact that settlement was reached without a referral to TCEQ's Litigation Division did not influence the penalty or the corrective actions listed in the Order. It is not TCEQ's practice to include this type of finding in its orders.

- *Comment 1.I* - There should be a finding on harm. The agency found, one can tell from the penalty calculation worksheet, only "moderate" harm from the violation. The basis for that finding is not explained. Factually, the plastic pellets have dispersed all along Cox Creek and, to a lesser extent, around Lavaca Bay and along the shore grasses of each. The beads are found in the stomachs of fish. Both Waterkeepers and cleanup contractors hired by Formosa continue to collect bags, sacks and barrels of pellets along Cox Creek and beyond its mouth. The problem has been long-running and its impacts are unlikely ever to be fully erased. The order needs to explain why these harms are not judged by the agency to be, collectively, "major."

*Response 1.I* - Commenters request that an additional finding of fact be added to address the harm of the violation. It is not TCEQ's practice to include a finding on harm in its orders. The PCW lists the category of harm for this violation and notes the reason for the harm determination. Commenters mention that beads have been found in the stomachs of fish, but a TCEQ investigator has not documented such an instance. As reflected in Finding of Fact No. 2.a, a TCEQ investigator documented that plastic pellets were observed floating in Cox Creek and embedded in the creek's sediment. Based on the violation documented by TCEQ and in accordance with TCEQ's Penalty Policy, the correct category of harm is used for this violation.

- *Comment 2.A* - Violation days, commencement of violations: The penalty policy calls for counting violation days from the date of noncompliance to, in this case, the screening date, not to be confused with the date the violations will cease. The presently proposed order inexplicably begins counting violation days from April 4, 2017, and tallies 43 days' violations to the screening date, May 17, 2017. Unless the observations of EPA and the agency's inspectors in 2010 are to be disregarded, there were 2527 days of violations between June 16, 2010, and May 17, 2017. The first date of the recent citizen-reported violations that were confirmed by the agency's March 10, 2016, inspection was January 31, 2016. That is 472 days before the screening date. Were the agency to ignore the citizen-reported January date, the March 10th agency confirmation date, itself, results in 433 days' violations, again, counted to the screening date.

*Response 2.A* - Commenters offer several dates prior to the April 4, 2017 record review date to use as the commencement of the violation. Commenters mention an EPA investigation conducted in 2010 and a citizen complaint from January 31, 2016. Commenters state that the PCW was not completed in a manner consistent with the TCEQ's Penalty Policy. It is TCEQ's practice to use dates on which TCEQ's investigators have documented violations



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during TCEQ-approved investigations or record reviews that demonstrate that compliance has not been met within an allotted period of time. The March 10-14, 2016 investigation resulted in a Notice of Violation. The Respondents did not submit documentation demonstrating compliance with the violations documented in the Notice of Violation within the allotted timeframe. This was documented by TCEQ in the April 4, 2017 record review and is therefore used as the violation start date for penalty calculation purposes. The penalty calculation is consistent with the TCEQ's application of the Penalty Policy.

- *Comment 2.B - Violation base penalty:* The penalty policy directs the violation base penalty/violation event be multiplied by the number of violation events to arrive at the violation base penalty. Since the agency found three violations, one at each of the offending outfalls, each violation day, and since it found 43 violation days, and since it found only "moderate" harm for this type of violation, it would calculate the violation base penalty to be  $3 \times 2 \times (30\% \text{ of } \$25,000) = \$45,000$ . 43 days of continuing violations is an indefensible undercount. Depending on the agency's assumptions about violation severity and the number of violation days, a set of more-defensible violation base penalties is set out in the table, below. This number is what the *Penalty Policy* refers to as "Subtotal 1."

Days of violation		Months of violation		Violation base penalty
From 2010: 2527		84		\$1,890,000
From Jan. 31: 472		16		\$360,000
From March 10: 433		15		\$337,500

*Response 2.B - Commenters disagree with the 43 violation days calculated by TCEQ for this violation and offer several other options for the start date of the violation. As stated in Responses 1.B and 2.A, the record review date of April 4, 2017 is an appropriate start date for penalty calculation in this case.*

- *Comment 2.C - Compliance history penalty supplement ("Subtotal 2"):* The penalty policy directs that the site compliance history be calculated "using 30 TAC, Ch. 60." The agency calculated a gross compliance history penalty supplement of 159% of the violation base penalty, i.e., of Subtotal 1. That calculation appears to have been done correctly. Then, however, the agency forgave 59% of that supplement, resulting in an adjusted compliance history penalty supplement of 100%. This is consistent with the 2014 penalty policy, but it is not consistent with 30 TAC Ch. 60, which does not contemplate a cap at 100%. The compliance history penalty supplement should not be adjusted. The compliance history penalty supplement should be 159% of the violation base penalty.

*Response 2.C - Commenters discuss how the compliance history adjustment of 159% to 100% follows TCEQ's 2014 Penalty Policy but is not consistent with 30 TEX. ADMIN. CODE ch. 60. Texas Water Code § 5.754(e-1) caps the penalty enhancement attributed to the compliance history at 100% of the base penalty amount.*



- *Comment 2.D* - Repeat violator penalty supplement ("Subtotal 3"): 30 TAC § 60.2(f), the "repeat violator" standard, is very lenient to the violator. The agency appears to have applied that regulation correctly to this violator. (So, a 0% penalty supplement is defensible.)

*Response 2.D* - No change is necessary as the Commenters take the stance that the lack of the "repeat violator" enhancement is appropriate.

- *Comment 2.E* - Culpability supplement ("Subtotal 4"): The agency's penalty policy directs that a 25%-of-the-violation-base-penalty supplement be added, if documentation other than NOVs and orders exists indicating the violator could reasonably have anticipated and avoided the violation. The agency's proposed order makes no mention of any efforts it undertook to determine if a culpability enhancement were appropriate. It would seem that Formosa would only have needed to experience one large rainfall event, for example, in order to learn that its stormwater system is not designed or operated properly to contain pellets within the Facility. In light of the huge volumes of pellets collected by Formosa's cleanup contractors, the thousands of pellet discharge samples Waterkeepers have collected in the past 29 months, alone, the earlier EPA/TCEQ Inspections noting escaped pellets and poor workplace practices in 2010, and numerous citizen complaints and comments during Formosa's 2013 amendment of its TPDES permit, it begs credulity to believe the pellet problem has not been known to Formosa for the better part of a decade. Therefore, the agency should have found, but did not find, a 25% supplemental enhancement was in order.

*Response 2.E* - Commenters bring up the lack of a culpability (subtotal 4) enhancement in the PCW and mention that EPA/TCEQ inspections occurred in 2010. TCEQ evaluated a penalty enhancement due to culpability and, in accordance with the TCEQ's Penalty Policy, examined the five-year period prior to the initial settlement offer (October 31, 2012 – October 31, 2017). TCEQ determined that there was insufficient documentation to meet the culpability criteria in the TCEQ's Penalty Policy.

- *Comment 2.F* - Good faith effort to comply supplement ("Subtotal 5"): The agency apparently found no particularly timely or effective efforts by Formosa to return to compliance. As evidenced by, among other things, the proposed order's failure to find compliance as of even the onset of this comment period, that finding was certainly appropriate. Thus, the agency's decision not to reduce the base violation penalty was correct.

*Response 2.F* - No change is necessary as the Commenters take the stance that the lack of a "good faith efforts" reduction is appropriate.

- *Comment 2.G* - Economic-benefit-to-the-violator supplement ("Subtotal 6"): The *Penalty Policy* breaks the economic benefit into three components: (1) the return the violator earned on the depreciable capital expenditures that were avoided at some earlier time, when the expenditures, presumptively, would have resulted in engineering fixes that, at least in part, would have prevented further permit violations of the sort at issue; (2) the return the violator earned on avoided non-depreciable capital expenditures and other one-time costs that were avoided at an earlier time, when the expenditures, presumptively, would have contributed to the prevention of further permit violations of the sort at issue; and (3) the return the violator earned on avoided periodic costs that would have been incurred on, operation and maintenance of the capital equipment or process improvements that should have been implemented at an earlier time to, collectively, prevent further permit violations.



The penalty policy explicitly does not treat as economic benefit any other financial gains the violator realized because of its avoided or delayed pollution-prevention efforts. But, it does indicate "all avoided cost returns earned a respondent will be included in the total assessed penalty" by their inclusion as an adjustment under the "other factors as justice may require" factor.

So, if increased market share were realized because products arrived at the market earlier than they would have, had pollution-prevention efforts been implemented, or if higher market prices or lower raw materials costs were realized by an earlier market entry, or if the general-inflation-adjusted costs (e.g. the costs as adjusted only by in GDP implicit price deflator) of the pollution-prevention measures, themselves, were greater at the earlier time than they were when the violator incurred them in response to enforcement, or if process changes implemented to help prevent pollution have down-stream costs that were avoided during the pre-enforcement time period, all those financial gains to the violator would be ignored on the economic benefit calculation, but might be accounted for, later, under the "other factors as justice may require" rubric.

Once the economic benefit values in each category have been determined, the penalty policy directs that the values be summed and the violation base value be multiplied by a percentage that is a function of the summed values. If the values sum to more than \$15,000, that percentage is 50%. Otherwise, the percentage is 0%. So, the penalty supplement does not seek to recover the economic benefit the violator realized from the violations. It just seeks to realize, at most, 50% of the violation base penalty.

The penalty calculation worksheet for Formosa is woefully incomplete in its enumeration of categories of avoided costs it considered. For, example, the agency did not include avoided property taxes in its abbreviated identification of Formosa's benefits from delayed property improvements. The penalty calculation worksheet provides no support for the avoided or delayed costs it does enumerate,<sup>4</sup> so **meaningful comment on those is not possible**. There must be qualified industrial engineers and financial analysts available to the agency who could develop a defensible estimate of the economic benefit Formosa gained through its noncompliance with its permit. The agency should employ or assign from within its staff persons with these skill sets to develop a recommended economic benefit value.

The present PCW recognizes only \$1,100,000 in engineering and construction costs. It, then, contends the expenditure should have been incurred on March 10, 2016, the date the agency confirmed the February 18, 2016, citizen complaint of discharges dating back to at least January 31, 2016. EPA investigations dating to at least June 2010 reported the pellet discharge problems to Cox Creek. The agency's *Penalty Policy* instructs that the penalty should recover the economic benefit gained during the violation period. Inasmuch as EPA and TCEQ inspectors reported the same pellet discharge problem in Cox Creek in June 2010, that was a realistic start date for the violations for which enforcement is being pursued, here.

The \$1,100,000 cost is unsupported by any itemization, let alone, any documentation. Commenters very much question the estimate, especially inasmuch as there is no indication the steps necessary to "minimize" — let alone, to reduce to "trace" levels — the pellet discharges were by July 31, 2017 (the date Formosa seeks in the exculpatory paragraph of the proposed administrative order), or October 31, 2017 (the date of the agency's offer to Formosa of settlement), or have yet (June 26, 2018) been implemented. There is no support for the estimated 5%/year cost of money the agency assumed; it is difficult to believe Formosa only earns 5%/year on the money avoids spending on environmental compliance.



The agency presents in its penalty calculation worksheet no justification for a 15-year amortization of the engineering cost and depreciation of the structures funded from the \$1,100,000. And, if gabions really have only a 15-year useful life, they are of such low quality that their purchase and emplacement would be imprudent and should not count as a cost of the "remedy."

The only other element of economic benefit the current penalty calculation worksheet considers is the delayed costs of remediation and disposal. Again, with no itemization of individual costs or documentation of those costs or of the bases for believing they are the total such costs incurred, ***the public has no realistic way to comment on this element of the economic benefit calculation.*** There is also the matter that the remediation costs and, probably, even, the disposal costs are not at an end. There is just nothing credible about the \$750,000 assumed by the agency as the principal on which Formosa was able to earn a return for an extra 1.30 years (which time frame grossly understates how long Formosa had the use of the money).

*Response 2.G* - Commenters question how the economic benefit cost estimates were obtained and state that they should be increased. Commenters correctly recite TCEQ's Penalty Policy in regards to how a base penalty enhancement of 50% is triggered when a benefit of \$15,000 or more is recognized as a delayed cost, but state that additional penalties need to be added to the PCW. TCEQ adjusted the total base penalty with the 50% economic benefit enhancement, but TCEQ's Penalty Policy does not provide for any additional adjustment due to delayed costs. In regards to the avoided costs, it was determined that there were no avoided costs associated with the violations. Commenters state the agency should use staff with the skill sets to develop a recommended economic benefit value. TCEQ utilizes staff with the appropriate skill level and knowledge to estimate economic benefit for penalty calculation purposes. TCEQ economic benefit calculations were developed based on documentation from the Respondents regarding their corrective actions. The economic benefit worksheets were completed correctly and no change is necessary.

- *Comment 2.H* - Compliance history of the violator, as opposed to of the site ("Subtotal 7"): 30 TAC § 60.2(h) provides for a calculated rating of the violator that is based on the complexity of the sites "affiliated" with the violator and the violation histories of the sites. The agency provided absolutely no information as to the sites it considers affiliated with Formosa or as to their complexities or, for the most part, their compliance histories. Formosa Plastics Corp, USA, is the parent company of Formosa Plastics Corporation, Texas, the nominal operator of the Point Comfort facility, as well as being the parent company of "Formosa" companies in Delaware, Illinois, and Louisiana. Formosa Plastics Corporation, USA, is, in turn, wholly owned by Formosa Plastics Corporation, a publicly traded Taiwanese corporation with numerous subsidiaries and sister companies largely controlled by Formosa Plastics Group of Taiwan. Formosa Plastics Corporation, Texas, is one of a very large multinational web of interlocking companies. The agency somehow decided Formosa Plastics Corporation, Texas, is a "satisfactory" violator. There is no information provided by the agency from which a commenter can critique that neutral categorization.

*Response 2.H* - Commenters question how TCEQ concluded that a Satisfactory classification be used for the compliance history portion of the PCW. All the sites associated with CN600130017 (FORMOSA PLASTICS CORPORATION, TEXAS) and CN602650954 (FORMOSA UTILITY VENTURE, LTD.) in the TCEQ's Central Registry database were considered when determining the classification of the Respondents. The sites under both entities are RN103186326, RN105266274, RN103031332, RN100218973, RN106187024, RN105922884, RN105742431, and RN102972502. Following the calculation of the



compliance history ratings on September 1, 2016, as specified in 30 TEX. ADMIN. CODE ch. 60, the Respondents were both classified as Satisfactory performers. Based on TCEQ's evaluation of the compliance history classification for both Respondents, no change is necessary.

- *Comment 2.I* - The penalty policy says that the seven subtotals should be summed and that sum adjusted as appropriate in light of "other factors as justice may require." The agency's penalty calculation, in this instance, did not consider other factors as justice might require.

*Response 2.I* - Commenters state that the agency did not consider "other factors as justice may require" in calculating the penalty. TCEQ did evaluate "other factors as justice may require," and determined that there were no factors warranting an upward or downward adjustment to the penalty. Commenters do not identify any factors here they believe TCEQ did not consider.

- *Comment 2.J* - In addition to increases associated with the factors that were omitted from the economic benefit determination, Subtotal 6, the penalty sum should be increased by a large amount, because the harm done to the environment by Formosa's discharges is essentially irreparable in the near term. Millions or billions of plastic beads have been illegally discharged to the Creek since at least 2010. As Formosa's attempts in the past year to clean up the discharges have demonstrated, there is no effective way to recapture the discharges, and the efforts Formosa has undertaken to date may well have caused more harm than good.

Formosa's financial might and industrial sophistication should be weighed as an additional consideration in the penalty calculus, too. Formosa Plastics Corporation, U.S.A., ultimately is a component of the Formosa Plastics Group. The parent group reported U.S.A. net 2017 income before taxes of \$1.096 billion;<sup>5</sup> Formosa Plastics Corporation, U.S.A., provides the bulk of that net income. The net income number was down 20% from the previous year. If companies of this size are to be deterred from the disregard of our environmental laws, they must be penalized at substantial levels when they are caught violating those laws. As has been noted more than once, already, Formosa has been illegally discharging plastic pellets to Cox Creek since at least the early part of 2010. That is a lengthy period of disregard of our environmental laws.

*Response 2.J* - Commenters state the penalty should be increased due to the harm done to the environment. As explained in Response 1.I, TCEQ considered the violation's harm in calculating the penalty. Commenters request that the Respondents' "financial might" be considered when calculating an appropriate penalty. The penalty was calculated in accordance with the TCEQ's Penalty Policy and takes into consideration all the factors outlined in Texas Water Code § 7.053.

- *Comment 2.K* - The agency's penalty calculation for the proposed order, before considering "other factors as justice may require," is, for the reasons identified, here, badly deficient. If the agency is still committed to a settled resolution of Formosa's illegal discharges, the penalty component of that solution should be on the order of \$15,367,600 (continuing violations from June 16, 2010) or \$11,022,400 (continuing violations from January 31, 2016). Waterkeepers feel the former penalty is the appropriate one, given the solid evidence of unauthorized pellet discharges predating June 2010.



The preceding penalty figures are based on (1) the surmise – speculation, actually – that the economic benefits Formosa realized from its pellet discharge violations in Cox Creek will be offset by the costs of cleanup and plant modifications ordered by agency, and (2) a belief justice requires a \$10,000,000 penalty supplement to, perhaps, impress on Formosa and other firms of its financial heft the necessity of compliance with our environmental laws. \$10,000,000 is roughly 1/100ths of Formosa Plastics Group's U.S.A. net income for one year, and a bad year, at that. It is only 40% Kevin Durant's annual salary.

The following table summarizes the components of the civil penalty Waterkeepers propose:

Days of violation	Months of violation	Violation of base penalty	Plus, Subtotal 2	Plus, Subtotal 4	Total, save for eco benefit and deterrence	Grand total, including deterrence
2527	84	\$1,890,000	\$3,005,100	\$472,500	\$5,367,600	\$ 15,367,600
472	16	\$360,000	\$572,400	\$90,000	\$1,022,400	\$ 11,022,400
433	15	\$337,500	\$536,625	\$84,375	\$958,500	\$ 10,958,500

*Response 2.K* - Commenters state that TCEQ's penalty calculation is "badly deficient" and offer two alternative penalties, \$15,367,600 (June 16, 2010 to screening) and \$11,022,400 (January 31, 2016 to screening). As mentioned in Response 2.A, the dates used for the duration of this violation are consistent with the TCEQ's Penalty Policy. Additionally, Commenters state that a \$10,000,000 penalty increase is appropriate to deter other violators of environmental laws in light of the Respondents' net income. No change is necessary as the penalty was correctly calculated in accordance with the TCEQ's Penalty Policy and takes into consideration all the factors outlined in Texas Water Code § 7.053.

- *Comment 3* - Conclusion of law number 5 should be modified to be consistent with the revised monetary penalty recommended, above.

*Response 3* - Commenters state that Conclusion of Law No. 5 should be adjusted to be consistent with the penalty recommendation in Comment No. 2.K. As stated in the Response 2.K, the penalty was correctly calculated and therefore no change is necessary.

- *Comment 4* - The proposed order requires, presumably (although that is not stated) to the end of identifying the fact of pellet and other solids discharges, only semi-annual evaluations of Cox Creek and Lavaca Bay and the Facility. It requires semi-annual removal and disposal of discharged solids, including pellets. It requires documentation of the evaluations and the removals and disposals. It requires semi-annual certifications regarding the evaluations, removals and disposals.

***The proposed order does not actually impose a remedy.*** It does not require the cessation of the unauthorized discharges. The proposed order imposes no engineering fix or requirement for a plan for an engineering fix. It imposes no performance standard by which an engineering fix would be evaluated, and it imposes no monitoring tools, the use of which would alert the agency to whether the performance standards were attained. It imposes no requirement for a planned removal of discharged pellets, so the proposed order does nothing to deter harm to Cox Creek and Lavaca Bay caused by cleanup efforts that is greater than the



harm those areas would suffer, were some or all pellets left in place. All these failings need to be corrected.

*Response 4* - Commenters state that the Order does not impose a remedy. Although the Order recognizes the actions taken by the Respondents to minimize the discharge of solids from the Facility, it does impose a remedy. TCEQ is taking a proactive approach and requiring the Respondents to conduct periodic evaluations throughout the life of the Order and removing and disposing of any solids found during these evaluations. This requirement for a planned removal of discharged solids is addressed in the Order under Ordering Provision No. 3.c. This approach takes into consideration the potential issue that solids already discharged from the Facility may take time to surface after being embedded in sediment, which makes it difficult to determine if there are newly discharged solids. If TCEQ determines the measures taken by the Respondents are inadequate and there are additional documented discharges of solids, then further action may be taken by the TCEQ.

## **Attachments**

cc: General Counsel, MC 101, Building F  
Special Counsel, MC 109, Building F  
Manager, Water Section, Corpus Christi Regional Office  
Austin Henck, Coordinator, Enforcement Division, MC 219  
Central Records, MC 213, Building E, 1st Floor  
IWD\_WQ0002436000\_CP\_20181127\_Response to Comments on Proposed  
Agreed Order  
Enforcement Division Electronic Reader File







**DOCKET NO. 2017-0737-IWD-E**

IN THE MATTER OF AN ENFORCEMENT	§	BEFORE THE TEXAS
ACTION CONCERNING FORMOSA	§	
UTILITY VENTURE, LTD., AND	§	COMMISSION ON
FORMOSA PLASTICS CORPORATION,	§	
TEXAS (RN100218973)	§	ENVIRONMENTAL QUALITY

***COMMENTS OF DIANE WILSON AND THE SAN  
ANTONIO BAY ESTUARINE WATERKEEPER ON THE  
PROPOSED ADMINISTRATIVE ORDER***

TO THE HONORABLE COMMISSIONERS:

Come now, Diane Wilson and the San Antonio Bay Estuarine Waterkeeper (collectively, "Waterkeepers") and offer these comments on the proposed administrative order in this enforcement docket. These comments are limited to that portion of the proposed administrative order that addresses the plastic pellet discharges for which Formosa was noticed with enforcement May 1, 2017.

**Summary**

The Waterkeepers appreciate that there is considerable discretion allowed the agency in its enforcement decisionmaking. The agency has guidance on the exercise of that discretion, RG-253, *Penalty Policy* (April 1, 2014).<sup>1</sup> Waterkeepers disagree with a number of the policy decisions reflected in that guidance. It is unsettling in its generosity to violators. Still, for purposes of these comments, Waterkeepers treat the guidance, except in one instance when it is inconsistent with 30 TAC ch. 60, as setting the boundaries within which the agency should exercise its discretion.

Waterkeepers are engaged with Formosa in federal court Clean Water Act litigation concerning a larger number and scope of discharges than are covered by the proposed agreed order on which the comments are offered. See, *San Antonio Bay*

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<sup>1</sup> The agency's September 1998 Memorandum of Agreement with EPA, "Memorandum of Agreement Between the Texas Natural Resource Conservation Commission and the U.S. Environmental Protection Agency, Region 6, Concerning the National Pollutant Discharge Elimination System," Sec. V(D)(4)(c), actually calls for the agency to use its October 1, 1997, penalty policy. Were that policy used in the Formosa penalty calculation, the calculated penalty would be higher.



*Estuarine Waterkeeper, et al., v. Formosa Plastics Corp, et al.*, Cause 6:17-cv-00047 (S.D. Tex. 2017). The discharges covered by the proposed agreed order are a subset of those involved in the federal litigation. To date, the State has not intervened in the federal litigation. The terms, particularly, finding of fact no. 3, of the proposed agreed order reflect Formosa's desire to have the order's text be such that Formosa may argue in federal court the order undermines aspects of Waterkeepers' case. Waterkeepers, therefore, urge the agency to be mindful of Formosa's desire, as the agency crafts its final agreed order, assuming there is a final agreed order.

Waterkeepers are critical in the following respects of the proposed agreed order:

- there are too few findings, and the findings are not sufficiently precise;
- finding no. 3 is largely exculpatory of Formosa, the violator, and has no place in an enforcement order;
- the proposed agreed order neither imposes nor requires a remedy to bring the facility back into compliance with its permit;
- the penalty calculation fails to follow the *Penalty Policy* directive for determining the date on which a continuing violation begins;
- the penalty calculation fails to follow the *Penalty Policy* directive for determining the "end point" for the assessed noncompliance events;
- thus, the penalty calculation rests on a smaller number of violation events than would be the case, had an appropriate dates of initial noncompliance and the end point for the assessment been found;
- the penalty calculation does not include a capability supplement, i.e., a "subtotal 4," calculation or a rationale for the lack of such a supplement;
- the penalty calculation presents almost no justification for the economic benefit supplement, i.e., "Subtotal 6;" neither the penalty calculation worksheet nor any finding asserts any investigation, at all, of the myriad factors that go into the calculation of the economic benefit Formosa realized (or, conceivably, did not realize) by a decade or more of noncompliance;<sup>2</sup>

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<sup>2</sup> Counsel for Waterkeepers sought from the agency by Public Information Act request (#18-40478) the materials on which the agency's analysis of the economic benefit Formosa realized rested. In response, counsel received a PIR bill, a copy of the *Penalty Policy*, a copy of the penalty calculation worksheet, the enforcement action referral packet, and some emails containing no quantitative information, at all. In sum, the response to the PIA request contained absolutely no support for any element of the penalty calculation worksheet; either the response was not, objectively, made in good faith, or the agency simply has no data to support its economic benefit analysis.



- the penalty calculation related to the compliance history of the violator, i.e., "Subtotal 7," does not present any justification for the neutral categorization of the violator, including its operations at unidentified "affiliated" sites;
- there is no discussion or, even, any conclusion as to why "other factors as justice may require" do not substantially increase the calculated penalty;
- the overall penalty assessed is pitifully small for a company of Formosa's wealth and for essentially irremediable violations over such a long time; and
- Formosa's cleanup/recovery efforts to date have been quite destructive of the Cox Creek wetland; the proposed agreed order does not require there be or the agency approve a plan by which Formosa will attempt to retrieve its escaped plastics without causing unacceptable collateral damage.

### **Detailed comments**

1. The findings need to be more numerous and precise

A. Finding 2(a) supports a fair inference that the violation events on which enforcement is taken were unpermitted discharges from Outfalls 006, 008 and 009. However, a finding that simply states those are the violation events covered by the administrative order would lessen the risks of ambiguity about what, exactly, are the "matters set forth by this Order" that are said to be resolved.<sup>3</sup>

B. Finding 2 states a record-review date, April 4, 2017. This date has no relevance under the guidance of the *Penalty Policy*, and the finding should be deleted. In its place should be finding of the date of initial noncompliance. That date, based on actual TCEQ observation, could be as early as June 16, 2010. In its report of a June 15-17 inspection, in which TCEQ's inspector Phyllis Cunningham participated, EPA reported:

The EPA inspection team observed plastic pellets on the downstream side of the outfall gate at the following outfalls: 006, 007, 008, and 009, which discharge into Cox Creek (see June 16, 2010 Photographs 77 through 81, 90 through 96, and 99 through 107). The inspection team also observed plastic pellets of the same size, shape and color at two locations on the shores of Lavaca Bay near Highway 3 5. EPA has received citizen reports of plastic pellets found near the Lavaca River. In addition, we observed

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<sup>3</sup> See, ordering provision no. 1.

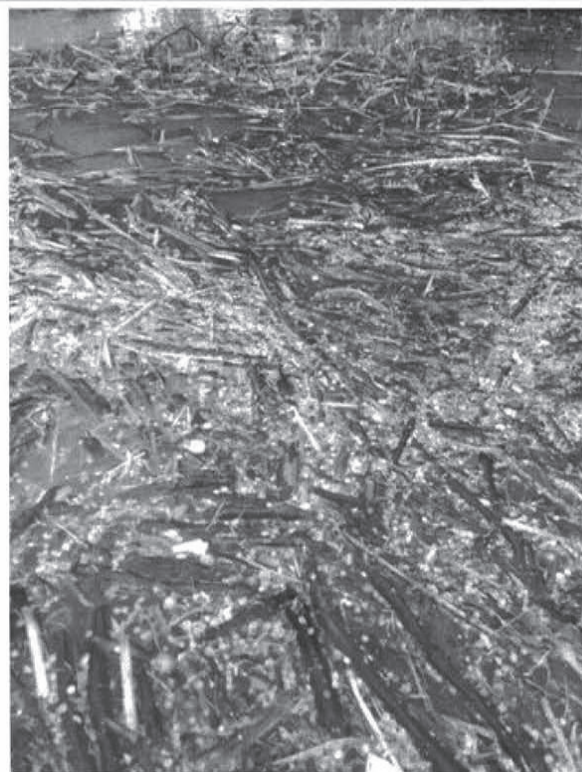


vegetative and plastic debris on the screens covering the drainage gates at Outfalls 006, 007, and 009 (see June 16, 2010 Photographs 93, 96, and 118). [Many of these photographs are attached to these comments.]

The agency conducted no investigation to determine when Formosa knew or should have known of its noncompliance. (See, *Penalty Policy*, p. 14.) Had it done so, it might well have developed evidence of an earlier initial noncompliance date.

If the agency feels compelled to grant Formosa a more favorable initial noncompliance date, January 31, 2016, would be the most reasonable favorable date. That is the date on which the citizen complaint that led to the proposed administrative order reported sighting pellets in Cox Creek. The citizen complaint was confirmed by a TCEQ inspection on March 10, 2016.

C. There should be, but is not, a finding on the end point for that assessed noncompliance events. *Penalty Policy*, p. 14. The noncompliance is ongoing, as reflected by this photo taken June 20, 2018, outside the boom Formosa has erected in State water immediately downstream from Outfall 006. In addition, TCEQ currently has an open investigation into citizen complaints about pellets and powders discharged from Formosa's facility from April through June 2018 (Incident Number 287060). Waterkeepers understand the facts of these recent pellet discharges has been confirmed by TCEQ inspectors, but



Photograph #1: June 20, 2018, Pellets immediately outside the Formosa boom in State water below Outfall 006



Waterkeepers' attempt to secure documentation of this under the Public Information Act has been stymied by the agency. The *Penalty Policy* indicates either the return-to-compliance date or the enforcement screening date may be used as an end point date, as appropriate. Given the ongoing noncompliance, the end point date, May 17, 2017, which is the screen date noted in the penalty calculation worksheet for this proposed administrative order, would appear to be the "appropriate" end point date, and it should be stated as a finding of the final administrative order.

D. From the penalty calculation worksheet it is clear the agency found the violation events to be "continuing events," as the term is used in the *Penalty Policy*, page 13. That should be stated as a finding.

E. The exculpatory findings at paragraph 3 have no place in an enforcement order. Why would the enforcement authority burnish the stature of the violator? In any event, paragraph 3.a. should also include a finding of the extensive wetlands' destruction the violator wrought in its attempts to remedy in part the impacts of its violations. See, Photograph #2, which shows the hydroblasting of vegetation by Formosa contactors near Outfall 006, as they attempt to dislodge and set up for recovery discharged pellets. See, also, Photographs ##3 and 4, next page, which show, in before-and-after sequence, the sort of destruction Formosa's contractor is wrecking in its attempts to recover some of the discharged pellets.

F. Paragraph 3.b. is another inappropriate burnishment of the stature of the violator, one that serves to help undermine the ongoing citizen enforcement action against the violator.



Photograph #2: March 29, 2018, Formosa contractor hydroblasting vegetation near Outfall 006



It should be stricken. If some finding like it is retained, it should be made more clear. The fact that the discharges were not abated in mid-2017 and have not to this day been abated (see, Photograph #1) should be stated. The finding is factually erroneous, in that Formosa clearly has not to this day implemented a pellet recovery system that would minimize discharges of solids, so the finding should not say that Formosa has or had by any date implemented such a system. Whatever, if anything, is said about Formosa's efforts as of any date to reduce future discharges should detail much more precisely than paragraph 3.b currently does what Formosa has done.



Photographs 3 (April 24, 2018) & 4 (May 17, 2018)

G. Paragraph 3.b, presently, is ambiguous as to the location of the floating booms to which it refers. To the extent it is retained, paragraph 3.b should be clarified to state that the floating booms referenced are on the Facility's property, to prevent the discharge of pellets and plastics prior to their release from the Facility. (If the reference is to the booms Formosa has installed downgradient from its discharge points and in State waters as a cleanup measure, the paragraph will likely have the effect of illegally amending the permit to allow otherwise unpermitted discharges from the outfalls.)

H. The proposed order should include a finding of fact or a paragraph among the ordering provisions stating a recognition by the Respondents that the penalty and



remedial measures set forth in the order are only acceptable to the agency because they resolve the matters set forth in the order without litigation.

I. There should be a finding on harm. The agency found, one can tell from the penalty calculation worksheet, only "moderate" harm from the violation. The basis for that finding is not explained. Factually, the plastic pellets have dispersed all along Cox Creek and, to a lesser extent, around Lavaca Bay and along the shore grasses of each. The beads are found in the stomachs of fish. Both Waterkeepers and cleanup contractors hired by Formosa continue to collect bags, sacks and barrels of pellets along Cox Creek and beyond its mouth. The problem has been long-running and its impacts are unlikely ever to be fully erased. The order needs to explain why these harms are not judged by the agency to be, collectively, "major."

2. The penalty calculation worksheet was not completed in a manner consistent with the agency's *Penalty Policy*

A. Violation days, commencement of violations: The penalty policy calls for counting violation days from the date of noncompliance to, in this case, the screening date, not to be confused with the date the violations will cease. The presently proposed order inexplicably begins counting violation days from April 4, 2017, and tallies 43 days' violations to the screening date, May 17, 2017. Unless the observations of EPA and the agency's inspectors in 2010 are to be disregarded, there were 2527 days of violations between June 16, 2010, and May 17, 2017. The first date of the recent citizen-reported violations that were confirmed by the agency's March 10, 2016, inspection was January 31, 2016. That is 472 days before the screening date. Were the agency to ignore the citizen-reported January date, the March 10th agency confirmation date, itself, results in 433 days' violations, again, counted to the screening date.

B. Violation base penalty: The penalty policy directs the violation base penalty/violation event be multiplied by the number of violation events to arrive at the violation base penalty. Since the agency found three violations, one at each of the



offending outfalls, each violation day, and since it found 43 violation days, and since it found only “moderate” harm for this type of violation, it would calculate the violation base penalty to be  $3 \times 2 \times (30\% \text{ of } \$25,000) = \$45,000$ . 43 days of continuing violations is an indefensible undercount. Depending on the agency’s assumptions about violation severity and the number of violation days, a set of more-defensible violation base penalties is set out in the table, below. This number is what the *Penalty Policy* refers to as “Subtotal 1.”

Days of violation		Months of violation		Violation base penalty
From 2010: 2527		84		\$1,890,000
From Jan. 31: 472		16		\$360,000
From March 10: 433		15		\$337,500

C. Compliance history penalty supplement (“Subtotal 2”): The penalty policy directs that the site compliance history be calculated “using 30 TAC, Ch. 60.” The agency calculated a gross compliance history penalty supplement of 159% of the violation base penalty, i.e., of Subtotal 1. That calculation appears to have been done correctly. Then, however, the agency forgave 59% of that supplement, resulting in an adjusted compliance history penalty supplement of 100%. This is consistent with the 2014 penalty policy, but it is not consistent with 30 TAC Ch. 60, which does not contemplate a cap at 100%. The compliance history penalty supplement should not be adjusted. The compliance history penalty supplement should be 159% of the violation base penalty.

D. Repeat violator penalty supplement (“Subtotal 3”): 30 TAC § 60.2(f), the “repeat violator” standard, is very lenient to the violator. The agency appears to have applied that regulation correctly to this violator. (So, a 0% penalty supplement is defensible.)



E. Culpability supplement ("Subtotal 4"): The agency's penalty policy directs that a 25%-of-the-violation-base-penalty supplement be added, if documentation other than NOVs and orders exists indicating the violator could reasonably have anticipated and avoided the violation. The agency's proposed order makes no mention of any efforts it undertook to determine if a culpability enhancement were appropriate. It would seem that Formosa would only have needed to experience one large rainfall event, for example, in order to learn that its stormwater system is not designed or operated properly to contain pellets within the Facility. In light of the huge volumes of pellets collected by Formosa's cleanup contractors, the thousands of pellet discharge samples Waterkeepers have collected in the past 29 months, alone, the earlier EPA/TCEQ Inspections noting escaped pellets and poor workplace practices in 2010, and numerous citizen complaints and comments during Formosa's 2013 amendment of its TPDES permit, it begs credulity to believe the pellet problem has not been known to Formosa for the better part of a decade. Therefore, the agency should have found, but did not find, a 25% supplemental enhancement was in order.

F. Good faith effort to comply supplement ("Subtotal 5"): The agency apparently found no particularly timely or effective efforts by Formosa to return to compliance. As evidenced by, among other things, the proposed order's failure to find compliance as of even the onset of this comment period, that finding was certainly appropriate. Thus, the agency's decision not to reduce the base violation penalty was correct.

G. Economic-benefit-to-the-violator supplement ("Subtotal 6"): The *Penalty Policy* breaks the economic benefit into three components: (1) the return the violator earned on the depreciable capital expenditures that were avoided at some earlier time, when the expenditures, presumptively, would have resulted in engineering fixes that, at least in part, would have prevented further permit violations of the sort at issue; (2) the return the violator earned on avoided non-depreciable capital expenditures and other one-time costs that were avoided at an earlier time, when the expenditures, presumptively, would have contributed to the prevention of further permit violations of the sort at issue; and (3) the



return the violator earned on avoided periodic costs that would have been incurred on, operation and maintenance of the capital equipment or process improvements that should have been implemented at an earlier time to, collectively, prevent further permit violations.

The penalty policy explicitly does not treat as economic benefit any other financial gains the violator realized because of its avoided or delayed pollution-prevention efforts. But, it does indicate “all avoided cost returns earned a respondent will be included in the total assessed penalty” by their inclusion as an adjustment under the “other factors as justice may require” factor.

So, if increased market share were realized because products arrived at the market earlier than they would have, had pollution-prevention efforts been implemented, or if higher market prices or lower raw materials costs were realized by an earlier market entry, or if the general-inflation-adjusted costs (e.g. the costs as adjusted only by in GDP implicit price deflator) of the pollution-prevention measures, themselves, were greater at the earlier time than they were when the violator incurred them in response to enforcement, or if process changes implemented to help prevent pollution have down-stream costs that were avoided during the pre-enforcement time period, all those financial gains to the violator would be ignored on the economic benefit calculation, but might be accounted for, later, under the “other factors as justice may require” rubric.

Once the economic benefit values in each category have been determined, the penalty policy directs that the values be summed and the violation base value be multiplied by a percentage that is a function of the summed values. If the values sum to more than \$15,000, that percentage is 50%. Otherwise, the percentage is 0%. So, the penalty supplement does not seek to recover the economic benefit the violator realized from the violations. It just seeks to realize, at most, 50% of the violation base penalty.



The penalty calculation worksheet for Formosa is woefully incomplete in its enumeration of categories of avoided costs it considered. For, example, the agency did not include avoided property taxes in its abbreviated identification of Formosa's benefits from delayed property improvements. The penalty calculation worksheet provides no support for the avoided or delayed costs it does enumerate,<sup>4</sup> so *meaningful comment on those is not possible*. There must be qualified industrial engineers and financial analysts available to the agency who could develop a defensible estimate of the economic benefit Formosa gained through its noncompliance with its permit. The agency should employ or assign from within its staff persons with these skill sets to develop a recommended economic benefit value.

The present PCW recognizes only \$1,100,000 in engineering and construction costs. It, then, contends the expenditure should have been incurred on March 10, 2016, the date the agency confirmed the February 18, 2016, citizen complaint of discharges dating back to at least January 31, 2016. EPA investigations dating to at least June 2010 reported the pellet discharge problems to Cox Creek. The agency's *Penalty Policy* instructs that the penalty should recover the economic benefit gained during the violation period. Inasmuch as EPA and TCEQ inspectors reported the same pellet discharge problem in Cox Creek in June 2010, that was a realistic start date for the violations for which enforcement is being pursued, here.

The \$1,100,000 cost is unsupported by any itemization, let alone, any documentation. Commenters very much question the estimate, especially inasmuch as there is no indication the steps necessary to “minimize” — let alone, to reduce to “trace” levels — the pellet discharges were by July 31, 2017 (the date Formosa seeks in the exculpatory paragraph of the proposed administrative order), or October 31, 2017 (the date of the agency's offer to Formosa of settlement), or have yet (June 26, 2018) been implemented. There is no support for the estimated 5%/year cost of money the agency assumed; it is

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<sup>4</sup> See, footnote 2, *supra*.



difficult to believe Formosa only earns 5%/year on the money avoids spending on environmental compliance.

The agency presents in its penalty calculation worksheet no justification for a 15-year amortization of the engineering cost and depreciation of the structures funded from the \$1,100,000. And, if gabions really have only a 15-year useful life, they are of such low quality that their purchase and emplacement would be imprudent and should not count as a cost of the "remedy."

The only other element of economic benefit the current penalty calculation worksheet considers is the delayed costs of remediation and disposal. Again, with no itemization of individual costs or documentation of those costs or of the bases for believing they are the total such costs incurred, *the public has no realistic way to comment on this element of the economic benefit calculation.* There is also the matter that the remediation costs and, probably, even, the disposal costs are not at an end. There is just nothing credible about the \$750,000 assumed by the agency as the principal on which Formosa was able to earn a return for an extra 1.30 years (which time frame grossly understates how long Formosa had the use of the money).

H. Compliance history of the violator, as opposed to of the site ("Subtotal 7"): 30 TAC § 60.2(h) provides for a calculated rating of the violator that is based on the complexity of the sites "affiliated" with the violator and the violation histories of the sites. The agency provided absolutely no information as to the sites it considers affiliated with Formosa or as to their complexities or, for the most part, their compliance histories. Formosa Plastics Corp, USA, is the parent company of Formosa Plastics Corporation, Texas, the nominal operator of the Point Comfort facility, as well as being the parent company of "Formosa" companies in Delaware, Illinois, and Louisiana. Formosa Plastics Corporation, USA, is, in turn, wholly owned by Formosa Plastics Corporation, a publicly traded Taiwanese corporation with numerous subsidiaries and sister companies largely controlled by Formosa Plastics Group of Taiwan. Formosa Plastics Corporation, Texas,



is one of a very large multinational web of interlocking companies. The agency somehow decided Formosa Plastics Corporation, Texas, is a “satisfactory” violator. There is no information provided by the agency from which a commenter can critique that neutral categorization.

I. The penalty policy says that the seven subtotals should be summed and that sum adjusted as appropriate in light of “other factors as justice may require.” The agency’s penalty calculation, in this instance, did not consider other factors as justice might require.

J. In addition to increases associated with the factors that were omitted from the economic benefit determination, Subtotal 6, the penalty sum should be increased by a large amount, because the harm done to the environment by Formosa’s discharges is essentially irremediable in the near term. Millions or billions of plastic beads have been illegally discharged to the Creek since at least 2010. As Formosa’s attempts in the past year to clean up the discharges have demonstrated, there is no effective way to recapture the discharges, and the efforts Formosa has undertaken to date may well have caused more harm than good.

Formosa’s financial might and industrial sophistication should be weighed as an additional consideration in the penalty calculus, too. Formosa Plastics Corporation, U.S.A., ultimately is a component of the Formosa Plastics Group. The parent group reported U.S.A. net 2017 income before taxes of \$1.096 billion;<sup>5</sup> Formosa Plastics Corporation, U.S.A., provides the bulk of that net income. The net income number was down 20% from the previous year. If companies of this size are to be deterred from the disregard of our environmental laws, they must be penalized at substantial levels when they are caught violating those laws. As has been noted more than once, already, Formosa has been illegally discharging plastic pellets to Cox Creek since at least the early part of 2010. That is a lengthy period of disregard of our environmental laws.

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<sup>5</sup> <http://www2.fpg.com.tw/html/eng/annu.asp> (visited June 26, 2018).



K. The agency's penalty calculation for the proposed order, before considering "other factors as justice may require," is, for the reasons identified, here, badly deficient. If the agency is still committed to a settled resolution of Formosa's illegal discharges, the penalty component of that solution should be on the order of \$15,367,600 (continuing violations from June 16, 2010) or \$11,022,400 (continuing violations from January 31, 2016). Waterkeepers feel the former penalty is the appropriate one, given the solid evidence of unauthorized pellet discharges predating June 2010.

The preceding penalty figures are based on (1) the surmise – speculation, actually – that the economic benefits Formosa realized from its pellet discharge violations in Cox Creek will be offset by the costs of cleanup and plant modifications ordered by agency, and (2) a belief justice requires a \$10,000,000 penalty supplement to, perhaps, impress on Formosa and other firms of its financial heft the necessity of compliance with our environmental laws. \$10,000,000 is roughly 1/100ths of Formosa Plastics Group's U.S.A. net income for one year, and a bad year, at that. It is only 40% Kevin Durant's annual salary.

The following table summarizes the components of the civil penalty Waterkeepers propose:

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433	15	\$337,500	\$536,625	\$84,375	\$958,500	\$ 10,958,500

### 3. Modified conclusion of law

Conclusion of law number 5 should be modified to be consistent with the revised monetary penalty recommended, above.



4. A remedy should be ordered

The proposed order requires, presumably (although that is not stated) to the end of identifying the fact of pellet and other solids discharges, only semi-annual evaluations of Cox Creek and Lavaca Bay and the Facility. It requires semi-annual removal and disposal of discharged solids, including pellets. It requires documentation of the evaluations and the removals and disposals. It requires semi-annual certifications regarding the evaluations, removals and disposals.

*The proposed order does not actually impose a remedy.* It does not require the cessation of the unauthorized discharges. The proposed order imposes no engineering fix or requirement for a plan for an engineering fix. It imposes no performance standard by which an engineering fix would be evaluated, and it imposes no monitoring tools, the use of which would alert the agency to whether the performance standards were attained. It imposes no requirement for a planned removal of discharged pellets, so the proposed order does nothing to deter harm to Cox Creek and Lavaca Bay caused by cleanup efforts that is greater than the harm those areas would suffer, were some or all pellets left in place. All these failings need to be corrected.

### **Conclusion**

Diane Wilson and the San Antonio Bay Estuarine Waterkeeper urge the agency really re-think the logic and calculations underlying this proposed administrative order. The punishment the proposed order would impose is shockingly inadequate to the flagrancy of the violations and to their long period of occurrence and to the violator's long period of indifference to the violations and to the pervasiveness and longevity of the impacts of the violations.

The people of the State, the regular people who are not individually wealthy or politically powerful, depend on this agency to enforce the environmental laws that protect the common natural resources of the State. Please rework the administrative order, if an agreement with Formosa for such an order is still to be had, to make it one an



enforcement agency can show the larger world with a measure of pride. Demand remedy, proof of remedy, and a hefty financial penalty.

Sincerely,

/s/ David Frederick

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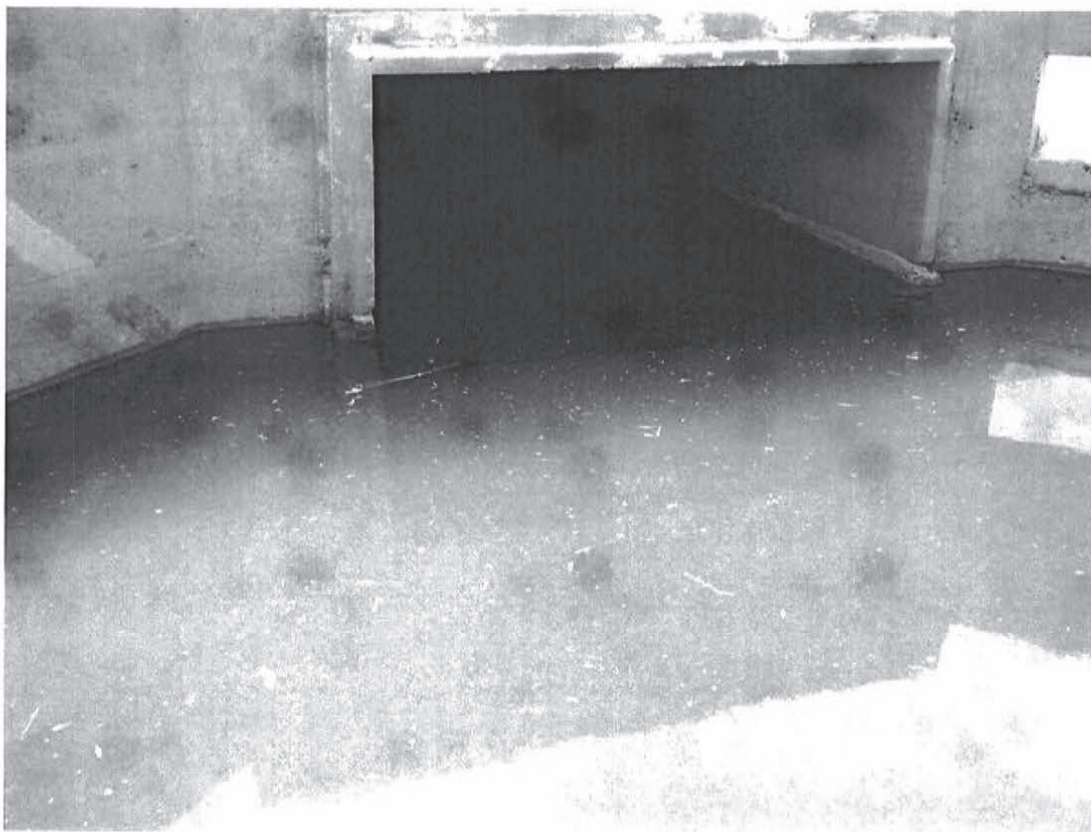
*Counsel for S. Diane Wilson and San Antonio Bay  
Estuarine Waterkeeper*





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Official Photograph Log  
Photo No. 79

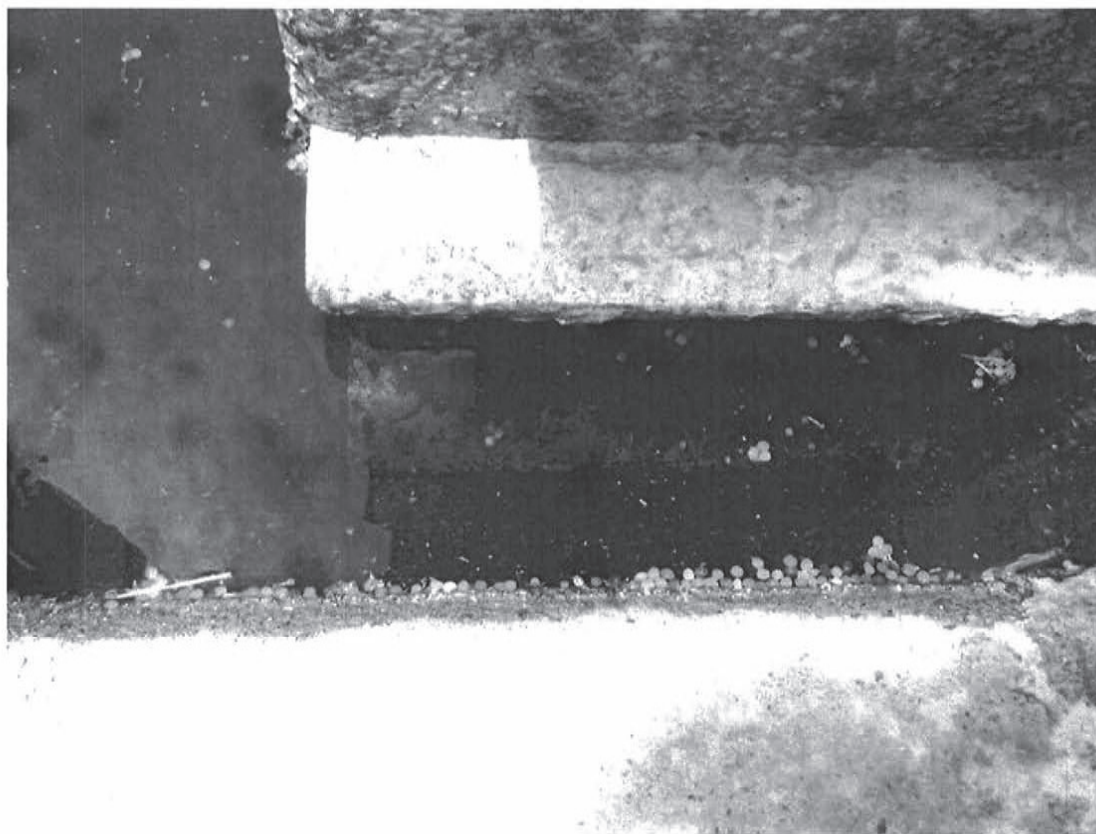


Photographer: Nancy Fagan	Date: 6/16/2010	Time: 2:33 PM
City/County: Point Comfort, Calhoun	Direction (facing): West	State: TX
Location: Formosa Plastics Corp.		
Subject: Outfall 006 - plastic pellets found floating on water surface downstream of gate (see Photo 78)		
Photo ID: DSCF3406		



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Official Photograph Log  
Photo No. 80



Photographer: Nancy Fagan	Date: 6/16/2010	Time: 2:33 PM
City/County: Point Comfort, Calhoun	Direction (facing): Down	State: TX
Location: Formosa Plastics Corp.		
Subject: Outfall 006 - Close-up of plastic pellets found floating on water surface downstream of gate		
Photo ID: DSCF3407		

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Official Photograph Log  
Photo No. 81



Photographer: Nancy Fagan	Date: 6/16/2010	Time: 2:34 PM
City/County: Point Comfort, Calhoun	Direction (facing): Down	State: TX
Location: Formosa Plastics Corp.		
Subject: Outfall 006 - Plastic pellets on concrete steps from earlier highwater event downstream of gate		
Photo ID: DSCF3408		



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Official Photograph Log  
Photo No. 94



Photographer: Nancy Fagan	Date: 6/16/2010	Time: 2:37 PM
City/County: Point Comfort, Calhoun	Direction (facing): Down	State: TX
Location: Formosa Plastics Corp.		
Subject: Outfall 006 - Pellets floating on creek-side and beyond the concrete apron of of Outfall 006, flowing towards Cox Creek		
Photo ID: DSCF3413		

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Official Photograph Log  
Photo No. 96



Photographer: Nancy Fagan	Date: 6/16/2010	Time: 2:41 PM
City/County: Point Comfort, Calhoun	Direction (facing): Down	State: TX
Location: Formosa Plastics Corp.		
Subject: Outfall 007 - Screen downstream of gate		
Photo ID: DSCF3415		



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

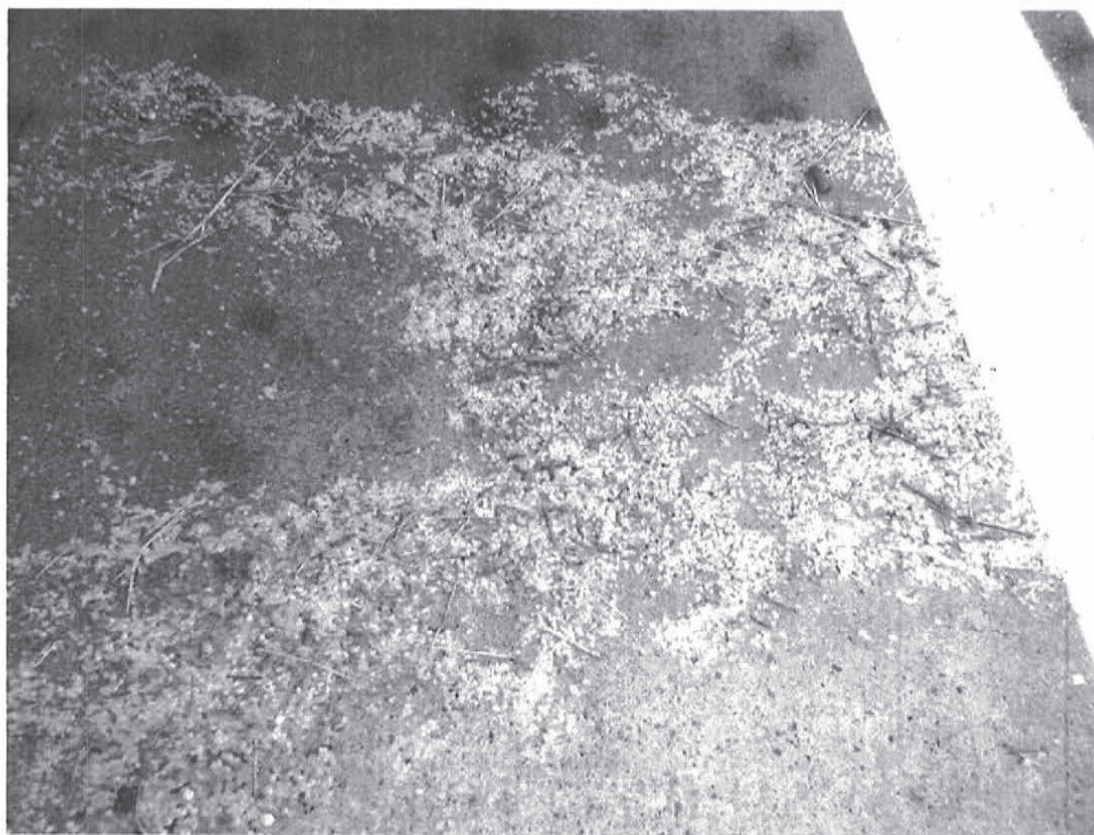
Official Photograph Log  
Photo No. 101



Photographer: Nancy Fagan	Date: 6/16/2010	Time: 3:11 PM
City/County: Point Comfort, Calhoun	Direction (facing): Down	State: TX
Location: Formosa Plastics Corp.		
Subject: Outfall 008 - Apparent deposit of plastic pellets on concrete apron from previous high water event		
Photo ID: DSCF3420		

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Official Photograph Log  
Photo No. 102



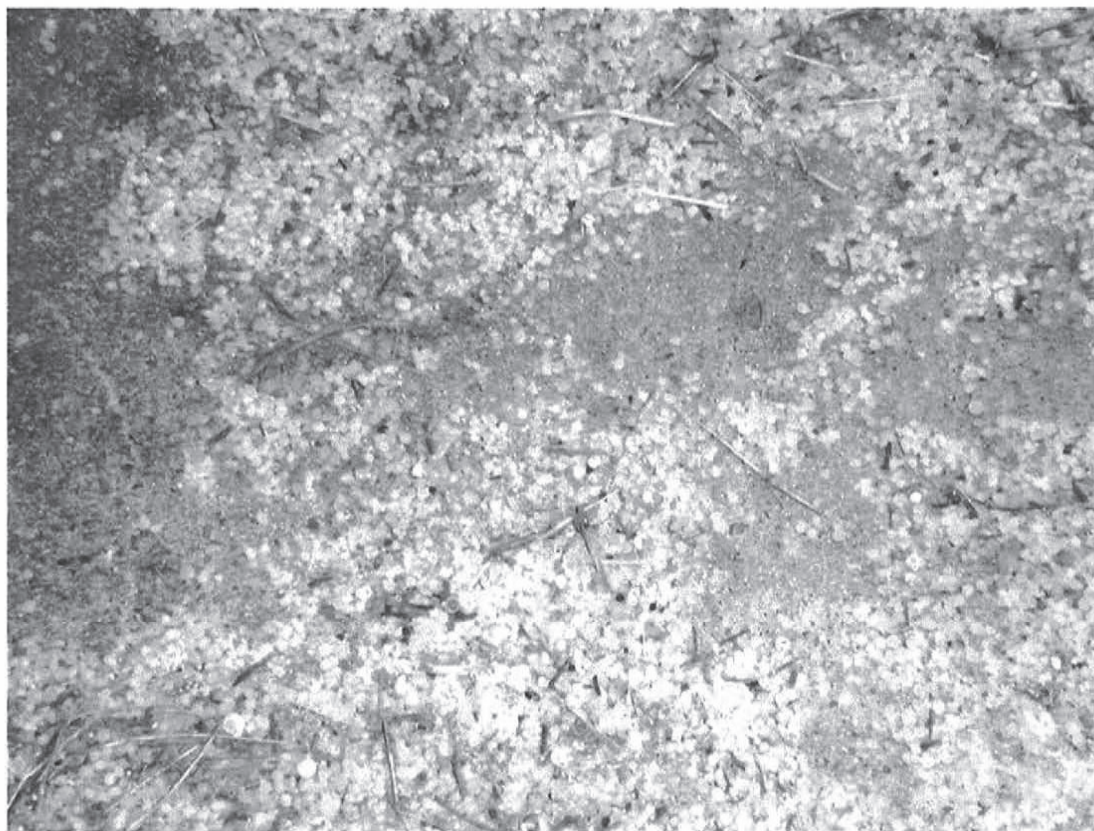
Photographer: Nancy Fagan	Date: 6/16/2010	Time: 3:11 PM
City/County: Point Comfort, Calhoun	Direction (facing): Down	State: TX
Location: Formosa Plastics Corp.		
Subject: Outfall 008 - Close-up of apparent deposit of plastic pellets on concrete apron from previous high water event		
Photo ID: DSCF3421		



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Official Photograph Log

Photo No. 103



Photographer: Nancy Fagan	Date: 6/16/2010	Time: 3:11 PM
City/County: Point Comfort, Calhoun	Direction (facing): Down	State: TX
Location: Formosa Plastics Corp.		
Subject: Outfall 008 - Close-up of plastic pellets of different shapes and sizes (see Photos 104 and 105)		
Photo ID: DSCF3422		

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Official Photograph Log  
Photo No. 104



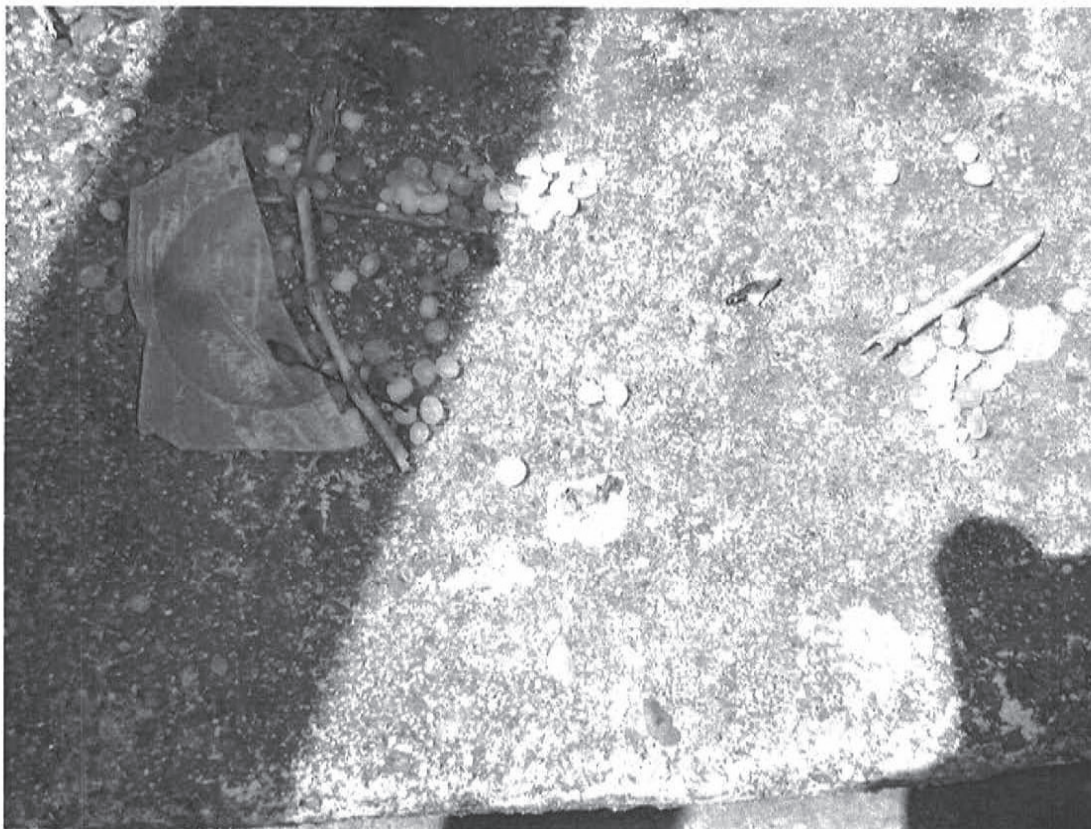
Photographer: Nancy Fagan	Date: 6/16/2010	Time: 3:12 PM
City/County: Point Comfort, Calhoun	Direction (facing): Down	State: TX
Location: Formosa Plastics Corp.		
Subject: Outfall 008 - Close-up of plastic pellets of different shapes and sizes (see Photos 103 and 105)		
Photo ID: DSCF3423		



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Official Photograph Log

Photo No. 105



Photographer: Nancy Fagan	Date: 6/16/2010	Time: 3:13 PM
City/County: Point Comfort, Calhoun	Direction (facing): Down	State: TX
Location: Formosa Plastics Corp.		
Subject: Outfall 008 - Close-up of plastic pellets of different shapes and sizes (see Photos 103 and 104)		
Photo ID: DSCF3424		

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Official Photograph Log  
Photo No. 106



Photographer: Nancy Fagan	Date: 6/16/2010	Time: 3:19 PM
City/County: Point Comfort, Calhoun	Direction (facing): Down	State: TX
Location: Formosa Plastics Corp.		
Subject: Outfall 008 - Feral hog prints in mud downstream from Outfall 008 before the drainage crosses through chain-link fence on east side of property		
Photo ID: DSCF3425		



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Official Photograph Log  
Photo No. 107



Photographer: Nancy Fagan	Date: 6/16/2010	Time: 3:20 PM
City/County: Point Comfort, Calhoun	Direction (facing): Down	State: TX
Location: Formosa Plastics Corp.		
Subject: Outfall 008 - Plastic pellets downstream of Outfall 008		
Photo ID: DSCF3426		

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Official Photograph Log  
Photo No. 119



Photographer: Nancy Fagan	Date: 6/16/2010	Time: 4:045 PM
City/County: Point Comfort, Calhoun	Direction (facing): Down	State: TX
Location: Formosa Plastics Corp.		
Subject: Outfall 009 - Plastic pellets (see Photo 120)		
Photo ID: DSCF3438		





Jon Niermann, *Chairman*  
Emily Lindley, *Commissioner*  
Toby Baker, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

November 27, 2018

Mr. David Frederick  
Frederick, Perales, Allmon & Rockwell PC  
1206 San Antonio Street  
Austin, Texas 78701-1834

Re: Comment Received, Proposed Agreed Enforcement Order  
FORMOSA UTILITY VENTURE, LTD. and FORMOSA PLASTICS CORPORATION,  
TEXAS; RN100218973  
Docket No. 2017-0737-IWD-E; Enforcement Case No. 54494

Dear Mr. Frederick:

On June 26, 2018, we received your letter concerning the proposed agreed enforcement order for the FORMOSA UTILITY VENTURE, LTD. and FORMOSA PLASTICS CORPORATION, TEXAS ("the Respondents") in Calhoun County, Texas. I have forwarded your letter to our Corpus Christi Regional Office for their information and to our General Counsel's Office so that the Commissioners can consider your comments regarding the proposed order.

Texas Commission on Environmental Quality ("TCEQ") staff and the Respondents agreed on the terms of the proposed agreed order, Docket No. 2017-0737-IWD-E ("Order"), on March 19, 2018. Accordingly, the Respondents were assessed, and have paid, an administrative penalty of One Hundred Twenty-One Thousand Eight Hundred Seventy-Five Dollars (\$121,875). In addition to the penalty, the Order recognizes that the Respondents have collected and properly disposed of approximately 112,000 pounds of debris and plastic pellets from Lavaca Bay and approximately 327,000 pounds of debris and plastic pellets from Cox Creek. Also, the Order recognizes that the Respondents identified potential sources of the plastic pellets and implemented a pellet recovery system to minimize future discharges of solids, including plastic pellets from the manufacturing facility located at 201 Formosa Drive, one mile north of the intersection of State Highway 35 and Farm-to-Market Road 1593, northeast of Point Comfort, Calhoun County, Texas (the "Facility") by installing a cone filter, floating booms, wedge and gate screens, and gabions.

The Order requires the Respondents to conduct semi-annual comprehensive evaluations of the Facility, Cox Creek, and Lavaca Bay, and remove and properly dispose of any discharged solids, including plastic pellets found during each evaluation. The Order also requires that the Respondents document the evaluation of each location and the resulting removal and disposal of any discharged solids, including plastic pellets and ensure that all records of the evaluations and resulting removal and disposal are maintained at the Facility and made readily available for review upon request. If followed, in addition to the corrective actions put into place, this continuous compliance action should reduce the potential of pellet discharges. This requirement does not relieve the Respondents from their responsibility to comply with all rules



and regulations of the TCEQ and of the U.S. Environmental Protection Agency ("EPA") at all times. Therefore, if additional discharges are confirmed during future investigations by our regional office, additional enforcement may be pursued, and potentially more stringent corrective actions may be required.

Diane Wilson and the San Antonio Bay Estuarine Waterkeeper ("Commenters") expressed concerns listed as 1.A through 1.I, 2.A through 2.K, 3, and 4. TCEQ's responses to each comment are listed below.

- 1.A. Commenters request that an additional finding of fact be added to the Order to reduce the ambiguity of what is being addressed in the Order and said to be resolved. At this time, no additional finding of fact is deemed necessary as the violations are clearly stated in the proposed agreed order and no violations have been resolved.
- 1.B. Commenters state that the April 4, 2017 record review date has no relevance and that the finding of fact should be deleted. April 4, 2017 does have relevance to this case as it is the date that a TCEQ investigator documented that compliance had not been achieved within an allotted timeframe established in the Notice of Violation resulting from the March 10-14, 2016 investigation. The penalty calculation in this instance is consistent with the TCEQ's application of the Penalty Policy.
- 1.C. Commenters request that an additional finding of fact be included in the Order to state the end date of the violation regarding the discharge of solids. This information is included in the Penalty Calculation Worksheet ("PCW") and it is not TCEQ's practice to include it in the Order as an additional finding of fact. Consistent with the TCEQ's Penalty Policy, the end date for continuing violations is the screening date for penalty calculation.
- 1.D. Commenters request an additional finding of fact be included in the Order stating that the violation regarding the discharge of solids is a continuing violation. It is not TCEQ's practice to state in the Order whether each violation is continuing or discrete.
- 1.E. Commenters state that Findings of Fact Nos. 3.a and 3.b listing the corrective actions taken by the Respondents have no place in the Order. It is TCEQ's practice to recognize actions taken towards compliance.
- 1.F. As stated in Response 1.E, it is TCEQ's practice to recognize actions taken towards compliance. Based on the actions taken by the Respondents, it is appropriate to say that such actions have been put in place to minimize the discharge of solids from the Facility.
- 1.G. Commenters state that Finding of Fact No. 3.b is ambiguous as to where the floating booms are located and that the Finding of Fact No. 3.b should be clarified to state that the floating booms are located within the Facility. Commenters expressed concern that the Order would illegally amend the permit. Finding of Fact No. 3.b recognizes actions



to minimize discharges of solids from the Facility. Additional booms placed outside the Facility are to contain and remove solids as needed. The Order does not modify or amend the permit.

- 1.H. Commenters request an additional finding of fact stating that the penalty and remedial measures are only acceptable to TCEQ because they resolve the enforcement action without litigation. The fact that settlement was reached without a referral to TCEQ's Litigation Division did not influence the penalty or the corrective actions listed in the Order. It is not TCEQ's practice to include this type of finding in its orders.
- 1.I. Commenters request that an additional finding of fact be added to address the harm of the violation. It is not TCEQ's practice to include a finding on harm in its orders. The PCW lists the category of harm for this violation and notes the reason for the harm determination. Commenters mention that beads have been found in the stomachs of fish, but a TCEQ investigator has not documented such an instance. As reflected in Finding of Fact No. 2.a, a TCEQ investigator documented that plastic pellets were observed floating in Cox Creek and embedded in the creek's sediment. Based on the violation documented by TCEQ and in accordance with TCEQ's Penalty Policy, the correct category of harm is used for this violation.
- 2.A. Commenters offer several dates prior to the April 4, 2017 record review date to use as the commencement of the violation. Commenters mention an EPA investigation conducted in 2010 and a citizen complaint from January 31, 2016. Commenters state that the PCW was not completed in a manner consistent with the TCEQ's Penalty Policy. It is TCEQ's practice to use dates on which TCEQ's investigators have documented violations during TCEQ-approved investigations or record reviews that demonstrate that compliance has not been met within an allotted period of time. The March 10-14, 2016 investigation resulted in a Notice of Violation. The Respondents did not submit documentation demonstrating compliance with the violations documented in the Notice of Violation within the allotted timeframe. This was documented by TCEQ in the April 4, 2017 record review and is therefore used as the violation start date for penalty calculation purposes. The penalty calculation is consistent with the TCEQ's application of the Penalty Policy.
- 2.B. Commenters disagree with the 43 violation days calculated by TCEQ for this violation and offer several other options for the start date of the violation. As stated in Responses 1.B and 2.A, the record review date of April 4, 2017 is an appropriate start date for penalty calculation in this case.
- 2.C. Commenters discuss how the compliance history adjustment of 159% to 100% follows TCEQ's 2014 Penalty Policy but is not consistent with 30 TEX. ADMIN. CODE ch. 60. Texas Water Code § 5.754(e-1) caps the penalty enhancement attributed to the compliance history at 100% of the base penalty amount.



- 2.D. No change is necessary as the Commenters take the stance that the lack of the "repeat violator" enhancement is appropriate.
- 2.E. Commenters bring up the lack of a culpability (subtotal 4) enhancement in the PCW and mention that EPA/TCEQ inspections occurred in 2010. TCEQ evaluated a penalty enhancement due to culpability and, in accordance with the TCEQ's Penalty Policy, examined the five-year period prior to the initial settlement offer (October 31, 2012 – October 31, 2017). TCEQ determined that there was insufficient documentation to meet the culpability criteria in the TCEQ's Penalty Policy.
- 2.F. No change is necessary as the Commenters take the stance that the lack of a "good faith efforts" reduction is appropriate.
- 2.G. Commenters question how the economic benefit cost estimates were obtained and state that they should be increased. Commenters correctly recite TCEQ's Penalty Policy in regards to how a base penalty enhancement of 50% is triggered when a benefit of \$15,000 or more is recognized as a delayed cost, but state that additional penalties need to be added to the PCW. TCEQ adjusted the total base penalty with the 50% economic benefit enhancement, but TCEQ's Penalty Policy does not provide for any additional adjustment due to delayed costs. In regards to the avoided costs, it was determined that there were no avoided costs associated with the violations. Commenters state the agency should use staff with the skill sets to develop a recommended economic benefit value. TCEQ utilizes staff with the appropriate skill level and knowledge to estimate economic benefit for penalty calculation purposes. TCEQ economic benefit calculations were developed based on documentation from the Respondents regarding their corrective actions. The economic benefit worksheets were completed correctly and no change is necessary.
- 2.H. Commenters question how TCEQ concluded that a Satisfactory classification be used for the compliance history portion of the PCW. All the sites associated with CN600130017 (FORMOSA PLASTICS CORPORATION, TEXAS) and CN602650954 (FORMOSA UTILITY VENTURE, LTD.) in the TCEQ's Central Registry database were considered when determining the classification of the Respondents. The sites under both entities are RN103186326, RN105266274, RN103031332, RN100218973, RN106187024, RN105922884, RN105742431, and RN102972502. Following the calculation of the compliance history ratings on September 1, 2016, as specified in 30 TEX. ADMIN. CODE ch. 60, the Respondents were both classified as Satisfactory performers. Based on TCEQ's evaluation of the compliance history classification for both Respondents, no change is necessary.



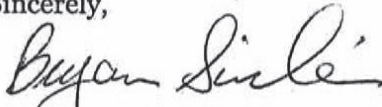
- 2.I. Commenters state that the agency did not consider "other factors as justice may require" in calculating the penalty. TCEQ did evaluate "other factors as justice may require," and determined that there were no factors warranting an upward or downward adjustment to the penalty. Commenters do not identify any factors here they believe TCEQ did not consider.
- 2.J. Commenters state the penalty should be increased due to the harm done to the environment. As explained in Response 1.I, TCEQ considered the violation's harm in calculating the penalty. Commenters request that the Respondents' "financial might" be considered when calculating an appropriate penalty. The penalty was calculated in accordance with the TCEQ's Penalty Policy and takes into consideration all the factors outlined in Texas Water Code § 7.053.
- 2.K. Commenters state that TCEQ's penalty calculation is "badly deficient" and offer two alternative penalties, \$15,367,600 (June 16, 2010 to screening) and \$11,022,400 (January 31, 2016 to screening). As mentioned in Response 2.A, the dates used for the duration of this violation are consistent with the TCEQ's Penalty Policy. Additionally, Commenters state that a \$10,000,000 penalty increase is appropriate to deter other violators of environmental laws in light of the Respondents' net income. No change is necessary as the penalty was correctly calculated in accordance with the TCEQ's Penalty Policy and takes into consideration all the factors outlined in Texas Water Code § 7.053.
- 3. Commenters state that Conclusion of Law No. 5 should be adjusted to be consistent with the penalty recommendation in Comment No. 2.K. As stated in the Response 2.K, the penalty was correctly calculated and therefore no change is necessary.
- 4. Commenters state that the Order does not impose a remedy. Although the Order recognizes the actions taken by the Respondents to minimize the discharge of solids from the Facility, it does impose a remedy. TCEQ is taking a proactive approach and requiring the Respondents to conduct periodic evaluations throughout the life of the Order and removing and disposing of any solids found during these evaluations. This requirement for a planned removal of discharged solids is addressed in the Order under Ordering Provision No. 3.c. This approach takes into consideration the potential issue that solids already discharged from the Facility may take time to surface after being embedded in sediment, which makes it difficult to determine if there are newly discharged solids. If TCEQ determines the measures taken by the Respondents are inadequate and there are additional documented discharges of solids, then further action may be taken by the TCEQ.



Mr. David Frederick  
Page 6  
November 27, 2018

We appreciate your input into the enforcement action currently pending against the Respondents. The Order will be considered at an upcoming Commissioners' Agenda. Mr. Austin Henck is the Enforcement Coordinator assigned to this case. If you have further concerns or comments related to the Order, please do not hesitate to call Mr. Henck at (512) 239-6155. For complaints related to the Respondents' current operating conditions or procedures, you should continue to contact our Corpus Christi Regional Office at (361) 825-3100.

Sincerely,



Bryan Sinclair, Director  
Enforcement Division  
Texas Commission on Environmental Quality

BHS/ah

cc: David T. Bright, Sico Hoelscher Harris & Braugh, LLP, 802 North Carancahua, Suite 900, Corpus Christi, Texas 78401

Ms. Amy Johnson, Law Offices of Amy R. Johnson, 5836 Southeast Madison Street, Portland, Oregon 97215

Ms. Erin Gaines, Texas RioGrande Legal Aid, 4920 North Interstate Highway 35, Austin, Texas 78751

Mr. Enrique Valdivia, Texas RioGrande Legal Aid, 1111 North Main Avenue, San Antonio, Texas 78212







# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	8-May-2017	<b>Screening</b>	17-May-2017	<b>EPA Due</b>	3-Jul-2017
	<b>PCW</b>	25-May-2017				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	FORMOSA UTILITY VENTURE, LTD. and FORMOSA PLASTICS CORPORATION, TEXAS	
<b>Reg. Ent. Ref. No.</b>	RN100218973	
<b>Facility/Site Region</b>	14-Corpus Christi	<b>Major/Minor Source</b> Major

## CASE INFORMATION

<b>Enf./Case ID No.</b>	54494	<b>No. of Violations</b>	2
<b>Docket No.</b>	2017-0737-IWD-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Austin Henck
		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$48,750**

## ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History** **100.0%** **Adjustment** **Subtotals 2, 3, & 7** **\$48,750**

Notes: Enhancement for one month of self-reported effluent violations, one NOV with a same or similar violation, eleven NOVs with dissimilar violations, two agreed orders with denial of liability, two EPA orders, and two agreed orders without denial of liability; and reduction for one Notice of Intent and one Disclosure of Violations.

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

Notes: The Respondents do not meet the culpability criteria.

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

**Economic Benefit** **50.0%** **Enhancement\*** **Subtotal 6** **\$24,375**

Total EB Amounts **\$156,092**  
Estimated Cost of Compliance **\$1,850,500**

\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$121,875**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount** **\$121,875**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$121,875**

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

Reduces the Final Assessed Penalty by the indicated percentage.

Notes:

No deferral is recommended for Findings Orders.

**PAYABLE PENALTY** **\$121,875**



Screening Date 17-May-2017

Docket No. 2017-0737-IWD-E

PCW

Respondent FORMOSA UTILITY VENTURE, LTD. and FORMOSA PLASTICS

Policy Revision 4 (April 2014)

Case ID No. 54494

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100218973

Media [Statute] Water Quality

Enf. Coordinator Austin Henck

**Compliance History Worksheet**

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	2	10%
	Other written NOVs	11	22%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	4	80%
	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	2	50%
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	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	1	-1%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	1	-2%
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) 159%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

## Compliance History Notes

Enhancement for one month of self-reported effluent violations, one NOV with a same or similar violation, eleven NOVs with dissimilar violations, two agreed orders with denial of liability, two EPA orders, and two agreed orders without denial of liability; and reduction for one Notice of Intent and one Disclosure of Violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, &amp; 7) 159%

## &gt;&gt; Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 100%



Screening Date 17-May-2017

Docket No. 2017-0737-IWD-E

PCW

Respondent FORMOSA UTILITY VENTURE, LTD. and FORMOSA PLASTICS

Policy Revision 4 (April 2014)

Case ID No. 54494

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100218973

Media [Statute] Water Quality

Enf. Coordinator Austin Henck

Violation Number 1

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0002436000, Effluent Limitations and Monitoring Requirements No. 3, Outfall Nos. 006, 008, and 009

Violation Description

Failed to prevent the discharge of solids in other than trace amounts into or adjacent to any water in the state. Specifically, plastic pellets were discharged from Outfall Nos. 006, 008, and 009 and were observed floating in Cox Creek and embedded in the creek's sediment.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		X	
Potential			

Percent 30.0%

## &gt;&gt; Programmatic Matrix

	Major	Moderate	Minor
Falsification			

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$17,500

\$7,500

## Violation Events

Number of Violation Events 6

43 Number of violation days

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$45,000

Six monthly events are recommended (two monthly events per outfall), from the April 4, 2017 record review date to the May 17, 2017 screening date.

## Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	

Notes

The Respondents do not meet the good faith criteria for this violation.

Violation Subtotal \$45,000

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$156,071

Violation Final Penalty Total \$112,500

This violation Final Assessed Penalty (adjusted for limits) \$112,500

# Economic Benefit Worksheet

**Respondent** FORMOSA UTILITY VENTURE, LTD. and FORMOSA PLASTICS CORPORATION, TEXAS

**Case ID No.** 54494

**Reg. Ent. Reference No.** RN100218973

**Media** Water Quality

**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
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## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction	\$1,100,000	10-Mar-2016	31-Jul-2017	1.39	\$5,103	\$102,064	\$107,167
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	\$750,000	10-Mar-2016	29-Jun-2017	1.30	\$48,904	n/a	\$48,904
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

Estimated cost to determine the potential sources of the plastic pellets and implement a pellet recovery system to minimize future discharges of plastic pellets from the Facility, including the installation of a cone filter, floating booms, wedge and gate screens, and gablons. The date required is the date of the initial investigation and the final date is the date corrective actions were completed.

Estimated cost to collect and properly dispose of approximately 112,000 pounds of debris and plastic pellets from Lavaca Bay, and approximately 327,000 pounds of debris and plastic pellets from Cox Creek. The date required is the date of the initial investigation and the final date is the date corrective actions were completed.

## Avoided Costs

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

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

**Notes for AVOIDED costs**

**Approx. Cost of Compliance**

\$1,850,000

**TOTAL**

\$156,071



Screening Date 17-May-2017

Docket No. 2017-0737-IWD-E

PCW

Respondent FORMOSA UTILITY VENTURE, LTD. and FORMOSA PLASTICS

Policy Revision 4 (April 2014)

Case ID No. 54494

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100218973

Media [Statute] Water Quality

Enf. Coordinator Austin Henck

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code §§ 305.125(1) and 319.11(c) and TPDES Permit No. WQ0002436000, Monitoring and Reporting Requirements No. 2.a

Violation Description

Failed to properly analyze effluent samples. Specifically, the Hach Chemical Oxygen Demand Method 8000 analysis was performed with a chloride concentration greater than 2,000 milligrams per liter ("mg/L"), when the chloride maximum concentration limit for the method is 2,000 mg/L for non-diluted samples and 1,000 mg/L for diluted samples.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Major	Harm Moderate	Minor
Actual			
Potential		X	

Percent 15.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants that would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

## Violation Events

Number of Violation Events 1

43 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One quarterly event is recommended from the April 4, 2017 record review date to the May 17, 2017 screening date.

## Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	

Notes

The Respondents do not meet the good faith criteria for this violation.

Violation Subtotal \$3,750

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$21

Violation Final Penalty Total \$9,375

This violation Final Assessed Penalty (adjusted for limits) \$9,375

# Economic Benefit Worksheet

**Respondent** FORMOSA UTILITY VENTURE, LTD. and FORMOSA PLASTICS CORPORATION, TEXAS

**Case ID No.** 54494

**Reg. Ent. Reference No.** RN100218973

**Media** Water Quality

**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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## 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	\$500	4-Apr-2017	2-Feb-2018	0.83	\$21	n/a	\$21
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to implement a method to properly analyze chemical oxygen demand at the Facility. Date required is the date of the record review and 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

\$500

**TOTAL**

\$21



The TCEQ is committed to accessibility.

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



## TCEQ Compliance History Report

Compliance History Report for CN602650954, RN100218973, Rating Year 2016 which includes Compliance History (CH) components from September 1, 2011, through August 31, 2016.

**Customer, Respondent, or Owner/Operator:** CN602650954, FORMOSA UTILITY VENTURE, LTD. **Classification:** SATISFACTORY **Rating:** 3.20

**Regulated Entity:** RN100218973, Formosa Point Comfort Plant **Classification:** SATISFACTORY **Rating:** 3.20

**Complexity Points:** 56

**Repeat Violator:** NO

**CH Group:** 05 - Chemical Manufacturing

**Location:** 201 FORMOSA DRIVE, ONE MILE NORTH OF THE INTERSECTION OF STATE HIGHWAY 35 AND FARM-TO-MARKET ROAD 1593, NORTHEAST OF POINT COMFORT, CALHOUN COUNTY, TEXAS

**TCEQ Region:** REGION 14 - CORPUS CHRISTI

### ID Number(s):

**AIR OPERATING PERMITS** ACCOUNT NUMBER CB0038Q

**AIR OPERATING PERMITS** PERMIT 1951

**AIR OPERATING PERMITS** PERMIT 1954

**AIR OPERATING PERMITS** PERMIT 1956

**AIR OPERATING PERMITS** PERMIT 1958

**AIR OPERATING PERMITS** PERMIT 3421

**POLLUTION PREVENTION PLANNING** ID NUMBER P08990

**AIR NEW SOURCE PERMITS** PERMIT 7699

**AIR NEW SOURCE PERMITS** PERMIT 19166

**AIR NEW SOURCE PERMITS** PERMIT 19168

**AIR NEW SOURCE PERMITS** PERMIT 19199

**AIR NEW SOURCE PERMITS** PERMIT 19201

**AIR NEW SOURCE PERMITS** PERMIT 20203

**AIR NEW SOURCE PERMITS** REGISTRATION 31130

**AIR NEW SOURCE PERMITS** REGISTRATION 26270

**AIR NEW SOURCE PERMITS** REGISTRATION 26523

**AIR NEW SOURCE PERMITS** REGISTRATION 35292

**AIR NEW SOURCE PERMITS** PERMIT 40157

**AIR NEW SOURCE PERMITS** REGISTRATION 41145

**AIR NEW SOURCE PERMITS** REGISTRATION 44847

**AIR NEW SOURCE PERMITS** ACCOUNT NUMBER CB0038Q

**AIR NEW SOURCE PERMITS** REGISTRATION 52259

**AIR NEW SOURCE PERMITS** REGISTRATION 75974

**AIR NEW SOURCE PERMITS** REGISTRATION 132277

**AIR NEW SOURCE PERMITS** PERMIT 107520

**AIR NEW SOURCE PERMITS** EPA PERMIT PSDTX699

**AIR NEW SOURCE PERMITS** EPA PERMIT PSDTX760M4

**AIR NEW SOURCE PERMITS** EPA PERMIT PSDTX760M6

**AIR NEW SOURCE PERMITS** REGISTRATION 79826

**AIR NEW SOURCE PERMITS** REGISTRATION 81109

**AIR NEW SOURCE PERMITS** EPA PERMIT HAP7

**AIR NEW SOURCE PERMITS** REGISTRATION 83608

**AIR NEW SOURCE PERMITS** REGISTRATION 86398

**AIR NEW SOURCE PERMITS** REGISTRATION 84589

**AIR NEW SOURCE PERMITS** REGISTRATION 84788

**AIR NEW SOURCE PERMITS** REGISTRATION 84730

**AIR NEW SOURCE PERMITS** REGISTRATION 91047

**AIR NEW SOURCE PERMITS** REGISTRATION 88447

**AIR OPERATING PERMITS** PERMIT 1484

**AIR OPERATING PERMITS** PERMIT 1953

**AIR OPERATING PERMITS** PERMIT 1955

**AIR OPERATING PERMITS** PERMIT 1957

**AIR OPERATING PERMITS** PERMIT 3409

**POLLUTION PREVENTION PLANNING** ID NUMBER P00254

**AIR NEW SOURCE PERMITS** AFS NUM 4805700015

**AIR NEW SOURCE PERMITS** PERMIT 17030

**AIR NEW SOURCE PERMITS** PERMIT 19167

**AIR NEW SOURCE PERMITS** PERMIT 19198

**AIR NEW SOURCE PERMITS** PERMIT 19200

**AIR NEW SOURCE PERMITS** PERMIT 19871

**AIR NEW SOURCE PERMITS** REGISTRATION 29765

**AIR NEW SOURCE PERMITS** REGISTRATION 26267

**AIR NEW SOURCE PERMITS** REGISTRATION 26351

**AIR NEW SOURCE PERMITS** REGISTRATION 26266

**AIR NEW SOURCE PERMITS** REGISTRATION 37070

**AIR NEW SOURCE PERMITS** REGISTRATION 40293

**AIR NEW SOURCE PERMITS** REGISTRATION 43265

**AIR NEW SOURCE PERMITS** REGISTRATION 44933

**AIR NEW SOURCE PERMITS** REGISTRATION 52859

**AIR NEW SOURCE PERMITS** EPA PERMIT HAP10

**AIR NEW SOURCE PERMITS** PERMIT 76305

**AIR NEW SOURCE PERMITS** PERMIT 76044

**AIR NEW SOURCE PERMITS** EPA PERMIT PSDTX1053

**AIR NEW SOURCE PERMITS** EPA PERMIT PSDTX760M3

**AIR NEW SOURCE PERMITS** EPA PERMIT PSDTX1058

**AIR NEW SOURCE PERMITS** REGISTRATION 78769

**AIR NEW SOURCE PERMITS** REGISTRATION 80198

**AIR NEW SOURCE PERMITS** EPA PERMIT HAP2

**AIR NEW SOURCE PERMITS** EPA PERMIT PSDTX760M8

**AIR NEW SOURCE PERMITS** PERMIT 83763

**AIR NEW SOURCE PERMITS** REGISTRATION 83990

**AIR NEW SOURCE PERMITS** REGISTRATION 83489

**AIR NEW SOURCE PERMITS** PERMIT 87363

**AIR NEW SOURCE PERMITS** REGISTRATION 85081

**AIR NEW SOURCE PERMITS** REGISTRATION 85100

**AIR NEW SOURCE PERMITS** PERMIT 91780



AIR NEW SOURCE PERMITS EPA PERMIT PSDTX1222  
AIR NEW SOURCE PERMITS EPA PERMIT PSDTX1232

AIR NEW SOURCE PERMITS EPA PERMIT PSDTX1226  
AIR NEW SOURCE PERMITS EPA PERMIT PSDTX1234  
AIR NEW SOURCE PERMITS EPA PERMIT PSDTX1236  
AIR NEW SOURCE PERMITS REGISTRATION 96408  
AIR NEW SOURCE PERMITS REGISTRATION 102123  
AIR NEW SOURCE PERMITS EPA PERMIT PSDTX1500  
AIR NEW SOURCE PERMITS REGISTRATION 119133  
AIR NEW SOURCE PERMITS REGISTRATION 132905  
AIR NEW SOURCE PERMITS PERMIT 127838  
AIR NEW SOURCE PERMITS PERMIT 140763  
AIR NEW SOURCE PERMITS EPA PERMIT GHGPSDTX47  
AIR NEW SOURCE PERMITS REGISTRATION 115795  
AIR NEW SOURCE PERMITS EPA PERMIT PSDTX1384  
AIR NEW SOURCE PERMITS EPA PERMIT GHGPSDTX46  
AIR NEW SOURCE PERMITS EPA PERMIT PSDTX760M9  
AIR NEW SOURCE PERMITS REGISTRATION 145955  
AIR NEW SOURCE PERMITS REGISTRATION 145953

INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE  
REGISTRATION # (SWR) 31945

INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE  
REGISTRATION # (SWR) 82613

INDUSTRIAL AND HAZARDOUS WASTE PERMIT  
PCO31945

WASTEWATER EPA ID TX0085570

UNDERGROUND INJECTION CONTROL PERMIT WDW403

STORMWATER PERMIT TXR15VP68

STORMWATER PERMIT TXR150024880

STORMWATER PERMIT TXR150018054

STORMWATER PERMIT TXR15370B

STORMWATER PERMIT TXR15371B

AIR EMISSIONS INVENTORY ACCOUNT NUMBER  
CB0038Q

TAX RELIEF ID NUMBER 16667

TAX RELIEF ID NUMBER 16792

TAX RELIEF ID NUMBER 16796

TAX RELIEF ID NUMBER 16663

AIR NEW SOURCE PERMITS EPA PERMIT PSDTX1230  
AIR NEW SOURCE PERMITS EPA PERMIT PSDTX1224

AIR NEW SOURCE PERMITS EPA PERMIT PSDTX1240  
AIR NEW SOURCE PERMITS EPA PERMIT PSDTX1238  
AIR NEW SOURCE PERMITS EPA PERMIT PSDTX1237  
AIR NEW SOURCE PERMITS EPA PERMIT PSDTX226M7  
AIR NEW SOURCE PERMITS PERMIT 107518  
AIR NEW SOURCE PERMITS REGISTRATION 132128  
AIR NEW SOURCE PERMITS EPA PERMIT GHGPSDTX48  
AIR NEW SOURCE PERMITS REGISTRATION 134477  
AIR NEW SOURCE PERMITS EPA PERMIT PSDTX1383  
AIR NEW SOURCE PERMITS REGISTRATION 131445  
AIR NEW SOURCE PERMITS REGISTRATION 129793  
AIR NEW SOURCE PERMITS REGISTRATION 116253  
AIR NEW SOURCE PERMITS PERMIT 128752  
AIR NEW SOURCE PERMITS REGISTRATION 128431  
AIR NEW SOURCE PERMITS REGISTRATION 142099  
AIR NEW SOURCE PERMITS REGISTRATION 145753  
INDUSTRIAL AND HAZARDOUS WASTE EPA ID  
TXT490011293  
INDUSTRIAL AND HAZARDOUS WASTE EPA ID  
TX0000888164  
INDUSTRIAL AND HAZARDOUS WASTE PERMIT 50348

WASTEWATER PERMIT WQ0002436000

UNDERGROUND INJECTION CONTROL PERMIT WDW402  
IHW CORRECTIVE ACTION SOLID WASTE REGISTRATION  
# (SWR) 31945

STORMWATER PERMIT TXR150015113

STORMWATER PERMIT TXR150015009

STORMWATER PERMIT TXR150017867

STORMWATER PERMIT TXR15515B

STORMWATER PERMIT TXR15062B

PUBLIC WATER SYSTEM/SUPPLY REGISTRATION  
0290074

TAX RELIEF ID NUMBER 16751

TAX RELIEF ID NUMBER 16795

TAX RELIEF ID NUMBER 16793

**Compliance History Period:** September 01, 2011 to August 31, 2016      **Rating Year:** 2016      **Rating Date:** 09/01/2016

**Date Compliance History Report Prepared:** July 14, 2017

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** May 17, 2012 to May 17, 2017

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

**Name:** Austin Henck

**Phone:** (512) 239-6155

**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  |

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

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

- |   |  |  |
|---|--|--|
| 1 | Effective Date: 12/15/2012                               | ADMINORDER 2012-0804-AIR-E (1660 Order-Agreed Order With Denial) |
|   | Classification: Moderate                                 |  |
|   | Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)     |  |
|   | 30 TAC Chapter 113, SubChapter C 113.100                 |  |
|   | 30 TAC Chapter 116, SubChapter B 116.115(c)              |  |
|   | 40 CFR Chapter 61, SubChapter C, PT 61, SubPT A 61.12(c) |  |
|   | 40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.6(e)  |  |



5C THSC Chapter 382 382.085(b)

Rqmt Prov: SC No. 1 PERMIT

SC No. 3 PERMIT

SC No. 4 PERMIT

Description: Failed to prevent unauthorized emissions.

- 2 Effective Date: 04/19/2014 ADMINORDER 2013-1609-AIR-E (1660 Order-Agreed Order With Denial)  
Classification: Major  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
Rqmt Prov: 76305-General Condition (GC) No. 8 PA  
76305-Special Condition (SC) No. 1 PA  
PSD-TX-1058 GC No. 8 PERMIT  
PSD-TX-1058 SC No. 1 PERMIT  
Description: Failure to prevent unauthorized emissions to the atmosphere during an emissions event which occurred on June 4, 2011, during STEERS Incident No. 155270.  
Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)  
40 CFR Chapter 61, SubChapter C, PT 61, SubPT F 61.65(a)  
5C THSC Chapter 382 382.085(b)  
Rqmt Prov: 76305 - SC No. 3 PA  
PSD-TX-1058 PERMIT  
Description: Failed to submit a 40 CFR Part 61, Subpart F report within 10 days of any relief valve discharge. Specifically, the report was due June 14, 2011 but was not submitted until July 24, 2013.
- 3 Effective Date: 05/23/2015 ADMINORDER 2014-1394-AIR-E (Findings Order-Agreed Order Without Denial)  
Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
30 TAC Chapter 116, SubChapter B 116.115(b)  
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: GTCs, STCs No. 17 OP  
SC No. 1 PERMIT  
Description: Failure to prevent unauthorized emissions to the atmosphere during an emissions event which occurred on January 7, 2014, (TCEQ STEERS Incident No. 192659).  
Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
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: [FOP O-01954] STC 15 OP  
[NSR Permit 7699/PSDTX266M7] SC 1 PA  
Description: Failure to prevent unauthorized emissions to the atmosphere during an emissions event on August 26, 2014 for TCEQ/STEERS Incident No. 202783.
- 4 Effective Date: 04/13/2017 ADMINORDER 2016-0903-AIR-E (Findings Order-Agreed Order Without Denial)  
Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
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: General Terms and Conditions OP  
Special Condition No 1 PERMIT  
Special Terms and Conditions No 12 OP  
Description: Failure to prevent unauthorized emissions to the atmosphere during an emissions event that was discovered on September 08, 2014, TCEQ/STEERS Incident No. 203344. Specifically, Formosa Point Comfort Plant released unauthorized emissions in the amount of 93,797.066 pounds (lbs) of total Carbon Monoxide (CO), 17,476.832 lbs Nitrogen Oxides (NOx), and 77,082.326 lbs of Volatile Organic Compounds (VOCs) from the Olefins I elevated flare (EPN 1018). The event lasted 61 hours and 26 minutes.



See addendum for information regarding federal actions.

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

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

Item 1	May 18, 2012	(1017578)	Item 53	January 07, 2014	(1133745)
Item 2	May 21, 2012	(1007512)	Item 54	January 17, 2014	(1154408)
Item 3	May 29, 2012	(1007432)	Item 55	February 19, 2014	(1161734)
Item 4	June 06, 2012	(1009196)	Item 56	March 20, 2014	(1168358)
Item 5	June 19, 2012	(1025374)	Item 57	April 17, 2014	(1175522)
Item 6	July 11, 2012	(1015932)	Item 58	May 12, 2014	(1165018)
Item 7	July 16, 2012	(1019513)	Item 59	May 22, 2014	(1170801)
Item 8	July 17, 2012	(1020550)	Item 60	June 18, 2014	(1152390)
Item 9	July 19, 2012	(1032714)	Item 61	June 20, 2014	(1177458)
Item 10	July 24, 2012	(1021057)	Item 62	August 19, 2014	(1200372)
Item 11	July 25, 2012	(1021212)	Item 63	August 28, 2014	(1185547)
Item 12	August 14, 2012	(1023964)	Item 64	November 20, 2014	(1197147)
Item 13	August 31, 2012	(1029127)	Item 65	December 17, 2014	(1225427)
Item 14	September 05, 2012	(1030112)	Item 66	January 02, 2015	(1215232)
Item 15	September 07, 2012	(1030373)	Item 67	January 20, 2015	(1232364)
Item 16	September 17, 2012	(1048094)	Item 68	February 20, 2015	(1243440)
Item 17	September 26, 2012	(1035148)	Item 69	March 20, 2015	(1249806)
Item 18	October 03, 2012	(1036121)	Item 70	April 14, 2015	(1229221)
Item 19	October 04, 2012	(1036379)	Item 71	April 20, 2015	(1256688)
Item 20	October 09, 2012	(1036010)	Item 72	May 20, 2015	(1263443)
Item 21	October 17, 2012	(1036253)	Item 73	June 19, 2015	(1247109)
Item 22	November 01, 2012	(1042199)	Item 74	July 01, 2015	(1260885)
Item 23	November 07, 2012	(1043090)	Item 75	August 11, 2015	(1268842)
Item 24	November 15, 2012	(1043172)	Item 76	August 18, 2015	(1272813)
Item 25	November 16, 2012	(1044503)	Item 77	August 20, 2015	(1284283)
Item 26	December 04, 2012	(1045943)	Item 78	August 21, 2015	(1273726)
Item 27	December 17, 2012	(1051220)	Item 79	August 31, 2015	(1274914)
Item 28	December 18, 2012	(1051540)	Item 80	September 18, 2015	(1291433)
Item 29	January 08, 2013	(1052834)	Item 81	October 20, 2015	(1297613)
Item 30	January 10, 2013	(1052854)	Item 82	October 26, 2015	(1282800)
Item 31	January 18, 2013	(1081491)	Item 83	November 18, 2015	(1303054)
Item 32	January 23, 2013	(1050922)	Item 84	December 18, 2015	(1310041)
Item 33	January 29, 2013	(1055116)	Item 85	January 20, 2016	(1316808)
Item 34	February 20, 2013	(1081490)	Item 86	February 18, 2016	(1307052)
Item 35	February 28, 2013	(1060409)	Item 87	February 19, 2016	(1326163)
Item 36	March 18, 2013	(1075185)	Item 88	March 16, 2016	(1314261)
Item 37	March 19, 2013	(1090532)	Item 89	March 18, 2016	(1332926)
Item 38	March 26, 2013	(1075734)	Item 90	April 19, 2016	(1340059)
Item 39	April 08, 2013	(1073186)	Item 91	May 20, 2016	(1346877)
Item 40	April 30, 2013	(1086853)	Item 92	June 14, 2016	(1337771)
Item 41	May 16, 2013	(1088445)	Item 93	June 20, 2016	(1353308)
Item 42	May 20, 2013	(1107847)	Item 94	July 20, 2016	(1360272)
Item 43	June 20, 2013	(1111479)	Item 95	August 19, 2016	(1366715)
Item 44	July 18, 2013	(1118381)	Item 96	August 26, 2016	(1338768)
Item 45	July 24, 2013	(1103494)	Item 97	September 14, 2016	(1358330)
Item 46	August 16, 2013	(1114119)	Item 98	September 20, 2016	(1373413)
Item 47	August 20, 2013	(1126171)	Item 99	September 22, 2016	(1356437)
Item 48	September 19, 2013	(1130725)	Item 100	October 20, 2016	(1379589)
Item 49	October 08, 2013	(1122671)	Item 101	November 18, 2016	(1385536)
Item 50	October 09, 2013	(1123071)	Item 102	December 02, 2016	(1363501)
Item 51	October 18, 2013	(1136489)	Item 103	December 09, 2016	(1362459)
Item 52	November 20, 2013	(1141873)	Item 104	January 03, 2017	(1381671)



Item 105	January 20, 2017	(1398288)	Item 110	April 11, 2017	(1396497)
Item 106	February 27, 2017	(1395749)	Item 111	April 14, 2017	(1396534)
Item 107	February 28, 2017	(1395630)	Item 112	April 20, 2017	(1418765)
Item 108	March 06, 2017	(1394886)	Item 113	May 01, 2017	(1409476)
Item 109	March 20, 2017	(1412266)			

#### 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: 05/27/2016 (1329126)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
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)  
SC No. 12 OP  
SC No. 16 PERMIT  
Description: Failure to conduct monthly monitoring for VOC (volatile organic compounds) associated with the EDC (ethylene dichloride) Plant cooling tower water. Specifically, the Formosa Point Comfort Plant failed to conduct the requisite monitoring for June 2015.
- 2 Date: 06/24/2016 (1330047)  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)  
5C THSC Chapter 382 382.085(b)  
FOP O3409 GTC OP  
Description: Failure to report all instances of deviations, the probable cause of the deviations, and any corrective actions or preventative measures taken for each emission unit addressed in the permit.
- 3 Date: 07/28/2016 (1283004)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
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 O-1957 STC (10) OP  
NSR 19201 & PSDTX1232 SC (21) (B) PERMIT  
Description: Failure to drain remaining liquids into a closed vessel during maintenance, startup, and shutdown activities.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
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 O-1957 STC (10) OP  
NSR 19201 & PSDTX1232 SC (1) PERMIT  
Description: Failure to prevent unauthorized emissions to the atmosphere during a non-reportable emission event that occurred on April 23, 2015.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
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 FFFF 63.2535  
5C THSC Chapter 382 382.085(b)  
FOP O1957 (STC) (10) OP  
NSR 19201 & PSDTX1232 (SC) (11) (D) PERMIT  
Description: Failure to conduct an annual floating roof seal inspection.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
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 FFFF 63.2535  
5C THSC Chapter 382 382.085(b)  
FOP O1957 (STC) (10) OP  
NSR 19201 & PSDTX1232 (SC) (11) (D) PERMIT  
Description: Failure to conduct an annual floating roof seal inspection.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
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 FFFF 63.2535  
5C THSC Chapter 382 382.085(b)  
FOP O1957 (STC) (10) OP

NSR 19201 & PSDTX1232 (SC) (11) (D) PERMIT  
Description: Failure to conduct an annual floating roof seal inspection.  
Self Report? NO Classification: Moderate  
Citation:

30 TAC Chapter 101, SubChapter A 101.20(3)  
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 FFFF 63.2535  
5C THSC Chapter 382 382.085(b)  
FOP O1957 (STC) (10) OP

NSR 19201 & PSDTX1232 (SC) (11) (D) PERMIT  
Description: Failure to conduct an annual floating roof seal inspection.  
Self Report? NO Classification: Moderate  
Citation:

30 TAC Chapter 101, SubChapter A 101.20(3)  
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 FFFF 63.2535  
5C THSC Chapter 382 382.085(b)  
FOP O1957 (STC) (10) OP

NSR 19201 & PSDTX1232 (SC) (11) (D) PERMIT  
Description: Failure to conduct an annual floating roof seal inspection.  
Self Report? NO Classification: Moderate  
Citation:

30 TAC Chapter 101, SubChapter A 101.20(3)  
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 FFFF 63.2535  
5C THSC Chapter 382 382.085(b)  
FOP O1957 (STC) (10) OP

NSR 19201 & PSDTX1232 (SC) (11) (D) PERMIT  
Description: Failure to conduct an annual floating roof seal inspection.  
Self Report? NO Classification: Moderate  
Citation:

30 TAC Chapter 101, SubChapter A 101.20(3)  
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 FFFF 63.2535  
5C THSC Chapter 382 382.085(b)  
FOP O1957 (STC) (10) OP

NSR 19201 & PSDTX1232 (SC) (3) PERMIT  
Description: Failure to conduct a 10 year and an annual floating roof seal inspection.

4

Date: 08/05/2016 (1349122)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
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)  
SC No. 11 OP  
SC No. 11 PERMIT

Description: Failure to comply with permit limitations regarding the six minute, average firebox chamber temperature for the Regenerative Thermal Oxidizer.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
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)  
SC No. 11 OP  
SC No. 11 PERMIT

Description: Failure to comply with permit limitations regarding the hourly average exhaust oxygen concentration for the Regenerative Thermal Oxidizer.

5

Date: 08/19/2016 (1351348)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.145(2)  
5C THSC Chapter 382 382.085(b)  
General Terms and Conditions OP

Description: Failure to report all instances of deviations as required.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)



30 TAC Chapter 101, SubChapter A 101.20(3)  
30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(1)

5C THSC Chapter 382 382.085(b)  
SC No. 14 OP  
SC No. 8C PERMIT

Description: Failure to comply with regulatory requirements for visible emissions from flares.  
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
SC No. 14 OP  
SC No. 26A PERMIT

Description: Failure to submit a certification test report within 30 days of completion of the monitor certification test.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
SC No. 14 OP  
SC No. 4B PERMIT

Description: Failure to maintain carbon monoxide (CO) emissions within permitted limits.

6 Date: 08/30/2016 (1357100)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
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)  
SC No. 14 PERMIT  
STC No. 11 OP

Description: Failure to conduct weekly VOC (volatile organic compound) sampling of polymer production.

7 Date: 10/24/2016 (1358247)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 319, SubChapter A 319.11(c)  
Monitoring and Reporting; No.2(a); Pg. 4 PERMIT

Description: Failed to properly analyze effluent samples.

8 Date: 12/15/2016 (1376088)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
FOP OP  
NSR PERMIT  
PSD PERMIT

Description: Failure to comply with special conditions of NSR Permit No. 19198. Specifically, on eleven instances from April 25, 2015 through October 7, 2015, Thermal Oxidizer (EPN RTO221) did not meet the minimum temperature requirements as per deviation item nos. 13 through 24.

9 Date: 12/16/2016 (1370809)

Self Report? YES Classification: Minor

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

Description: Failure to report all instances of deviations as required. Specifically on February 25, 2016, Formosa Point Comfort Plant submitted a deviation report, for compliance period July 27, 2015 to January 26, 2016, that did not list all instances of deviation.

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20  
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 OP  
NSR PERMIT  
Permit PERMIT

Description: Failure to comply with regulatory requirements for visible emissions from flares. Specifically, on May 21, 2016, Formosa Point Comfort Plant experienced a smoking flare for longer than 5 minutes from the Olefins 1 Flare (EPN 1018).

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
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 OP  
NSR PERMIT  
Permit PERMIT

Description: Failure to comply with special conditions of NSR Permit No. 19168. Specifically, on October 14, 2015 through April 4, 2016, vapor combustor (EPN 1051) did not meet the minimum temperature requirements.

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
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 OP  
NSR PERMIT  
Permit PERMIT

Description: Failure to maintain pilot flame on Olefins 2 flare (EPN 1067). Specifically on November 7, 2015 and December 7, 2015, an elevated steam flow resulted in the pilot flame to extinguish.

10 Date: 01/20/2017 (1383574)

Self Report? NO Classification: Minor

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

Description: Failure to report all instances of deviation as required. Specifically, on March 15, 2017, Formosa Point Comfort Plant submitted a deviation report, for compliance period August 15, 2015 to February 14, 2016, which did not list all instances of deviation.

11 Date: 01/31/2017 (1405182)

Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

12 Date: 04/18/2017 (1403182)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
NSR PERMIT  
PSD PERMIT

Description: Failure to prevent unauthorized emissions to the atmosphere during an emissions event that was discovered on November 11, 2016, TCEQ/Steers Incident No. 246882. Specifically, Formosa Plastics Corporation Texas released unauthorized emissions in the amount of 98 lbs of vinyl chloride monomer (VCM) from Emissions Point Number (EPN) 007-1. The event lasted for 4 minutes. Permit No. 7699's 1.79 lb/hr limit for EPN 007-1(as noted on the MAERT) was exceeded. The unauthorized release was the result of

13 Date: 05/11/2017 (1403865)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
NSR PERMIT

Description: Failure to prevent unauthorized emissions to the atmosphere during an emissions event that was discovered on October 5, 2016, TCEQ/Steers Incident No. 245104.



Specifically, Formosa Plastics Corporation Texas released unauthorized emissions in the amount of 12.26 lbs of Chlorine from Emissions Point Number (EPN) 2FUG. The event lasted for 10 minutes. Permit No. 19167's 0.44 lb/hr limit for EPN 2FUG (as noted on the MAERT) was exceeded. The unauthorized release was the result of poor operation and

#### F. Environmental audits:

Notice of Intent Date: 11/09/2015 (1294009)

Disclosure Date: 05/31/2016

Viol. Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: PERMIT TXR15VP68, Part III.D.2.

Description: Failed to post a Construction Site Notice regarding storm water management at the construction site entrance.

Viol. Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: PERMIT TXR15VP68, Part III.F.7.e.

Description: Failed to ensure inspection forms in the SWPPP are signed for the Olefins III Construction Project.

Viol. Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: PERMIT TXR15VP68, Part III.F.1.j.

Description: Failed to include a copy of the Construction General Permit in the SWPPP.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: PERMIT WQ0002436000, Receiving Water Mon., Page

Description: Failed to submit to the TCEQ the Scope of Work that includes specific technical details of the receiving water monitoring program for the 2005 permit within 30 days of the effective date of the permit for TCEQ approval. Additionally it was not provided to the Texas Department of Health, Texas Parks and Wildlife Department, other parties to the evidentiary hearing, and the local library for local citizens to view.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 319, SubChapter A 319.11(c)

Description: Failed to analyze effluents according to test methods specified in 40 CFR Part 136. Specifically, Formosa failed to run a standard at the reporting limit to verify that it is able to quantify at that level for each of the five permit metals.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: PERMIT NSR Permit No. 7699, SC 31

Description: Failed to revalidate MSS emissions from the Maintenance Department on an annual basis.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: PERMIT NSR Permit 19168, SC 8.D.

Description: Failed to track the average hourly values by taking readings at least once every 15 minutes and taking the average hourly value.

Viol. Classification: Minor

Citation: 40 CFR Chapter 63, SubChapter C, PT 63, SubPT ZZZZ 63.6640

40 CFR Chapter 63, SubChapter C, PT 63, SubPT ZZZZ 63.6640(a)

Description: Failed to maintain and provide annual maintenance records of the one diesel-fired emergency generator engine in the Olefins II plant for 2014.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: PERMIT NSR Permit 19168, SC 29

Description: Failed to maintain a rolling two-year period of records for the hours of operation and mode of each furnace or heater during startup, shutdown, decoking, or standby mode of operation.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: PERMIT NSR Permit No. 91780, SC 1

Description: Failed to limit annual emissions to the limits established in the permit. Annual emissions inventory for 2012 indicated that the annual emissions to the Olefins Flares (EPN 1018/1067) were 7.6442 tons/year.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: PERMIT NSR Permit 91780, SC 1

PERMIT NSR Permit 91780, SC 4.D.

Description: Failed repair leaks in the PP II facility when visible emissions were noted in the daily inspection log on at least three occasions.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)



Rqmt Prov: PERMIT NSR Permit 91780, SC 4.C.

Description: Failed to conduct the required annual preventative maintenance on the baghouses and filters for 2013 and 2014 (2015 inspections were conducted and the maintenance schedule revised to include annual inspections).

Viol. Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: PERMIT NSR Permit 91780, SC 6.F.

Description: Failed to calculate average hourly values for the vent stream flow rate to the Olefins I/II flare (the unit is recording flow readings every 15 minutes, but not using these to determine hourly flow rates).

Viol. Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: PERMIT NSR Permit 91780, SC 8

Description: Failed to calculate the rolling 12-month average of the VOC emitted to the atmosphere after the extruder in order to demonstrate compliance with the permit limit of 90 lbs VOC per million lbs of polypropylene product.

Viol. Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.145(1)(B)  
30 TAC Chapter 122, SubChapter B 122.145(2)(B)

Rqmt Prov: OP O1951, General Terms and Conditions

Description: Failed to submit an accurate semi-annual deviation report for SOP O1951. Specifically, the cover letter was misdated March 14, 2013 and the body of the letter misstated the monitoring period as August 2012 to February 2013. The completed deviation forms correctly indicated a report date of March 14, 2014 and a monitoring period of August 2013 to February 2014.

Viol. Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(E)

Description: Failed to maintain records of emissions for EPNs XZ-O201 and XZ-WS01 readily available for review and emission records for EPN CWTP were only available for 2014 (Formosa staff stated that they had the data, it just was not readily available for review).

Viol. Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: PERMIT NSR Permit 19166, SC 1

Description: Failed to comply with hourly MSS NOX lbs/hr emission limits at Utilities Boiler 7J in January and February 2015 during a scheduled maintenance event. The emissions in January were 104.56 lbs/hr and in February 82.92 lbs/hr, 41.90 lbs/hr, and 90.17 lbs/hr.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter B 115.112

Description: Failed to include the VOC control requirements related to the condensate tanks in the FHC Title V Operating Permit.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.10(d)

Description: Failed to calculate emissions resulting from the use of natural gas as a pilot gas for Flare 1 in 2013 and 2014.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.24(b)

Description: Failed to submit the 2015 TCEQ Annual Fee Basis form to determine applicable air quality fees for the facility.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 106, SubChapter O 106.359(b)  
30 TAC Chapter 106, SubChapter A 106.4  
30 TAC Chapter 106, SubChapter A 106.8(c)

Description: Failed to maintain documentation to demonstrate compliance with claimed PBR 30 TAC § 106.359.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter B 115.121  
5C THSC Chapter 382 382.085(b)

Description: Failed to include the requirements related to process vents to the flares in the Title V permit.

Viol. Classification: Moderate

Citation: 40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18

Description: Failed to maintain documentation to demonstrate compliance with 40 CFR § 60.18 for EPNs Flare 1 and Flare 2 (incorrect flare tip diameters were being used in flare calculations to demonstrate compliance).

Viol. Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)

Description: Failed to reference the correct regulatory citation on the deviation report for plant upsets (instead of 30 TAC § 101.20, it was referencing either 116.110(a) or the Standard Permit).



**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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## ***Addendum to Compliance History Federal Enforcement Actions***

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**Reg Entity Name:** **FORMOSA PLASTICS CORP TEXAS**

**Reg Entity Add:** 201 FORMOSA DRIVE

**Reg Entity City:** POINT COMFORT

**Reg Entity No:** RN100218973

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**EPA Case No:** **06-2012-0938**

**Order Issue Date (yyyymmdd):** 20120612

**Case Result:** Final Order No Penalty

**Statute:** RCRA

**Sect of Statute:** 3008A

**Classification:** Moderate

**Program:** RCRA Corrective Action **Citation:**

**Violation Type:**

**Cite Sect:**

**Cite Part:**

**Enforcement Action:** Administrative Compliance Orders

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**Reg Entity Name:** **FORMOSA PLASTICS CORP-POINT COMF**

**Reg Entity Add:** 201 FORMOSA DRIVE

**Reg Entity City:** POINT COMFORT

**Reg Entity No:** RN100218973

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**EPA Case No:** **06-2006-3410**

**Order Issue Date (yyyymmdd):** 20130313

**Case Result:** Final Order With Penalty

**Statute:** CAA

**Sect of Statute:** 111

**Classification:** Moderate

**Program:** Gen Hazardous Waste M **Citation:**

**Violation Type:** Container Requirements

**Cite Sect:**

**Cite Part:**

**Enforcement Action:** Consent Decree or Court Order Resolving a Civil

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## **Component Appendices**

### **Appendix A**

#### **All NOVs Issued During Component Period 5/17/2012 and 5/17/2017**

- 1      Date:      05/29/2012      (1007651)      Classification:      Minor
- Self Report?      NO      **For Informational Purposes Only**
- Citation:      [FOP No. O-01484] GTC OP  
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)
- Description:      Failure to report all instances of deviations. Specifically, as documented in the revised first semiannual deviation report, revised DR1 dated May 17, 2012, for the reporting period of April 21, 2011 through October 20, 2011, Deviation Item No. 17, Formosa failed to report in the original DR1 dated November 19, 2011 a deviation that occurred on June 29, 2011.
- 2      Date:      07/02/2012      (1001986)      Classification:      Moderate
- Self Report?      NO      **For Informational Purposes Only**
- Citation:      30 TAC Chapter 305, SubChapter F 305.125(1)  
Eff. Limit. and Mon. Req. Outfall 001 PERMIT
- Description:      Failed to meet the permit limit for Daily Average loading for Total Copper at Outfall 001 in February, 2011.
- Classification:      Moderate
- Self Report?      NO      **For Informational Purposes Only**
- Citation:      30 TAC Chapter 319, SubChapter A 319.7(a)  
30 TAC Chapter 319, SubChapter A 319.7(c)  
Mon. and Rep. Req. 2. PERMIT
- Description:      Failed to calibrate the in-line pH meters according to 30 TAC 319.9.
- Classification:      Minor
- Self Report?      NO      **For Informational Purposes Only**
- Citation:      30 TAC Chapter 319, SubChapter A 319.11(c)  
Mon. and Rep. Req. 2 PERMIT
- Description:      Failed to utilize the proper reagent in the analysis of Total Residual Chlorine and to compensate for the effects of oxidized manganese.
- 3      Date:      07/31/2012      (1066833)      Classification:      Moderate
- Self Report?      YES      **For Informational Purposes Only**
- Citation:      2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)
- Description:      Failure to meet the limit for one or more permit parameter
- 4      Date:      08/22/2012      (1028063)      Classification:      Moderate
- Self Report?      NO      **For Informational Purposes Only**
- 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)  
General Terms and Conditions OP
- Description:      Failure to report all instances of deviations. Specifically, Formosa Plastic Corporation, Texas failed to report a deviation regarding a non-reportable emissions event that occurred on December 23, 2010 on the July 27, 2010 through January 25, 2011 deviation report.
- 5      Date:      03/31/2013      (1096883)      Classification:      Moderate
- Self Report?      YES      **For Informational Purposes Only**
- Citation:      2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)
- Description:      Failure to meet the limit for one or more permit parameter
- 6      Date:      05/03/2013      (1085343)      Classification:      Moderate

Self Report? NO **For Informational Purposes Only**  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Effluent Limitations-1.; Pg. 2f PERMIT  
Description: Failed to ensure the discharge of only non-process area storm water, hydrostatic test water, fire water, non-contact steam condensate, and non-contact wash water through Outfall 005.

Classification: Moderate

Self Report? NO **For Informational Purposes Only**  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Effluent Limitations-1.; Pg. 2f PERMIT  
Description: Failed to comply with the permitted effluent limitations for Total Organic Carbon (TOC).

Classification: Moderate

Self Report? NO **For Informational Purposes Only**  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Permit Conditions; 2(c), Pg. 3 PERMIT  
Reporting Requirements; 2, Pg. 4-5 PERMIT  
Description: Failed to accurately accomplish in a representative manner measurements, tests and calculations.

7 Date: 08/13/2013 (1105313)

Classification: Minor

Self Report? NO **For Informational Purposes Only**  
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.145(2)(C)  
5C THSC Chapter 382 382.085(b)  
General Terms and Conditions OP  
Description: Failure to report, in writing, to the executive director all instances of deviations, the probable cause of the deviations, and any corrective actions or preventative measures taken for each emission unit addressed in the permit.

8 Date: 11/30/2013 (1148338)

Classification: Moderate

Self Report? YES **For Informational Purposes Only**  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

9 Date: 04/30/2014 (1181716)

Classification: Moderate

Self Report? YES **For Informational Purposes Only**  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

10 Date: 05/31/2014 (1188612)

Classification: Moderate

Self Report? YES **For Informational Purposes Only**  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

11 Date: 06/06/2014 (1170749)

Classification: Moderate

Self Report? NO **For Informational Purposes Only**  
Citation: [FOP No. O-03409] STC 8 OP  
[Pmt 76305/PSD-TX-1058] GC 8 & SC 1 PERMIT  
30 TAC Chapter 101, SubChapter A 101.20(3)  
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)  
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)  
Description: Failure to comply with permit emissions limitations. Specifically, on October 24,



2013, during stack testing of Train 2 Dryer (Unit ID: BD-B04) the CO emissions rate was 5.53 lbs/hr which exceeded Permit No. 76305/PSD-TX-1058 MAERT emissions rate of 3.33 lbs/hr of CO. In addition, on October 29, 2013, during stack testing of Train 1B Dryer (Unit ID: DD-B10), the PM emissions rate was 11.82 lbs/hr which exceeded Permit No. 76305/PSD-TX-1058 MAERT emissions rate of 5.04 lbs/hr of PM.

Classification: Moderate

Self Report? NO

### For Informational Purposes Only

Citation:

[FOP No. O-03409] STC 8 OP  
[Pmt 76305/PSD-TX-1058] GC 8 & SC 1 PERMIT  
30 TAC Chapter 101, SubChapter A 101.20(3)  
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)  
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)

Description: Failure to comply with permit emissions limitations. Specifically, in the second semiannual deviation report, dated February 6, 2014, for the reporting period of July 10, 2013 through January 7, 2014, Deviation Item No. SPVC-01, on October 24, 2013, during stack testing of Train 2 Dryer (Unit ID: BD-B04) the PM10 emissions rate was 0.09 lb/hr which exceeded Permit No. 76305/PSD-TX-1058 MAERT emissions rate of 0.02 lb/hr of PM10.

12

Date: 06/30/2014 (1200371)

Classification: Moderate

Self Report? YES

### For Informational Purposes Only

Citation:

2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

13

Date: 08/01/2014 (1185295)

Classification: Moderate

Self Report? NO

### For Informational Purposes Only

Citation:

[FOP No. O-01955] GTC & STC 14 OP  
[Pmt 19871/PSDTX1236] SC 29E PERMIT  
30 TAC Chapter 101, SubChapter A 101.20(3)  
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)

Description: Failure to equip each open-ended line (OEL) with a cap, blind flange, plug, or second valve. Specifically, on February 21, 2013, Formosa discovered one (1) OEL in VOC service.

14

Date: 08/28/2014 (1186701)

Classification: Minor

Self Report? NO

### For Informational Purposes Only

Citation:

30 TAC Chapter 319, SubChapter A 319.11(a)  
30 TAC Chapter 319, SubChapter A 319.11(b)  
Monitoring and Reporting 2. PERMIT

Description: Failed to ensure test procedures for the analysis of pollutants comply with procedures specified in 30 TAC §§ 319.11-319.12.

Classification: Minor

Self Report? NO

### For Informational Purposes Only

Citation:

30 TAC Chapter 319, SubChapter A 319.6  
30 TAC Chapter 319, SubChapter A 319.9(d)  
Monitoring and Reporting 1. PERMIT

Description: Failed to conduct effluent sampling and reporting in accordance with 30 TAC §§ 319.4-319.12.

Classification: Moderate

Self Report? NO

### For Informational Purposes Only

Citation:

30 TAC Chapter 305, SubChapter F 305.125(1)  
Effluent Limitations 2. PERMIT

Description: Failed to ensure the pH at outfall 011 shall not be less than 6.0 standard units nor greater than 9.0 standard units.

Classification: Moderate

Self Report? NO

### For Informational Purposes Only

Citation:

30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Effluent Limitations 1. PERMIT  
Failed to comply with permitted effluent limitations for outfall 201.  
Classification: Moderate

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Effluent Limitations 1. PERMIT

Description: Failed to comply with permitted effluent limitations for outfall 001.  
Classification: Moderate

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Effluent Limitations and Monitoring 1. PERMIT

Description: Failed to monitor discharges 1/day for the duration of the flow at Outfall 011 for all effluent characteristics.

Classification: Moderate

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 305, SubChapter F 305.125(5)  
Operational Requirements 1. PERMIT

Description: Failed to all times ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained.

15 Date: 08/31/2014 (1206975)

Classification: Moderate

Self Report? YES For Informational Purposes Only

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

16 Date: 09/30/2014 (1213385)

Classification: Moderate

Self Report? YES For Informational Purposes Only

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

17 Date: 10/31/2014 (1219640)

Classification: Moderate

Self Report? YES For Informational Purposes Only

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

18 Date: 04/06/2015 (1239944)

Classification: Minor

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.13(c)(2)  
5C THSC Chapter 382 382.085(b)  
Special Conditions No.3A PERMIT  
Special Terms & Conditions No. 4E OP

Description: Failure to submit Compliance Test Report by the required due date.

19 Date: 04/15/2015 (1230009)

Classification: Moderate

Self Report? NO For Informational Purposes Only

Citation: [NSR19168 & PSDTX1226] SC1 PA  
30 TAC Chapter 101, SubChapter A 101.20(3)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)

Description: Failure to prevent unauthorized emissions to the atmosphere during an emission event, Incident No. 208518, that occurred on January 13, 2015. Specifically, Formosa Point Comfort Plant released 616.95 lbs of 1,3-Butadiene, 647.95 lbs of Benzene, 103.86 lbs of Acetylene, 10,889.20 lbs of Carbon Monoxide, 1,430.63



lbs of Nitrogen Monoxide, 502.24 lbs of Xylene and 12,694.8 lbs of various regulated air contaminants from Emission Point Number (EPN) 1067. The event lasted for 12 hours 4 minutes and wa

- 20      Date:      06/26/2015      (1247456)      Classification:      Moderate
- Self Report?      NO      **For Informational Purposes Only**
- Citation:      30 TAC Chapter 101, SubChapter A 101.20(3)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
SC No. 1 PERMIT
- Description:      Failure to prevent unauthorized emissions to the atmosphere during an emissions event that occurred on July 17, 2014, TCEQ Incident No. 201214. Specifically, Formosa Plastics Corporation, Texas released 13,147.8 pounds (lbs.) of Butene and 11,418.4 lbs. of Ethylene into the atmosphere due to an avoidable event.
- 21      Date:      06/30/2015      (1278093)      Classification:      Moderate
- Self Report?      YES      **For Informational Purposes Only**
- Citation:      2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)
- Description:      Failure to meet the limit for one or more permit parameter
- 22      Date:      07/30/2015      (1266034)      Classification:      Moderate
- Self Report?      NO      **For Informational Purposes Only**
- Citation:      30 TAC Chapter 101, SubChapter A 101.20(3)  
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)  
SC No. 14 OP  
SC No. 17 (PSDTX1226) PERMIT
- Description:      Failure to equip each open-ended valve or line with a cap, blind flange, plug, or second valve. Specifically, Formosa Plastics Corporation, Texas discovered in the Olefins Plant five open-ended lines on September 12, 2013 and eight open-ended lines on August 1, 2013.
- 23      Date:      08/11/2015      (1268724)      Classification:      Minor
- Self Report?      NO      **For Informational Purposes Only**
- Citation:      30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.145(2)  
5C THSC Chapter 382 382.085(b)  
GC OP
- Description:      Failure to include all instances of deviations in the six-month deviation report. Specifically, Formosa Plastics Corporation, Texas omitted one deviation for the reporting period of October 19, 2013 to April 18, 2014 and one deviation for the reporting period of April 19, 2014 to October 18, 2014.
- Self Report?      NO      **For Informational Purposes Only**
- Citation:      30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.146(5)(D)  
5C THSC Chapter 382 382.085(b)  
SC 14 OP
- Description:      Failure to submit a complete and accurate annual compliance certification. Specifically, Formosa Plastics Corporation, Texas omitted one deviation on a six-month deviation report (October 19, 2013 to April 18, 2014) associated with a prior annual compliance certification that encompassed the period of April 19, 2013 to April 18, 2014.
- 24      Date:      08/18/2015      (1259389)      Classification:      Moderate
- Self Report?      NO      **For Informational Purposes Only**
- 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)  
SC 1 PERMIT

ST&C 8 OP

Description: Failure to prevent unauthorized emissions to the atmosphere during an emission event which occurred on October 29, 2014, TCEQ Incident No. 205879. Specifically, Formosa released 14.6372 pounds (lbs.) of ethylene dichloride, 2.73820 lbs. of VCM, and 0.94070 lbs. of hydrochloric acid. The unauthorized release was the result of a leak on the VC-401G inlet line.

- 25\*      Date:      09/11/2015      (1272655)      Classification:      Moderate
- Self Report?      NO      **For Informational Purposes Only**
- Citation:      2D TWC Chapter 26, SubChapter A 26.121(a)(1)  
30 TAC Chapter 305, SubChapter F 305.125(4)  
Permit Conditions; 2.g.; Pg.7 PERMIT
- Description:      Failed to prevent the unauthorized discharge of sewage, municipal waste, recreational waste, agricultural waste, or industrial waste into or adjacent to any water in the state.
- Classification:      Moderate
- Self Report?      NO      **For Informational Purposes Only**
- Citation:      30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 305, SubChapter F 305.125(9)  
Noncompliance Notification; 7.a.; Pg. 5 PERMIT
- Description:      Failed to report any noncompliance which may endanger human health or safety, or the environment in accordance with 30 TAC § 305.125 (9).
- 26\*      Date:      05/13/2016      (1313144)      Classification:      Moderate
- Self Report?      NO      **For Informational Purposes Only**
- Citation:      30 TAC Chapter 305, SubChapter F 305.125(1)  
Eff. Limits and Monitoring RQMTs; No. 3 PERMIT
- Description:      Failed to prevent the unauthorized discharge of floating solids or visible foam in other than trace amounts and no discharge of visible oil.
- 27\*      Date:      05/27/2016      (1329126)      Classification:      Moderate
- Self Report?      NO      **For Informational Purposes Only**
- Citation:      30 TAC Chapter 101, SubChapter A 101.20(3)  
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)  
SC No. 12 OP  
SC No. 16 PERMIT
- Description:      Failure to conduct monthly monitoring for VOC (volatile organic compounds) associated with the EDC (ethylene dichloride) Plant cooling tower water. Specifically, the Formosa Point Comfort Plant failed to conduct the requisite monitoring for June 2015.
- 28\*      Date:      06/24/2016      (1330047)      Classification:      Minor
- Self Report?      NO      **For Informational Purposes Only**
- Citation:      30 TAC Chapter 122, SubChapter B 122.145(2)(A)  
5C THSC Chapter 382 382.085(b)  
FOP O3409 GTC OP
- Description:      Failure to report all instances of deviations, the probable cause of the deviations, and any corrective actions or preventative measures taken for each emission unit addressed in the permit.
- 29\*      Date:      07/28/2016      (1283004)      Classification:      Moderate
- Self Report?      NO      **For Informational Purposes Only**
- Citation:      30 TAC Chapter 101, SubChapter A 101.20(3)  
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 O-1957 STC (10) OP  
NSR 19201 & PSDTX1232 SC (21) (B) PERMIT
- Description:      Failure to drain remaining liquids into a closed vessel during maintenance,



startup, and shutdown activities.

Classification: Moderate

Self Report? NO **For Informational Purposes Only**

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
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 O-1957 STC (10) OP  
NSR 19201 & PSDTX1232 SC (1) PERMIT

Description: Failure to prevent unauthorized emissions to the atmosphere during a non-reportable emission event that occurred on April 23, 2015.

Classification: Moderate

Self Report? NO **For Informational Purposes Only**

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
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 FFFF 63.2535  
5C THSC Chapter 382 382.085(b)  
FOP O1957 (STC) (10) OP  
NSR 19201 & PSDTX1232 (SC) (11) (D) PERMIT

Description: Failure to conduct an annual floating roof seal inspection.

Classification: Moderate

Self Report? NO **For Informational Purposes Only**

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
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 FFFF 63.2535  
5C THSC Chapter 382 382.085(b)  
FOP O1957 (STC) (10) OP  
NSR 19201 & PSDTX1232 (SC) (11) (D) PERMIT

Description: Failure to conduct an annual floating roof seal inspection.

Classification: Moderate

Self Report? NO **For Informational Purposes Only**

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
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 FFFF 63.2535  
5C THSC Chapter 382 382.085(b)  
FOP O1957 (STC) (10) OP  
NSR 19201 & PSDTX1232 (SC) (11) (D) PERMIT

Description: Failure to conduct an annual floating roof seal inspection.

Classification: Moderate

Self Report? NO **For Informational Purposes Only**

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
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 FFFF 63.2535  
5C THSC Chapter 382 382.085(b)  
FOP O1957 (STC) (10) OP  
NSR 19201 & PSDTX1232 (SC) (11) (D) PERMIT

Description: Failure to conduct an annual floating roof seal inspection.

Classification: Moderate

Self Report? NO **For Informational Purposes Only**

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
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 FFFF 63.2535  
5C THSC Chapter 382 382.085(b)  
FOP O1957 (STC) (10) OP  
NSR 19201 & PSDTX1232 (SC) (11) (D) PERMIT

Description: Failure to conduct an annual floating roof seal inspection.

Classification: Moderate

Self Report? NO **For Informational Purposes Only**

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
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 FFFF 63.2535  
5C THSC Chapter 382 382.085(b)

FOP O1957 (STC) (10) OP  
NSR 19201 & PSDTX1232 (SC) (11) (D) PERMIT  
Description: Failure to conduct an annual floating roof seal inspection.  
Classification: Moderate  
Self Report? NO **For Informational Purposes Only**  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
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 FFFF 63.2535  
5C THSC Chapter 382 382.085(b)  
FOP O1957 (STC) (10) OP  
NSR 19201 & PSDTX1232 (SC) (3) PERMIT  
Description: Failure to conduct a 10 year and an annual floating roof seal inspection.

30\* Date: 08/05/2016 (1349122)  
Classification: Moderate  
Self Report? NO **For Informational Purposes Only**  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
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)  
SC No. 11 OP  
SC No. 11 PERMIT  
Description: Failure to comply with permit limitations regarding the six minute, average  
firebox chamber temperature for the Regenerative Thermal Oxidizer.  
Classification: Moderate

Self Report? NO **For Informational Purposes Only**  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
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)  
SC No. 11 OP  
SC No. 11 PERMIT  
Description: Failure to comply with permit limitations regarding the hourly average exhaust  
oxygen concentration for the Regenerative Thermal Oxidizer.

31\* Date: 08/19/2016 (1351348)  
Classification: Moderate  
Self Report? NO **For Informational Purposes Only**  
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.145(2)  
5C THSC Chapter 382 382.085(b)  
General Terms and Conditions OP  
Description: Failure to report all instances of deviations as required.  
Classification: Moderate

Self Report? NO **For Informational Purposes Only**  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)  
30 TAC Chapter 101, SubChapter A 101.20(3)  
30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(1)  
5C THSC Chapter 382 382.085(b)  
SC No. 14 OP  
SC No. 8C PERMIT  
Description: Failure to comply with regulatory requirements for visible emissions from flares.  
Classification: Moderate

Self Report? NO **For Informational Purposes Only**  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
SC No. 14 OP  
SC No. 26A PERMIT  
Description: Failure to submit a certification test report within 30 days of completion of the  
monitor certification test.  
Classification: Moderate

Self Report? NO **For Informational Purposes Only**



Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
SC No. 14 OP  
SC No. 4B PERMIT  
Description: Failure to maintain carbon monoxide (CO) emissions within permitted limits.

32\* Date: 08/30/2016 (1357100)

Classification: Minor

Self Report? NO **For Informational Purposes Only**

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
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)  
SC No. 14 PERMIT  
STC No. 11 OP

Description: Failure to conduct weekly VOC (volatile organic compound) sampling of polymer production.

33 Date: 10/24/2016 (1358247)

Classification: Minor

Self Report? NO **For Informational Purposes Only**

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 319, SubChapter A 319.11(c)  
Monitoring and Reporting; No.2(a); Pg. 4 PERMIT

Description: Failed to properly analyze effluent samples.

34 Date: 12/15/2016 (1376088)

Classification: Moderate

Self Report? NO **For Informational Purposes Only**

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
FOP OP  
NSR PERMIT  
PSD PERMIT

Description: Failure to comply with special conditions of NSR Permit No. 19198. Specifically, on eleven instances from April 25, 2015 through October 7, 2015, Thermal Oxidizer (EPN RTO221) did not meet the minimum temperature requirements as per deviation item nos. 13 through 24.

35 Date: 12/16/2016 (1370809)

Classification: Minor

Self Report? YES **For Informational Purposes Only**

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

Description: Failure to report all instances of deviations as required. Specifically on February 25, 2016, Formosa Point Comfort Plant submitted a deviation report, for compliance period July 27, 2015 to January 26, 2016, that did not list all instances of deviation.

Classification: Moderate

Self Report? YES **For Informational Purposes Only**

Citation: 30 TAC Chapter 101, SubChapter A 101.20  
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 OP  
NSR PERMIT  
Permit PERMIT

Description: Failure to comply with regulatory requirements for visible emissions from flares. Specifically, on May 21, 2016, Formosa Point Comfort Plant experienced a smoking flare for longer than 5 minutes from the Olefins 1 Flare (EPN 1018).

Classification: Moderate

Self Report? YES **For Informational Purposes Only**  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
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 OP  
NSR PERMIT  
Permit PERMIT  
Description: Failure to comply with special conditions of NSR Permit No. 19168. Specifically, on October 14, 2015 through April 4, 2016, vapor combustor (EPN 1051) did not meet the minimum temperature requirements.

Classification: Moderate

Self Report? YES **For Informational Purposes Only**  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
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 OP  
NSR PERMIT  
Permit PERMIT  
Description: Failure to maintain pilot flame on Olefins 2 flare (EPN 1067). Specifically on November 7, 2015 and December 7, 2015, an elevated steam flow resulted in the pilot flame to extinguish.

36 Date: 01/20/2017 (1383574)

Classification: Minor

Self Report? NO **For Informational Purposes Only**  
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.145(2)  
5C THSC Chapter 382 382.085(b)  
FOP OP  
Description: Failure to report all instances of deviation as required. Specifically, on March 15, 2017, Formosa Point Comfort Plant submitted a deviation report, for compliance period August 15, 2015 to February 14, 2016, which did not list all instances of deviation.

37 Date: 01/31/2017 (1405182)

Classification: Moderate

Self Report? YES **For Informational Purposes Only**  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

38 Date: 04/18/2017 (1403182)

Classification: Moderate

Self Report? NO **For Informational Purposes Only**  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
NSR PERMIT  
PSD PERMIT  
Description: Failure to prevent unauthorized emissions to the atmosphere during an emissions event that was discovered on November 11, 2016, TCEQ/Steers Incident No. 246882. Specifically, Formosa Plastics Corporation Texas released unauthorized emissions in the amount of 98 lbs of vinyl chloride monomer (VCM) from Emissions Point Number (EPN) 007-1. The event lasted for 4 minutes. Permit No. 7699's 1.79 lb/hr limit for EPN 007-1(as noted on the MAERT) was exceeded. The unauthorized release was the result of

39 Date: 05/11/2017 (1403865)

Classification: Moderate

Self Report? YES **For Informational Purposes Only**  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
NSR PERMIT



Description: Failure to prevent unauthorized emissions to the atmosphere during an emissions event that was discovered on October 5, 2016, TCEQ/Steers Incident No. 245104. Specifically, Formosa Plastics Corporation Texas released unauthorized emissions in the amount of 12.26 lbs of Chlorine from Emissions Point Number (EPN) 2FUG. The event lasted for 10 minutes. Permit No. 19167's 0.44 lb/hr limit for EPN 2FUG (as noted on the MAERT) was exceeded. The unauthorized release was the result of poor operation and

\* NOVs applicable for the Compliance History rating period 9/1/2011 to 8/31/2016

## Appendix B

### All Investigations Conducted During Component Period May 17, 2012 and May 17, 2017

Item 1*	May 18, 2012**	(1017578) For Informational Purposes Only
Item 2*	May 21, 2012**	(1007512) For Informational Purposes Only
Item 3	May 25, 2012**	(1007651) For Informational Purposes Only
Item 4*	May 29, 2012**	(1007432) For Informational Purposes Only
Item 5*	June 06, 2012**	(1009196) For Informational Purposes Only
Item 6*	June 19, 2012**	(1025374) For Informational Purposes Only
Item 7	July 06, 2012**	(1001986) For Informational Purposes Only
Item 8*	July 11, 2012**	(1015932) For Informational Purposes Only
Item 9*	July 16, 2012**	(1019513) For Informational Purposes Only
Item 10*	July 17, 2012**	(1020550) For Informational Purposes Only
Item 11*	July 19, 2012**	(1032714) For Informational Purposes Only
Item 12*	July 24, 2012**	(1021057) For Informational Purposes Only
Item 13*	July 25, 2012**	(1021212) For Informational Purposes Only
Item 14*	August 14, 2012**	(1023964) For Informational Purposes Only
Item 15	August 16, 2012**	(1023003) For Informational Purposes Only
Item 16	August 21, 2012**	(1028063) For Informational Purposes Only
Item 17*	August 31, 2012**	(1029127) For Informational Purposes Only
		(1030112)

Item 18*	September 05, 2012**	For Informational Purposes Only (1030373)
Item 19*	September 07, 2012**	For Informational Purposes Only (1048094)
Item 20*	September 17, 2012**	For Informational Purposes Only (1035148)
Item 21*	September 26, 2012**	For Informational Purposes Only (1036121)
Item 22*	October 03, 2012**	For Informational Purposes Only (1036379)
Item 23*	October 04, 2012**	For Informational Purposes Only (1036010)
Item 24*	October 09, 2012**	For Informational Purposes Only (1036253)
Item 25*	October 17, 2012**	For Informational Purposes Only (1042199)
Item 26*	November 01, 2012**	For Informational Purposes Only (1043090)
Item 27*	November 07, 2012**	For Informational Purposes Only (1043172)
Item 28*	November 15, 2012**	For Informational Purposes Only (1044503)
Item 29*	November 16, 2012**	For Informational Purposes Only (1045943)
Item 30*	December 04, 2012**	For Informational Purposes Only (1051220)
Item 31*	December 17, 2012**	For Informational Purposes Only (1051540)
Item 32*	December 18, 2012**	For Informational Purposes Only (1052834)
Item 33*	January 08, 2013**	For Informational Purposes Only (1052854)
Item 34*	January 10, 2013**	For Informational Purposes Only (1081491)
Item 35*	January 18, 2013**	For Informational Purposes Only (1050922)
Item 36*	January 23, 2013**	For Informational Purposes Only (1055116)
Item 37*	January 29, 2013**	For Informational Purposes Only (1081490)
Item 38*	February 20, 2013**	For Informational Purposes Only (1060409)
Item 39*	February 28, 2013**	For Informational Purposes Only



Item 40*	March 18, 2013**	(1075185) For Informational Purposes Only
Item 41*	March 19, 2013**	(1090532) For Informational Purposes Only
Item 42*	March 26, 2013**	(1075734) For Informational Purposes Only
Item 43*	April 08, 2013**	(1073186) For Informational Purposes Only
Item 44	April 19, 2013**	(1096883) For Informational Purposes Only
Item 45*	April 30, 2013**	(1086853) For Informational Purposes Only
Item 46	May 03, 2013**	(1085343) For Informational Purposes Only
Item 47*	May 16, 2013**	(1088445) For Informational Purposes Only
Item 48*	May 20, 2013**	(1107847) For Informational Purposes Only
Item 49	June 11, 2013**	(1094931) For Informational Purposes Only
Item 50*	June 20, 2013**	(1111479) For Informational Purposes Only
Item 51*	July 18, 2013**	(1118381) For Informational Purposes Only
Item 52*	July 24, 2013**	(1103494) For Informational Purposes Only
Item 53	August 05, 2013**	(1100038) For Informational Purposes Only
Item 54	August 13, 2013**	(1105313) For Informational Purposes Only
Item 55*	August 16, 2013**	(1114119) For Informational Purposes Only
Item 56*	August 20, 2013**	(1126171) For Informational Purposes Only
Item 57	September 19, 2013**	(1116519) For Informational Purposes Only
Item 58*	October 08, 2013**	(1122671) For Informational Purposes Only
Item 59*	October 09, 2013**	(1123071) For Informational Purposes Only
Item 60*	October 18, 2013**	(1136489) For Informational Purposes Only

		(1141873)
Item 61*	November 20, 2013**	For Informational Purposes Only
		(1148338)
Item 62	December 18, 2013**	For Informational Purposes Only
		(1133745)
Item 63*	January 07, 2014**	For Informational Purposes Only
		(1154408)
Item 64*	January 17, 2014**	For Informational Purposes Only
		(1161734)
Item 65*	February 19, 2014**	For Informational Purposes Only
		(1168358)
Item 66*	March 20, 2014**	For Informational Purposes Only
		(1175522)
Item 67*	April 17, 2014**	For Informational Purposes Only
		(1152561)
Item 68	May 05, 2014**	For Informational Purposes Only
		(1165018)
Item 69*	May 12, 2014**	For Informational Purposes Only
		(1181716)
Item 70	May 20, 2014**	For Informational Purposes Only
		(1170801)
Item 71*	May 22, 2014**	For Informational Purposes Only
		(1170749)
Item 72	June 04, 2014**	For Informational Purposes Only
		(1152390)
Item 73*	June 18, 2014**	For Informational Purposes Only
		(1177458)
Item 74*	June 20, 2014**	For Informational Purposes Only
		(1200371)
Item 75	July 17, 2014**	For Informational Purposes Only
		(1185295)
Item 76	August 01, 2014**	For Informational Purposes Only
		(1174112)
Item 77	August 06, 2014**	For Informational Purposes Only
		(1200372)
Item 78*	August 19, 2014**	For Informational Purposes Only
		(1159303)
Item 79	August 21, 2014**	For Informational Purposes Only
		(1185547)
Item 80*	August 28, 2014**	For Informational Purposes Only
		(1206975)
Item 81	September 19, 2014**	For Informational Purposes Only
		(1197116)



Item 82	October 17, 2014**	For Informational Purposes Only (1197147)
Item 83*	November 20, 2014**	For Informational Purposes Only (1225427)
Item 84*	December 17, 2014**	For Informational Purposes Only (1215232)
Item 85*	January 02, 2015**	For Informational Purposes Only (1232364)
Item 86*	January 20, 2015**	For Informational Purposes Only (1243440)
Item 87*	February 20, 2015**	For Informational Purposes Only (1249806)
Item 88*	March 20, 2015**	For Informational Purposes Only (1229221)
Item 89*	April 14, 2015**	For Informational Purposes Only (1230009)
Item 90	April 15, 2015**	For Informational Purposes Only (1256688)
Item 91*	April 20, 2015**	For Informational Purposes Only (1263443)
Item 92*	May 20, 2015**	For Informational Purposes Only (1247109)
Item 93*	June 19, 2015**	For Informational Purposes Only (1247456)
Item 94	June 26, 2015**	For Informational Purposes Only (1260885)
Item 95*	July 01, 2015**	For Informational Purposes Only (1278093)
Item 96	July 20, 2015**	For Informational Purposes Only (1268724)
Item 97	August 11, 2015**	For Informational Purposes Only (1266034)
Item 98	August 12, 2015**	For Informational Purposes Only (1259389)
Item 99	August 18, 2015**	For Informational Purposes Only (1284283)
Item 100*	August 20, 2015**	For Informational Purposes Only (1273726)
Item 101*	August 21, 2015**	For Informational Purposes Only (1273829)
Item 102	August 24, 2015**	For Informational Purposes Only (1267411)

Item 103	August 26, 2015**	For Informational Purposes Only (1274914)
Item 104*	August 31, 2015**	For Informational Purposes Only (1291433)
Item 105*	September 18, 2015**	For Informational Purposes Only (1297613)
Item 106*	October 20, 2015**	For Informational Purposes Only (1281961)
Item 107	October 26, 2015**	For Informational Purposes Only (1303054)
Item 108*	November 18, 2015**	For Informational Purposes Only (1310041)
Item 109*	December 18, 2015**	For Informational Purposes Only (1316808)
Item 110*	January 20, 2016**	For Informational Purposes Only (1307052)
Item 111*	February 18, 2016**	For Informational Purposes Only (1326163)
Item 112*	February 19, 2016**	For Informational Purposes Only (1314261)
Item 113*	March 16, 2016**	For Informational Purposes Only (1332926)
Item 114*	March 18, 2016**	For Informational Purposes Only (1340059)
Item 115*	April 19, 2016**	For Informational Purposes Only (1204144)
Item 116	May 16, 2016**	For Informational Purposes Only (1346877)
Item 117*	May 20, 2016**	For Informational Purposes Only (1329126)
Item 118	May 31, 2016**	For Informational Purposes Only (1337771)
Item 119*	June 14, 2016**	For Informational Purposes Only (1353308)
Item 120*	June 20, 2016**	For Informational Purposes Only (1330047)
Item 121	June 24, 2016**	For Informational Purposes Only (1360272)
Item 122*	July 20, 2016**	For Informational Purposes Only (1283004)
Item 123	July 28, 2016**	For Informational Purposes Only (1349122)
Item 124	August 05, 2016**	For Informational Purposes Only



Item 125	August 19, 2016**	(1351348) For Informational Purposes Only
Item 126*	August 26, 2016**	(1338768) For Informational Purposes Only
Item 127	August 30, 2016**	(1357100) For Informational Purposes Only
Item 128*	September 14, 2016	(1358330) For Informational Purposes Only
Item 129*	September 20, 2016	(1373413) For Informational Purposes Only
Item 130*	September 22, 2016	(1356437) For Informational Purposes Only
Item 131*	October 20, 2016	(1379589) For Informational Purposes Only
Item 132*	November 18, 2016	(1385536) For Informational Purposes Only
Item 133*	December 02, 2016	(1363501) For Informational Purposes Only
Item 134*	December 09, 2016	(1362459) For Informational Purposes Only
Item 135	December 15, 2016	(1376088) For Informational Purposes Only
Item 136	December 16, 2016	(1370809) For Informational Purposes Only
Item 137*	January 03, 2017	(1381671) For Informational Purposes Only
Item 138	January 20, 2017	(1383574) For Informational Purposes Only
Item 139	February 17, 2017	(1405182) For Informational Purposes Only
Item 140*	February 27, 2017	(1395749) For Informational Purposes Only
Item 141*	February 28, 2017	(1395630) For Informational Purposes Only
Item 142*	March 06, 2017	(1394886) For Informational Purposes Only
Item 143*	March 20, 2017	(1412266) For Informational Purposes Only
Item 144*	April 11, 2017	(1396497) For Informational Purposes Only
Item 145*	April 14, 2017	(1396534) For Informational Purposes Only

Item 146	April 17, 2017	(1407583) For Informational Purposes Only
Item 147	April 18, 2017	(1403182) For Informational Purposes Only
Item 148*	April 20, 2017	(1418765) For Informational Purposes Only
Item 149	May 01, 2017	(1400665) For Informational Purposes Only
Item 150	May 12, 2017	(1403865) For Informational Purposes Only

\* No violations documented during this investigation

\*\*Investigation applicable for the Compliance History Rating period between 09/01/2011 and 08/31/2016.



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## TCEQ Compliance History Report

Compliance History Report for CN600130017, RN100218973, Rating Year 2016 which includes Compliance History (CH) components from September 1, 2011, through August 31, 2016.

**Customer, Respondent, or Owner/Operator:** CN600130017, FORMOSA PLASTICS CORPORATION, TEXAS

**Classification:** SATISFACTORY **Rating:** 3.89

**Regulated Entity:** RN100218973, Formosa Point Comfort Plant

**Classification:** SATISFACTORY **Rating:** 3.89

**Complexity Points:** 56

**Repeat Violator:** NO

**CH Group:** 05 - Chemical Manufacturing

**Location:** 201 FORMOSA DRIVE, ONE MILE NORTH OF THE INTERSECTION OF STATE HIGHWAY 35 AND FARM-TO-MARKET ROAD 1593, NORTHEAST OF POINT COMFORT, CALHOUN COUNTY, TEXAS

**TCEQ Region:** REGION 14 - CORPUS CHRISTI

### ID Number(s):

**AIR OPERATING PERMITS** ACCOUNT NUMBER CB0038Q  
**AIR OPERATING PERMITS** PERMIT 1951  
**AIR OPERATING PERMITS** PERMIT 1954  
**AIR OPERATING PERMITS** PERMIT 1956  
**AIR OPERATING PERMITS** PERMIT 1958  
**AIR OPERATING PERMITS** PERMIT 3421  
**POLLUTION PREVENTION PLANNING** ID NUMBER P08990  
**AIR NEW SOURCE PERMITS** PERMIT 7699  
**AIR NEW SOURCE PERMITS** PERMIT 19166  
**AIR NEW SOURCE PERMITS** PERMIT 19168  
**AIR NEW SOURCE PERMITS** PERMIT 19199  
**AIR NEW SOURCE PERMITS** PERMIT 19201  
**AIR NEW SOURCE PERMITS** PERMIT 20203  
**AIR NEW SOURCE PERMITS** REGISTRATION 31130  
**AIR NEW SOURCE PERMITS** REGISTRATION 26270  
**AIR NEW SOURCE PERMITS** REGISTRATION 26523  
**AIR NEW SOURCE PERMITS** REGISTRATION 35292  
**AIR NEW SOURCE PERMITS** PERMIT 40157  
**AIR NEW SOURCE PERMITS** REGISTRATION 41145  
**AIR NEW SOURCE PERMITS** REGISTRATION 44847  
**AIR NEW SOURCE PERMITS** ACCOUNT NUMBER CB0038Q  
**AIR NEW SOURCE PERMITS** REGISTRATION 52259  
**AIR NEW SOURCE PERMITS** REGISTRATION 75974  
**AIR NEW SOURCE PERMITS** REGISTRATION 132277  
**AIR NEW SOURCE PERMITS** PERMIT 107520  
**AIR NEW SOURCE PERMITS** EPA PERMIT PSDTX699  
**AIR NEW SOURCE PERMITS** EPA PERMIT PSDTX760M4  
**AIR NEW SOURCE PERMITS** EPA PERMIT PSDTX760M6  
**AIR NEW SOURCE PERMITS** REGISTRATION 79826  
**AIR NEW SOURCE PERMITS** REGISTRATION 81109  
**AIR NEW SOURCE PERMITS** EPA PERMIT HAP7  
**AIR NEW SOURCE PERMITS** REGISTRATION 83608  
**AIR NEW SOURCE PERMITS** REGISTRATION 86398  
**AIR NEW SOURCE PERMITS** REGISTRATION 84589  
**AIR NEW SOURCE PERMITS** REGISTRATION 84788  
**AIR NEW SOURCE PERMITS** REGISTRATION 84730  
**AIR NEW SOURCE PERMITS** REGISTRATION 91047  
**AIR NEW SOURCE PERMITS** REGISTRATION 88447  
**AIR NEW SOURCE PERMITS** EPA PERMIT PSDTX1222  
**AIR NEW SOURCE PERMITS** EPA PERMIT PSDTX1232  
**AIR NEW SOURCE PERMITS** EPA PERMIT PSDTX1226

**AIR OPERATING PERMITS** PERMIT 1484  
**AIR OPERATING PERMITS** PERMIT 1953  
**AIR OPERATING PERMITS** PERMIT 1955  
**AIR OPERATING PERMITS** PERMIT 1957  
**AIR OPERATING PERMITS** PERMIT 3409  
**POLLUTION PREVENTION PLANNING** ID NUMBER P00254  
**AIR NEW SOURCE PERMITS** AFS NUM 4805700015  
**AIR NEW SOURCE PERMITS** PERMIT 17030  
**AIR NEW SOURCE PERMITS** PERMIT 19167  
**AIR NEW SOURCE PERMITS** PERMIT 19198  
**AIR NEW SOURCE PERMITS** PERMIT 19200  
**AIR NEW SOURCE PERMITS** PERMIT 19871  
**AIR NEW SOURCE PERMITS** REGISTRATION 29765  
**AIR NEW SOURCE PERMITS** REGISTRATION 26267  
**AIR NEW SOURCE PERMITS** REGISTRATION 26351  
**AIR NEW SOURCE PERMITS** REGISTRATION 26266  
**AIR NEW SOURCE PERMITS** REGISTRATION 37070  
**AIR NEW SOURCE PERMITS** REGISTRATION 40293  
**AIR NEW SOURCE PERMITS** REGISTRATION 43265  
**AIR NEW SOURCE PERMITS** REGISTRATION 44933  
**AIR NEW SOURCE PERMITS** REGISTRATION 52859  
**AIR NEW SOURCE PERMITS** EPA PERMIT HAP10  
**AIR NEW SOURCE PERMITS** PERMIT 76305  
**AIR NEW SOURCE PERMITS** PERMIT 76044  
**AIR NEW SOURCE PERMITS** EPA PERMIT PSDTX1053  
**AIR NEW SOURCE PERMITS** EPA PERMIT PSDTX760M3  
**AIR NEW SOURCE PERMITS** EPA PERMIT PSDTX1058  
**AIR NEW SOURCE PERMITS** REGISTRATION 78769  
**AIR NEW SOURCE PERMITS** REGISTRATION 80198  
**AIR NEW SOURCE PERMITS** EPA PERMIT HAP2  
**AIR NEW SOURCE PERMITS** EPA PERMIT PSDTX760M8  
**AIR NEW SOURCE PERMITS** PERMIT 83763  
**AIR NEW SOURCE PERMITS** REGISTRATION 83990  
**AIR NEW SOURCE PERMITS** REGISTRATION 83489  
**AIR NEW SOURCE PERMITS** PERMIT 87363  
**AIR NEW SOURCE PERMITS** REGISTRATION 85081  
**AIR NEW SOURCE PERMITS** REGISTRATION 85100  
**AIR NEW SOURCE PERMITS** PERMIT 91780  
**AIR NEW SOURCE PERMITS** EPA PERMIT PSDTX1230  
**AIR NEW SOURCE PERMITS** EPA PERMIT PSDTX1224  
**AIR NEW SOURCE PERMITS** EPA PERMIT PSDTX1240



**AIR NEW SOURCE PERMITS** EPA PERMIT PSDTX1234  
**AIR NEW SOURCE PERMITS** EPA PERMIT PSDTX1236  
**AIR NEW SOURCE PERMITS** REGISTRATION 96408  
**AIR NEW SOURCE PERMITS** REGISTRATION 102123  
**AIR NEW SOURCE PERMITS** EPA PERMIT PSDTX1500  
**AIR NEW SOURCE PERMITS** REGISTRATION 119133  
**AIR NEW SOURCE PERMITS** REGISTRATION 132905  
**AIR NEW SOURCE PERMITS** PERMIT 127838  
**AIR NEW SOURCE PERMITS** PERMIT 140763  
**AIR NEW SOURCE PERMITS** EPA PERMIT GHGPSDTX47  
**AIR NEW SOURCE PERMITS** REGISTRATION 115795  
**AIR NEW SOURCE PERMITS** EPA PERMIT PSDTX1384  
**AIR NEW SOURCE PERMITS** EPA PERMIT GHGPSDTX46  
**AIR NEW SOURCE PERMITS** EPA PERMIT PSDTX760M9  
**AIR NEW SOURCE PERMITS** REGISTRATION 145955  
**AIR NEW SOURCE PERMITS** REGISTRATION 145953  
**INDUSTRIAL AND HAZARDOUS WASTE** SOLID WASTE  
 REGISTRATION # (SWR) 31945  
**INDUSTRIAL AND HAZARDOUS WASTE** SOLID WASTE  
 REGISTRATION # (SWR) 82613  
**INDUSTRIAL AND HAZARDOUS WASTE** PERMIT  
 PCO31945  
**WASTEWATER** EPA ID TX0085570  
**UNDERGROUND INJECTION CONTROL** PERMIT WDW403

**STORMWATER** PERMIT TXR15VP68  
**STORMWATER** PERMIT TXR150024880  
**STORMWATER** PERMIT TXR150018054  
**STORMWATER** PERMIT TXR15370B  
**STORMWATER** PERMIT TXR15371B  
**AIR EMISSIONS.INVENTORY** ACCOUNT NUMBER  
 CB0038Q  
**TAX RELIEF** ID NUMBER 16667  
**TAX RELIEF** ID NUMBER 16792  
**TAX RELIEF** ID NUMBER 16796  
**TAX RELIEF** ID NUMBER 16663

**AIR NEW SOURCE PERMITS** EPA PERMIT PSDTX1238  
**AIR NEW SOURCE PERMITS** EPA PERMIT PSDTX1237  
**AIR NEW SOURCE PERMITS** EPA PERMIT PSDTX226M7  
**AIR NEW SOURCE PERMITS** PERMIT 107518  
**AIR NEW SOURCE PERMITS** REGISTRATION 132128  
**AIR NEW SOURCE PERMITS** EPA PERMIT GHGPSDTX48  
**AIR NEW SOURCE PERMITS** REGISTRATION 134477  
**AIR NEW SOURCE PERMITS** EPA PERMIT PSDTX1383  
**AIR NEW SOURCE PERMITS** REGISTRATION 131445  
**AIR NEW SOURCE PERMITS** REGISTRATION 129793  
**AIR NEW SOURCE PERMITS** REGISTRATION 116253  
**AIR NEW SOURCE PERMITS** PERMIT 128752  
**AIR NEW SOURCE PERMITS** REGISTRATION 128431  
**AIR NEW SOURCE PERMITS** REGISTRATION 142099  
**AIR NEW SOURCE PERMITS** REGISTRATION 145753  
**INDUSTRIAL AND HAZARDOUS WASTE** EPA ID TXT490011293  
**INDUSTRIAL AND HAZARDOUS WASTE** EPA ID  
 TX0000888164  
**INDUSTRIAL AND HAZARDOUS WASTE** PERMIT 50348

**WASTEWATER** PERMIT WQ0002436000

**UNDERGROUND INJECTION CONTROL** PERMIT WDW402  
**IHW CORRECTIVE ACTION** SOLID WASTE REGISTRATION  
 # (SWR) 31945  
**STORMWATER** PERMIT TXR150015113  
**STORMWATER** PERMIT TXR150015009  
**STORMWATER** PERMIT TXR150017867  
**STORMWATER** PERMIT TXR15515B  
**STORMWATER** PERMIT TXR15062B  
**PUBLIC WATER SYSTEM/SUPPLY** REGISTRATION  
 0290074  
**TAX RELIEF** ID NUMBER 16751  
**TAX RELIEF** ID NUMBER 16795  
**TAX RELIEF** ID NUMBER 16793

**Compliance History Period:** September 01, 2011 to August 31, 2016      **Rating Year:** 2016      **Rating Date:** 09/01/2016

**Date Compliance History Report Prepared:** May 17, 2017

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** May 17, 2012 to May 17, 2017

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

**Name:** Austin Henck

**Phone:** (512) 239-6155

**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  |

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

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

- |   |  |  |
|---|--|--|
| 1 | Effective Date: 12/15/2012                               | ADMINORDER 2012-0804-AIR-E (1660 Order-Agreed Order With Denial) |
|   | Classification: Moderate                                 |  |
|   | Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)     |  |
|   | 30 TAC Chapter 113, SubChapter C 113.100                 |  |
|   | 30 TAC Chapter 116, SubChapter B 116.115(c)              |  |
|   | 40 CFR Chapter 61, SubChapter C, PT 61, SubPT A 61.12(c) |  |
|   | 40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.6(e)  |  |
|   | 5C THSC Chapter 382 382.085(b)                           |  |
|   | Rqmt Prov: SC No. 1 PERMIT                               |  |
|   | SC No. 3 PERMIT  |  |
|   | SC No. 4 PERMIT  |  |

**Description:** Failed to prevent unauthorized emissions.



- 2      Effective Date: 04/19/2014      ADMINORDER 2013-1609-AIR-E (1660 Order-Agreed Order With Denial)  
Classification: Major  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
Rqmt Prov: 76305-General Condition (GC) No. 8 PA  
76305-Special Condition (SC) No. 1 PA  
PSD-TX-1058 GC No. 8 PERMIT  
PSD-TX-1058 SC No. 1 PERMIT  
Description: Failure to prevent unauthorized emissions to the atmosphere during an emissions event which occurred on June 4, 2011, during STEERS Incident No. 155270.  
Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)  
40 CFR Chapter 61, SubChapter C, PT 61, SubPT F 61.65(a)  
5C THSC Chapter 382 382.085(b)  
Rqmt Prov: 76305 - SC No. 3 PA  
PSD-TX-1058 PERMIT  
Description: Failed to submit a 40 CFR Part 61, Subpart F report within 10 days of any relief valve discharge. Specifically, the report was due June 14, 2011 but was not submitted until July 24, 2013.
- 3      Effective Date: 05/23/2015      ADMINORDER 2014-1394-AIR-E (Findings Order-Agreed Order Without Denial)  
Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
30 TAC Chapter 116, SubChapter B 116.115(b)  
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: GTCs, STCs No. 17 OP  
SC No. 1 PERMIT  
Description: Failure to prevent unauthorized emissions to the atmosphere during an emissions event which occurred on January 7, 2014, (TCEQ STEERS Incident No. 192659).  
Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
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: [FOP O-01954] STC 15 OP  
[NSR Permit 7699/PSDTX266M7] SC 1 PA  
Description: Failure to prevent unauthorized emissions to the atmosphere during an emissions event on August 26, 2014 for TCEQ/STEERS Incident No. 202783.
- 4      Effective Date: 04/13/2017      ADMINORDER 2016-0903-AIR-E (Findings Order-Agreed Order Without Denial)  
Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
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: General Terms and Conditions OP  
Special Condition No 1 PERMIT  
Special Terms and Conditions No 12 OP  
Description: Failure to prevent unauthorized emissions to the atmosphere during an emissions event that was discovered on September 08, 2014, TCEQ/STEERS Incident No. 203344. Specifically, Formosa Point Comfort Plant released unauthorized emissions in the amount of 93,797.066 pounds (lbs) of total Carbon Monoxide (CO), 17,476.832 lbs Nitrogen Oxides (NOx), and 77,082.326 lbs of Volatile Organic Compounds (VOCs) from the Olefins I elevated flare (EPN 1018). The event lasted 61 hours and 26 minutes.

See addendum for information regarding federal actions.

**B. Criminal convictions:**

N/A



**C. Chronic excessive emissions events:**

N/A

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

Item 1	May 18, 2012	(1017578)	Item 57	April 17, 2014	(1175522)
Item 2	May 21, 2012	(1007512)	Item 58	May 12, 2014	(1165018)
Item 3	May 29, 2012	(1007432)	Item 59	May 22, 2014	(1170801)
Item 4	June 06, 2012	(1009196)	Item 60	June 18, 2014	(1152390)
Item 5	June 19, 2012	(1025374)	Item 61	June 20, 2014	(1177458)
Item 6	July 11, 2012	(1015932)	Item 62	August 19, 2014	(1200372)
Item 7	July 16, 2012	(1019513)	Item 63	August 28, 2014	(1185547)
Item 8	July 17, 2012	(1020550)	Item 64	November 20, 2014	(1197147)
Item 9	July 19, 2012	(1032714)	Item 65	December 17, 2014	(1225427)
Item 10	July 24, 2012	(1021057)	Item 66	January 02, 2015	(1215232)
Item 11	July 25, 2012	(1021212)	Item 67	January 20, 2015	(1232364)
Item 12	August 14, 2012	(1023964)	Item 68	February 20, 2015	(1243440)
Item 13	August 31, 2012	(1029127)	Item 69	March 20, 2015	(1249806)
Item 14	September 05, 2012	(1030112)	Item 70	April 14, 2015	(1229221)
Item 15	September 07, 2012	(1030373)	Item 71	April 20, 2015	(1256688)
Item 16	September 17, 2012	(1048094)	Item 72	May 20, 2015	(1263443)
Item 17	September 26, 2012	(1035148)	Item 73	June 19, 2015	(1247109)
Item 18	October 03, 2012	(1036121)	Item 74	July 01, 2015	(1260885)
Item 19	October 04, 2012	(1036379)	Item 75	August 11, 2015	(1268842)
Item 20	October 09, 2012	(1036010)	Item 76	August 18, 2015	(1272813)
Item 21	October 17, 2012	(1036253)	Item 77	August 20, 2015	(1284283)
Item 22	November 01, 2012	(1042199)	Item 78	August 21, 2015	(1273726)
Item 23	November 07, 2012	(1043090)	Item 79	August 31, 2015	(1274914)
Item 24	November 15, 2012	(1043172)	Item 80	September 18, 2015	(1291433)
Item 25	November 16, 2012	(1044503)	Item 81	October 20, 2015	(1297613)
Item 26	December 04, 2012	(1045943)	Item 82	October 26, 2015	(1282800)
Item 27	December 17, 2012	(1051220)	Item 83	November 18, 2015	(1303054)
Item 28	December 18, 2012	(1051540)	Item 84	December 18, 2015	(1310041)
Item 29	January 08, 2013	(1052834)	Item 85	January 20, 2016	(1316808)
Item 30	January 10, 2013	(1052854)	Item 86	February 18, 2016	(1307052)
Item 31	January 18, 2013	(1081491)	Item 87	February 19, 2016	(1326163)
Item 32	January 23, 2013	(1050922)	Item 88	March 16, 2016	(1314261)
Item 33	January 29, 2013	(1055116)	Item 89	March 18, 2016	(1332926)
Item 34	February 20, 2013	(1081490)	Item 90	April 19, 2016	(1340059)
Item 35	February 28, 2013	(1060409)	Item 91	May 20, 2016	(1346877)
Item 36	March 18, 2013	(1075185)	Item 92	June 14, 2016	(1337771)
Item 37	March 19, 2013	(1090532)	Item 93	June 20, 2016	(1353308)
Item 38	March 26, 2013	(1075734)	Item 94	July 20, 2016	(1360272)
Item 39	April 08, 2013	(1073186)	Item 95	August 19, 2016	(1366715)
Item 40	April 30, 2013	(1086853)	Item 96	August 26, 2016	(1338768)
Item 41	May 16, 2013	(1088445)	Item 97	September 14, 2016	(1358330)
Item 42	May 20, 2013	(1107847)	Item 98	September 20, 2016	(1373413)
Item 43	June 20, 2013	(1111479)	Item 99	September 22, 2016	(1356437)
Item 44	July 18, 2013	(1118381)	Item 100	October 20, 2016	(1379589)
Item 45	July 24, 2013	(1103494)	Item 101	November 18, 2016	(1385536)
Item 46	August 16, 2013	(1114119)	Item 102	December 02, 2016	(1363501)
Item 47	August 20, 2013	(1126171)	Item 103	December 09, 2016	(1362459)
Item 48	September 19, 2013	(1130725)	Item 104	January 03, 2017	(1381671)
Item 49	October 08, 2013	(1122671)	Item 105	January 20, 2017	(1398288)
Item 50	October 09, 2013	(1123071)	Item 106	February 27, 2017	(1395749)
Item 51	October 18, 2013	(1136489)	Item 107	February 28, 2017	(1395630)
Item 52	November 20, 2013	(1141873)	Item 108	March 06, 2017	(1394886)
Item 53	January 07, 2014	(1133745)	Item 109	March 20, 2017	(1412266)
Item 54	January 17, 2014	(1154408)	Item 110	April 11, 2017	(1396497)
Item 55	February 19, 2014	(1161734)	Item 111	April 14, 2017	(1396534)
Item 56	March 20, 2014	(1168358)	Item 112	May 01, 2017	(1409476)



**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:        | 05/27/2016  | (1329126) | Self Report?    | NO       | Classification: | Moderate |
|   | Citation:    | 30 TAC Chapter 101, SubChapter A 101.20(3)<br>30 TAC Chapter 116, SubChapter B 116.115(c)<br>30 TAC Chapter 122, SubChapter B 122.143(4)<br>5C THSC Chapter 382 382.085(b)<br>SC No. 12 OP<br>SC No. 16 PERMIT  |           |                 |          |                 |          |
|   | Description: | Failure to conduct monthly monitoring for VOC (volatile organic compounds) associated with the EDC (ethylene dichloride) Plant cooling tower water. Specifically, the Formosa Point Comfort Plant failed to conduct the requisite monitoring for June 2015.   |           |                 |          |                 |          |
| 2 | Date:        | 06/24/2016  | (1330047) | Self Report?    | NO       | Classification: | Minor    |
|   | Citation:    | 30 TAC Chapter 122, SubChapter B 122.145(2)(A)<br>5C THSC Chapter 382 382.085(b)<br>FOP O3409 GTC OP  |           |                 |          |                 |          |
|   | Description: | Failure to report all instances of deviations, the probable cause of the deviations, and any corrective actions or preventative measures taken for each emission unit addressed in the permit.  |           |                 |          |                 |          |
| 3 | Date:        | 07/28/2016  | (1283004) | Self Report?    | NO       | Classification: | Moderate |
|   | Citation:    | 30 TAC Chapter 101, SubChapter A 101.20(3)<br>30 TAC Chapter 116, SubChapter B 116.115(c)<br>30 TAC Chapter 122, SubChapter B 122.143(4)<br>5C THSC Chapter 382 382.085(b)<br>FOP O-1957 STC (10) OP<br>NSR 19201 & PSDTX1232 SC (21) (B) PERMIT  |           |                 |          |                 |          |
|   | Description: | Failure to drain remaining liquids into a closed vessel during maintenance, startup, and shutdown activities.   |           |                 |          |                 |          |
|   | Self Report? | NO  |           | Classification: | Moderate |                 |          |
|   | Citation:    | 30 TAC Chapter 101, SubChapter A 101.20(3)<br>30 TAC Chapter 116, SubChapter B 116.115(c)<br>30 TAC Chapter 122, SubChapter B 122.143(4)<br>5C THSC Chapter 382 382.085(b)<br>FOP O-1957 STC (10) OP<br>NSR 19201 & PSDTX1232 SC (1) PERMIT   |           |                 |          |                 |          |
|   | Description: | Failure to prevent unauthorized emissions to the atmosphere during a non-reportable emission event that occurred on April 23, 2015.   |           |                 |          |                 |          |
|   | Self Report? | NO  |           | Classification: | Moderate |                 |          |
|   | Citation:    | 30 TAC Chapter 101, SubChapter A 101.20(3)<br>30 TAC Chapter 116, SubChapter B 116.115(c)<br>30 TAC Chapter 122, SubChapter B 122.143(4)<br>40 CFR Chapter 63, SubChapter C, PT 63, SubPT FFFF 63.2535<br>5C THSC Chapter 382 382.085(b)<br>FOP O1957 (STC) (10) OP<br>NSR 19201 & PSDTX1232 (SC) (11) (D) PERMIT |           |                 |          |                 |          |
|   | Description: | Failure to conduct an annual floating roof seal inspection.   |           |                 |          |                 |          |
|   | Self Report? | NO  |           | Classification: | Moderate |                 |          |
|   | Citation:    | 30 TAC Chapter 101, SubChapter A 101.20(3)<br>30 TAC Chapter 116, SubChapter B 116.115(c)<br>30 TAC Chapter 122, SubChapter B 122.143(4)<br>40 CFR Chapter 63, SubChapter C, PT 63, SubPT FFFF 63.2535<br>5C THSC Chapter 382 382.085(b)<br>FOP O1957 (STC) (10) OP<br>NSR 19201 & PSDTX1232 (SC) (11) (D) PERMIT |           |                 |          |                 |          |
|   | Description: | Failure to conduct an annual floating roof seal inspection.   |           |                 |          |                 |          |
|   | Self Report? | NO  |           | Classification: | Moderate |                 |          |
|   | Citation:    | 30 TAC Chapter 101, SubChapter A 101.20(3)<br>30 TAC Chapter 116, SubChapter B 116.115(c)<br>30 TAC Chapter 122, SubChapter B 122.143(4)<br>40 CFR Chapter 63, SubChapter C, PT 63, SubPT FFFF 63.2535<br>5C THSC Chapter 382 382.085(b)<br>FOP O1957 (STC) (10) OP<br>NSR 19201 & PSDTX1232 (SC) (11) (D) PERMIT |           |                 |          |                 |          |
|   | Description: | Failure to conduct an annual floating roof seal inspection.   |           |                 |          |                 |          |
|   | Self Report? | NO  |           | Classification: | Moderate |                 |          |
|   | Citation:    | 30 TAC Chapter 101, SubChapter A 101.20(3)<br>30 TAC Chapter 116, SubChapter B 116.115(c)<br>30 TAC Chapter 122, SubChapter B 122.143(4)<br>40 CFR Chapter 63, SubChapter C, PT 63, SubPT FFFF 63.2535<br>5C THSC Chapter 382 382.085(b)<br>FOP O1957 (STC) (10) OP<br>NSR 19201 & PSDTX1232 (SC) (11) (D) PERMIT |           |                 |          |                 |          |
|   | Description: | Failure to conduct an annual floating roof seal inspection.   |           |                 |          |                 |          |
|   | Self Report? | NO  |           | Classification: | Moderate |                 |          |

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
 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 FFFF 63.2535  
 5C THSC Chapter 382 382.085(b)  
 FOP O1957 (STC) (10) OP  
 NSR 19201 & PSDTX1232 (SC) (11) (D) PERMIT

Description: Failure to conduct an annual floating roof seal inspection.  
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
 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 FFFF 63.2535  
 5C THSC Chapter 382 382.085(b)  
 FOP O1957 (STC) (10) OP  
 NSR 19201 & PSDTX1232 (SC) (11) (D) PERMIT

Description: Failure to conduct an annual floating roof seal inspection.  
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
 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 FFFF 63.2535  
 5C THSC Chapter 382 382.085(b)  
 FOP O1957 (STC) (10) OP  
 NSR 19201 & PSDTX1232 (SC) (11) (D) PERMIT

Description: Failure to conduct an annual floating roof seal inspection.  
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
 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 FFFF 63.2535  
 5C THSC Chapter 382 382.085(b)  
 FOP O1957 (STC) (10) OP  
 NSR 19201 & PSDTX1232 (SC) (3) PERMIT

Description: Failure to conduct a 10 year and an annual floating roof seal inspection.

4 Date: 08/05/2016 (1349122)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
 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)  
 SC No. 11 OP  
 SC No. 11 PERMIT

Description: Failure to comply with permit limitations regarding the six minute, average firebox chamber temperature for the Regenerative Thermal Oxidizer.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
 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)  
 SC No. 11 OP  
 SC No. 11 PERMIT

Description: Failure to comply with permit limitations regarding the hourly average exhaust oxygen concentration for the Regenerative Thermal Oxidizer.

5 Date: 08/19/2016 (1351348)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
 30 TAC Chapter 122, SubChapter B 122.145(2)  
 5C THSC Chapter 382 382.085(b)  
 General Terms and Conditions OP

Description: Failure to report all instances of deviations as required.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)  
 30 TAC Chapter 101, SubChapter A 101.20(3)  
 30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)  
 30 TAC Chapter 116, SubChapter B 116.115(c)  
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(1)  
 5C THSC Chapter 382 382.085(b)  
 SC No. 14 OP  
 SC No. 8C PERMIT

Description: Failure to comply with regulatory requirements for visible emissions from flares.



Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
SC No. 14 OP  
SC No. 26A PERMIT  
Description: Failure to submit a certification test report within 30 days of completion of the monitor certification test.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
SC No. 14 OP  
SC No. 4B PERMIT  
Description: Failure to maintain carbon monoxide (CO) emissions within permitted limits.

6 Date: 08/30/2016 (1357100)  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
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)  
SC No. 14 PERMIT  
STC No. 11 OP  
Description: Failure to conduct weekly VOC (volatile organic compound) sampling of polymer production.

7 Date: 10/24/2016 (1358247)  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 319, SubChapter A 319.11(c)  
Monitoring and Reporting; No.2(a); Pg. 4 PERMIT  
Description: Failed to properly analyze effluent samples.

8 Date: 12/15/2016 (1376088)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
FOP OP  
NSR PERMIT  
PSD PERMIT  
Description: Failure to comply with special conditions of NSR Permit No. 19198. Specifically, on eleven instances from April 25, 2015 through October 7, 2015, Thermal Oxidizer (EPN RTO221) did not meet the minimum temperature requirements as per deviation item nos. 13 through 24.

9 Date: 12/16/2016 (1370809)  
Self Report? YES Classification: Minor  
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.145(2)  
5C THSC Chapter 382 382.085(b)  
FOP OP  
Description: Failure to report all instances of deviations as required. Specifically on February 25, 2016, Formosa Point Comfort Plant submitted a deviation report, for compliance period July 27, 2015 to January 26, 2016, that did not list all instances of deviation.

Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter A 101.20  
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 OP  
NSR PERMIT  
Permit PERMIT  
Description: Failure to comply with regulatory requirements for visible emissions from flares. Specifically, on May 21, 2016, Formosa Point Comfort Plant experienced a smoking flare for longer than 5 minutes from the Olefins 1 Flare (EPN 1018).  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)

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 OP  
NSR PERMIT  
Permit PERMIT

Description: Failure to comply with special conditions of NSR Permit No. 19168. Specifically, on October 14, 2015 through April 4, 2016, vapor combustor (EPN 1051) did not meet the minimum temperature requirements.

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
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 OP  
NSR PERMIT  
Permit PERMIT

Description: Failure to maintain pilot flame on Olefins 2 flare (EPN 1067). Specifically on November 7, 2015 and December 7, 2015, an elevated steam flow resulted in the pilot flame to extinguish.

10 Date: 01/20/2017 (1383574)

Self Report? NO Classification: Minor

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

Description: Failure to report all instances of deviation as required. Specifically, on March 15, 2017, Formosa Point Comfort Plant submitted a deviation report, for compliance period August 15, 2015 to February 14, 2016, which did not list all instances of deviation.

11 Date: 01/31/2017 (1405182)

Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

12 Date: 04/18/2017 (1403182)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
NSR PERMIT  
PSD PERMIT

Description: Failure to prevent unauthorized emissions to the atmosphere during an emissions event that was discovered on November 11, 2016, TCEQ/Steers Incident No. 246882. Specifically, Formosa Plastics Corporation Texas released unauthorized emissions in the amount of 98 lbs of vinyl chloride monomer (VCM) from Emissions Point Number (EPN) 007-1. The event lasted for 4 minutes. Permit No. 7699's 1.79 lb/hr limit for EPN 007-1(as noted on the MAERT) was exceeded. The unauthorized release was the result of

13 Date: 05/11/2017 (1403865)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
NSR PERMIT

Description: Failure to prevent unauthorized emissions to the atmosphere during an emissions event that was discovered on October 5, 2016, TCEQ/Steers Incident No. 245104. Specifically, Formosa Plastics Corporation Texas released unauthorized emissions in the amount of 12.26 lbs of Chlorine from Emissions Point Number (EPN) 2FUG. The event lasted for 10 minutes. Permit No. 19167's 0.44 lb/hr limit for EPN 2FUG (as noted on the MAERT) was exceeded. The unauthorized release was the result of poor operation and

#### F. Environmental audits:

Notice of Intent Date: 10/12/2015 (1289128)

No DOV Associated



Notice of Intent Date: 11/09/2015 (1294009)  
 Disclosure Date: 05/31/2016  
 Viol. Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Rqmt Prov: PERMIT TXR15VP68, Part III.D.2.

Description: Failed to post a Construction Site Notice regarding storm water management at the construction site entrance.  
 Viol. Classification: Minor  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Rqmt Prov: PERMIT TXR15VP68, Part III.F.7.e.

Description: Failed to ensure inspection forms in the SWPPP are signed for the Olefins III Construction Project.  
 Viol. Classification: Minor  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Rqmt Prov: PERMIT TXR15VP68, Part III.F.1.j.

Description: Failed to include a copy of the Construction General Permit in the SWPPP.  
 Viol. Classification: Moderate  
 Citation: 30 TAC Chapter 319, SubChapter A 319.11(c)

Description: Failed to analyze effluents according to test methods specified in 40 CFR Part 136. Specifically, Formosa failed to run a standard at the reporting limit to verify that it is able to quantify at that level for each of the five permit metals.  
 Viol. Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 Rqmt Prov: PERMIT NSR Permit No. 7699, SC 31

Description: Failed to revalidate MSS emissions from the Maintenance Department on an annual basis.  
 Viol. Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 Rqmt Prov: PERMIT NSR Permit 19168, SC 8.D.

Description: Failed to track the average hourly values by taking readings at least once every 15 minutes and taking the average hourly value.  
 Viol. Classification: Minor  
 Citation: 40 CFR Chapter 63, SubChapter C, PT 63, SubPT ZZZZ 63.6640  
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT ZZZZ 63.6640(a)

Description: Failed to maintain and provide annual maintenance records of the one diesel-fired emergency generator engine in the Olefins II plant for 2014.  
 Viol. Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 Rqmt Prov: PERMIT NSR Permit 19168, SC 29

Description: Failed to maintain a rolling two-year period of records for the hours of operation and mode of each furnace or heater during startup, shutdown, decoking, or standby mode of operation.  
 Viol. Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 Rqmt Prov: PERMIT NSR Permit No. 91780, SC 1

Description: Failed to limit annual emissions to the limits established in the permit. Annual emissions inventory for 2012 indicated that the annual emissions to the Olefins Flares (EPN 1018/1067) were 7.6442 tons/year.  
 Viol. Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 Rqmt Prov: PERMIT NSR Permit 91780, SC 1  
 PERMIT NSR Permit 91780, SC 4.D.

Description: Failed repair leaks in the PP II facility when visible emissions were noted in the daily inspection log on at least three occasions.  
 Viol. Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 Rqmt Prov: PERMIT NSR Permit 91780, SC 4.C.

Description: Failed to conduct the required annual preventative maintenance on the baghouses and filters for 2013 and 2014 (2015 inspections were conducted and the maintenance schedule revised to include annual inspections).  
 Viol. Classification: Minor  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 Rqmt Prov: PERMIT NSR Permit 91780, SC 6.F.

Description: Failed to calculate average hourly values for the vent stream flow rate to the Olefins I/II flare (the unit is recording flow readings every 15 minutes, but not using these to determine hourly flow rates).  
 Viol. Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 Rqmt Prov: PERMIT NSR Permit 91780, SC 8

Description: Failed to calculate the rolling 12-month average of the VOC emitted to the atmosphere after the extruder in order to demonstrate compliance with the permit limit of 90 lbs VOC per million lbs of polypropylene



product.  
 Viol. Classification: Minor  
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
 30 TAC Chapter 122, SubChapter B 122.145(1)(B)  
 30 TAC Chapter 122, SubChapter B 122.145(2)(B)  
 Rqmt Prov: OP O1951, General Terms and Conditions  
 Description: Failed to submit an accurate semi-annual deviation report for SOP O1951. Specifically, the cover letter was misdated March 14, 2013 and the body of the letter misstated the monitoring period as August 2012 to February 2013. The completed deviation forms correctly indicated a report date of March 14, 2014 and a monitoring period of August 2013 to February 2014.  
 Viol. Classification: Minor  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(E)  
 Description: Failed to maintain records of emissions for EPNs XZ-O201 and XZ-WS01 readily available for review and emission records for EPN CWTP were only available for 2014 (Formosa staff stated that they had the data, it just was not readily available for review).  
 Viol. Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 Rqmt Prov: PERMIT NSR Permit 19166, SC 1  
 Description: Failed to comply with hourly MSS NOX lbs/hr emission limits at Utilities Boiler 7J in January and February 2015 during a scheduled maintenance event. The emissions in January were 104.56 lbs/hr and in February 82.92 lbs/hr, 41.90 lbs/hr, and 90.17 lbs/hr.  
 Viol. Classification: Moderate  
 Citation: 30 TAC Chapter 115, SubChapter B 115.112  
 Description: Failed to include the VOC control requirements related to the condensate tanks in the FHC Title V Operating Permit.  
 Viol. Classification: Moderate  
 Citation: 30 TAC Chapter 101, SubChapter A 101.10(d)  
 Description: Failed to calculate emissions resulting from the use of natural gas as a pilot gas for Flare 1 in 2013 and 2014.  
 Viol. Classification: Moderate  
 Citation: 30 TAC Chapter 101, SubChapter A 101.24(b)  
 Description: Failed to submit the 2015 TCEQ Annual Fee Basis form to determine applicable air quality fees for the facility.  
 Viol. Classification: Moderate  
 Citation: 30 TAC Chapter 106, SubChapter O 106.359(b)  
 30 TAC Chapter 106, SubChapter A 106.4  
 30 TAC Chapter 106, SubChapter A 106.8(c)  
 Description: Failed to maintain documentation to demonstrate compliance with claimed PBR 30 TAC § 106.359.  
 Viol. Classification: Moderate  
 Citation: 30 TAC Chapter 115, SubChapter B 115.121  
 5C THSC Chapter 382 382.085(b)  
 Description: Failed to include the requirements related to process vents to the flares in the Title V permit.  
 Viol. Classification: Moderate  
 Citation: 40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18  
 Description: Failed to maintain documentation to demonstrate compliance with 40 CFR § 60.18 for EPNs Flare 1 and Flare 2 (incorrect flare tip diameters were being used in flare calculations to demonstrate compliance).  
 Viol. Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 Description: Failed to comply with annual VOC, NOx, and CO emissions limits for EPN Flare 1 (Tank Flare) in 2013 and 2014.  
 Viol. Classification: Minor  
 Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)  
 Description: Failed to reference the correct regulatory citation on the deviation report for plant upsets (instead of 30 TAC § 101.20, it was referencing either 116.110(a) or the Standard Permit).

**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



## **Component Appendices**

### **Appendix A**

#### **All NOVs Issued During Component Period 5/17/2012 and 5/17/2017**

- 1      Date:    05/29/2012    (1007651)      Classification:    Minor
- Self Report?   NO      **For Informational Purposes Only**
- Citation:      [FOP No. O-01484] GTC OP  
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)
- Description:    Failure to report all instances of deviations. Specifically, as documented in the revised first semiannual deviation report, revised DR1 dated May 17, 2012, for the reporting period of April 21, 2011 through October 20, 2011, Deviation Item No. 17, Formosa failed to report in the original DR1 dated November 19, 2011 a deviation that occurred on June 29, 2011.
- 2      Date:    07/02/2012    (1001986)      Classification:    Moderate
- Self Report?   NO      **For Informational Purposes Only**
- Citation:      30 TAC Chapter 305, SubChapter F 305.125(1)  
Eff. Limit. and Mon. Req. Outfall 001 PERMIT
- Description:    Failed to meet the permit limit for Daily Average loading for Total Copper at Outfall 001 in February, 2011.
- Classification:    Moderate
- Self Report?   NO      **For Informational Purposes Only**
- Citation:      30 TAC Chapter 319, SubChapter A 319.7(a)  
30 TAC Chapter 319, SubChapter A 319.7(c)  
Mon. and Rep. Req. 2. PERMIT
- Description:    Failed to calibrate the in-line pH meters according to 30 TAC 319.9.
- Classification:    Minor
- Self Report?   NO      **For Informational Purposes Only**
- Citation:      30 TAC Chapter 319, SubChapter A 319.11(c)  
Mon. and Rep. Req. 2 PERMIT
- Description:    Failed to utilize the proper reagent in the analysis of Total Residual Chlorine and to compensate for the effects of oxidized manganese.
- 3      Date:    07/31/2012    (1066833)      Classification:    Moderate
- Self Report?   YES      **For Informational Purposes Only**
- Citation:      2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)
- Description:    Failure to meet the limit for one or more permit parameter
- 4      Date:    08/22/2012    (1028063)      Classification:    Moderate
- Self Report?   NO      **For Informational Purposes Only**
- 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)  
General Terms and Conditions OP
- Description:    Failure to report all instances of deviations. Specifically, Formosa Plastic Corporation, Texas failed to report a deviation regarding a non-reportable emissions event that occurred on December 23, 2010 on the July 27, 2010 through January 25, 2011 deviation report.
- 5      Date:    03/31/2013    (1096883)      Classification:    Moderate
- Self Report?   YES      **For Informational Purposes Only**
- Citation:      2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)
- Description:    Failure to meet the limit for one or more permit parameter
- 6      Date:    05/03/2013    (1085343)      Classification:    Moderate

Self Report? NO **For Informational Purposes Only**  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Effluent Limitations-1.; Pg. 2f PERMIT  
Description: Failed to ensure the discharge of only non-process area storm water, hydrostatic test water, fire water, non-contact steam condensate, and non-contact wash water through Outfall 005.

Classification: Moderate

Self Report? NO **For Informational Purposes Only**  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Effluent Limitations-1.; Pg. 2f PERMIT  
Description: Failed to comply with the permitted effluent limitations for Total Organic Carbon (TOC).

Classification: Moderate

Self Report? NO **For Informational Purposes Only**  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Permit Conditions; 2(c), Pg. 3 PERMIT  
Reporting Requirements; 2, Pg. 4-5 PERMIT  
Description: Failed to accurately accomplish in a representative manner measurements, tests and calculations.

7 Date: 08/13/2013 (1105313)

Classification: Minor

Self Report? NO **For Informational Purposes Only**  
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.145(2)(C)  
5C THSC Chapter 382 382.085(b)  
General Terms and Conditions OP  
Description: Failure to report, in writing, to the executive director all instances of deviations, the probable cause of the deviations, and any corrective actions or preventative measures taken for each emission unit addressed in the permit.

8 Date: 11/30/2013 (1148338)

Classification: Moderate

Self Report? YES **For Informational Purposes Only**  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

9 Date: 04/30/2014 (1181716)

Classification: Moderate

Self Report? YES **For Informational Purposes Only**  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

10 Date: 05/31/2014 (1188612)

Classification: Moderate

Self Report? YES **For Informational Purposes Only**  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

11 Date: 06/06/2014 (1170749)

Classification: Moderate

Self Report? NO **For Informational Purposes Only**  
Citation: [FOP No. O-03409] STC 8 OP  
[Pmt 76305/PSD-TX-1058] GC 8 & SC 1 PERMIT  
30 TAC Chapter 101, SubChapter A 101.20(3)  
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)  
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)  
Description: Failure to comply with permit emissions limitations. Specifically, on October 24,



2013, during stack testing of Train 2 Dryer (Unit ID: BD-B04) the CO emissions rate was 5.53 lbs/hr which exceeded Permit No. 76305/PSD-TX-1058 MAERT emissions rate of 3.33 lbs/hr of CO. In addition, on October 29, 2013, during stack testing of Train 1B Dryer (Unit ID: DD-B10), the PM emissions rate was 11.82 lbs/hr which exceeded Permit No. 76305/PSD-TX-1058 MAERT emissions rate of 5.04 lbs/hr of PM.

Classification: Moderate

Self Report? NO

### For Informational Purposes Only

Citation:

[FOP No. O-03409] STC 8 OP  
[Pmt 76305/PSD-TX-1058] GC 8 & SC 1 PERMIT  
30 TAC Chapter 101, SubChapter A 101.20(3)  
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)  
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)

Description: Failure to comply with permit emissions limitations. Specifically, in the second semiannual deviation report, dated February 6, 2014, for the reporting period of July 10, 2013 through January 7, 2014, Deviation Item No. SPVC-01, on October 24, 2013, during stack testing of Train 2 Dryer (Unit ID: BD-B04) the PM10 emissions rate was 0.09 lb/hr which exceeded Permit No. 76305/PSD-TX-1058 MAERT emissions rate of 0.02 lb/hr of PM10.

12 Date: 06/30/2014 (1200371)

Classification: Moderate

Self Report? YES

### For Informational Purposes Only

Citation:

2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

13 Date: 08/01/2014 (1185295)

Classification: Moderate

Self Report? NO

### For Informational Purposes Only

Citation:

[FOP No. O-01955] GTC & STC 14 OP  
[Pmt 19871/PSDTX1236] SC 29E PERMIT  
30 TAC Chapter 101, SubChapter A 101.20(3)  
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)

Description: Failure to equip each open-ended line (OEL) with a cap, blind flange, plug, or second valve. Specifically, on February 21, 2013, Formosa discovered one (1) OEL in VOC service.

14 Date: 08/28/2014 (1186701)

Classification: Minor

Self Report? NO

### For Informational Purposes Only

Citation:

30 TAC Chapter 319, SubChapter A 319.11(a)  
30 TAC Chapter 319, SubChapter A 319.11(b)  
Monitoring and Reporting 2. PERMIT

Description: Failed to ensure test procedures for the analysis of pollutants comply with procedures specified in 30 TAC §§ 319.11-319.12.

Classification: Minor

Self Report? NO

### For Informational Purposes Only

Citation:

30 TAC Chapter 319, SubChapter A 319.6  
30 TAC Chapter 319, SubChapter A 319.9(d)  
Monitoring and Reporting 1. PERMIT

Description: Failed to conduct effluent sampling and reporting in accordance with 30 TAC §§ 319.4-319.12.

Classification: Moderate

Self Report? NO

### For Informational Purposes Only

Citation:

30 TAC Chapter 305, SubChapter F 305.125(1)  
Effluent Limitations 2. PERMIT

Description: Failed to ensure the pH at outfall 011 shall not be less than 6.0 standard units nor greater than 9.0 standard units.

Classification: Moderate

Self Report? NO

### For Informational Purposes Only

Citation:

30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Effluent Limitations 1. PERMIT  
Failed to comply with permitted effluent limitations for outfall 201.  
Classification: Moderate

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Effluent Limitations 1. PERMIT

Description: Failed to comply with permitted effluent limitations for outfall 001.  
Classification: Moderate

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Effluent Limitations and Monitoring 1. PERMIT

Description: Failed to monitor discharges 1/day for the duration of the flow at Outfall 011 for all effluent characteristics.

Classification: Moderate

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 305, SubChapter F 305.125(5)  
Operational Requirements 1. PERMIT

Description: Failed to all times ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained.

15 Date: 08/31/2014 (1206975)

Classification: Moderate

Self Report? YES For Informational Purposes Only

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

16 Date: 09/30/2014 (1213385)

Classification: Moderate

Self Report? YES For Informational Purposes Only

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

17 Date: 10/31/2014 (1219640)

Classification: Moderate

Self Report? YES For Informational Purposes Only

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

18 Date: 04/06/2015 (1239944)

Classification: Minor

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.13(c)(2)  
5C THSC Chapter 382 382.085(b)  
Special Conditions No.3A PERMIT  
Special Terms & Conditions No. 4E OP

Description: Failure to submit Compliance Test Report by the required due date.

19 Date: 04/15/2015 (1230009)

Classification: Moderate

Self Report? NO For Informational Purposes Only

Citation: [NSR19168 & PSDTX1226] SC1 PA  
30 TAC Chapter 101, SubChapter A 101.20(3)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)

Description: Failure to prevent unauthorized emissions to the atmosphere during an emission event, Incident No. 208518, that occurred on January 13, 2015. Specifically, Formosa Point Comfort Plant released 616.95 lbs of 1,3-Butadiene, 647.95 lbs of Benzene, 103.86 lbs of Acetylene, 10,889.20 lbs of Carbon Monoxide, 1,430.63



20

Classification: Moderate

For Informational Purposes Only

21

Classification: Moderate

For Informational Purposes Only

22

Classification: Moderate

For Informational Purposes Only

23

Classification: Minor

For Informational Purposes Only

Classification: Minor

For Informational Purposes Only

24

Classification: Moderate

For Informational Purposes Only

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)  
SC 1 PERMIT

- ST&C 8 OP  
Description: Failure to prevent unauthorized emissions to the atmosphere during an emission event which occurred on October 29, 2014, TCEQ Incident No. 205879. Specifically, Formosa released 14.6372 pounds (lbs.) of ethylene dichloride, 2.73820 lbs. of VCM, and 0.94070 lbs. of hydrochloric acid. The unauthorized release was the result of a leak on the VC-401G inlet line.
- 25\*      Date:      09/11/2015      (1272655)      Classification:      Moderate
- Self Report?      NO      **For Informational Purposes Only**  
Citation:      2D TWC Chapter 26, SubChapter A 26.121(a)(1)  
                 30 TAC Chapter 305, SubChapter F 305.125(4)  
                 Permit Conditions; 2.g.; Pg.7 PERMIT  
Description:      Failed to prevent the unauthorized discharge of sewage, municipal waste, recreational waste, agricultural waste, or industrial waste into or adjacent to any water in the state.  
                 Classification:      Moderate
- Self Report?      NO      **For Informational Purposes Only**  
Citation:      30 TAC Chapter 305, SubChapter F 305.125(1)  
                 30 TAC Chapter 305, SubChapter F 305.125(9)  
                 Noncompliance Notification; 7.a.; Pg. 5 PERMIT  
Description:      Failed to report any noncompliance which may endanger human health or safety, or the environment in accordance with 30 TAC § 305.125 (9).
- 26\*      Date:      05/13/2016      (1313144)      Classification:      Moderate
- Self Report?      NO      **For Informational Purposes Only**  
Citation:      30 TAC Chapter 305, SubChapter F 305.125(1)  
                 Eff. Limits and Monitoring RQMTs; No. 3 PERMIT  
Description:      Failed to prevent the unauthorized discharge of floating solids or visible foam in other than trace amounts and no discharge of visible oil.
- 27\*      Date:      05/27/2016      (1329126)      Classification:      Moderate
- Self Report?      NO      **For Informational Purposes Only**  
Citation:      30 TAC Chapter 101, SubChapter A 101.20(3)  
                 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)  
                 SC No. 12 OP  
                 SC No. 16 PERMIT  
Description:      Failure to conduct monthly monitoring for VOC (volatile organic compounds) associated with the EDC (ethylene dichloride) Plant cooling tower water. Specifically, the Formosa Point Comfort Plant failed to conduct the requisite monitoring for June 2015.
- 28\*      Date:      06/24/2016      (1330047)      Classification:      Minor
- Self Report?      NO      **For Informational Purposes Only**  
Citation:      30 TAC Chapter 122, SubChapter B 122.145(2)(A)  
                 5C THSC Chapter 382 382.085(b)  
                 FOP O3409 GTC OP  
Description:      Failure to report all instances of deviations, the probable cause of the deviations, and any corrective actions or preventative measures taken for each emission unit addressed in the permit.
- 29\*      Date:      07/28/2016      (1283004)      Classification:      Moderate
- Self Report?      NO      **For Informational Purposes Only**  
Citation:      30 TAC Chapter 101, SubChapter A 101.20(3)  
                 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 O-1957 STC (10) OP  
                 NSR 19201 & PSDTX1232 SC (21) (B) PERMIT  
Description:      Failure to drain remaining liquids into a closed vessel during maintenance,



startup, and shutdown activities.

Classification: Moderate

Self Report? NO **For Informational Purposes Only**

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
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 O-1957 STC (10) OP  
NSR 19201 & PSDTX1232 SC (1) PERMIT

Description: Failure to prevent unauthorized emissions to the atmosphere during a non-reportable emission event that occurred on April 23, 2015.

Classification: Moderate

Self Report? NO **For Informational Purposes Only**

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
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 FFFF 63.2535  
5C THSC Chapter 382 382.085(b)  
FOP O1957 (STC) (10) OP  
NSR 19201 & PSDTX1232 (SC) (11) (D) PERMIT

Description: Failure to conduct an annual floating roof seal inspection.

Classification: Moderate

Self Report? NO **For Informational Purposes Only**

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
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 FFFF 63.2535  
5C THSC Chapter 382 382.085(b)  
FOP O1957 (STC) (10) OP  
NSR 19201 & PSDTX1232 (SC) (11) (D) PERMIT

Description: Failure to conduct an annual floating roof seal inspection.

Classification: Moderate

Self Report? NO **For Informational Purposes Only**

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
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 FFFF 63.2535  
5C THSC Chapter 382 382.085(b)  
FOP O1957 (STC) (10) OP  
NSR 19201 & PSDTX1232 (SC) (11) (D) PERMIT

Description: Failure to conduct an annual floating roof seal inspection.

Classification: Moderate

Self Report? NO **For Informational Purposes Only**

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
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 FFFF 63.2535  
5C THSC Chapter 382 382.085(b)  
FOP O1957 (STC) (10) OP  
NSR 19201 & PSDTX1232 (SC) (11) (D) PERMIT

Description: Failure to conduct an annual floating roof seal inspection.

Classification: Moderate

Self Report? NO **For Informational Purposes Only**

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
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 FFFF 63.2535  
5C THSC Chapter 382 382.085(b)  
FOP O1957 (STC) (10) OP  
NSR 19201 & PSDTX1232 (SC) (11) (D) PERMIT

Description: Failure to conduct an annual floating roof seal inspection.

Classification: Moderate

Self Report? NO **For Informational Purposes Only**

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
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 FFFF 63.2535  
5C THSC Chapter 382 382.085(b)

FOP O1957 (STC) (10) OP  
NSR 19201 & PSDTX1232 (SC) (11) (D) PERMIT  
Description: Failure to conduct an annual floating roof seal inspection.  
Classification: Moderate

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
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 FFFF 63.2535  
5C THSC Chapter 382 382.085(b)  
FOP O1957 (STC) (10) OP  
NSR 19201 & PSDTX1232 (SC) (3) PERMIT

Description: Failure to conduct a 10 year and an annual floating roof seal inspection.

30\* Date: 08/05/2016 (1349122)  
Classification: Moderate

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
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)  
SC No. 11 OP  
SC No. 11 PERMIT

Description: Failure to comply with permit limitations regarding the six minute, average firebox chamber temperature for the Regenerative Thermal Oxidizer.

Classification: Moderate

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
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)  
SC No. 11 OP  
SC No. 11 PERMIT

Description: Failure to comply with permit limitations regarding the hourly average exhaust oxygen concentration for the Regenerative Thermal Oxidizer.

31\* Date: 08/19/2016 (1351348)  
Classification: Moderate

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.145(2)  
5C THSC Chapter 382 382.085(b)  
General Terms and Conditions OP

Description: Failure to report all instances of deviations as required.

Classification: Moderate

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)  
30 TAC Chapter 101, SubChapter A 101.20(3)  
30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(1)  
5C THSC Chapter 382 382.085(b)  
SC No. 14 OP  
SC No. 8C PERMIT

Description: Failure to comply with regulatory requirements for visible emissions from flares.

Classification: Moderate

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
SC No. 14 OP  
SC No. 26A PERMIT

Description: Failure to submit a certification test report within 30 days of completion of the monitor certification test.

Classification: Moderate

Self Report? NO For Informational Purposes Only



Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
SC No. 14 OP  
SC No. 4B PERMIT  
Description: Failure to maintain carbon monoxide (CO) emissions within permitted limits.

32\* Date: 08/30/2016 (1357100)

Classification: Minor

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
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)  
SC No. 14 PERMIT  
STC No. 11 OP

Description: Failure to conduct weekly VOC (volatile organic compound) sampling of polymer production.

33 Date: 10/24/2016 (1358247)

Classification: Minor

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 319, SubChapter A 319.11(c)  
Monitoring and Reporting; No.2(a); Pg. 4 PERMIT

Description: Failed to properly analyze effluent samples.

34 Date: 12/15/2016 (1376088)

Classification: Moderate

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
FOP OP  
NSR PERMIT  
PSD PERMIT

Description: Failure to comply with special conditions of NSR Permit No. 19198. Specifically, on eleven instances from April 25, 2015 through October 7, 2015, Thermal Oxidizer (EPN RTO221) did not meet the minimum temperature requirements as per deviation item nos. 13 through 24.

35 Date: 12/16/2016 (1370809)

Classification: Minor

Self Report? YES For Informational Purposes Only

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

Description: Failure to report all instances of deviations as required. Specifically on February 25, 2016, Formosa Point Comfort Plant submitted a deviation report, for compliance period July 27, 2015 to January 26, 2016, that did not list all instances of deviation.

Classification: Moderate

Self Report? YES For Informational Purposes Only

Citation: 30 TAC Chapter 101, SubChapter A 101.20  
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 OP  
NSR PERMIT  
Permit PERMIT

Description: Failure to comply with regulatory requirements for visible emissions from flares. Specifically, on May 21, 2016, Formosa Point Comfort Plant experienced a smoking flare for longer than 5 minutes from the Olefins 1 Flare (EPN 1018).

Classification: Moderate

Self Report? YES **For Informational Purposes Only**  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
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 OP  
NSR PERMIT  
Permit PERMIT  
Description: Failure to comply with special conditions of NSR Permit No. 19168. Specifically, on October 14, 2015 through April 4, 2016, vapor combustor (EPN 1051) did not meet the minimum temperature requirements.

Classification: Moderate

Self Report? YES **For Informational Purposes Only**  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
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 OP  
NSR PERMIT  
Permit PERMIT  
Description: Failure to maintain pilot flame on Olefins 2 flare (EPN 1067). Specifically on November 7, 2015 and December 7, 2015, an elevated steam flow resulted in the pilot flame to extinguish.

36 Date: 01/20/2017 (1383574)

Classification: Minor

Self Report? NO **For Informational Purposes Only**  
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.145(2)  
5C THSC Chapter 382 382.085(b)  
FOP OP  
Description: Failure to report all instances of deviation as required. Specifically, on March 15, 2017, Formosa Point Comfort Plant submitted a deviation report, for compliance period August 15, 2015 to February 14, 2016, which did not list all instances of deviation.

37 Date: 01/31/2017 (1405182)

Classification: Moderate

Self Report? YES **For Informational Purposes Only**  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

38 Date: 04/18/2017 (1403182)

Classification: Moderate

Self Report? NO **For Informational Purposes Only**  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
NSR PERMIT  
PSD PERMIT  
Description: Failure to prevent unauthorized emissions to the atmosphere during an emissions event that was discovered on November 11, 2016, TCEQ/Steers Incident No. 246882. Specifically, Formosa Plastics Corporation Texas released unauthorized emissions in the amount of 98 lbs of vinyl chloride monomer (VCM) from Emissions Point Number (EPN) 007-1. The event lasted for 4 minutes. Permit No. 7699's 1.79 lb/hr limit for EPN 007-1(as noted on the MAERT) was exceeded. The unauthorized release was the result of

39 Date: 05/11/2017 (1403865)

Classification: Moderate

Self Report? YES **For Informational Purposes Only**  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
NSR PERMIT



Description: Failure to prevent unauthorized emissions to the atmosphere during an emissions event that was discovered on October 5, 2016, TCEQ/Steers Incident No. 245104. Specifically, Formosa Plastics Corporation Texas released unauthorized emissions in the amount of 12.26 lbs of Chlorine from Emissions Point Number (EPN) 2FUG. The event lasted for 10 minutes. Permit No. 19167's 0.44 lb/hr limit for EPN 2FUG (as noted on the MAERT) was exceeded. The unauthorized release was the result of poor operation and

\* NOVs applicable for the Compliance History rating period 9/1/2011 to 8/31/2016

## Appendix B

### All Investigations Conducted During Component Period May 17, 2012 and May 17, 2017

Item 1*	May 18, 2012**	(1017578) For Informational Purposes Only
Item 2*	May 21, 2012**	(1007512) For Informational Purposes Only
Item 3	May 25, 2012**	(1007651) For Informational Purposes Only
Item 4*	May 29, 2012**	(1007432) For Informational Purposes Only
Item 5*	June 06, 2012**	(1009196) For Informational Purposes Only
Item 6*	June 19, 2012**	(1025374) For Informational Purposes Only
Item 7	July 06, 2012**	(1001986) For Informational Purposes Only
Item 8*	July 11, 2012**	(1015932) For Informational Purposes Only
Item 9*	July 16, 2012**	(1019513) For Informational Purposes Only
Item 10*	July 17, 2012**	(1020550) For Informational Purposes Only
Item 11*	July 19, 2012**	(1032714) For Informational Purposes Only
Item 12*	July 24, 2012**	(1021057) For Informational Purposes Only
Item 13*	July 25, 2012**	(1021212) For Informational Purposes Only
Item 14*	August 14, 2012**	(1023964) For Informational Purposes Only
Item 15	August 16, 2012**	(1023003) For Informational Purposes Only
Item 16	August 21, 2012**	(1028063) For Informational Purposes Only
Item 17*	August 31, 2012**	(1029127) For Informational Purposes Only
		(1030112)

Item 18*	September 05, 2012**	For Informational Purposes Only (1030373)
Item 19*	September 07, 2012**	For Informational Purposes Only (1048094)
Item 20*	September 17, 2012**	For Informational Purposes Only (1035148)
Item 21*	September 26, 2012**	For Informational Purposes Only (1036121)
Item 22*	October 03, 2012**	For Informational Purposes Only (1036379)
Item 23*	October 04, 2012**	For Informational Purposes Only (1036010)
Item 24*	October 09, 2012**	For Informational Purposes Only (1036253)
Item 25*	October 17, 2012**	For Informational Purposes Only (1042199)
Item 26*	November 01, 2012**	For Informational Purposes Only (1043090)
Item 27*	November 07, 2012**	For Informational Purposes Only (1043172)
Item 28*	November 15, 2012**	For Informational Purposes Only (1044503)
Item 29*	November 16, 2012**	For Informational Purposes Only (1045943)
Item 30*	December 04, 2012**	For Informational Purposes Only (1051220)
Item 31*	December 17, 2012**	For Informational Purposes Only (1051540)
Item 32*	December 18, 2012**	For Informational Purposes Only (1052834)
Item 33*	January 08, 2013**	For Informational Purposes Only (1052854)
Item 34*	January 10, 2013**	For Informational Purposes Only (1081491)
Item 35*	January 18, 2013**	For Informational Purposes Only (1050922)
Item 36*	January 23, 2013**	For Informational Purposes Only (1055116)
Item 37*	January 29, 2013**	For Informational Purposes Only (1081490)
Item 38*	February 20, 2013**	For Informational Purposes Only (1060409)
Item 39*	February 28, 2013**	For Informational Purposes Only



Item 40*	March 18, 2013**	(1075185) For Informational Purposes Only
Item 41*	March 19, 2013**	(1090532) For Informational Purposes Only
Item 42*	March 26, 2013**	(1075734) For Informational Purposes Only
Item 43*	April 08, 2013**	(1073186) For Informational Purposes Only
Item 44	April 19, 2013**	(1096883) For Informational Purposes Only
Item 45*	April 30, 2013**	(1086853) For Informational Purposes Only
Item 46	May 03, 2013**	(1085343) For Informational Purposes Only
Item 47*	May 16, 2013**	(1088445) For Informational Purposes Only
Item 48*	May 20, 2013**	(1107847) For Informational Purposes Only
Item 49	June 11, 2013**	(1094931) For Informational Purposes Only
Item 50*	June 20, 2013**	(1111479) For Informational Purposes Only
Item 51*	July 18, 2013**	(1118381) For Informational Purposes Only
Item 52*	July 24, 2013**	(1103494) For Informational Purposes Only
Item 53	August 05, 2013**	(1100038) For Informational Purposes Only
Item 54	August 13, 2013**	(1105313) For Informational Purposes Only
Item 55*	August 16, 2013**	(1114119) For Informational Purposes Only
Item 56*	August 20, 2013**	(1126171) For Informational Purposes Only
Item 57	September 19, 2013**	(1116519) For Informational Purposes Only
Item 58*	October 08, 2013**	(1122671) For Informational Purposes Only
Item 59*	October 09, 2013**	(1123071) For Informational Purposes Only
Item 60*	October 18, 2013**	(1136489) For Informational Purposes Only

		(1141873)
Item 61*	November 20, 2013**	For Informational Purposes Only
		(1148338)
Item 62	December 18, 2013**	For Informational Purposes Only
		(1133745)
Item 63*	January 07, 2014**	For Informational Purposes Only
		(1154408)
Item 64*	January 17, 2014**	For Informational Purposes Only
		(1161734)
Item 65*	February 19, 2014**	For Informational Purposes Only
		(1168358)
Item 66*	March 20, 2014**	For Informational Purposes Only
		(1175522)
Item 67*	April 17, 2014**	For Informational Purposes Only
		(1152561)
Item 68	May 05, 2014**	For Informational Purposes Only
		(1165018)
Item 69*	May 12, 2014**	For Informational Purposes Only
		(1181716)
Item 70	May 20, 2014**	For Informational Purposes Only
		(1170801)
Item 71*	May 22, 2014**	For Informational Purposes Only
		(1170749)
Item 72	June 04, 2014**	For Informational Purposes Only
		(1152390)
Item 73*	June 18, 2014**	For Informational Purposes Only
		(1177458)
Item 74*	June 20, 2014**	For Informational Purposes Only
		(1200371)
Item 75	July 17, 2014**	For Informational Purposes Only
		(1185295)
Item 76	August 01, 2014**	For Informational Purposes Only
		(1174112)
Item 77	August 06, 2014**	For Informational Purposes Only
		(1200372)
Item 78*	August 19, 2014**	For Informational Purposes Only
		(1159303)
Item 79	August 21, 2014**	For Informational Purposes Only
		(1185547)
Item 80*	August 28, 2014**	For Informational Purposes Only
		(1206975)
Item 81	September 19, 2014**	For Informational Purposes Only
		(1197116)



Item 82	October 17, 2014**	For Informational Purposes Only (1197147)
Item 83*	November 20, 2014**	For Informational Purposes Only (1225427)
Item 84*	December 17, 2014**	For Informational Purposes Only (1215232)
Item 85*	January 02, 2015**	For Informational Purposes Only (1232364)
Item 86*	January 20, 2015**	For Informational Purposes Only (1243440)
Item 87*	February 20, 2015**	For Informational Purposes Only (1249806)
Item 88*	March 20, 2015**	For Informational Purposes Only (1229221)
Item 89*	April 14, 2015**	For Informational Purposes Only (1230009)
Item 90	April 15, 2015**	For Informational Purposes Only (1256688)
Item 91*	April 20, 2015**	For Informational Purposes Only (1263443)
Item 92*	May 20, 2015**	For Informational Purposes Only (1247109)
Item 93*	June 19, 2015**	For Informational Purposes Only (1247456)
Item 94	June 26, 2015**	For Informational Purposes Only (1260885)
Item 95*	July 01, 2015**	For Informational Purposes Only (1278093)
Item 96	July 20, 2015**	For Informational Purposes Only (1268724)
Item 97	August 11, 2015**	For Informational Purposes Only (1266034)
Item 98	August 12, 2015**	For Informational Purposes Only (1259389)
Item 99	August 18, 2015**	For Informational Purposes Only (1284283)
Item 100*	August 20, 2015**	For Informational Purposes Only (1273726)
Item 101*	August 21, 2015**	For Informational Purposes Only (1273829)
Item 102	August 24, 2015**	For Informational Purposes Only (1267411)

Item 103	August 26, 2015**	For Informational Purposes Only (1274914)
Item 104*	August 31, 2015**	For Informational Purposes Only (1291433)
Item 105*	September 18, 2015**	For Informational Purposes Only (1297613)
Item 106*	October 20, 2015**	For Informational Purposes Only (1281961)
Item 107	October 26, 2015**	For Informational Purposes Only (1303054)
Item 108*	November 18, 2015**	For Informational Purposes Only (1310041)
Item 109*	December 18, 2015**	For Informational Purposes Only (1316808)
Item 110*	January 20, 2016**	For Informational Purposes Only (1307052)
Item 111*	February 18, 2016**	For Informational Purposes Only (1326163)
Item 112*	February 19, 2016**	For Informational Purposes Only (1314261)
Item 113*	March 16, 2016**	For Informational Purposes Only (1332926)
Item 114*	March 18, 2016**	For Informational Purposes Only (1340059)
Item 115*	April 19, 2016**	For Informational Purposes Only (1204144)
Item 116	May 16, 2016**	For Informational Purposes Only (1346877)
Item 117*	May 20, 2016**	For Informational Purposes Only (1329126)
Item 118	May 31, 2016**	For Informational Purposes Only (1337771)
Item 119*	June 14, 2016**	For Informational Purposes Only (1353308)
Item 120*	June 20, 2016**	For Informational Purposes Only (1330047)
Item 121	June 24, 2016**	For Informational Purposes Only (1360272)
Item 122*	July 20, 2016**	For Informational Purposes Only (1283004)
Item 123	July 28, 2016**	For Informational Purposes Only (1349122)
Item 124	August 05, 2016**	For Informational Purposes Only



Item 125	August 19, 2016**	(1351348) For Informational Purposes Only
Item 126*	August 26, 2016**	(1338768) For Informational Purposes Only
Item 127	August 30, 2016**	(1357100) For Informational Purposes Only
Item 128*	September 14, 2016	(1358330) For Informational Purposes Only
Item 129*	September 20, 2016	(1373413) For Informational Purposes Only
Item 130*	September 22, 2016	(1356437) For Informational Purposes Only
Item 131*	October 20, 2016	(1379589) For Informational Purposes Only
Item 132*	November 18, 2016	(1385536) For Informational Purposes Only
Item 133*	December 02, 2016	(1363501) For Informational Purposes Only
Item 134*	December 09, 2016	(1362459) For Informational Purposes Only
Item 135	December 15, 2016	(1376088) For Informational Purposes Only
Item 136	December 16, 2016	(1370809) For Informational Purposes Only
Item 137*	January 03, 2017	(1381671) For Informational Purposes Only
Item 138	January 20, 2017	(1383574) For Informational Purposes Only
Item 139	February 17, 2017	(1405182) For Informational Purposes Only
Item 140*	February 27, 2017	(1395749) For Informational Purposes Only
Item 141*	February 28, 2017	(1395630) For Informational Purposes Only
Item 142*	March 06, 2017	(1394886) For Informational Purposes Only
Item 143*	March 20, 2017	(1412266) For Informational Purposes Only
Item 144*	April 11, 2017	(1396497) For Informational Purposes Only
Item 145*	April 14, 2017	(1396534) For Informational Purposes Only

Item 146	April 17, 2017	(1407583) For Informational Purposes Only
Item 147	April 18, 2017	(1403182) For Informational Purposes Only
Item 148	May 01, 2017	(1400665) For Informational Purposes Only
Item 149	May 12, 2017	(1403865) For Informational Purposes Only

\* No violations documented during this investigation

\*\*Investigation applicable for the Compliance History Rating period between 09/01/2011 and 08/31/2016.



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
FORMOSA UTILITY VENTURE,  
LTD. AND FORMOSA PLASTICS  
CORPORATION, TEXAS  
RN100218973

§  
§  
§  
§  
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BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2017-0737-IWD-E

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding FORMOSA UTILITY VENTURE, LTD. and FORMOSA PLASTICS CORPORATION, TEXAS (the "Respondents") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondents presented this Order to the Commission.

The Respondents understand that they have certain procedural rights at certain points in the enforcement process, including the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Order, the Respondents agree to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated agreement of the parties. 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. The duties and responsibilities imposed by this Order are binding upon the Respondents.

The Commission makes the following Findings of Fact and Conclusions of Law:

### I. FINDINGS OF FACT

1. The Respondents own and operate a manufacturing facility located at 201 Formosa Drive, one mile north of the intersection of State Highway 35 and Farm-to-Market Road 1593, northeast of Point Comfort, Calhoun County, Texas (the "Facility"). The Facility is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. During a record review conducted on April 4, 2017, an investigator documented that:
  - a. Plastic pellets were discharged from Outfall Nos. 006, 008, and 009 and were observed floating in Cox Creek and embedded in the creek's sediment.
  - b. The Hach Chemical Oxygen Demand Method 8000 analysis was performed with a chloride concentration greater than 2,000 milligrams per liter ("mg/L"), when

the chloride maximum concentration limit for the method is 2,000 mg/L for non-diluted samples and 1,000 mg/L for diluted samples.

3. The Executive Director recognizes that the Respondents have implemented the following corrective measures at the Facility:
  - a. By June 29, 2017, collected and properly disposed of approximately 112,000 pounds of debris and plastic pellets from Lavaca Bay, and approximately 327,000 pounds of debris and plastic pellets from Cox Creek; and
  - b. By July 31, 2017, determined the potential sources of the plastic pellets and implemented a pellet recovery system to minimize future discharges of solids, including plastic pellets from the Facility by installing a cone filter, floating booms, wedge and gate screens, and gabions.

## II. CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, the Respondents are subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a, the Respondents failed to prevent the discharge of solids in other than trace amounts into or adjacent to any water in the state, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0002436000, Effluent Limitations and Monitoring Requirements No. 3, Outfall Nos. 006, 008, and 009.
3. As evidenced by Finding of Fact No. 2.b, the Respondents failed to properly analyze effluent samples, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.11(c) and TPDES Permit No. WQ0002436000, Monitoring and Reporting Requirements No. 2.a.
4. Pursuant to TEX. WATER CODE § 7.051, the TCEQ has the authority to assess an administrative penalty against the Respondents for violations of state statutes within the TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of \$121,875 is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondents paid the \$121,875 penalty.

## III. ORDERING PROVISIONS

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

1. The Respondents are assessed a penalty as set forth in Conclusion of Law No. 5 for violations of state statutes and rules of the TCEQ. The payment of this penalty and the Respondents' compliance with all the requirements set forth in this Order resolve only



the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations that are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: FORMOSA UTILITY VENTURE, LTD. and FORMOSA PLASTICS CORPORATION, TEXAS, Docket No. 2017-0737-IWD-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 Respondents are jointly and severally liable for the violations documented in this Order, and are jointly and severally liable for timely and satisfactory compliance with all terms and conditions of this Order.
3. The Respondents shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Order, implement a method to properly analyze effluent samples for chemical oxygen demand at the Facility.
  - b. Within 45 days after the effective date of this Order, submit written notification of compliance with Ordering Provision No. 3.a, in accordance with Ordering Provision No. 3.e.
  - c. Within 60 days after the effective date of this Order and on a semi-annual basis thereafter, conduct a comprehensive evaluation of the Facility, Cox Creek, and Lavaca Bay, and remove and properly dispose of any discharged solids, including plastic pellets found during the evaluation of Cox Creek or Lavaca Bay and any pellet loss found during the evaluation of the Facility. Document the evaluation of each location and the resulting removal and disposal of any discharged solids, including plastic pellets. Ensure that all records of the evaluations and resulting removal and disposal are maintained at the Facility and made readily available for review upon request.
  - d. Within 75 days after the effective date of this Order and on a semi-annual basis thereafter, submit written certification of compliance with Ordering Provision No. 3.c, in accordance with Ordering Provision No. 3.e.
  - e. The written certification of compliance required by Ordering Provision Nos. 3.b and 3.d shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. The certification shall be signed by the Respondents 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 that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Water Section Manager  
Corpus Christi Regional Office  
Texas Commission on Environmental Quality  
6300 Ocean Drive, Suite 1200  
Corpus Christi, Texas 78412-5839

4. All relief not expressly granted in this Order is denied.
5. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondents. The Respondents are ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
6. If the Respondents fail 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, the Respondents' failure to comply is not a violation of this Order. The Respondents shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondents shall notify the Executive Director within seven days after the Respondents become aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
7. 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 the Respondents shall be made in writing to the Executive Director. Extensions are not effective until the Respondents receive 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.



8. 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 Respondents have not complied with one or more of the terms in this Order.
9. 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.
10. This Order, issued by the Commission, shall not be admissible against the Respondents 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 Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
11. 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.
12. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



5/24/18

For the Executive Director

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, if any, in this Order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

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



Signature

03/16/18

Date

Rick Crabtree

Name (Printed or typed)

VP / GM

Title

Authorized Representative of

FORMOSA UTILITY VENTURE, LTD.

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



Signature

03/16/18

Date

Rick Crabtree

Name (Printed or typed)

VP / GM

Title

Authorized Representative of

FORMOSA PLASTICS CORPORATION, TEXAS

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

**Instructions:** Send the original, signed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Ordering Provision 1 of this Order.