

Executive Summary – Enforcement Matter – Case No. 59578
Ascend Performance Materials Texas Inc.
RN110008216
Docket No. 2020-0963-AIR-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Unauthorized emissions which are excessive emissions events.

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

Ascend Ammonia Pipeline, Brazoria County

Type of Operation:

Ammonia pipeline

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

Texas Register Publication Date: February 12, 2021

Comments Received: No

Penalty Information

Total Penalty Assessed: \$300,000

Total Paid to General Revenue: \$150,000

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project (“SEP”) Conditional Offset: \$50,000

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

SEP Conditional Offset: \$50,000

Name of SEP: Texas City Independent School District (Third-Party Pre-Approved)

SEP Conditional Offset: \$50,000

Name of SEP: Anahuac Independent School District (Third-Party Pre-Approved)

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Unclassified

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

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Investigation Information

Complaint Date(s): October 3, 2020

Complaint Information: Alleged there were odors coming from the facility.

Date(s) of Investigation: November 6, 2017 through June 24, 2020

Date(s) of NOE(s): July 17, 2020

Violation Information

Suffered the emission of any air contaminant that causes or contributes to air pollution. The emissions event was determined to be an excessive emissions event [TEX. HEALTH & SAFETY CODE § 382.085(a) and (b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

1. The Order will require the Respondent to implement and complete three SEPs (see SEP Attachments A, B, and C).
2. The Order will also require the Respondent to:
 - a. Within 30 days, submit a corrective action plan ("CAP") in accordance with the TCEQ letter dated July 17, 2020 to address the excessive emissions event that began on September 28, 2017 (Incident No. 268775);
 - b. Respond completely and adequately, as determined by the Executive Director, to all written requests for information concerning the CAP submittal in connection with the September 28, 2017 excessive emissions event within 15 days after the date of such requests, or by any other deadline specified in writing;
 - c. Within 45 days, submit written certification to demonstrate compliance with a.;
 - d. Upon Executive Director approval of the CAP, implement the CAP in accordance with the approved schedule; and
 - e. Within 15 days after the completion of the CAP implementation, submit written certification to demonstrate compliance with d.

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Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Toni Red, Enforcement Division, Enforcement Team 4, MC 219, (512) 239-1704; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

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

SEP Third-Party Administrator: Houston-Galveston Area Council-AERCO, P.O. Box 22777, Houston, Texas 77227-2777

SEP Third-Party Administrator: Texas City Independent School District, 2901 Turtle Creek Drive, Suite 445, Port Arthur, Texas 77642

SEP Third-Party Administrator: Anahuac Independent School District, P.O. Box 638, Anahuac, Texas 77514

Respondent: Greg Blanchard, Site Director, Ascend Performance Materials Texas Inc., P.O. Box 711, Alvin, Texas 77512

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision September 1, 2019

DATES	Assigned	21-Jul-2020	Screening	22-Jul-2020	EPA Due	
	PCW	2-Nov-2020				

RESPONDENT/FACILITY INFORMATION

Respondent	Ascend Performance Materials Texas Inc.		
Reg. Ent. Ref. No.	RN110008216		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	59578	No. of Violations	1
Docket No.	2020-0963-AIR-E	Order Type	Findings
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Toni Red
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$300,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 0.0% Adjustment **Subtotals 2, 3, & 7** \$0

Notes No adjustment for Compliance History.

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

Notes The Respondent does not meet the culpability criteria.

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

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

Total EB Amounts \$1,879
Estimated Cost of Compliance \$10,000

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7

Final Subtotal \$300,000

OTHER FACTORS AS JUSTICE MAY REQUIRE

0.0%

Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$300,000

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$300,000

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

\$300,000

Screening Date 22-Jul-2020

Docket No. 2020-0963-AIR-E

PCW

Respondent Ascend Performance Materials Texas Inc.

Policy Revision 4 (April 2014)

Case ID No. 59578

PCW Revision September 1, 2019

Reg. Ent. Reference No. RN110008216

Media Air

Enf. Coordinator Toni Red

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

>> 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

No adjustment for Compliance History.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date 22-Jul-2020

Docket No. 2020-0963-AIR-E

PCW

Respondent Ascend Performance Materials Texas Inc.

Policy Revision 4 (April 2014)

Case ID No. 59578

PCW Revision September 1, 2019

Reg. Ent. Reference No. RN110008216

Media Air

Enf. Coordinator Toni Red

Violation Number 1

Rule Cite(s)

Tex. Health & Safety Code § 382.085(a) and (b)

Violation Description

Suffered the emission of any air contaminant that causes or contributes to air pollution. Specifically, the Respondent released 287,636 pounds ("lbs") of ammonia as fugitive emissions and released 86.5 lbs of ammonia, 100.2 lbs of nitrogen oxides, and 200.6 lbs of carbon monoxide from the Portable Flare, during an emissions event (Incident No. 268775) that began on September 28, 2017 and lasted 279 hours and 43 minutes. The emissions event occurred due to a stray direct current interference from an adjacent foreign cathodic protection ground bed and rectifier controlled by a third-party operator that caused localized external corrosion wall loss to the pipeline and then due to operational error by a third-party contractor during initial repair attempts, resulting in a shelter-in-place, in the release to the atmosphere, and in flaring. The emissions event was determined to be an excessive emissions event.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	x		
Potential			

Percent 100.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Based on air dispersion modeling submitted by the Respondent, human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment \$0

\$25,000

Violation Events

Number of Violation Events 12

12 Number of violation days

daily	x
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$300,000

Twelve daily events are recommended.

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

Violation Subtotal \$300,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,879

Violation Final Penalty Total \$300,000

This violation Final Assessed Penalty (adjusted for limits) \$300,000

Economic Benefit Worksheet

Respondent Ascend Performance Materials Texas Inc.

Case ID No. 59578

Reg. Ent. Reference No. RN110008216

Media Air

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	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				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	28-Sep-2017	1-Jul-2021	3.76	\$1,879	n/a	\$1,879

Notes for DELAYED costs

Estimated cost to implement an approved corrective action plan to address the excessive emissions event that began on September 28, 2017 (Incident No. 268775). Date Required is the date the emissions event began and the Final Date is the estimated 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

\$1,879

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 CN604255158, RN110008216, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

Customer, Respondent, or Owner/Operator:	CN604255158, Ascend Performance Materials Texas Inc.	Classification: SATISFACTORY	Rating: 1.17
Regulated Entity:	RN110008216, ASCEND AMMONIA PIPELINE	Classification: UNCLASSIFIED	Rating: -----
Complexity Points:	1	Repeat Violator:	NO
CH Group:	13 - Pipeline Transportation of Natural Gas, Refined Petroleum, and All Other Products		
Location:	PIPELINE SEGMENTS IN BRAZORIA COUNTY, TEXAS		
TCEQ Region:	REGION 12 - HOUSTON		
ID Number(s):	AIR QUALITY NON PERMITTED ID NUMBER R12110008216		
Compliance History Period:	September 01, 2015 to August 31, 2020	Rating Year: 2020	Rating Date: 09/01/2020
Date Compliance History Report Prepared:	November 02, 2020		
Agency Decision Requiring Compliance History:	Enforcement		
Component Period Selected:	November 02, 2015 to November 02, 2020		
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.			
Name:	Toni Red	Phone:	(512) 239-1704

Site and Owner/Operator History:

- | | |
|--|----|
| 1) Has the site been in existence and/or operation for the full five year compliance period? | NO |
| 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:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	October 16, 2020	(1639674)
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E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

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

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
ASCEND PERFORMANCE
MATERIALS TEXAS INC.
RN110008216**

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**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2020-0963-AIR-E

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Ascend Performance Materials Texas 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 presented this Order to the Commission.

The Respondent understands that it has 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 Respondent agrees 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 Respondent.

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

I. FINDINGS OF FACT

1. The Respondent owns and operates an ammonia pipeline located in Brazoria County, Texas (the "Site"). The Site consists or consisted of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. During an investigation conducted from November 6, 2017 through June 24, 2020, an investigator documented that the Respondent released 287,636 pounds ("lbs") of ammonia as fugitive emissions and released 86.5 lbs of ammonia, 100.2 lbs of nitrogen oxides, and 200.6 lbs of carbon monoxide from the Portable Flare, during an emissions event (Incident No. 268775) that began on September 28, 2017 and lasted 279 hours and 43 minutes. The emissions event occurred due to a stray direct current interference from an adjacent foreign cathodic protection ground bed and rectifier controlled by a third-party operator that caused localized external corrosion wall loss to the pipeline and then due to operational error by a third-party contractor during initial repair attempts,

resulting in a shelter-in-place, in the release to the atmosphere, and in flaring. TCEQ staff determined that the emissions event was an excessive emissions event.

II. CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, the Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2, the Respondent suffered the emission of any air contaminant that causes or contributes to air pollution, in violation of TEX. HEALTH & SAFETY CODE § 382.085(a) and (b). The emissions event was determined to be an excessive emissions event.
3. Pursuant to TEX. WATER CODE § 7.051, the TCEQ has the authority to assess an administrative penalty against the Respondent 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.
4. An administrative penalty in the amount of \$300,000 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 Respondent paid \$150,000 of the penalty. Pursuant to TEX. WATER CODE § 7.067, \$150,000 of the penalty shall be conditionally offset by the Respondent's timely and satisfactory completion of the Supplemental Environmental Projects ("SEPs") as defined in the attached SEP Agreements ("Attachment A", "Attachment B", and "Attachment C", incorporated herein by reference). The Respondent's obligation to pay the conditionally offset portion of the penalty shall be discharged upon full compliance with all the terms and conditions of this Order, which includes the timely and satisfactory completion of all provisions of the SEP Agreements, as determined by the Executive Director.

III. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Conclusion of Law No. 4 for violations of state statutes and rules of the TCEQ. The payment of this penalty and the Respondent's 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: Ascend Performance Materials Texas Inc., Docket No. 2020-0963-AIR-E" to:

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

2. The Respondent shall implement and complete three SEPs as set forth in Conclusion of Law No. 4. The amount of \$150,000 of the assessed penalty is conditionally offset based on the Respondent's implementation and completion of the SEPs pursuant to the terms of the SEP Agreements, as defined in Attachment A, Attachment B, and Attachment C. Penalty payments for any portion of the SEPs deemed by the Executive Director as not complete shall be paid within 30 days after the date of the Executive Director demands payment.
3. The Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order, submit a corrective action plan ("CAP") in accordance with the TCEQ letter dated July 17, 2020 to address the excessive emissions event that began on September 28, 2017 (Incident No. 268775).
 - b. Respond completely and adequately, as determined by the Executive Director, to all written requests for information concerning the CAP submittal in connection with the September 28, 2017 excessive emissions event within 15 days after the date of such requests, or by any other deadline specified in writing.
 - c. Within 45 days after the effective date of this Order, submit written certification, as described in Ordering Provision No. 3.e, to demonstrate compliance with Ordering Provision No. 3.a.
 - d. Upon Executive Director approval of the CAP, implement the CAP in accordance with the approved schedule.
 - e. Within 15 days after the completion of the CAP implementation, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.d. The certification shall be signed by the Respondent and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Air Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Street, Suite H
Houston, Texas 77023-1452

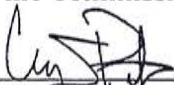
4. All relief not expressly granted in this Order is denied.
5. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Site operations referenced in this Order.
6. If the Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
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 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. 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 Respondent has 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 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.
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



For the Executive Director

Date

06/09/2021

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

1-4-21
Date

Greg Blanchard
Name (Printed or typed)
Authorized Representative of
Ascend Performance Materials Texas Inc.

Site Director
Title

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

Attachment A
Docket Number: 2020-0963-AIR-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Ascend Performance Materials Texas Inc.
Payable Penalty Amount:	\$300,000
SEP Offset Amount:	\$50,000
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Houston-Galveston Area Council-AERCO
Project Name:	<i>Clean Vehicles Partnership Project</i>
Location of SEP: Angelina, Austin, Brazoria, Chambers, Colorado, Fort Bend, Galveston, Hardin, Harris, Houston, Jasper, Jefferson, Liberty, Matagorda, Montgomery, Nacogdoches, Newton, Orange, Polk, Sabine, San Augustine, San Jacinto, Trinity, Tyler, Walker, Waller, and Wharton Counties	

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

1. Project Description

a. Project

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

The SEP Offset Amount may also be used for retrofit or conversion technology that brings an Old Bus up to current EPA emissions standards. New Buses may be alternative-fueled. The SEP Offset Amount may be used for up to 100% of the replacement, conversion, or retrofit cost. The SEP Offset Amount will be used only for purchase of New Buses or conversion or retrofit equipment and contract labor for

installation of equipment. The SEP Offset Amount will not be used for financing such a purchase through a lease-purchase or similar agreement.

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

All dollars contributed will be used solely for the direct cost of implementing the Project, including, but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

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

b. Environmental Benefit

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

c. Minimum Expenditure

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

2. Performance Schedule

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

Houston-Galveston Area Council-AERCO
Attn: Air Quality Program Manager
P.O. Box 22777
Houston, Texas 77227-2777

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

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

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality"; and shall mail it to:

Ascend Performance Materials Texas Inc.
Agreed Order - Attachment A

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP and/or project, made by or on behalf of the Respondent must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

6. Recognition

The Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

Attachment B
Docket Number: 2020-0963-AIR-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Ascend Performance Materials Texas Inc.
Payable Penalty Amount:	\$300,000
SEP Offset Amount:	\$50,000
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Texas City Independent School District
Project Name:	<i>TCISD Alternative Fuel School Bus Program</i>
Location of SEP:	Texas Air Quality Control Region 216: Houston-Galveston

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

1. Project Description

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Texas City Independent School District** for the *TCISD Alternative Fuel School Bus Program* project. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the "Project"). Specifically, the SEP Offset Amount will be used to purchase lower-emission propane fueled school buses that are model year 2010 or newer ("Replacement Bus(es)") to replace buses currently in the fleet that are model year 2006 or older ("Older Bus(es)"). The Older Buses will then be decommissioned, thus permanently removing them from the roads. The SEP Offset Amount shall only be used for the purchase of a base model propane fueled Replacement Bus. The Third-Party Administrator shall own and operate each Replacement Bus for at least five years following the date of purchase.

The Third-Party Administrator shall give preference to replacing the oldest, most polluting buses within its fleet. Only Older Buses that are currently in regular use, driven on a regular route on a weekly basis for at least the past two years are eligible for replacement.

The Third-Party Administrator shall ensure that each Replacement Bus purchased has an engine that meets the Environmental Protection Agency's 2010 emissions standards. Additionally, all Older Buses that are replaced shall be fully decommissioned as required in the SEP Vehicle Disposition Form. All funds received for the scrap value of the Older Bus shall be deposited into the SEP Account and become part of the SEP. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of implementing the Project, including, but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

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

b. Environmental Benefit

The Project will directly benefit air quality in Third-Party Administrator's region by reducing harmful exhaust emissions from older school buses by replacing them with lower-emission propane buses. Older school bus engines emit greater amounts of harmful pollutants such as nitrous oxides, particulate matter, volatile organic compounds, and carbon monoxide than newer, lower-emission buses. These pollutants contribute to the formation of ground level ozone which damages vegetation and ecosystems and may cause or exacerbate a number of respiratory diseases, including asthma, especially in children.

c. Minimum Expenditure

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

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Texas City Independent School District SEP** and shall mail the contribution with a copy of the Agreed Order to:

Ascend Performance Materials Texas Inc.
Agreed Order - Attachment B

Texas City Independent School District SEP
Attention: John Johnson, Consultant
2901 Turtle Creek Drive, Suite 445
Port Arthur, Texas 77642

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

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

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this Attachment B, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP and/or project, made by or on behalf of the Respondent must include a clear statement that **the project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

6. Recognition

The Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Attachment B and in the attached Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

Attachment C
Docket Number: 2020-0963-AIR-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Ascend Performance Materials Texas Inc.
Payable Penalty Amount:	\$300,000
SEP Offset Amount:	\$50,000
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Anahuac Independent School District
Project Name:	<i>Clean School Bus Project</i>
Location of SEP:	Texas Air Quality Control Region 216, Houston - Galveston

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

1. Project Description

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Anahuac Independent School District** for the *Clean School Bus Project*. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the "Project"). Specifically, the SEP Offset Amount will be used to purchase a lower-emission school bus that is model year 2010 or newer ("Replacement Bus") to replace a bus that is model year 1995 ("Older Bus"), thus removing the Older Bus from the roads. The Third-Party Administrator shall ensure that the Replacement Bus has an engine that meets 2010 EPA Standards. The Third-Party Administrator certifies that the Older Bus is currently in use, driven on a regular route on a weekly basis for at least the past two years. The Third-Party Administrator shall own and operate the Replacement Bus for at least five years following the date of purchase. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of implementing the Project, including, but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

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

b. Environmental Benefit

The SEP will benefit air quality by reducing harmful exhaust emissions from an older school bus. Older school bus engines emit larger amounts of nitrogen oxides and particulate matter, as well as other harmful pollutants such as volatile organic compounds and carbon monoxide than new buses. These pollutants contribute to the formation of ozone and may cause or exacerbate a number of respiratory diseases, including asthma, especially in children. The Project will reduce these emissions by replacing a model year 1995 school bus with a new, lower-emission bus.

c. Minimum Expenditure

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

2. Performance Schedule

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

Anahuac Independent School District
Attention: Business Manager
P.O. Box 638
Anahuac, Texas 77514

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

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

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this Attachment C, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP and/or project, made by or on behalf of the Respondent must include a clear statement that **the project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

6. Recognition

The Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Attachment C and in the Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.