

Executive Summary – Enforcement Matter – Case No. 57194
Kuraray America, Inc.
RN100212216
Docket No. 2019-0190-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

Eval Business Unit, 11500 Bay Area Boulevard, Pasadena, Harris County

Type of Operation:

Petrochemical plant

Other Significant Matters:

Additional Pending Enforcement Actions: Yes, Docket No. 2018-1098-AIR-E

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: August 2, 2019

Comments Received: No

Penalty Information

Total Penalty Assessed: \$10,200

Amount Deferred for Expedited Settlement: \$2,040

Total Paid to General Revenue: \$8,160

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

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: May 24, 2018

Date(s) of NOE(s): January 4, 2019

Executive Summary – Enforcement Matter – Case No. 57194
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RN100212216
Docket No. 2019-0190-AIR-E

Violation Information

Failed to prevent unauthorized emissions and failed to limit highly reactive volatile organic compounds ("HRVOC") emissions to 1,200 pounds ("lbs") or less per one-hour block period. Specifically, the Respondent released 41 lbs of volatile organic compounds ("VOC") and 2,047 lbs of HRVOC from a pressure safety valve in Area 1 and 57.3 lbs of VOC, 48.8 lbs of carbon monoxide, and 10.1 lbs of nitrogen oxides from the Flare, Emissions Point Number 400, during an emissions event (Incident No. 284085) that occurred on May 19, 2018 and lasted one hour and 24 minutes. The emissions event occurred during startup after a turnaround due to valves being incorrectly left open, resulting in over pressurization, venting to the atmosphere, and causing a flash fire. Since the emissions event could have been avoided by better design and/or better operational and maintenance procedures, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN. CODE §§ 115.722(c)(1), 116.115(c), and 122.143(4), New Source Review Permit No. 9576, Special Conditions No. 1, Federal Operating Permit No. O3011, General Terms and Conditions and Special Terms and Conditions Nos. 1.A and 11, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

By October 19, 2018, the Respondent changed the Pressure Safety Valve 1202 outlet piping height and added Ethylene Vessel 1202 as a Safety Interlock System with a Safety Integrity Level 1 in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 284085.

Technical Requirements:

N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Carol McGrath, Enforcement Division, Enforcement Team 4, MC R-13, (210) 403-4063; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: Hitoshi Toyoura, President & Chief Executive Officer, Kuraray America, Inc., 11500 Bay Area Boulevard, Pasadena, Texas 77507
Scott Hardegree, Plant Manager, Kuraray America, Inc., 11500 Bay Area Boulevard, Pasadena, Texas 77507

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES Assigned PCW Screening EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent
Reg. Ent. Ref. No.
Facility/Site Region Major/Minor Source

CASE INFORMATION

Enf./Case ID No. No. of Violations
Docket No. Order Type
Media Program(s) Government/Non-Profit
Multi-Media Enf. Coordinator
EC's Team
Admin. Penalty \$ Limit Minimum Maximum

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Adjustment Subtotals 2, 3, & 7

Notes

Culpability Enhancement Subtotal 4

Notes

Good Faith Effort to Comply Total Adjustments Subtotal 5

Economic Benefit Enhancement* Subtotal 6

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

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL Reduction Adjustment

Reduces the Final Assessed Penalty by the indicated percentage.

Notes

PAYABLE PENALTY

Screening Date 14-Jan-2019**Docket No.** 2019-0190-AIR-E**PCW****Respondent** Kuraray America, Inc.

Policy Revision 4 (April 2014)

Case ID No. 57194

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100212216**Media** Air**Enf. Coordinator** Carol McGrath**Compliance History Worksheet**>> **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	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
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>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
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) 61%>> **Repeat Violator (Subtotal 3)**

No

Adjustment Percentage (Subtotal 3) 0%>> **Compliance History Person Classification (Subtotal 7)**

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%>> **Compliance History Summary****Compliance History Notes**

Enhancement for two NOVs with same/similar violations, three NOVs with dissimilar violations, one order with denial of liability, and one order without denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 61%>> **Final Compliance History Adjustment****Final Adjustment Percentage *capped at 100%** 61%

Screening Date 14-Jan-2019
Respondent Kuraray America, Inc.
Case ID No. 57194
Reg. Ent. Reference No. RN100212216
Media Air
Ent. Coordinator Carol McGrath
Violation Number 1

Docket No. 2019-0190-AIR-E

PCW

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

Rule Cite(s)

30 Tex. Admin. Code §§ 115.722(c)(1), 116.115(c), and 122.143(4), New Source Review Permit No. 9576, Special Conditions No. 1, Federal Operating Permit No. O3011, General Terms and Conditions and Special Terms and Conditions Nos. 1.A and 11, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to prevent unauthorized emissions and failed to limit highly reactive volatile organic compounds ("HRVOC") emissions to 1,200 pounds ("lbs") or less per one-hour block period. Specifically, the Respondent released 41 lbs of volatile organic compounds ("VOC") and 2,047 lbs of HRVOC from a pressure safety valve in Area 1 and 57.3 lbs of VOC, 48.8 lbs of carbon monoxide, and 10.1 lbs of nitrogen oxides from the Flare, Emissions Point Number 400, during an emissions event (Incident No. 284085) that occurred on May 19, 2018 and lasted one hour and 24 minutes. The emissions event occurred during startup after a turnaround due to valves being incorrectly left open, resulting in over pressurization, venting to the atmosphere, and causing a flash fire. Since the emissions event could have been avoided by better design and/or better operational and maintenance procedures, the Respondent is precluded from asserting an affirmative defense under 30 Tex. Admin. Code § 101.222.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm		
		Major	Moderate	Minor
	Actual		X	
	Potential			

Percent 30.0%

>> Programmatic Matrix

	Falsification		
	Major	Moderate	Minor

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 1

Number of violation days 1

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$7,500

One monthly event is recommended.

Good Faith Efforts to Comply

25.0%

Reduction \$1,875

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

Notes The Respondent completed the corrective actions by October 19, 2018, prior to the January 4, 2019 Notice of Enforcement.

Violation Subtotal \$5,625

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$210

Violation Final Penalty Total \$10,200

This violation Final Assessed Penalty (adjusted for limits) \$10,200

Economic Benefit Worksheet

Respondent Kuraray America, Inc.

Case ID No. 57194

Reg. Ent. Reference No. RN100212216

Media Air

Violation No. 1

Percent Interest 5.0
Years of Depreciation 15

Item Cost Date Required Final Date Yrs Interest Saved Costs Saved EB Amount

Item Description

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	19-May-2018	19-Oct-2018	0.42	\$210	n/a	\$210

Notes for DELAYED costs

Estimated costs to change the Pressure Safety Valve 1202 outlet piping height and to add Ethylene Vessel 1202 as a Safety Interlock System with a Safety Integrity Level 1 in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 284085. The Date Required is the date of the emissions event and the Final Date is the date of compliance.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$210

The TCEQ is committed to accessibility.

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



Compliance History Report

Compliance History Report for CN603315953, RN100212216, Rating Year 2018 which includes Compliance History (CH) components from September 1, 2013, through August 31, 2018.

Customer, Respondent, or Owner/Operator: CN603315953, Kuraray America, Inc.

Classification: SATISFACTORY

Rating: 2.51

Regulated Entity: RN100212216, EVAL BUSINESS UNIT

Classification: SATISFACTORY

Rating: 5.19

Complexity Points: 16

Repeat Violator: NO

CH Group: 05 - Chemical Manufacturing

Location: 11500 BAY AREA BLVD, PASADENA, HARRIS COUNTY, TX 77507-1312

TCEQ Region: REGION 12 - HOUSTON

ID Number(s):

AIR OPERATING PERMITS PERMIT 1561

AIR OPERATING PERMITS ACCOUNT NUMBER HG13100

AIR NEW SOURCE PERMITS PERMIT 9576

AIR NEW SOURCE PERMITS REGISTRATION 33413

AIR NEW SOURCE PERMITS ACCOUNT NUMBER HG13100

AIR NEW SOURCE PERMITS AFS NUM 4820100404

AIR NEW SOURCE PERMITS REGISTRATION 81932

AIR NEW SOURCE PERMITS REGISTRATION 140894

AIR NEW SOURCE PERMITS REGISTRATION 131327

AIR NEW SOURCE PERMITS REGISTRATION 121854

AIR NEW SOURCE PERMITS PERMIT 34401

AIR NEW SOURCE PERMITS REGISTRATION 76451

AIR NEW SOURCE PERMITS REGISTRATION 154377

INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 32728

AIR EMISSIONS INVENTORY ACCOUNT NUMBER HG13100

AIR OPERATING PERMITS PERMIT 3011

POLLUTION PREVENTION PLANNING ID NUMBER P03126

AIR NEW SOURCE PERMITS REGISTRATION 28727

AIR NEW SOURCE PERMITS REGISTRATION 44286

AIR NEW SOURCE PERMITS REGISTRATION 146607

AIR NEW SOURCE PERMITS REGISTRATION 80133

AIR NEW SOURCE PERMITS REGISTRATION 121974

AIR NEW SOURCE PERMITS REGISTRATION 110519

AIR NEW SOURCE PERMITS REGISTRATION 136802

AIR NEW SOURCE PERMITS REGISTRATION 147701

AIR NEW SOURCE PERMITS REGISTRATION 72965

AIR NEW SOURCE PERMITS REGISTRATION 105936

INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXD981148059

STORMWATER PERMIT TXR05AN06

IHW CORRECTIVE ACTION SOLID WASTE REGISTRATION # (SWR) 32728

Compliance History Period: September 01, 2013 to August 31, 2018

Rating Year: 2018

Rating Date: 09/01/2018

Date Compliance History Report Prepared: January 31, 2019

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: January 31, 2014 to January 31, 2019

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

Name: Carol McGrath

Phone: (210) 403-4063

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: 07/05/2014 ADMINORDER 2013-1820-AIR-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.146(1)

5C THSC Chapter 382 382.085(b)

Rqmt Prov: Federal Operating Permit No. 01561 OP

Description: Failure to submit a Permit Compliance Certification (PCC) no later than 30 days after the end of the PCC

period. (Category A12i7 Violation)

2 Effective Date: 08/24/2016 ADMINORDER 2015-1693-AIR-E (Findings Order-Agreed Order Without Denial)
Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Rqmt Prov: 9576, Special Condition 1 PERMIT
STC 16 OP
Description: Failure to prevent unauthorized emissions during an emissions event (Category A 12.i(6)).

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	June 09, 2014	(1166802)
Item 2	September 15, 2014	(1186431)
Item 3	July 15, 2015	(1261889)
Item 4	October 03, 2016	(1364186)
Item 5	April 18, 2017	(1400327)
Item 6	April 30, 2018	(1481497)
Item 7	August 08, 2018	(1499015)

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: 04/30/2018 (1481848)

Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 335, SubChapter C 335.69(a)(1)(A) 30 TAC Chapter 335, SubChapter E 335.112(a)(8) 40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(a)(1)(i) 40 CFR Chapter 265, SubChapter I, PT 265, SubPT I 265.174		
Description:	Failure to conduct weekly Container Storage Area (CSA) inspections.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 335, SubChapter A 335.6(c)		
Description:	The facility failed to update the NOR.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 335, SubChapter A 335.9(a)(2)		
Description:	Failure to have a complete and correct Annual Waste Summary (AWS).		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 335, SubChapter C 335.69(a)(1)(B) 30 TAC Chapter 335, SubChapter E 335.112(a)(9) 40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(a)(1)(ii) 40 CFR Chapter 265, SubChapter I, PT 265, SubPT J 265.195(b) 40 CFR Chapter 265, SubChapter I, PT 265, SubPT J 265.195(g)		
Description:	The facility failed to conduct required inspection of the hazardous waste tanks.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 324, SubChapter A 324.1 40 CFR Chapter 279, SubChapter I, PT 279, SubPT C 279.22(c)(1)		
Description:	Failure to label one 500-gallon tank with the words "Used Oil".		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 335, SubChapter A 335.10(a)(1)		
Description:	Failure to reflect the correct Texas waste stream code on manifests.		

2 Date: 06/15/2018 (1471596)

Self Report?	NO	Classification:	Minor
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) Special Condition 23A OP Special Terms and Conditions 16 OP		
Description:	Failure to submit notification of testing by the required deadline. C-3		

Self Report? NO Classification: Minor
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)
Special Condition 23E OP
Special Terms and Conditions 16 OP
Description: Failure to submit a stack test report by the report submittal deadline. C-3

3

Date: 08/14/2018 (1481841)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.167(a)(1)
5C THSC Chapter 382 382.085(b)
NSR 13(E) PERMIT
STC 1A; STC 11 OP
Description: Failure to plug, cap, or otherwise seal an open-ended line. (Category C10)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(3)(ii)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.11(b)(6)(ii)
5C THSC Chapter 382 382.085(b)
SC 8 PERMIT
STC 11 OP
Description: Failure to maintain the net heating value for Flare (EPN: 6). (Category C4)

Self Report? NO Classification: Minor
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)
SC6D PERMIT
STC 11 OP

Description: Failed to maintain the minimum firebox exit temperatures at minimum stack test measurements for EPN: 3A. (Category C4)

4

Date: 09/06/2018 (1513420)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)(1)(A)
30 TAC Chapter 335, SubChapter E 335.112(a)(8)
40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(a)(1)(i)
40 CFR Chapter 265, SubChapter I, PT 265, SubPT I 265.174

Description: Failure to conduct weekly Container Storage Area (CSA) inspections.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 335, SubChapter A 335.6(c)

Description: The facility failed to update the NOR.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 335, SubChapter A 335.9(a)(2)

Description: Failure to have a complete and correct Annual Waste Summary (AWS).

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)(1)(B)

30 TAC Chapter 335, SubChapter E 335.112(a)(9)
40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(a)(1)(ii)
40 CFR Chapter 265, SubChapter I, PT 265, SubPT J 265.195(b)
40 CFR Chapter 265, SubChapter I, PT 265, SubPT J 265.195(g)

Description: The facility failed to conduct required inspection of the hazardous waste tanks.

5

Date: 10/12/2018 (1517609)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.167(a)(1)
5C THSC Chapter 382 382.085(b)
Special Condition 18 E PERMIT
Special Term and Condition 1 A OP
Special Term and Condition 16 OP
Description: Failure to plug, cap, or otherwise seal open-ended lines. [Category C10 Violation]

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
KURARAY AMERICA, INC.
RN100212216**

§
§
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§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2019-0190-AIR-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Kuraray America, Inc. (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a petrochemical plant located at 11500 Bay Area Boulevard in Pasadena, Harris County, Texas (the "Plant"). The Plant consists or consisted of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$10,200 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$8,160 of the penalty and \$2,040 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order. The deferred amount shall be waived only upon full compliance with all the terms and conditions contained in this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms or requirements contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.
5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). Any notice and procedures, which might otherwise be authorized or

required in this action, are waived in the interest of a more timely resolution of the matter.

6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Order.
7. 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.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Executive Director recognizes that by October 19, 2018, the Respondent changed the Pressure Safety Valve 1202 outlet piping height and added Ethylene Vessel 1202 as a Safety Interlock System with a Safety Integrity Level 1 in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 284085.

II. ALLEGATIONS

During an investigation conducted on May 24, 2018, an investigator documented that the Respondent failed to prevent unauthorized emissions and failed to limit highly reactive volatile organic compounds ("HRVOC") emissions to 1,200 pounds ("lbs") or less per one-hour block period, in violation of 30 TEX. ADMIN. CODE §§ 115.722(c)(1), 116.115(c), and 122.143(4), New Source Review Permit No. 9576, Special Conditions No. 1, Federal Operating Permit No. O3011, General Terms and Conditions and Special Terms and Conditions Nos. 1.A and 11, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent released 41 lbs of volatile organic compounds ("VOC") and 2,047 lbs of HRVOC from a pressure safety valve in Area 1 and 57.3 lbs of VOC, 48.8 lbs of carbon monoxide, and 10.1 lbs of nitrogen oxides from the Flare, Emissions Point Number 400, during an emissions event (Incident No. 284085) that occurred on May 19, 2018 and lasted one hour and 24 minutes. The emissions event occurred during startup after a turnaround due to valves being incorrectly left open, resulting in over pressurization, venting to the atmosphere, and causing a flash fire. Since the emissions event could have been avoided by better design and/or better operational and maintenance procedures, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Kuraray America, Inc., Docket No. 2019-0190-AIR-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. All relief not expressly granted in this Order is denied.
3. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Plant operations referenced in this Order.
4. 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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this 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.
6. 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.

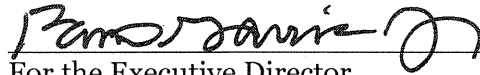
7. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



12/20/19

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



Date

July 1, 2019

Name (Printed or typed)

Authorized Representative of
Kuraray America, Inc.

Title

President & CEO.

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