

Executive Summary – Enforcement Matter – Case No. 55381
voestalpine Texas LLC
RN106597875
Docket No. 2018-1266-MLM-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MLM - AIR, WQ

Small Business:

No

Location(s) Where Violation(s) Occurred:

La Quinta Plant, 2800 Kay Bailey Hutchison Road, Portland, San Patricio County

Type of Operation:

Direct reduced iron/hot briquetting iron production plant

Other Significant Matters:

Additional Pending Enforcement Actions: Yes, Docket No. 2019-1114-AIR-E

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: The complainants and commenter have expressed an interest in this matter but have not indicated a wish to speak at Agenda.

Texas Register Publication Date: April 3, 2020

Comments Received: Yes, one comment was received from the Honorable Cathy Skurow, Mayor of the City of Portland

Penalty Information

Total Penalty Assessed: \$658,926

Amount Deferred for Expedited Settlement: \$131,785

Total Paid to General Revenue: \$263,571

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project (“SEP”) Conditional Offset: \$131,785

Name of SEP: Texas A&M University – Texas Congress of Parents and Teachers dba Texas PTA (Third-Party Pre-Approved)

Supplemental Environmental Project (“SEP”) Conditional Offset: \$131,785

Name of SEP: Texas Natural Gas Foundation (Third-Party Pre-Approved)

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

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Investigation Information

Complaint Date(s): May 16, 2017 to August 13, 2018

Complaint Information: Over 150 complaints

Date(s) of Investigation: May 16, 2017 through October 16, 2017; November 14, 2017 through January 22, 2018; November 24, 2017 through April 17, 2018; and November 1, 2017 through June 14, 2018

Date(s) of NOE(s): November 3, 2017; February 22, 2018; May 9, 2018; and July 30, 2018

Violation Information

1. Failed to prevent nuisance conditions. Specifically, on May 16, 2017, May 17, 2017, May 18, 2017, May 19, 2017, May 20, 2017, May 23, 2017, May 24, 2017, May 25, 2017, May 26, 2017, May 30, 2017, June 2, 2017, June 5, 2017, June 8, 2017, June 13, 2017, June 15, 2017, June 23, 2017, June 30, 2017, July 13, 2017, July 19, 2017, September 8, 2017, and October 16, 2017, TCEQ staff documented iron ore dust at 141 off-site properties. Laboratory analysis of tape-lift samples that were collected from 20 of the off-site properties indicated that the dust particles had diameters and x-ray spectra consistent with the reference samples taken from the outdoor stockpiles at the Plant [30 TEX. ADMIN. CODE § 101.4 and TEX. HEALTH & SAFETY CODE § 382.085(a) and (b)].

2. Failed to store iron ore pellets in enclosed storage. Specifically, TCEQ staff observed five non-enclosed storage piles containing iron ore pellets [30 TEX. ADMIN. CODE §§ 101.20(3) and 116.115(c), New Source Review ("NSR") Permit Nos. 108113 and PSDTX1344M1, Special Conditions ("SC") No. 17, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

3. Failed to obtain a permit amendment prior to constructing and operating additional sources of air contaminants. Specifically, the Respondent did not obtain a permit amendment before operating additional non-enclosed stockpiles containing fines, clusters, chips, sludge, and remet [30 TEX. ADMIN. CODE §§ 116.110(a) and 116.116(b)(1) and TEX. HEALTH & SAFETY CODE §§ 382.085(b) and 382.0518(a)].

4. Failed to prevent nuisance conditions. Specifically, TCEQ staff documented iron ore dust nuisance conditions at three off-site properties on November 15, 2017 and December 1, 2017 and obtained citizen-collected evidence from one of the properties that documented additional dust nuisance conditions on November 9, 2017, November 16, 2017, and December 19, 2017. Laboratory analysis of tape-lift samples that were collected from two of the off-site properties indicated that the dust particles had diameters and x-ray spectra consistent with the reference samples taken from the outdoor stockpiles at the Plant [30 TEX. ADMIN. CODE § 101.4 and TEX. HEALTH & SAFETY CODE § 382.085(a) and (b)].

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5. Failed to comply with the maximum allowable emissions rate ("MAER"). Specifically, during stack testing conducted on March 8 and 9, 2017, the Respondent exceeded the particulate matter ("PM") MAER of 4.20 pounds per hour ("lbs/hr") by 13.42 lbs/hr for the Reformer Main Flue Ejector Stack, Emissions Point Number ("EPN") 29, resulting in 139,782.72 lbs of unauthorized PM [30 TEX. ADMIN. CODE §§ 101.20(3), 116.115(b)(2)(F) and (c), and 122.143(4), NSR Permit Nos. 108113 and PSDTX1344M1, General Conditions ("GC") Nos. 1, 8, and 14 and SC No. 1, Federal Operating Permit ("FOP") No. O3903, General Terms and Conditions ("GTC") and Special Terms and Conditions ("STC") No. 7, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

6. Failed to comply with the MAER. Specifically, during a stack test conducted on March 15, 2017, the Respondent exceeded the carbon monoxide MAER of 873.00 lbs/hr by 17.58 lbs/hr for the Furnace Dedusting Wet Scrubber Stack, EPN 8, resulting in 180,159.8 lbs of unauthorized carbon monoxide [30 TEX. ADMIN. CODE §§ 101.20(3), 116.115(b)(2)(F) and (c), and 122.143(4), NSR Permit Nos. 108113 and PSDTX1344M1, GC Nos. 1, 8, and 14 and SC No. 1, FOP No. O3903, GTC and STC No. 7, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

7. Failed to conduct employee training at least once per year. Specifically, operations at the Plant began in September of 2016 but employees had not received training on the stormwater pollution prevention plan [30 TEX. ADMIN. CODE §§ 281.25(a)(4) and 305.125(1), 40 CODE OF FEDERAL REGULATIONS ("CFR") § 122.26(c), and Texas Pollutant Discharge Elimination System ("TPDES") Multi-Sector General Permit ("MSGP") No. TXR05CR67, Part III, Section A.4(f)(1)].

8. Failed to certify that the Plant's stormwater system has been evaluated and that discharges of non-stormwater and non-permitted flows do not occur. Specifically, the stormwater pollution prevention plan certification was not available for review upon request [30 TEX. ADMIN. CODE §§ 281.25(a)(4) and 305.125(1), 40 CFR § 122.26(c), and TPDES MSGP No. TXR05CR67, Part III, Section B.1(c)].

9. Failed to identify all stormwater outfalls at the Plant. Specifically, the Respondent depicted one stormwater outfall on the Drainage Area Site Map, but additional outfalls were identified around the dock area and on the north side of the Plant [30 TEX. ADMIN. CODE §§ 281.25(a)(4) and 305.125(1), 40 CFR § 122.26(c), and TPDES MSGP No. TXR05CR67, Part III, Section A.3(d)(1)].

10. Failed to conduct benchmark monitoring once every six months (January through June or July through December) following permit issuance and then once each subsequent semiannual period. Specifically, TPDES MSGP No. TXR05CR67 was issued on April 27, 2016, the Plant began operating in September 2016, and the Respondent had not conducted any benchmark monitoring [30 TEX. ADMIN. CODE §§ 281.25(a)(4)

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and 305.125(1), 40 CFR § 122.26(c), and TPDES MSGP No. TXR05CR67, Part IV, Section B.1(a)].

11. Failed to comply with the MAER. Specifically, the Respondent exceeded the PM MAER of 0.22 ton per year ("tpy") based on a 12-month rolling period for the 12-month periods ending from January 2017 through October 2017 for the Oxide Pellet Transfer (Post Storage) Fabric Filter Stack, EPN 6, resulting in 0.241 ton of unauthorized PM [30 TEX. ADMIN. CODE §§ 101.20(3) and 116.115(b)(2)(F) and (c), NSR Permit Nos. 108113 and PSDTX1344M1, GC Nos. 1, 8, and 14 and SC No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

12. Failed to comply with the MAER. Specifically, the Respondent exceeded the PM MAER of 0.22 tpy based on a 12-month rolling period for the 12-month periods ending from January 2017 through November 2017 for the Oxide Tower Transfer Fabric Filter Stack, EPN 7D, resulting in 0.0022 ton of unauthorized PM [30 TEX. ADMIN. CODE §§ 101.20(3) and 116.115(b)(2)(F) and (c), NSR Permit Nos. 108113 and PSDTX1344M1, GC Nos. 1, 8, and 14 and SC No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

13. Failed to comply with the MAERs. Specially, the Respondent exceeded the PM, particulate matter equal to or less than 10 microns in diameter ("PM10"), and the particulate matter equal to or less than 2.5 microns in diameter ("PM2.5") MAERs of 18.39 tpy based on a 12-month rolling period for the 12-month periods ending from March 2017 through November 2017 for the Reformer Main Flue Ejector Stack, EPN 29, resulting in 55.68 tons of unauthorized PM [30 TEX. ADMIN. CODE §§ 101.20(3) and 116.115(b)(2)(F) and (c), NSR Permit Nos. 108113 and PSDTX1344M1, GC Nos. 1, 8, and 14 and SC No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

14. Failed to comply with the MAERs. Specifically, the Respondent exceeded the PM MAER of 11.44 tpy based on a 12-month rolling period and the PM10 and PM2.5 MAERs of 0.34 tpy based on a 12-month rolling period for the 12-month periods ending from June 2017 through November 2017 for the Salt Water Cooling Tower, EPN 33, resulting in 4.42 tons of unauthorized PM [30 TEX. ADMIN. CODE §§ 101.20(3) and 116.115(b)(2)(F) and (c), NSR Permit Nos. 108113 and PSDTX1344M1, GC Nos. 1, 8, and 14 and SC No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

15. Failed to conduct quarterly visible emissions observations. Specifically, the Respondent did not conduct quarterly visible emissions observations for 13 EPNs from the second quarter of 2016 through the third quarter of 2017 [30 TEX. ADMIN. CODE §§ 101.20(3) and 116.115(c), NSR Permit Nos. 108113 and PSDTX1344M1, SC No. 6, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

16. Failed to conduct quarterly visible emissions observations. Specifically, the Respondent did not conduct quarterly fugitive visible emissions observations of the process buildings and/or fugitive sources for the second, third, and fourth quarters of

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2016 and the first quarter of 2017 [30 TEX. ADMIN. CODE §§ 101.20(3) and 116.115(c), NSR Permit Nos. 108113 and PSDTX1344M1, SC No. 7, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

17. Failed to maintain records for the quarterly inspections. Specifically, the Respondent did not maintain records for the quarterly inspections of the hoods and ductwork for the emission capture and control systems in the third and fourth quarters of 2016 [30 TEX. ADMIN. CODE §§ 101.20(3) and 116.115(c), NSR Permit Nos. 108113 and PSDTX1344M1, SC No. 42D, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

18. Failed to sample the cooling water for the concentration of total dissolved solids ("TDS") once a week. Specifically, the Respondent did not sample the cooling water TDS concentrations for the Salt Water Cooling Tower, EPN 33, for 11 weeks from September 26, 2016 through December 11, 2016 [30 TEX. ADMIN. CODE §§ 101.20(3) and 116.115(c), NSR Permit Nos. 108113 and PSDTX1344M1, SC No. 25A, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

19. Failed to sample the cooling water once a day for conductivity or monitor the cooling water continuously for conductivity. Specifically, the Respondent did not sample and analyze the cooling water conductivity for the Salt Water Cooling Tower, EPN 33, on 34 days: October 1, 2016, October 5 through 10, 2016, October 12 through 24, 2016, October 26 through 31, 2016, November 6, 2016, November 13, 2016, November 20, 2016, November 27, 2016, December 4, 2016, December 11, 2016, December 18, 2016, and December 25, 2016 [30 TEX. ADMIN. CODE §§ 101.20(3) and 116.115(c), NSR Permit Nos. 108113 and PSDTX1344M1, SC No. 25A, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

20. Failed to conduct daily visible emissions observations for the wet scrubbers. Specifically, the Respondent did not conduct daily visible emissions observations for the Furnace Dedusting (BSG Dust Collection) Wet Scrubber Stack, EPN 8, and the Hot Pressure Relief Vent (Flare), EPN 38, on 284 days and did not to conduct daily visible emissions observations for the Briquetter Dedusting Scrubber Stack, EPN 9, and the Hot Iron Briquette Cooling Conveyor Scrubber Stack, EPN 11, on 286 days during the time period from September 28, 2016 to December 6, 2017 [30 TEX. ADMIN. CODE §§ 101.20(3) and 116.115(c), NSR Permit Nos. 108113 and PSDTX1344M1, SC No. 30, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

21. Failed to comply with the certified emissions rate. Specifically, the Respondent exceeded the certified PM_{2.5} emissions rate of 0.01 tpy based on any consecutive 12-month period for the 12-month periods ending from October 2017 through November 2017 for the 75,000 metric tons Grade C Hot Briquette Iron, EPN 44, resulting in 0.01 ton of unauthorized PM_{2.5} [30 TEX. ADMIN. CODE §§ 106.6(c) and 106.261, Permit by Rule Registration No. 147082, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

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22. Failed to prevent fugitive emissions from leaving the property from process buildings or fugitive sources resulting in the unauthorized discharge of industrial waste into or adjacent to any water in the state. Specifically, on November 1, 2017, iron oxide dust was observed on the Plant's grounds and in the adjacent marsh area owned by the Port of Corpus Christi Authority, directly north of the Plant's loading dock [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE §§ 101.20(3) and 116.115(c), NSR Permit Nos. 108113 and PSDTX1344M1, SC No. 7, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent implemented the following corrective measures:

- a. On December 18, 2016, began sampling the cooling water for the concentration of TDS once a week;
- b. On December 26, 2016, began sampling the cooling water for the conductivity once a day;
- c. On May 25, 2017, began conducting quarterly fugitive visible emissions observations of the process buildings and/or fugitive sources;
- d. By May 31, 2017, began maintaining records for the quarterly inspections of the hoods and ductwork for the emission capture and control systems;
- e. By June 30, 2017, implemented measures and procedures in order to ensure that the baghouses for EPNs 6 and 7D were operating properly during normal operations;
- f. On July 6, 2017, obtained Permit by Rule Registration No. 147082 to authorize storage piles at the Plant;
- g. By November 11, 2017, evaluated the stormwater system and certified that discharges of non-stormwater and non-permitted flows do not occur;
- h. By November 17, 2017, provided employees with stormwater pollution prevention training;
- i. On November 20, 2017, depicted the location of each outfall on the Drainage Area Site Map;
- j. By November 30, 2017, demonstrated compliance with the PM annual MAER for EPN 6;

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- k. On December 7, 2017, began conducting daily visible emissions observations of EPNs 8, 9, 11, and 38;
- l. On December 7, 2017, began conducting semiannual benchmark monitoring as required by TPDES MSGP No. TXR05CR67, Part IV, Section B.1(a);
- m. By December 31, 2017, demonstrated compliance with the PM annual MAER for EPN 7D;
- n. By February 28, 2018, implemented measures in order to decrease the level of throughput at EPN 44;
- o. By March 31, 2018, began conducting quarterly visible emissions observations of EPNs 4A, 4B, 5A, 5B, 6, 7A, 7B, 7C, 7D, 8, 16, 17, and 29;
- p. By November 30, 2018, demonstrated compliance with the certified PM_{2.5} emissions rate for EPN 44;
- q. On January 22, 2019, obtained a revision for Permit by Rule Registration No. 147082 to certify the revised emissions and to represent that the fugitive dust emissions from the storage piles are controlled by a water spray and/or dust suppressant spray;
- r. On May 30, 2019, submitted an amendment application for NSR Permit Nos. 108113 and PSDTX1344M that includes the incorporation of Permit By Rule No. 147082; the increase of the carbon monoxide hourly MAER for EPN 8; the increase of the PM, PM₁₀, and PM_{2.5} MAERs for EPN 29; and the amendment of the PM, PM₁₀, and PM_{2.5} MAERs for EPN 33;
- s. By June 1, 2019, removed the five non-enclosed storage piles containing iron ore pellets and has ensured that all iron ore pellets are stored in enclosed storage in order to comply with NSR Permit Nos 108113 and PSDTX1344M1; and
- t. On January 21, 2020, obtained approval for the plan dated November 11, 2019 that identified measures taken to date, proposed upgrades and changes to equipment and work practices, incorporated best management practices, and provided schedules and plans for implementation in order to address visible iron oxide and/or metallic iron fugitive emissions from process buildings or fugitive sources from leaving the property and to address iron oxide and/or metallic iron dust from creating nuisance conditions.

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Technical Requirements:

1. The Order will require the Respondent to implement and complete two SEPs (see SEP Attachments A and B).
2. The Order will also require the Respondent to:
 - a. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit amendment application within 30 days after the date of such requests, or by any other deadline specified in writing;
 - b. Within 30 days, implement all provisions of the approved Plan;
 - c. Within 15 days after completion of the approved Plan implementation, submit written certification to demonstrate compliance with b.; and
 - d. Within 360 days, submit written certification that either the amendment for NSR Permit Nos. 108113 and PSDTX1344M1 has been obtained or that the operation has ceased until such time that appropriate authorization is obtained, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance.

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Yuliya Dunaway, Enforcement Division, Enforcement Team 4, MC R-13, (210) 403-4077; 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: Texas PTA, 408 West 11th Street, Austin, Texas 78701

Texas Natural Gas Foundation, Attention: Heather Ball, Executive Director, 2315 Newfield Lane, Austin, Texas 78703

Respondent: Stefan Einfalt, Chief Executive Officer, voestalpine Texas LLC, 2800 Kay Bailey Hutchison Road, Portland, Texas 78374

Helmut Schwarz, Chief Technical Officer, voestalpine Texas LLC, 2800 Kay Bailey Hutchison Road, Portland, Texas 78374

Respondent's Attorney: N/A

TCEQ Interoffice Memorandum

To: Commissioners

Thru: *SJ* Susan M. Jablonski, P.E., Deputy Director, Enforcement Division

From: Michael De La Cruz, Manager, Enforcement Division

Date: January 10, 2022

Subject: Response to Comment Received Concerning Proposed Agreed Enforcement Order voestalpine Texas LLC, Portland, San Patricio County
RN106597875; Enforcement Case No. 55381; Docket No. 2018-1266-MLM-E

In response to a publication in the *Texas Register* on April 3, 2020, one comment has been received regarding a proposed agreed enforcement order requiring certain actions of voestalpine Texas LLC. The comment was received within the comment period. Please note that this case has been backlogged and cites violations beginning in 2017. Efforts in earnest began in FY 2022 to proceed with bringing backlogged cases to Commissioners' Agenda for resolution. These efforts include proceeding with cases that have garnered public comments and involve multiple violations over protracted time periods.

The proposed agreed order includes 22 violations documented during investigations conducted from May 16, 2017 through October 16, 2017, November 14, 2017 through January 22, 2018, and November 1, 2017 through June 14, 2018 and a record review conducted from November 24, 2017 through April 17, 2018. The violations addressed in the proposed order include the following:

- 1) Failed to prevent nuisance conditions at 141 off-site properties, in violation of 30 TEX. ADMIN. CODE § 101.4 and TEX. HEALTH & SAFETY CODE § 382.085(a) and (b);
- 2) Failed to store iron ore pellets in enclosed storage, in violation of 30 TEX. ADMIN. CODE §§ 101.20(3) and 116.115(c), New Source Review Permit (NSR) Nos. 108113 and PSDTX1344M1, Special Conditions (SC) No. 17, and TEX. HEALTH & SAFETY CODE § 382.085(b);
- 3) Failed to obtain a permit amendment prior to constructing and operating additional sources of air contaminants, in violation of 30 TEX. ADMIN. CODE §§ 116.110(a) and 116.116(b)(1) and TEX. HEALTH & SAFETY CODE §§ 382.085(b) and 382.0518(a);
- 4) Failed to prevent nuisance conditions at three off-site properties, in violation of 30 TEX. ADMIN. CODE § 101.4 and TEX. HEALTH & SAFETY CODE § 382.085(a) and (b);
- 5) Failed to comply with the particulate matter (PM) hourly maximum allowable emissions rate (MAER) during a stack test conducted on March 8, 2017 and March 9, 2017 for the Reformer Main Flue Ejector Stack, in violation of 30 TEX. ADMIN. CODE §§ 101.20(3), 116.115(b)(2)(F) and (c), and 122.143(4), NSR Permit Nos. 108113 and PSDTX1344M1, General Conditions (GC) Nos. 1, 8, and 14 and SC No. 1, Federal Operating Permit (FOP) No. O3903, General Terms and Conditions (GTC) and Special Terms and Conditions (STC) No. 7, and TEX. HEALTH & SAFETY CODE § 382.085(b);
- 6) Failed to comply with the carbon monoxide hourly MAER during a stack test conducted on March 15, 2017 for the Furnace Dedusting Wet Scrubber Stack, in violation of 30 TEX. ADMIN. CODE §§ 101.20(3), 116.115(b)(2)(F) and (c), and 122.143(4), NSR Permit Nos. 108113 and

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PSDTX1344M1, GC Nos. 1, 8, and 14 and SC No. 1, FOP No. O3903, GTC and STC No. 7, and TEX. HEALTH & SAFETY CODE § 382.085(b);

- 7) Failed to conduct employee training at least once per year, in violation of 30 TEX. ADMIN. CODE §§ 281.25(a)(4) and 305.125(1), 40 CODE OF FEDERAL REGULATIONS (CFR) § 122.26(c), and Texas Pollutant Discharge Elimination System (TPDES) Multi-Sector General Permit (MSGP) No. TXR05CR67, Part III, Section A.4(f)(1);
- 8) Failed to certify that the stormwater system has been evaluated and that discharges of non-stormwater and non-permitted flows do not occur, in violation of 30 TEX. ADMIN. CODE §§ 281.25(a)(4) and 305.125(1), 40 CFR § 122.26(c), and TPDES MSGP No. TXR05CR67, Part III, Section B.1(c);
- 9) Failed to identify all stormwater outfalls, in violation of 30 TEX. ADMIN. CODE §§ 281.25(a)(4) and 305.125(1), 40 CFR § 122.26(c), and TPDES MSGP No. TXR05CR67, Part III, Section A.3(d)(1);
- 10) Failed to conduct benchmark monitoring once every six months (January through June or July through December) following permit issuance and then once each subsequent semiannual period, in violation of 30 TEX. ADMIN. CODE §§ 281.25(a)(4) and 305.125(1), 40 CFR § 122.26(c), and TPDES MSGP No. TXR05CR67, Part III, Section B.1(a);
- 11) Failed to comply with the PM annual MAER for the Oxide Pellet Transfer (Post Storage) Fabric Filter Stack, in violation of 30 TEX. ADMIN. CODE §§ 101.20(3) and 116.115(b)(2)(F) and (c), NSR Permit Nos. 108113 and PSDTX1344M1, GC Nos. 1, 8, and 14 and SC No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b);
- 12) Failed to comply with the PM annual MAER for the Oxide Tower Transfer Fabric Filter Stack, in violation of 30 TEX. ADMIN. CODE §§ 101.20(3) and 116.115(b)(2)(F) and (c), NSR Permit Nos. 108113 and PSDTX1344M1, GC Nos. 1, 8, and 14 and SC No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b);
- 13) Failed to comply with the PM annual MAER for the Reformer Main Flue Ejector Stack, in violation of 30 TEX. ADMIN. CODE §§ 101.20(3) and 116.115(b)(2)(F) and (c), NSR Permit Nos. 108113 and PSDTX1344M1, GC Nos. 1, 8, and 14 and SC No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b);
- 14) Failed to comply with the PM annual MAER for the Salt Water Cooling Tower, in violation of 30 TEX. ADMIN. CODE §§ 101.20(3) and 116.115(b)(2)(F) and (c), NSR Permit Nos. 108113 and PSDTX1344M1, GC Nos. 1, 8, and 14 and SC No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b);
- 15) Failed to conduct quarterly visible emissions observations for 13 emission points, in violation of 30 TEX. ADMIN. CODE §§ 101.20(3) and 116.115(c), NSR Permit Nos. 108113 and PSDTX1344M1, SC No. 6, and TEX. HEALTH & SAFETY CODE § 382.085(b);
- 16) Failed to conduct quarterly visible emissions observations of the process buildings and/or fugitive sources, in violation of 30 TEX. ADMIN. CODE §§ 101.20(3) and 116.115(c), NSR Permit Nos. 108113 and PSDTX1344M1, SC No. 7, and TEX. HEALTH & SAFETY CODE § 382.085(b);

Response to Comments Received

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- 17) Failed to maintain records for the quarterly inspections, in violation of 30 TEX. ADMIN. CODE §§ 101.20(3) and 116.115(c), NSR Permit Nos. 108113 and PSDTX1344M1, SC No. 42.D, and TEX. HEALTH & SAFETY CODE § 382.085(b);
- 18) Failed to sample the cooling water for the concentrations of Total Dissolved Solids once a week, in violation of 30 TEX. ADMIN. CODE §§ 101.20(3) and 116.115(c), NSR Permit Nos. 108113 and PSDTX1344M1, SC No. 25.A, and TEX. HEALTH & SAFETY CODE § 382.085(b);
- 19) Failed to sample the cooling water once a day for conductivity or monitor the cooling water continuously for conductivity, in violation of 30 TEX. ADMIN. CODE §§ 101.20(3) and 116.115(c), NSR Permit Nos. 108113 and PSDTX1344M1, SC No. 25.A, and TEX. HEALTH & SAFETY CODE § 382.085(b);
- 20) Failed to conduct daily visible emissions observations for the wet scrubbers, in violation of 30 TEX. ADMIN. CODE §§ 101.20(3) and 116.115(c), NSR Permit Nos. 108113 and PSDTX1344M1, SC No. 30, and TEX. HEALTH & SAFETY CODE § 382.085(b);
- 21) Failed to comply with the certified particulate matter equal to or less than 2.5 microns in diameter emissions rate for the 75,000 metric tons Grade C Hot Briquette Iron, in violation of 30 TEX. ADMIN. CODE §§ 106.6(c) and 106.261, Permit by Rule Registration No. 147082, and TEX. HEALTH & SAFETY CODE § 382.085(b); and
- 22) Failed to prevent fugitive emissions from leaving the property from process buildings or fugitive sources resulting in the unauthorized discharge of industrial waste into or adjacent to any water in the state, in violation of 30 TEX. WATER. CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE §§ 101.20(3) and 116.115(c), NSR Permit Nos. 108113 and PSDTX1344M1, SC No. 7, and TEX. HEALTH & SAFETY CODE § 382.085(b).

The proposed agreed order assesses a penalty in the amount of \$658,926, of which \$131,785 has been deferred in accordance with our expedited order process, voestalpine Texas LLC has paid \$263,571 of the administrative penalty, and \$263,570 of the penalty shall be conditionally offset by voestalpine Texas LLC's timely and satisfactory completion of a Supplemental Environmental Project. Some of the comments received are not limited to the provisions of the proposed order addressing the violations. No changes to the proposed agreed order were made in response to the comments. A summary of the comments and staff response to the comments are provided below:

- Comment – The welfare of the residents located in the Northshore Country Club Estates and Bay Ridge Subdivision are being adversely affected by the operations at voestalpine Texas LLC.

Response - The TCEQ Corpus Christi Regional Office has received, and responded to, numerous complaints alleging nuisance dust. The proposed order addresses nuisance conditions documented during investigations conducted from May 16, 2017 through October 16, 2017 and November 14, 2017 through January 22, 2018. If the residents are impacted by the operations at voestalpine Texas LLC, the residents may file complaints with the TCEQ Corpus Christi Regional Office at any time now and in the future. The TCEQ Corpus Christi Regional Office will continue to investigate all citizen complaints within the TCEQ's jurisdiction. If the TCEQ Corpus Christi Regional Office documents additional violations during later investigations, the alleged violations will be evaluated in accordance with the TCEQ Enforcement Initiation Criteria to determine the appropriate level of enforcement to pursue.

- Comment – The safety of the residents located in the Northshore Country Club Estates and Bay Ridge Subdivision are being adversely affected by the operations at voestalpine Texas LLC.

Response – The TCEQ takes its mission to protect public health and environment very seriously; therefore, the TCEQ will continue to take action under our authority to ensure voestalpine Texas LLC complies with TCEQ rules and regulations.

- Comment – The plan for addressing the fugitive emissions from leaving voestalpine Texas LLC's property and causing nuisance conditions is flawed, primarily descriptive in nature, and does not establish legally enforceable obligations; the plan for addressing the fugitive emissions from leaving voestalpine Texas LLC's property and causing nuisance conditions contains various outreach programs for abating nuisance conditions that are unsatisfactory; the proposed agreed order did not incorporate enforceable requirements to arrest the nuisance conditions; the plan for addressing the fugitive emissions from leaving voestalpine Texas LLC's property and causing nuisance conditions is inadequate for minimizing emissions from the stockpiles, conveyors, and building openings and vents; the plan for addressing the fugitive emissions from leaving voestalpine Texas LLC's property and causing nuisance conditions is inadequate for controlling emissions; and the strategies to upgrade control measures at other potential site-wide emission points are possibilities and are without commitment.

Response – The proposed order addresses fugitive emissions leaving the property that were documented during an investigation conducted from November 1, 2017 through June 14, 2018 and nuisance conditions that were documented during investigations conducted from May 16, 2017 through October 16, 2017 and November 14, 2017 through January 22, 2018. The implementation of the approved plan is enforceable. However, if the residents are impacted by the operations at voestalpine Texas LLC, the residents may file complaints with the TCEQ Corpus Christi Regional Office at any time now and in the future. As mentioned above, the TCEQ will continue to investigate all citizen complaints within the TCEQ's jurisdiction. If the TCEQ Corpus Christi Regional Office documents additional violations during later investigations, the alleged violations will be evaluated in accordance with the TCEQ Enforcement Initiation Criteria to determine the appropriate level of enforcement to pursue. Since an agreement was reached between voestalpine Texas LLC and the TCEQ, the TCEQ has scheduled the agreed order for consideration by the TCEQ Commissioners at an upcoming Commissioners' Agenda, in accordance with 30 TEX. ADMIN. CODE § 70.10(c). During the Commissioners' Agenda, the TCEQ Commissioners can propose changes or other recommendations. Upon adoption of the agreed order by the TCEQ Commissioners, the TCEQ will continue to monitor voestalpine Texas LLC's compliance with the TCEQ rules, regulations, and agreed order including the proposed plan and initiate additional enforcement actions as appropriate.

- Comment – The proposed order should be further developed to allow for the development of measurable, quantifiable, and enforceable standards for the control of fugitive dust emissions and prevention of further violations.

Response – The corrective measures that have been implemented by voestalpine Texas LLC and the corrective measures proposed in the plan appear to have addressed the alleged violations. If the residents are being adversely impacted by the operations at voestalpine Texas LLC, the residents may continue to file complaints with the TCEQ Corpus Christi Regional Office. The TCEQ Corpus Christi Regional Office will continue to investigate all citizen complaints within the TCEQ's jurisdiction. If the TCEQ Corpus Christi Regional Office documents additional

violations during later investigations, the alleged violations will be evaluated in accordance with the TCEQ Enforcement Initiation Criteria to determine the appropriate level of enforcement to pursue.

- Comment – The residents located in the Northshore Country Club Estates and Bay Ridge Subdivision experienced health impacts, the operation of voestalpine Texas LLC interfered with the living conditions in the Northshore Country Club Estates and Bay Ridge Subdivision, and voestalpine Texas LLC adversely affected the residents' lives and properties as indicated in the fifty letters that were submitted in response to the public notice for the permit amendment application.

Response – The proposed order addresses fugitive emissions leaving the property that were documented during an investigation conducted from November 1, 2017 through June 14, 2018 and nuisance conditions that were documented during investigations conducted from May 16, 2017 through October 16, 2017 and November 14, 2017 through January 22, 2018. The implementation of the approved plan is enforceable. However, if the residents are experiencing health impacts, interference with their living conditions, or adverse effects to their lives and properties by the operations at voestalpine Texas LLC, the residents may to file complaints with the TCEQ Corpus Christi Regional Office now and in the future. As mentioned above, the TCEQ will continue to investigate all citizen complaints within the TCEQ's jurisdiction. If the TCEQ Corpus Christi Regional Office documents additional violations during later investigations, the alleged violations will be evaluated in accordance with the TCEQ Enforcement Initiation Criteria to determine the appropriate level of enforcement to pursue.

- Comment – The two separate pre-approved Supplement Environmental Projects do not directly engage with those adversely affected by restoring conditions in those communities.

Response – voestalpine Texas LLC selected projects that will benefit the community in which the alleged violations occurred, in accordance with TEX. WATER CODE § 7.067(a), and the TCEQ supports the participation in Supplemental Environmental Projects. As mentioned above, since an agreement was reached between voestalpine Texas LLC and the TCEQ, the TCEQ has scheduled the agreed order for consideration by the TCEQ Commissioners at an upcoming Commissioners' Agenda, in accordance with 30 TEX. ADMIN. CODE § 70.10(c). During the Commissioners' Agenda, the TCEQ Commissioners can propose changes or other recommendations. Upon adoption of the agreed order by the TCEQ Commissioners, the TCEQ will continue to monitor voestalpine Texas LLC's compliance with TCEQ rules, regulations, and the agreed order including the proposed plan and initiate additional enforcement actions as appropriate.

A copy of received comments and TCEQ staff response to the comment are attached for your consideration. In summary, the commenter is concerned that the order does not adequately address the fugitive emissions from leaving the property and causing nuisance conditions. Staff's position, as reflected in the response, is that the plan for addressing fugitive emissions from leaving the property and causing nuisance conditions will allow voestalpine Texas LLC to come back into compliance. Accordingly, the Enforcement Division respectfully recommends adoption of this proposed order.

Response to Comments Received

Page 6

January 10, 2022

Attachments

cc: Kelly Ruble, Air Section Manager, Corpus Christi Regional Office, TCEQ
Yuliya Dunaway, Coordinator, Enforcement Division, MC R-13
Central Records, MC 213, Building E, 1st Floor
AIR CP_106597875_CP_20210110_Enforcement
Enforcement Division Electronic Reader File



May 4, 2020

Ms. Carol McGrath
Enforcement Division
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

Via Facsimile (512-239-2550)
Via E-mail Carol.McGrath@tceq.texas.gov

Re: **Written Comments submitted by the City of Portland, Texas** in
Docket No. 2018-1266-MLM-E; Enforcement Case No. 55381 relating to voestalpine
Texas LLC ("voestalpine" or the "Company"), RN106597875

Dear Ms. McGrath:

Pursuant to Texas Water Code § 7.075 and public notice published in the *Texas Register*, 45 *Tex. Reg.* 2325 (Apr. 3, 2020), the City of Portland, Texas (the "City") hereby submits these written comments on the proposed agreed order in the above-referenced docket, which alleges numerous violations of the Texas Health and Safety Code and the Texas Administrative Code by voestalpine at its iron production plant (the "Plant") located at 2800 Kay Bailey Hutchison Road in San Patricio County, Texas.¹ Specifically, the proposed agreed order contains allegations that voestalpine failed to obtain permit authorization for the construction and operation of certain sources of air contaminants at the Plant; failed to store iron ore pellets in enclosed storage; and failed to prevent nuisance conditions, which the TCEQ investigated and confirmed by extensive sampling of 141 off-site properties during the period May-October, 2017. Although the Plant lies outside the City's jurisdiction, it is adjacent to two residential subdivisions located within the City, Northshore Country Club Estates and Bay Ridge Subdivision. A map showing the proximity of these subdivisions to the Plant is attached to this letter. Less than one mile from the Plant's boundary, these subdivisions have been adversely affected by voestalpine's operations at the Plant. Therefore, pursuant to its authority to protect the safety and welfare of its citizens, the City submits these written comments urging the TCEQ to remand this enforcement case to the Executive Director for a period not to exceed 90 days to allow for the development of measurable, quantifiable, and enforceable standards applicable to the Plant's operation and their incorporation into the proposed agreed order. As currently drafted, the proposed agreed order relies on compliance with voestalpine Texas LLC Submission Plan for TCEQ dated November 11, 2019 (the "Plan"), for abatement of nuisance conditions; however, the Plan is flawed because it lacks legally enforceable or otherwise adequate standards for this purpose, and thus, the proposed agreed

¹ Although the proposed agreed order recites in Section I.1. that the Plant is located in the City, this detail refers to its mailing address only. The Plant is not physically located either within the City's corporate limits or its extra-territorial jurisdiction.

order fails to protect nearby residents from nuisance conditions associated with voestalpine's operations.

Since the commencement of full-scale operations in December 2016, the Company has persistently operated the Plant in a manner which has interfered with living conditions in Northshore Country Club Estates and the Bay Ridge Subdivision. The Company concedes in the Plan that, as early as May 2017, it received complaints from nearby residents that air-borne particles from the unauthorized handling of incompletely processed materials were reaching homes in these subdivisions (Plan, p. 3). Although voestalpine asserts in the Plan that it has instituted various outreach programs to abate nuisance conditions from these unauthorized operations at the Plant, such measures have been unsatisfactory. As recently as July, 2019, the TCEQ received over fifty (50) letters from nearby residents in response to the public notice regarding the Company's application to amend its air permit. These letters demonstrate that air emissions from the Plant continue to adversely affect residents' lives and property. Complaints registered in these letters include the increased need for medical care due to respiratory ailments, such as asthma, permanent property damage to houses, cars, and pool equipment, and blighted vegetation. In the words of one resident, "They [voestalpine] have continued to fix nothing at the plant to stop the iron oxide being spread across the city and the piles stored outside keep getting bigger and bigger. My family and I have had health issues due to the poor air quality here in Portland ever since voestalpine has started operating." According to others, current emission levels "have led to a significant deterioration in the quality of life," with houses and cars "covered on a daily basis with their iron oxide emissions." The TCEQ's extensive sampling effort in the area, which identified the presence of contaminants consistent with samples taken from materials stockpiled by voestalpine, confirm the accuracy of these claims.

Due to the severity of nuisance conditions, the proposed agreed order must be revised to incorporate enforceable requirements to arrest these nuisance conditions as a replacement to its current approach of using the Plan authored by voestalpine as the tool by which to ensure compliance. Section IV.3.b. provides that the Company shall "[w]ithin 30 days after the effective date of this Order, implement all provisions of the approved Plan in accordance with the schedule in the approved Plan." While this provision appears reasonable on its face, the Plan is primarily descriptive in nature and, therefore, largely fails to prescribe quantifiable and legally enforceable obligations. By its own terms, the Plan "identifies and describes measures taken to date, and proposed upgrades and changes to equipment and work practices designed to mitigate against the creation of fugitive sources of iron oxide and/or metallic iron dust from potentially creating nuisance conditions" (Plan, p. 3). Thus, with the stated purpose of "identifying and describing" measures rather than imposing them, the Plan proceeds to perform this task with regard to "seven specific categories of operations and equipment" (Plan, p. 4): Stockpiles, Conveyors, Building Openings and Vents, Transfer Points, Loading and Unloading Areas, In-plant Roads and Work Areas, and a catch-all category defined as All Other Authorized Emission Points for Visible Iron Oxide and/or Metallic Iron Fugitive Emissions. Each of the seven sections of the Plan relating to these sources are then organized using the following headings: Description, Implementation, and Timeline/Milestones.

The inadequacies of this approach are visible in the first section of the Plan relating to Stockpiles. With respect to the use of polymers and surfactants to control dust emissions from these sources, the Plan provides: "Any new TCEQ-approved piles will be treated within 5 working days, with the target goal being treatment the day after creation is complete, weather and equipment permitting. If the pile is not treated the day after creation is complete, documentation will be created and filed stating reason" (Plan, p. 8). Notably, this provision only implies action by the Company once the "creation" of the stockpile is "complete," not during its construction, which has equal potential to generate nuisance-causing air emissions if construction takes place over the course of several days or weeks. To blunt this error, as well as to compensate for the overlong schedule of five working-days, voestalpine proposes a "target goal" for treatment within one day after completion. However, a "target goal" is not a legally enforceable standard requiring stockpiles be treated within one day after they are completed. Moreover, if voestalpine fails to meet its "target goal," it can avoid taking timely action simply by filing a record "stating reason," a vague, unenforceable standard lacking in specificity, much like the phrase "weather and equipment permitting," which is also too vague to excuse Company action. Along similar lines, in Section 2 applicable to Conveyors, the Plan provides: "voestalpine conducts periodic observations to detect missing covers (e.g., missing or damaged covers). When covers are observed to be missing, voestalpine will replace these covers within 3 working day [sic], all exceptions will be documented" (Plan, p. 13). As with the treatment of stockpiles for dust suppression, this provision allows the Company to avoid replacing "missing covers" (which is awkwardly defined as including both missing and damaged covers) by simply documenting "all exceptions." In addition, this provision is a mere recitation of the Company's practice to conduct "periodic observations," as opposed to a legally enforceable requirement that obligates the Company to take this action. The Plan's lack of specificity and clarity also characterizes its use of the term "observations," which although apparently intended to be synonymous with the term "inspections," lacks that term's regulatory vigor. Finally, Section 3 of the Plan relating to Building Opening [sic] and Vents also exemplifies the Plan's characteristic vagueness by simply providing that voestalpine will address fugitive emissions from these sources "promptly" and document "[a]ll exceptions and corrective actions" (Plan, p. 14). Accordingly, these and similar provisions should be revised to specify measurable, quantifiable and enforceable standards for control of fugitive dust emissions. Otherwise, the conditions described in the comment letters discussed above, will persist, as it is apparent from those letters that the existing measures as described in the Plan are inadequate.

In addition to describing existing measures to control Plant emissions, the Plan proposes certain upgrades to those measures, such as Dry Fog, Wind Fencing, and Third-Party investigation of site-wide emissions points. However, these so-called upgrades involve only preliminary steps that will not necessarily result in the imposition of any these techniques to control fugitive dust emissions. Specifically, the Plan mentions the possibility that wind fences could be used to control fugitive dust emissions from sources, such as Transfer Points and Loading and Unloading Areas. It states that voestalpine has "spoken with" a third-party consultant, Dust Solutions Inc. ("DSI") about its fencing material the Wind Tamer and its potential to lower wind velocities and therefore reduce the volume of fugitive dust emissions (Plan, p. 17). The Plan, however, only provides that

the Company will hire DSI to conduct modeling, leaving the actual installation of wind fencing an open question:

Prior to making a final determination as to whether wind fencing is a cost-effective option, voestalpine will engage DSI to produce a site-wide model to illustrate how the various structures throughout the facility affect wind patterns and wind velocity. The site-wide modeling will ensure that voestalpine is presented with the most efficient and effective wind fence installation locations. The model will include all major structures and conveyors in the plant, giving voestalpine an effective estimate of the effects the wind fence will have on the facility. (Plan, pp. 17-18)

This provision contains no commitment by voestalpine for actual installation of wind fences upon completion of modeling by DSI, only that the “[d]ecision on fence placement will be documented” (Plan, p. 18). In a separate section of the Plan dealing with wind fencing at Loading and Unloading Areas, voestalpine adopts a similar approach, stating that the Company “is investigating the installation of engineered wind fencing in key areas” and that it “has spoken” with DSI about their product the Wind Tamer (Plan, p. 25). Characteristically, the Company stops short of expressing any commitment to install such measures, stating that “[p]rior to making a final determination as to whether wind fencing is a cost-effective option for loading and unloading, voestalpine will engage DSI to produce a site wide model to illustrate how the various structures throughout the facility may affect wind patterns and wind velocity” (Plan, p. 25).

The Company implements a similar wait-and-see strategy for the use of Dry Fog to control fugitive dust emissions, stating that voestalpine has consulted with DSI regarding the use of their Dry Fog product for this purpose. The Company advises that it “intends” to use Dry Fog technology at certain specified locations within the Plant, “*assuming* they are determined to be technically feasible and cost-effective for Dry Fog use” (Plan, p. 18) (emphasis added). Thus, the Plan does not contain any commitment on the part of voestalpine to implement any upgrade involving the use of Dry Fog to control emissions. In a related section of the Plan involving the use of Dry Fog to control emissions from Transfer Tower 22, the Company states that it “intends” to install a Dry Fog system in the upper and lower transfer points of the tower (Plan, p. 20). This statement is likely unenforceable as a requirement for the installation of a Dry Fog system at this location because the Plan merely indicates voestalpine’s subjective intent to install said system rather than explicitly stating that voestalpine *will* install the system. The same language appears in Sections 4.4.4 and 4.4.5 of the Plan relating to the use of Dry Fog at Transfer Tower 23 and Reclaimer 01, respectively, both of which provide that “voestalpine intends to install a Dry Fog system” for these units (Plan, pp. 20-21). The use of Dry Fog at Loading and Unloading Areas is even more tentative: the Plan identifies Dry Fog as a “potential solution” which “may” be included at loading areas (Plan, p. 26).

The Company’s strategy to upgrade control measures at other potential site-wide emission points similarly invokes the use of third-party experts to investigate conditions with no enforceable commitment by voestalpine to implement upgrades at these locations. Specifically, in Section 7 of the Plan, the Company once again expresses its “intention” to retain an expert to investigate these emission points, using theoretical language that merely “envisions” the expert’s scope of work

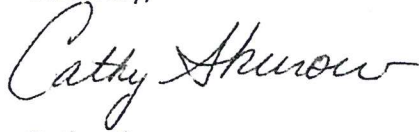
rather than plainly setting it out: “voestalpine envisions that this expert will assess the facility’s operations, equipment, and previously implemented dust control measures” (Plan, p. 32). The Company will then “assess and analyze the recommended measures to determine if they are technologically feasible, practical, and cost effective” and implement only those measures “that satisfy the required criteria” (Plan, p. 32). After reviewing all of these sections, it becomes apparent that the “proposed upgrades” touted at the beginning of the Plan involving the use of Dry Fog, Wind Fencing, and Third-Party Investigation lack substance and are merely theoretical. In addition, any implementation of these proposed measures would lie outside the scope of an agreed order, raising doubts as to their ultimate enforceability. That is why the proposed agreed order should be revised in the first instance to specify measurable, quantifiable, and enforceable standards to upgrade existing measures for the control of fugitive dust emissions from the Plant.

The proposed agreed order specifies that the Company will contribute to two separate pre-approved Supplemental Environmental Projects (“SEP”) to offset a portion of the assessed penalty of \$658,926, one involving contributions to AutoCheck to be used for vehicle repairs, and the other for the cleanup of unauthorized trash dumpsites in San Patricio County. While the City believes that these SEPs involve worthwhile projects, they are tangential to the violations alleged in the proposed agreed order, which center on the adverse effects of fugitive dust emissions from the Plant on the surrounding community. It is for this reason that the City encouraged voestalpine to consider a custom SEP that would directly engage with those adversely affected by the Plant by restoring conditions in those communities. The Company, however, declined this invitation, thereby missing an opportunity to restore not only damaged cars and homes but also damaged relationships with the residents living in close proximity to the Plant.

This comment letter has endeavored to show that the Plan on which the TCEQ relies to implement measures currently used by voestalpine to control fugitive dust emissions is primarily descriptive in nature, an approach that is inconsistent with the establishment of legally enforceable obligations for which the Company could be held accountable under Section IV.3.b. of the proposed agreed order. The provisions highlighted in this letter are not exhaustive and are presented as examples demonstrating the flaws associated with the Plan’s general methodology. In addition, the Plan’s proposed upgrades to these existing measures, which involve the use of Dry Fog, Wind Fencing, and Third-Party Investigation, are merely theoretical remedies whose implementation is largely within the Company’s discretion and, in addition, would lie outside the terms of the agreed order, as proposed. Therefore, the City urges the TCEQ to remand the proposed agreed order for further consideration. In making this request, the City does not wish to unnecessarily delay the enforcement action against voestalpine. We recognize that compliance and enforcement promote the interests of nearby residents; however, it is equally important for any enforcement action to result in the imposition of enforceable standards that are measurable and quantifiable. To achieve these two objectives, the City proposes that the enforcement case be remanded to the Executive Director for a period not to exceed ninety (90) days to allow for the development of measurable, quantifiable and enforceable standards for the control of fugitive dust emissions from the Plant and the prevention of further violations by voestalpine.

Carol McGrath
May 4, 2020
Page 6

Sincerely,

A handwritten signature in cursive script that reads "Cathy Skurow". The signature is written in black ink and is positioned above the printed name and title.

Cathy Skurow,
Mayor

cc: Susan Clewis (via fax and e-mail)
Director, TCEQ Region 14

Michael De La Cruz (via fax and e-mail)
Manager, Enforcement Division

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



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

January 10, 2022

The Honorable Cathy Skurow
Mayor of the City of Portland
1900 Billy G. Webb Drive
Portland, Texas 78374

Re: Comments Received, Proposed Agreed Enforcement Order
voestalpine Texas LLC; RN106597875
Enforcement Case No. 55381; Docket No. 2018-1266-MLM-E

Dear Mayor Skurow:

On May 4, 2020, we received your comments concerning the proposed agreed order for voestalpine Texas LLC. We forwarded your comment 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. Please note that this case has been backlogged and cites violations beginning in 2017. Efforts in earnest recently began to proceed with bringing backlogged cases to Commissioners' Agenda in order to make effective orders and contained ordering provisions.

Texas Commission on Environmental Quality (TCEQ) staff and voestalpine Texas LLC agreed to the terms of the proposed order on March 9, 2020. Accordingly, voestalpine Texas LLC was assessed an administrative penalty of \$658,926, of which \$131,785 has been deferred in accordance with our expedited order process, and has paid \$263,571 of the administrative penalty. The amount of \$263,570 shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project.

The technical requirements in the proposed agreed order require voestalpine Texas LLC to respond completely and adequately to all requests for information concerning the permit amendment application and to implement all provisions of the approved plan to address fugitive emissions from leaving the property and causing nuisance conditions. The proposed order addresses the alleged violations that were documented during investigations conducted from May 16, 2017 through October 16, 2017, November 14, 2017 through January 22, 2018, and November 1, 2017 through June 14, 2018 and during a record review conducted from November 24, 2017 through April 17, 2018 and allows voestalpine Texas LLC to come back into compliance.

You had a concern with the welfare of the residents located in the Northshore Country Club Estates and Bay Ridge Subdivision being adversely affected by the operations at voestalpine Texas LLC. The TCEQ appreciates your concern. The TCEQ Corpus Christi Regional Office has received, and responded to, numerous complaints alleging nuisance dust. The proposed order addresses nuisance conditions documented during

investigations conducted from May 16, 2017 through October 16, 2017 and November 14, 2017 through January 22, 2018. If the residents are being adversely impacted by the

operations at voestalpine Texas LLC, the residents may file complaints now and in the future with the TCEQ Corpus Christi Regional Office. The TCEQ Corpus Christi Regional Office will continue to investigate all citizen complaints within the TCEQ's jurisdiction. If the TCEQ Corpus Christi Regional Office documents additional violations during later investigations, the alleged violations will be evaluated in accordance with the TCEQ Enforcement Initiation Criteria to determine the appropriate level of enforcement to pursue.

You had a concern with the safety of the residents located in the Northshore Country Club Estates and Bay Ridge Subdivision being adversely affected by the operations at voestalpine Texas LLC. The TCEQ appreciates your concern and the TCEQ takes its mission to protect public health and environment very seriously; therefore, the TCEQ will continue to take action under our authority to ensure voestalpine Texas LLC complies with the TCEQ rules and regulations.

You had concerns that the plan for addressing the fugitive emissions from leaving voestalpine Texas LLC's property and causing nuisance conditions is flawed, primarily descriptive in nature, and does not establish legally enforceable obligations; the plan for addressing the fugitive emissions from leaving voestalpine Texas LLC's property and causing nuisance conditions contains various outreach programs for abating nuisance conditions that are unsatisfactory; the proposed agreed order did not incorporate enforceable requirements to arrest the nuisance conditions; the plan for addressing the fugitive emissions from leaving voestalpine Texas LLC's property and causing nuisance conditions is inadequate for minimizing emissions from the stockpiles, conveyors, and building openings and vents; the plan for addressing the fugitive emissions from leaving voestalpine Texas LLC's property and causing nuisance conditions is inadequate for controlling emissions; and the strategies to upgrade control measures at other potential site-wide emission points are possibilities and are without commitment. The TCEQ appreciates your concerns. The proposed order addresses fugitive emissions leaving the property that were documented during an investigation conducted from November 1, 2017 through June 14, 2018 and nuisance conditions that were documented during investigations conducted from May 16, 2017 through October 16, 2017 and November 14, 2017 through January 22, 2018. The implementation of the approved plan is enforceable. However, if the residents are being impacted by the operations at voestalpine Texas LLC, the residents may file complaints now and in the future with the TCEQ Corpus Christi Regional Office. As mentioned above, the TCEQ will continue to investigate all citizen complaints within the TCEQ's jurisdiction. If the TCEQ Corpus Christi Regional Office documents additional violations during later investigations, the alleged violations will be evaluated in accordance with the TCEQ Enforcement Initiation Criteria to determine the appropriate level of enforcement to pursue. Since an agreement was reached between voestalpine Texas LLC and the TCEQ, the TCEQ has scheduled the agreed order for consideration by the TCEQ Commissioners at an upcoming Commissioners' Agenda, in accordance with 30 TEX. ADMIN. CODE § 70.10(c). During the Commissioners' Agenda, the TCEQ Commissioners can propose changes or other recommendations. Upon adoption of the agreed order by the TCEQ Commissioners, the TCEQ will continue to monitor voestalpine Texas LLC's compliance with the TCEQ rules, regulations, and agreed order including the proposed plan and initiate additional enforcement actions as appropriate.

You had a concern that the proposed order should be further developed to allow for the development of measurable, quantifiable, and enforceable standards for the control of fugitive dust emissions and prevention of further violations. The TCEQ appreciates your concern; however, the corrective measures that have been implemented by voestalpine Texas LLC and the corrective measures proposed in the plan appear to have addressed the alleged violations. If the residents are being adversely impacted by the operations at voestalpine Texas LLC, the residents may continue to file complaints with the TCEQ Corpus Christi Regional Office. The TCEQ Corpus Christi Regional Office will continue to investigate all citizen complaints within the TCEQ's jurisdiction. If the TCEQ Corpus Christi Regional Office documents additional violations during later investigations, the alleged violations will be evaluated in accordance with the TCEQ Enforcement Initiation Criteria to determine the appropriate level of enforcement to pursue.

You had concerns that the residents located in the Northshore Country Club Estates and Bay Ridge Subdivision experienced health impacts, the operation of voestalpine Texas LLC interfered with the living conditions in the Northshore Country Club Estates and Bay Ridge Subdivision, and voestalpine Texas LLC adversely affected the residents' lives and properties as indicated in the fifty letters that were submitted in response to the public notice for the permit amendment application. The TCEQ appreciates your concerns; however, these fall outside the scope of the enforcement action. If the residents are experiencing health impacts, interference with their living conditions, or adverse effects to their lives and properties by the operations at voestalpine Texas LLC, the residents may file complaints now and in the future with the TCEQ Corpus Christi Regional Office. As mentioned above, the TCEQ will continue to investigate all citizen complaints within the TCEQ's jurisdiction. If the TCEQ Corpus Christi Regional Office documents additional violations during later investigations, the alleged violations will be evaluated in accordance with the TCEQ Enforcement Initiation Criteria to determine the appropriate level of enforcement to pursue.

You had a concern with the two separate pre-approved Supplemental Environmental Projects. The TCEQ appreciates your concern; however, voestalpine Texas LLC selected projects that will benefit the community in which the alleged violations occurred, in accordance with TEX. WATER CODE § 7.067(a), and the TCEQ supports the participation in Supplemental Environmental Projects. As mentioned above, since an agreement was reached between voestalpine Texas LLC and the TCEQ, the TCEQ has scheduled the agreed order for consideration by the TCEQ Commissioners at an upcoming Commissioners' Agenda, in accordance with 30 TEX. ADMIN. CODE § 70.10(c). During the Commissioners' Agenda, the TCEQ Commissioners can propose changes or other recommendations. Upon adoption of the agreed order by the TCEQ Commissioners, the TCEQ will continue to monitor voestalpine Texas LLC's compliance with TCEQ rules, regulations, and the agreed order including the proposed plan and initiate additional enforcement actions as appropriate.

We appreciate your input into the enforcement action currently pending against voestalpine Texas LLC. The proposed agreed order will be considered at an upcoming Commissioners' Agenda. Ms. Yuliya Dunaway is the Enforcement Coordinator assigned to this case. If you have further concerns or comments related to this order, please do not hesitate to call Ms. Dunaway at (210) 403-4077. For complaints related to the current operating conditions or procedures voestalpine Texas LLC, you should contact our Corpus Christi Regional Office at (361) 881-6900.

Thank you,

Susan M. Jablonski

Susan M. Jablonski, P.E., Deputy Director for Enforcement Division
Office of Compliance and Enforcement
Texas Commission on Environmental Quality



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	6-Nov-2017	Screening	17-Nov-2017	EPA Due	
	PCW	11-Jul-2019				

RESPONDENT/FACILITY INFORMATION

Respondent	voestalpine Texas LLC (PCW 1 of 5)				
Reg. Ent. Ref. No.	RN106597875				
Facility/Site Region	14-Corpus Christi	Major/Minor Source	Major		

CASE INFORMATION

Enf./Case ID No.	55381	No. of Violations	3
Docket No.	2018-1266-MLM-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media	Water Quality	Enf. Coordinator	Carol McGrath
		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	\$195,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	6.0%	Adjustment	Subtotals 2, 3, & 7	\$11,700
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Notes	Enhancement for three NOV's with dissimilar violations.
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Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	50.0%	Enhancement*	Subtotal 6	\$28,845
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Total EB Amounts	\$28,845	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$205,000	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$235,545
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
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Final Penalty Amount	\$235,545
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$235,545
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DEFERRAL	20.0%	Reduction	Adjustment	-\$47,109
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes	Deferral offered for expedited settlement.
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PAYABLE PENALTY	\$188,436
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Screening Date 17-Nov-2017

Docket No. 2018-1266-MLM-E

PCW

Respondent voestalpine Texas LLC (PCW 1 of 5)

Policy Revision 4 (April 2014)

Case ID No. 55381

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106597875

Media [Statute] 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>)	0	0%
	Other written NOVs	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	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) 6%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for three NOVs with dissimilar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 6%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 6%

Screening Date 17-Nov-2017

Docket No. 2018-1266-MLM-E

PCW

Respondent voestalpine Texas LLC (PCW 1 of 5)

Policy Revision 4 (April 2014)

Case ID No. 55381

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106597875

Media [Statute] Air

Enf. Coordinator Carol McGrath

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 101.4 and Tex. Health & Safety Code § 382.085(a) and (b)

Violation Description Failed to prevent nuisance conditions. Specifically, on May 16, 2017, May 17, 2017, May 18, 2017, May 19, 2017, May 20, 2017, May 23, 2017, May 24, 2017, May 25, 2017, May 26, 2017, May 30, 2017, June 2, 2017, June 5, 2017, June 8, 2017, June 13, 2017, June 15, 2017, June 23, 2017, June 30, 2017, July 13, 2017, July 19, 2017, September 8, 2017, and October 16, 2017, TCEQ staff documented iron ore dust at 141 off-site properties. Laboratory analysis of tape-lift samples that were collected from 20 of the off-site properties indicated that the dust particles had diameters and x-ray spectra consistent with the reference samples taken from the outdoor stockpiles at the Plant.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual			x		30.0%
Potential					

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent

Human health or the environment has been exposed to significant amounts of pollutants.

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 21 Number of violation days 21

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$157,500

Twenty-one single events are recommended, one for each day nuisance conditions were documented.

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 \$157,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$17,816

Violation Final Penalty Total \$176,565

This violation Final Assessed Penalty (adjusted for limits) \$176,565

Economic Benefit Worksheet

Respondent voestalpine Texas LLC (PCW 1 of 5)
Case ID No. 55381
Reg. Ent. Reference No. RN106597875
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment	\$100,000	16-May-2017	1-Dec-2019	2.55	\$848	\$16,968	\$17,816
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The estimated cost to implement measures and/or procedures to prevent iron oxide and/or metallic iron dust from creating nuisance conditions. The Date Required is the first date nuisance conditions were documented. 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

\$100,000

TOTAL

\$17,816

Screening Date 17-Nov-2017

Docket No. 2018-1266-MLM-E

PCW

Respondent voestalpine Texas LLC (PCW 1 of 5)

Policy Revision 4 (April 2014)

Case ID No. 55381

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106597875

Media [Statute] Air

Enf. Coordinator Carol McGrath

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 101.20(3) and 116.115(c), New Source Review ("NSR") Permit Nos. 108113 and PSDTX1344M1, Special Conditions No. 17, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to store iron ore pellets in enclosed storage. Specifically, TCEQ staff observed five non-enclosed storage piles containing iron ore pellets.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				15.0%
	Potential		x		

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0.0%

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 3 185 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$11,250

Three quarterly events are recommended for the period of non-compliance from the May 16, 2017 investigation date to the November 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 Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$11,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$10,219

Violation Final Penalty Total \$21,540

This violation Final Assessed Penalty (adjusted for limits) \$21,540

Economic Benefit Worksheet

Respondent voestalpine Texas LLC (PCW 1 of 5)
Case ID No. 55381
Reg. Ent. Reference No. RN106597875
Media Air
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

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)	\$100,000	16-May-2017	1-Jun-2019	2.04	\$10,219	n/a	\$10,219

Notes for DELAYED costs

Estimated costs to remove the five non-enclosed storage piles containing iron ore pellets and ensure that all iron ore pellets are stored in enclosed storage. The Date Required is the investigation date and the Final Date is the 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

\$100,000

TOTAL

\$10,219

Screening Date 17-Nov-2017 **Docket No.** 2018-1266-MLM-E **PCW**
Respondent voestalpine Texas LLC (PCW 1 of 5)
Case ID No. 55381
Reg. Ent. Reference No. RN106597875
Media [Statute] Air
Enf. Coordinator Carol McGrath

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

Violation Number

Rule Cite(s) 30 Tex. Admin. Code §§ 116.110(a) and 116.116(b)(1) and Tex. Health & Safety Code §§ 382.085(b) and 382.0518(a)

Violation Description

Failed to obtain a permit amendment prior to constructing and operating additional sources of air contaminants. Specifically, the Respondent did not obtain a permit amendment before operating additional non-enclosed stockpiles containing fines, clusters, chips, sludge, and remet.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

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

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Seven monthly events are recommended from the May 16, 2017 investigation date to the November 17, 2017 screening date.

Good Faith Efforts to Comply

Reduction

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

Extraordinary	<input type="text"/>
Ordinary	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>

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

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent voestalpine Texas LLC (PCW 1 of 5)
Case ID No. 55381
Reg. Ent. Reference No. RN106597875
Media Air
Violation No. 3

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				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$5,000	8-Mar-2017	1-Jun-2020	3.24	\$809	n/a	\$809
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to obtain an amendment for NSR Permit Nos. 108113 and PSDTX1344M1 that includes the incorporation of Permit by Rule Registration No. 147082; the increase of the carbon monoxide hourly maximum allowable emissions rate ("MAER") for Emissions Point Number ("EPN") 8; the increase of the particulate matter ("PM") equal to or less than 10 microns in diameter ("PM10"), and particulate matter equal to or less than 2.5 microns in diameter ("PM2.5") MAERs for EPN 29; and the amendment of the PM, PM10, and PM2.5 MAERs for EPN 33. The Date Required is the first date of non-compliance 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

\$5,000

TOTAL

\$809



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	26-Feb-2018	Screening	28-Feb-2018	EPA Due	
	PCW	11-Jul-2019				

RESPONDENT/FACILITY INFORMATION	
Respondent	voestalpine Texas LLC (PCW 2 of 5)
Reg. Ent. Ref. No.	RN106597875
Facility/Site Region	14-Corpus Christi
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	55381	No. of Violations	1
Docket No.	2018-1266-MLM-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media	Water Quality	Enf. Coordinator	Carol McGrath
		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	\$37,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	6.0%	Adjustment	Subtotals 2, 3, & 7	\$2,250
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Notes	Enhancement for three NOV's with dissimilar violations.
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Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$0	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$0	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$39,750
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
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Final Penalty Amount	\$39,750
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$39,750
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DEFERRAL	20.0%	Reduction	Adjustment	-\$7,950
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes	Deferral offered for expedited settlement.
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PAYABLE PENALTY	\$31,800
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Screening Date 28-Feb-2018

Docket No. 2018-1266-MLM-E

PCW

Respondent voestalpine Texas LLC (PCW 2 of 5)

Policy Revision 4 (April 2014)

Case ID No. 55381

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106597875

Media [Statute] 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>)	0	0%
	Other written NOVs	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	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) 6%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for three NOVs with dissimilar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 6%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 6%

Screening Date 28-Feb-2018

Docket No. 2018-1266-MLM-E

PCW

Respondent voestalpine Texas LLC (PCW 2 of 5)

Policy Revision 4 (April 2014)

Case ID No. 55381

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106597875

Media [Statute] Air

Enf. Coordinator Carol McGrath

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 101.4 and Tex. Health & Safety Code § 382.085(a) and (b)

Violation Description

Failed to prevent nuisance conditions. Specifically, TCEQ staff documented iron ore dust nuisance conditions at three off-site properties on November 15, 2017 and December 1, 2017 and obtained citizen-collected evidence from one of the properties that documented additional dust nuisance conditions on November 9, 2017, November 16, 2017, and December 19, 2017. Laboratory analysis of tape-lift samples that were collected from two of the off-site properties indicated that the dust particles had diameters and x-ray spectra consistent with the reference samples taken from the outdoor stockpiles at the Plant.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual		x		30.0%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
				0.0%

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants.

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 5 5 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$37,500

Five single events are recommended, one for each day nuisance conditions were documented.

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 \$37,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$39,750

This violation Final Assessed Penalty (adjusted for limits) \$39,750

Economic Benefit Worksheet

Respondent voestalpine Texas LLC (PCW 2 of 5)
Case ID No. 55381
Reg. Ent. Reference No. RN106597875
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
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0
Notes for DELAYED costs	See Economic Benefit in Violation No. 1 for PCW 1						

Item Description	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 \$0
TOTAL \$0



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	14-May-2018	Screening	16-May-2018	EPA Due	5-Nov-2018
	PCW	11-Jul-2019				

RESPONDENT/FACILITY INFORMATION

Respondent	voestalpine Texas LLC (PCW 3 of 5)				
Reg. Ent. Ref. No.	RN106597875				
Facility/Site Region	14-Corpus Christi	Major/Minor Source	Major		

CASE INFORMATION

Enf./Case ID No.	55381	No. of Violations	2
Docket No.	2018-1266-MLM-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media	Water Quality	Enf. Coordinator	Carol McGrath
		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	\$225,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	0.0%	Adjustment	Subtotals 2, 3, & 7	\$0
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Notes: Since the reduction for two notices of intent to conduct an audit is below zero, the Adjustment Percentage (Subtotal 2) defaults to zero.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$0
 Estimated Cost of Compliance: \$0
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$225,000
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$225,000
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$225,000
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DEFERRAL	20.0%	Reduction	Adjustment	-\$45,000
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$180,000
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Screening Date 16-May-2018

Docket No. 2018-1266-MLM-E

PCW

Respondent voestalpine Texas LLC (PCW 3 of 5)

Policy Revision 4 (April 2014)

Case ID No. 55381

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106597875

Media [Statute] 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>)	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>)	2	-2%
	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

Since the reduction for two notices of intent to conduct an audit is below zero, the Adjustment Percentage (Subtotal 2) defaults to zero.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date 16-May-2018

Docket No. 2018-1266-MLM-E

PCW

Respondent voestalpine Texas LLC (PCW 3 of 5)

Policy Revision 4 (April 2014)

Case ID No. 55381

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106597875

Media [Statute] Air

Enf. Coordinator Carol McGrath

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 101.20(3), 116.115(b)(2)(F) and (c), and 122.143(4), New Source Review ("NSR") Permit Nos. 108113 and PSDTX1344M1, General Conditions ("GC") Nos. 1, 8, and 14 and Special Conditions ("SC") No. 1, Federal Operating Permit ("FOP") No. O3903, General Terms and Conditions ("GTC") and Special Terms and Conditions ("STC") No. 7, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to comply with the maximum allowable emissions rate ("MAER"). Specifically, during stack testing conducted on March 8 and 9, 2017, the Respondent exceeded the particulate matter ("PM") MAER of 4.20 pounds per hour ("lbs/hr") by 13.42 lbs/hr for the Reformer Main Flue Ejector Stack, Emissions Point Number ("EPN") 29, resulting in 139,782.72 lbs of unauthorized PM.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (30.0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (0.0%).

Matrix Notes Human health or the environment has been exposed to significant amounts of pollutants that 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 15 Number of violation days 434

Table with columns: Frequency (daily, weekly, monthly, quarterly, semiannual, annual, single event) and Count.

Violation Base Penalty \$112,500

Fifteen monthly events are recommended from the March 8, 2017 stack test end date to the May 16, 2018 screening date.

Good Faith Efforts to Comply

0.0% Reduction \$0

Table with columns: Effort Type (Extraordinary, Ordinary, N/A) and Status (Before NOE/NOV, NOE/NOV to EDPRP/Settlement Offer).

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

Violation Subtotal \$112,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0 Violation Final Penalty Total \$112,500

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

Economic Benefit Worksheet

Respondent voestalpine Texas LLC (PCW 3 of 5)
Case ID No. 55381
Reg. Ent. Reference No. RN106597875
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
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

See Economic Benefit in Violation No. 3 for PCW 1.

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

\$0

TOTAL

\$0

Screening Date 16-May-2018
Respondent voestalpine Texas LLC (PCW 3 of 5)
Case ID No. 55381
Reg. Ent. Reference No. RN106597875
Media [Statute] Air
Enf. Coordinator Carol McGrath

Docket No. 2018-1266-MLM-E

PCW

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

Violation Number
Rule Cite(s)

30 Tex. Admin. Code §§ 101.20(3), 116.115(b)(2)(F) and (c), and 122.143(4), NSR Permit Nos. 108113 and PSDTX1344M1, GC Nos. 1, 8, and 14 and SC No. 1, FOP No. O3903, GTC and STC No. 7, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to comply with the MAER. Specifically, during a stack test conducted on March 15, 2017, the Respondent exceeded the carbon monoxide ("CO") MAER of 873.00 lbs/hr by 17.58 lbs/hr for the Furnace Dedusting Wet Scrubber Stack, EPN 8, resulting in 180,159.8 lbs of unauthorized CO.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

>> Programmatic Matrix

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

Percent

Matrix Notes

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

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Fifteen monthly events are recommended from the March 15, 2017 stack test to the May 16, 2018 screening date.

Good Faith Efforts to Comply

Reduction

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

Extraordinary	<input type="text"/>
Ordinary	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>

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

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent voestalpine Texas LLC (PCW 3 of 5)
Case ID No. 55381
Reg. Ent. Reference No. RN106597875
Media Air
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

See Economic Benefit in Violation No. 3 for PCW 1.

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

\$0

TOTAL

\$0



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	7-Aug-2018	Screening	13-Aug-2018	EPA Due	
	PCW	11-Jul-2019				

RESPONDENT/FACILITY INFORMATION

Respondent	voestalpine Texas LLC (PCW 4 of 5)				
Reg. Ent. Ref. No.	RN106597875				
Facility/Site Region	14-Corpus Christi	Major/Minor Source	Minor		

CASE INFORMATION

Enf./Case ID No.	55381	No. of Violations	4
Docket No.	2018-1266-MLM-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media	Air	Enf. Coordinator	Carol McGrath
		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** **\$3,750**

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: Since the reduction for two notices of intent to conduct an audit is below zero, the Adjustment Percentage (Subtotal 2) defaults to zero.

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** **-\$936**

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

Total EB Amounts **\$1,285**
 Estimated Cost of Compliance **\$4,197**
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$2,814**

OTHER FACTORS AS JUSTICE MAY REQUIRE **43.6%** Adjustment **\$1,226**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided costs associated with compliance for Violation Nos. 1 and 4.

Final Penalty Amount **\$4,040**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$4,040**

DEFERRAL **20.0%** Reduction Adjustment **-\$808**

Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY **\$3,232**

Screening Date 13-Aug-2018

Docket No. 2018-1266-MLM-E

PCW

Respondent voestalpine Texas LLC (PCW 4 of 5)

Policy Revision 4 (April 2014)

Case ID No. 55381

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106597875

Media [Statute] Water Quality

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>)	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>)	2	-2%
	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

Since the reduction for two notices of intent to conduct an audit is below zero, the Adjustment Percentage (Subtotal 2) defaults to zero.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date 13-Aug-2018

Docket No. 2018-1266-MLM-E

PCW

Respondent voestalpine Texas LLC (PCW 4 of 5)

Policy Revision 4 (April 2014)

Case ID No. 55381

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106597875

Media [Statute] Water Quality

Enf. Coordinator Carol McGrath

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 281.25(a)(4) and 305.125(1), 40 Code of Federal Regulations ("CFR") § 122.26(c), and Texas Pollutant Discharge Elimination System ("TPDES") Multi-Sector General Permit ("MSGP") No. TXR05CR67, Part III, Section A.4(f)(1)

Violation Description Failed to conduct employee training at least once per year. Specifically, operations at the Plant began in September of 2016 but employees had not received training on the stormwater pollution prevention plan.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				3.0%
	Potential			x	

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent

Adjustment \$24,250

\$750

Violation Events

Number of Violation Events 1 48 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$750

One single event is recommended.

Good Faith Efforts to Comply

25.0%

Reduction \$187

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

Notes The Respondent achieved compliance on November 17, 2017, prior to the July 30, 2018 Notice of Enforcement ("NOE").

Violation Subtotal \$563

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$197

Violation Final Penalty Total \$808

This violation Final Assessed Penalty (adjusted for limits) \$808

Economic Benefit Worksheet

Respondent voestalpine Texas LLC (PCW 4 of 5)
Case ID No. 55381
Reg. Ent. Reference No. RN106597875
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	Costs Saved	EB Amount
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel	\$1,500	30-Sep-2017	17-Nov-2017	0.13	\$0	\$197	\$197
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

Estimated avoided cost to provide employees with stormwater pollution prevention training at least once per year. The Date Required is the date when training was due and the Final Date is the compliance date.

Approx. Cost of Compliance

\$197

TOTAL

\$197

Screening Date 13-Aug-2018
Respondent voestalpine Texas LLC (PCW 4 of 5)
Case ID No. 55381
Reg. Ent. Reference No. RN106597875
Media [Statute] Water Quality
Enf. Coordinator Carol McGrath

Docket No. 2018-1266-MLM-E

PCW

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

Violation Number

Rule Cite(s) 30 Tex. Admin. Code §§ 281.25(a)(4) and 305.125(1), 40 CFR § 122.26(c), and TPDES MSGP No. TXR05CR67, Part III, Section B.1(c)

Violation Description Failed to certify that the Plant's stormwater system has been evaluated and that discharges of non-stormwater and non-permitted flows do not occur. Specifically, the stormwater pollution prevention plan certification was not available for review upon request.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="x"/>	<input type="text" value="1.0%"/>
Less than 30% of the rule requirement was not met.					

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

One single event is recommended.

Good Faith Efforts to Comply

Reduction

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

Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text" value="x"/>	<input type="text"/>
N/A	<input type="text"/>	<input type="text"/>

Notes The Respondent achieved compliance on November 11, 2017, prior to the July 30, 2018 NOE.

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent voestalpine Texas LLC (PCW 4 of 5)
Case ID No. 55381
Reg. Ent. Reference No. RN106597875
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	Costs Saved	EB Amount
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	21-Feb-2017	11-Nov-2017	0.72	\$54	n/a	\$54

Notes for DELAYED costs

Estimated cost to evaluate the stormwater system and certify that discharges of non-stormwater and non-permitted flows do not occur. The Date Required is 180 days after the Notice of Intent. 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

\$1,500

TOTAL

\$54

Screening Date 13-Aug-2018
Respondent voestalpine Texas LLC (PCW 4 of 5)
Case ID No. 55381
Reg. Ent. Reference No. RN106597875
Media [Statute] Water Quality
Enf. Coordinator Carol McGrath

Docket No. 2018-1266-MLM-E

PCW

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

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code §§ 281.25(a)(4) and 305.125(1), 40 CFR § 122.26(c), and TPDES MSGP No. TXR05CR67, Part III, Section A.3(d)(1)

Violation Description

Failed to identify all stormwater outfalls at the Plant. Specifically, the Respondent depicted one stormwater outfall on the Drainage Area Site Map, but additional outfalls were identified around the dock area and on the north side of the Plant.

Base Penalty \$25,000

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

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent

Matrix Notes

Less than 30% of the rule requirement was not met.

Adjustment \$24,750

\$250

Violation Events

Number of Violation Events 1 285 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$250

One single event is recommended.

Good Faith Efforts to Comply

25.0%

Reduction \$62

Before NOE/NOV NOE/NOV to EDRP/Settlement Offer

Extraordinary		
Ordinary	x	
N/A		

Notes

The Respondent achieved compliance on November 20, 2017, prior to the July 30, 2018 NOE.

Violation Subtotal \$188

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$270

This violation Final Assessed Penalty (adjusted for limits) \$270

Economic Benefit Worksheet

Respondent voestalpine Texas LLC (PCW 4 of 5)
Case ID No. 55381
Reg. Ent. Reference No. RN106597875
Media Water Quality
Violation No. 3

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)	\$1,000	1-Nov-2017	20-Nov-2017	0.05	\$3	n/a	\$3

Notes for DELAYED costs

Estimated cost to depict the location of each outfall on the Drainage Area Site Map. The Date Required is the date of the investigation. 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

\$1,000

TOTAL

\$3

Screening Date 13-Aug-2018
Respondent voestल्पine Texas LLC (PCW 4 of 5)
Case ID No. 55381
Reg. Ent. Reference No. RN106597875
Media [Statute] Water Quality
Enf. Coordinator Carol McGrath

Docket No. 2018-1266-MLM-E

PCW

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

Violation Number

Rule Cite(s) 30 Tex. Admin. Code §§ 281.25(a)(4) and 305.125(1), 40 CFR § 122.26(c), and TPDES MSGP No. TXR05CR67, Part IV, Section B.1(a)

Violation Description

Failed to conduct benchmark monitoring once every six months (January through June or July through December) following permit issuance and then once each subsequent semiannual period. Specifically, TPDES MSGP No. TXR05CR67 was issued on April 27, 2016, the Plant began operating in September of 2016, and the Respondent had not conducted any benchmark monitoring.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="5.0%"/>
	Potential	<input type="text"/>	<input type="text" value="x"/>	<input type="text"/>	

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="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

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Two single events are recommended for the semiannual periods ending on December 31, 2016 and on June 30, 2017.

Good Faith Efforts to Comply

Reduction

Before NOE/NOV NOE/NOV to EDRP/Settlement Offer

Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text" value="x"/>	<input type="text"/>
N/A	<input type="text"/>	<input type="text"/>

Notes

The Respondent achieved compliance on December 7, 2017, prior to the July 30, 2018 NOE.

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent voestalpine Texas LLC (PCW 4 of 5)
Case ID No. 55381
Reg. Ent. Reference No. RN106597875
Media Water Quality
Violation No. 4

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	\$500	1-Nov-2017	7-Dec-2017	0.10	\$2	n/a	\$2
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 begin conducting semiannual benchmark monitoring as required by TPDES MSGP No. TXR05CR67, Part IV, Section B.1(a). The Date Required is the investigation date 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	\$500	31-Dec-2016	1-Nov-2017	0.84	\$21	\$500	\$521
Other (as needed)	\$500	30-Jun-2017	1-Nov-2017	0.34	\$8	\$500	\$508

Notes for AVOIDED costs

The avoided cost includes the estimated amounts to collect and analyze stormwater samples for aluminum, copper, iron, total suspended solids, and zinc and record the results for benchmark monitoring (\$25 per parameter x five parameters x four outfalls). The Dates Required are the last day samples could have been collected for the two semiannual periods when sampling was not conducted and the Final Dates are the investigation date.

Approx. Cost of Compliance

\$1,500

TOTAL

\$1,031



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	7-Aug-2018	Screening	13-Aug-2018	EPA Due	
	PCW	11-Jul-2019				

RESPONDENT/FACILITY INFORMATION

Respondent	voestalpine Texas LLC (PCW 5 of 5)				
Reg. Ent. Ref. No.	RN106597875				
Facility/Site Region	14-Corpus Christi	Major/Minor Source	Major		

CASE INFORMATION

Enf./Case ID No.	55381	No. of Violations	12
Docket No.	2018-1266-MLM-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media	Water Quality	Enf. Coordinator	Carol McGrath
		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	\$172,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	0.0%	Adjustment	Subtotals 2, 3, & 7	\$0
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Notes: Since the reduction for two notices of intent to conduct an audit is below zero, the Adjustment Percentage (Subtotal 2) defaults to zero.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$22,373
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$7,189
 Estimated Cost of Compliance: \$41,166
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$149,627
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OTHER FACTORS AS JUSTICE MAY REQUIRE	3.3%	Adjustment	\$4,964
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided costs associated with compliance for Violation Nos. 5, 6, 8, 9, and 10.

Final Penalty Amount	\$154,591
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$154,591
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DEFERRAL	20.0%	Reduction	Adjustment	-\$30,918
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$123,673
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Screening Date 13-Aug-2018

Docket No. 2018-1266-MLM-E

PCW

Respondent voestalpine Texas LLC (PCW 5 of 5)

Policy Revision 4 (April 2014)

Case ID No. 55381

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106597875

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>)	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>)	2	-2%
	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

Since the reduction for two notices of intent to conduct an audit is below zero, the Adjustment Percentage (Subtotal 2) defaults to zero.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date 13-Aug-2018

Docket No. 2018-1266-MLM-E

PCW

Respondent voestalpine Texas LLC (PCW 5 of 5)

Policy Revision 4 (April 2014)

Case ID No. 55381

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106597875

Media Air

Enf. Coordinator Carol McGrath

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 101.20(3) and 116.115(b)(2)(F) and (c), New Source Review ("NSR") Permit Nos. 108113 and PSDTX1344M1, General Conditions ("GC") Nos. 1, 8, and 14 and Special Conditions ("SC") No. 1, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to comply with the maximum allowable emissions rate ("MAER"). Specifically, the Respondent exceeded the particulate matter ("PM") MAER of 0.22 ton per year ("tpy") based on a 12-month rolling period for the 12-month periods ending from January 2017 through October 2017 for the Oxide Pellet Transfer (Post Storage) Fabric Filter Stack, Emissions Point No. ("EPN") 6, resulting in 0.241 ton of unauthorized PM.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual			x	15.0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

Matrix Notes Human health or the environment has been exposed to insignificant amounts of pollutants which do 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 4 303 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$15,000

Four quarterly events are recommended for the period of non-compliance from January 1, 2017 through October 31, 2017.

Good Faith Efforts to Comply

25.0%

Reduction \$3,750

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

Notes The Respondent achieved compliance by November 30, 2017, prior to the July 30, 2018 Notice of Enforcement ("NOE").

Violation Subtotal \$11,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$493

Violation Final Penalty Total \$11,623

This violation Final Assessed Penalty (adjusted for limits) \$11,623

Economic Benefit Worksheet

Respondent voestalpine Texas LLC (PCW 5 of 5)
Case ID No. 55381
Reg. Ent. Reference No. RN106597875
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	\$1,500	1-Jan-2017	30-Jun-2017	0.49	\$37	n/a	\$37
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	1-Jan-2017	30-Nov-2017	0.91	\$456	n/a	\$456

Notes for DELAYED costs

Estimated cost to implement measures and procedures in order to ensure that the baghouses for EPNs 6 and 7D were operating properly during normal operations (\$1,500) and to demonstrate compliance with the PM annual MAER for EPN 6 (\$10,000). The Date Required is the initial date of non-compliance and the Final Dates are the dates 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

\$11,500

TOTAL

\$493

Screening Date 13-Aug-2018 **Docket No.** 2018-1266-MLM-E **PCW**
Respondent voestalpine Texas LLC (PCW 5 of 5) *Policy Revision 4 (April 2014)*
Case ID No. 55381 *PCW Revision March 26, 2014*
Reg. Ent. Reference No. RN106597875
Media Air
Enf. Coordinator Carol McGrath

Violation Number 2
Rule Cite(s) 30 Tex. Admin. Code §§ 101.20(3) and 116.115(b)(2)(F) and (c), NSR Permit Nos. 108113 and PSDTX1344M1, GC Nos. 1, 8, and 14 and SC No. 1, and Tex. Health & Safety Code § 382.085(b)
Violation Description Failed to comply with the MAER. Specifically, the Respondent exceeded the PM MAER of 0.22 tpy based on a 12-month rolling period for the 12-month periods ending from January 2017 through November 2017 for the Oxide Tower Transfer Fabric Filter Stack, EPN 7D, resulting in 0.0022 ton of unauthorized PM.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual			X	15.0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

Matrix Notes Human health or the environment has been exposed to insignificant amounts of pollutants which do 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 4 333 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$15,000

Four quarterly events are recommended for the period of non-compliance from January 1, 2017 through November 30, 2017.

Good Faith Efforts to Comply 25.0% Reduction \$3,750

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

Notes The Respondent achieved compliance by December 31, 2017, prior to the July 30, 2018 NOE.

Violation Subtotal \$11,250

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

Estimated EB Amount \$499 **Violation Final Penalty Total** \$11,623

This violation Final Assessed Penalty (adjusted for limits) \$11,623

Economic Benefit Worksheet

Respondent voestalpine Texas LLC (PCW 5 of 5)
Case ID No. 55381
Reg. Ent. Reference No. RN106597875
Media Air
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

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	1-Jan-2017	31-Dec-2017	1.00	\$499	n/a	\$499

Notes for DELAYED costs

Estimated cost to demonstrate compliance with the PM annual MAER for EPN 7D. The Date Required is the initial date of non-compliance 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

\$499

Screening Date 13-Aug-2018 **Docket No.** 2018-1266-MLM-E **PCW**
Respondent voestalpine Texas LLC (PCW 5 of 5)
Case ID No. 55381
Reg. Ent. Reference No. RN106597875
Media Air
Enf. Coordinator Carol McGrath

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

Violation Number 3
Rule Cite(s) 30 Tex. Admin. Code §§ 101.20(3) and 116.115(b)(2)(F) and (c), NSR Permit Nos. 108113 and PSDTX1344M1, GC Nos. 1, 8, and 14 and SC No. 1, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to comply with the MAERs. Specially, the Respondent exceeded the PM, the PM equal to or less than 10 microns in diameter ("PM10"), and the PM equal to or less than 2.5 microns in diameter ("PM2.5") MAERs of 18.39 tpy based on a 12-month rolling period for the 12-month periods ending from March 2017 through November 2017 for the Reformer Main Flue Ejector Stack, EPN 29, resulting in 55.68 tons of unauthorized PM.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual		x		30.0%
	Potential				

>> 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 9 274 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$67,500

Nine monthly events are recommended for the period of non-compliance from March 1, 2017 through November 30, 2017.

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 \$67,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$69,739

This violation Final Assessed Penalty (adjusted for limits) \$69,739

Economic Benefit Worksheet

Respondent voestalpine Texas LLC (PCW 5 of 5)
Case ID No. 55381
Reg. Ent. Reference No. RN106597875
Media Air
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

See Economic Benefit in Violation No. 3 for PCW 1.

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

\$0

TOTAL

\$0

Screening Date 13-Aug-2018
Respondent voestalpine Texas LLC (PCW 5 of 5)
Case ID No. 55381
Reg. Ent. Reference No. RN106597875
Media Air
Enf. Coordinator Carol McGrath

Docket No. 2018-1266-MLM-E

PCW

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

Violation Number
Rule Cite(s)

30 Tex. Admin. Code §§ 101.20(3) and 116.115(b)(2)(F) and (c), NSR Permit Nos. 108113 and PSDTX1344M1, GC Nos. 1, 8, and 14 and SC No. 1, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to comply with the MAERs. Specifically, the Respondent exceeded the PM MAER of 11.44 tpy based on a 12-month rolling period and the PM10 and PM2.5 MAERs of 0.34 tpy based on a 12-month rolling period for the 12-month periods ending from June 2017 through November 2017 for the Salt Water Cooling Tower, EPN 33, resulting in 4.42 tons of unauthorized PM.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="text" value="x"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

>> Programmatic Matrix

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

Percent

Matrix Notes

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

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Two quarterly events are recommended for the period of non-compliance from June 1, 2017 through November 30, 2017.

Good Faith Efforts to Comply

Reduction

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

Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	<input type="text"/>

Notes

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

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent voestalpine Texas LLC (PCW 5 of 5)
Case ID No. 55381
Reg. Ent. Reference No. RN106597875
Media Air
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

See Economic Benefit in Violation No. 3 for PCW 1.

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

\$0

TOTAL

\$0

Screening Date 13-Aug-2018
Respondent voestalpine Texas LLC (PCW 5 of 5)
Case ID No. 55381
Reg. Ent. Reference No. RN106597875
Media Air
Enf. Coordinator Carol McGrath

Docket No. 2018-1266-MLM-E

PCW

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

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code §§ 101.20(3) and 116.115(c), NSR Permit Nos. 108113 and PSDTX1344M1, SC No. 6, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to conduct quarterly visible emissions observations. Specifically, the Respondent did not conduct quarterly visible emissions observations for 13 EPNs from the second quarter of 2016 through the third quarter of 2017.

Base Penalty \$25,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
		Actual			
Potential		x			

>> **Programmatic Matrix**

Matrix Notes	Falsification	Major	Moderate	Minor	Percent

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 6 548 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$22,500

Six quarterly events are recommended for the six missed quarterly visible emissions observations.

Good Faith Efforts to Comply

25.0%

Reduction \$5,625

Before NOE/NOV NOE/NOV to EDRP/Settlement Offer

Extraordinary	
Ordinary	x
N/A	

Notes: The Respondent achieved compliance by March 31, 2018, prior to the July 30, 2018 NOE.

Violation Subtotal \$16,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,559

Violation Final Penalty Total \$17,435

This violation Final Assessed Penalty (adjusted for limits) \$17,435

Economic Benefit Worksheet

Respondent voestalpine Texas LLC (PCW 5 of 5)
Case ID No. 55381
Reg. Ent. Reference No. RN106597875
Media Air
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

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

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)	\$250	1-Nov-2017	31-Mar-2018	0.41	\$5	n/a	\$5

Notes for DELAYED costs

Estimated cost to begin conducting quarterly visible emissions observations of EPNs 4A, 4B, 5A, 5B, 6, 7A, 7B, 7C, 7D, 8, 16, 17, and 29. The Date Required is the investigation date 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)	\$1,547	30-Sep-2017	1-Nov-2017	0.09	\$7	\$1,547	\$1,554

Notes for AVOIDED costs

Estimated avoided costs plus accrued interest to conduct visible emissions observations of EPNs 4A, 4B, 5A, 5B, 6, 7A, 7B, 7C, 7D, 8, 16, 17, and 29 at least once in each calendar quarter (six quarters with at least one missed observation @ \$250/quarter plus \$47 interest that began accruing on June 30, 2016, September 30, 2016, December 31, 2016, March 31, 2017, and June 30, 2017 - the end dates of the first five calendar quarters when visible observations were missed). The Date Required is the last day of the last calendar quarter when the visible emissions observations could have been conducted and the Final Date is the investigation date.

Approx. Cost of Compliance

\$1,797

TOTAL

\$1,559

Screening Date 13-Aug-2018 **Docket No.** 2018-1266-MLM-E **PCW**
Respondent voestalpine Texas LLC (PCW 5 of 5)
Case ID No. 55381
Reg. Ent. Reference No. RN106597875
Media Air
Enf. Coordinator Carol McGrath

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

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code §§ 101.20(3) and 116.115(c), NSR Permit Nos. 108113 and PSDTX1344M1, SC No. 7, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to conduct quarterly visible emissions observations. Specifically, the Respondent did not conduct quarterly fugitive visible emissions observations of the process buildings and/or fugitive sources for the second, third, and fourth quarters of 2016 and the first quarter of 2017.

Base Penalty \$25,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				7.0%
	Potential			x	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
					0.0%

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

Adjustment \$23,250

\$1,750

Violation Events

Number of Violation Events 4 365 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$7,000

Four single events are recommended for the four missed quarterly visible emissions observations.

Good Faith Efforts to Comply

25.0%

Reduction \$1,750

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

Extraordinary		
Ordinary	x	
N/A		

Notes The Respondent achieved compliance on May 25, 2017, prior to the July 30, 2018 NOE.

Violation Subtotal \$5,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,027

Violation Final Penalty Total \$5,424

This violation Final Assessed Penalty (adjusted for limits) \$5,424

Economic Benefit Worksheet

Respondent voestalpine Texas LLC (PCW 5 of 5)
Case ID No. 55381
Reg. Ent. Reference No. RN106597875
Media Air
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

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)	\$1,019	31-Mar-2017	25-May-2017	0.15	\$8	\$1,019	\$1,027

Notes for AVOIDED costs

Estimated avoided costs plus accrued interest to conduct fugitive visible emissions observations of the process buildings and/or fugitive sources at least once in each calendar quarter (four quarters of missed observations @ \$250/quarter plus \$19 interest that began accruing on June 30, 2016, September 30, 2016, and December 31, 2016 - the end dates of the first three calendar quarters when visible observations were missed). The Date Required is the last day of the last calendar quarter when the visible emissions observation could have been conducted and the Final Date is the date of compliance.

Approx. Cost of Compliance \$1,019

TOTAL \$1,027

Screening Date 13-Aug-2018
Respondent voestalpine Texas LLC (PCW 5 of 5)
Case ID No. 55381
Reg. Ent. Reference No. RN106597875
Media Air
Enf. Coordinator Carol McGrath

Docket No. 2018-1266-MLM-E

PCW

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

Violation Number
Rule Cite(s)

30 Tex. Admin. Code §§ 101.20(3) and 116.115(c), NSR Permit Nos. 108113 and PSDTX1344M1, SC No. 42D, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to maintain records for the quarterly inspections. Specifically, the Respondent did not maintain records for the quarterly inspections of the hoods and ductwork for the emission capture and control systems in the third and fourth quarters of 2016.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

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

Percent

>> Programmatic Matrix

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

Percent

Matrix Notes

100% of the rule requirement was not met.

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

One single events is recommended.

Good Faith Efforts to Comply

Reduction

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

Extraordinary	<input type="text"/>
Ordinary	<input checked="" type="text" value="x"/>
N/A	<input type="text"/>

Notes: The Respondent achieved compliance by May 31, 2017, prior to the July 30, 2018 NOE.

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent voestalpine Texas LLC (PCW 5 of 5)
Case ID No. 55381
Reg. Ent. Reference No. RN106597875
Media Air
Violation No. 7

Percent Interest	Years of Depreciation
5.0	15

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

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	\$1,500	1-Jul-2016	31-May-2017	0.92	\$69	n/a	\$69
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to begin maintaining records for the quarterly inspections of the hoods and ductwork for the emission capture and control systems. The Date Required is the date of noncompliance 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

\$1,500

TOTAL

\$69

Screening Date 13-Aug-2018
Respondent voestalpine Texas LLC (PCW 5 of 5)
Case ID No. 55381
Reg. Ent. Reference No. RN106597875
Media Air
Enf. Coordinator Carol McGrath

Docket No. 2018-1266-MLM-E

PCW

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

Violation Number 8
Rule Cite(s)

30 Tex. Admin. Code §§ 101.20(3) and 116.115(c), NSR Permit Nos. 108113 and PSDTX1344M1, SC No. 25A, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to sample the cooling water for the concentration of total dissolved solids ("TDS") once a week. Specifically the Respondent did not sample the cooling water TDS concentrations for the Salt Water Cooling Tower, EPN 33, for 11 weeks from September 26, 2016 through December 11, 2016.

Base Penalty \$25,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				15.0%
	Potential		x		

>> **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 77 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One quarterly event is recommended for the period of non-compliance from September 26, 2016, through December 11, 2016.

Good Faith Efforts to Comply

25.0%

Reduction \$937

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

Extraordinary		
Ordinary	x	
N/A		

Notes The Respondent achieved compliance on December 18, 2016, prior to the July 30, 2018 NOE.

Violation Subtotal \$2,813

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$276

Violation Final Penalty Total \$2,906

This violation Final Assessed Penalty (adjusted for limits) \$2,906

Economic Benefit Worksheet

Respondent voestalpine Texas LLC (PCW 5 of 5)
Case ID No. 55381
Reg. Ent. Reference No. RN106597875
Media Air
Violation No. 8

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0
Notes for DELAYED costs							

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)	\$276	11-Dec-2016	18-Dec-2016	0.02	\$0	\$276	\$276
Notes for AVOIDED costs Estimated avoided costs plus accrued interest to conduct sampling of cooling water for TDS once a week (11 missed samples @ \$25/sample plus \$1 interest that began accruing on October 2, 2016, October 9, 2016, October 16, 2016, October 23, 2016, October 30, 2016, November 6, 2016, November 13, 2016, November 20, 2016, November 27, 2016, and December 4, 2016 - the end dates of the first ten weeks when sampling and analyzing of cooling water for TDS were missed). The Date Required is the last day of the last week when the sampling and analyzing of cooling water could have been conducted and the Final Date is the compliance date.							

Approx. Cost of Compliance	\$276	TOTAL	\$276
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Screening Date 13-Aug-2018 **Docket No.** 2018-1266-MLM-E **PCW**
Respondent voestalpine Texas LLC (PCW 5 of 5) *Policy Revision 4 (April 2014)*
Case ID No. 55381 *PCW Revision March 26, 2014*
Reg. Ent. Reference No. RN106597875
Media Air
Enf. Coordinator Carol McGrath

Violation Number 9
Rule Cite(s) 30 Tex. Admin. Code §§ 101.20(3) and 116.115(c), NSR Permit Nos. 108113 and PSDTX1344M1, SC No. 25A, and Tex. Health & Safety Code § 382.085(b)
Violation Description Failed to sample the cooling water once a day for conductivity or monitor the cooling water continuously for conductivity. Specifically, the Respondent did not sample and analyze the cooling water conductivity for the Salt Water Cooling Tower, EPN 33, on 34 days: October 1, 2016, October 5 through 10, 2016, October 12 through 24, 2016, October 26 through 31, 2016, November 6, 2016, November 13, 2016, November 20, 2016, November 27, 2016, December 4, 2016, December 11, 2016, December 18, 2016, and December 25, 2016.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent
	Major	Moderate	Minor	
	Actual	Potential	x	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent

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 34 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One quarterly event is recommended for the instances of non-compliance that occurred from October 1, 2016 to December 25, 2016.

Good Faith Efforts to Comply 25.0% Reduction \$937

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

Notes The Respondent achieved compliance on December 26, 2016, prior to the July 30, 2018 NOE.

Violation Subtotal \$2,813

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

Estimated EB Amount \$882 **Violation Final Penalty Total** \$2,906

This violation Final Assessed Penalty (adjusted for limits) \$2,906

Economic Benefit Worksheet

Respondent voestalpine Texas LLC (PCW 5 of 5)
Case ID No. 55381
Reg. Ent. Reference No. RN106597875
Media Air
Violation No. 9

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

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)	\$882	25-Dec-2016	26-Dec-2016	0.00	\$0	\$882	\$882

Notes for AVOIDED costs

Estimated avoided costs plus accrued interest to conduct sampling of the cooling water for conductivity once a day (34 missed samples @ \$25/sample plus \$32 interest that began accruing on October 1, 2016 and the other 32 days preceding the last documented day when sampling and analyzing of cooling water for conductivity were missed). The Date Required is the last day when the sampling and analyzing of cooling water was not conducted and the Final Date is the compliance date.

Approx. Cost of Compliance

\$882

TOTAL

\$882

Screening Date 13-Aug-2018 **Docket No.** 2018-1266-MLM-E **PCW**
Respondent voestalpine Texas LLC (PCW 5 of 5) *Policy Revision 4 (April 2014)*
Case ID No. 55381 *PCW Revision March 26, 2014*
Reg. Ent. Reference No. RN106597875
Media Air
Enf. Coordinator Carol McGrath

Violation Number 10
Rule Cite(s) 30 Tex. Admin. Code §§ 101.20(3) and 116.115(c), NSR Permit Nos. 108113 and PSDTX1344M1, SC No. 30, and Tex. Health & Safety Code § 382.085(b)
Violation Description Failed to conduct daily visible emissions observations for the wet scrubbers. Specifically, the Respondent did not conduct daily visible emissions observations for the Furnace Dedusting (BSG Dust Collection) Wet Scrubber Stack, EPN 8, and the Hot Pressure Relief Vent (Flare), EPN 38, on 284 days and did not to conduct daily visible emissions observations for the Briquetter Dedusting Scrubber Stack, EPN 9, and the Hot Briquette Iron Cooling Conveyer Scrubber Stack, EPN 11, on 286 days during the time period from September 28, 2016 to December 6, 2017.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					15.0%
Potential		x			

>> 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: 5 286 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$18,750

Five quarterly events are recommended for the instances of non-compliance that occurred from September 28, 2016 to December 6, 2017.

Good Faith Efforts to Comply

25.0% Reduction \$4,687

	Before NOE/NOV	NOE/NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		

Notes The Respondent achieved compliance on December 7, 2017, prior to the July 30, 2018 NOE.

Violation Subtotal \$14,063

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,225 **Violation Final Penalty Total** \$14,530

This violation Final Assessed Penalty (adjusted for limits) \$14,530

Economic Benefit Worksheet

Respondent voestalpine Texas LLC (PCW 5 of 5)
Case ID No. 55381
Reg. Ent. Reference No. RN106597875
Media Air
Violation No. 10

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)				0.00	\$0	n/a	\$0
Notes for DELAYED costs							

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	\$1,000	28-Sep-2016	7-Dec-2017	1.19	\$33	\$1,192	\$1,225
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							

Estimated avoided costs to conduct daily visible emissions observations (based on \$250 per quarter, annualized). The Date Required is the first day when the visible emissions observations were not conducted and the Final Date is the compliance date.

Approx. Cost of Compliance \$1,192

TOTAL \$1,225

Screening Date 13-Aug-2018
Respondent voestalpine Texas LLC (PCW 5 of 5)
Case ID No. 55381
Reg. Ent. Reference No. RN106597875
Media Air
Enf. Coordinator Carol McGrath

Docket No. 2018-1266-MLM-E

PCW

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

Violation Number 11

Rule Cite(s) 30 Tex. Admin. Code §§ 106.6(c) and 106.261, Permit By Rule Registration No. 147082, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to comply with the certified emissions rate. Specifically the Respondent exceeded the certified PM2.5 emissions rate of 0.01 tpy based on any consecutive 12-month period for the 12-month periods ending from October 2017 through November 2017 for the 75,000 metric tons Grade C Hot Briquette Iron, EPN 44, resulting in 0.01 ton of unauthorized PM2.5.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual			X	15.0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

Matrix Notes Human health or the environment has been exposed to insignificant amounts of pollutants that do 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 61 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One quarterly event is recommended for the period of non-compliance from October 1, 2017 through November 30, 2017.

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 \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$118

Violation Final Penalty Total \$3,874

This violation Final Assessed Penalty (adjusted for limits) \$3,874

Economic Benefit Worksheet

Respondent voestalpine Texas LLC (PCW 5 of 5)
Case ID No. 55381
Reg. Ent. Reference No. RN106597875
Media Air
Violation No. 11

Percent Interest	Years of Depreciation
5.0	15

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

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	\$1,500	1-Oct-2017	28-Feb-2018	0.41	\$31	n/a	\$31
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	1-Oct-2017	30-Nov-2018	1.16	\$87	n/a	\$87

Notes for DELAYED costs

Estimated costs to implement measures in order to decrease the level of throughput at EPN 44 (\$1,500) and to demonstrate compliance with the certified PM2.5 emissions rate for EPN 44 (\$1,500). The Date Required is the initial date of non-compliance and the Final Dates are the dates 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

\$3,000

TOTAL

\$118

Screening Date 13-Aug-2018
Respondent voestalpine Texas LLC (PCW 5 of 5)
Case ID No. 55381
Reg. Ent. Reference No. RN106597875
Media Air
Enf. Coordinator Carol McGrath

Docket No. 2018-1266-MLM-E

PCW

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

V12

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="x"/>	<input type="text" value="15.0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Good Faith Efforts to Comply

Reduction

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

Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="x"/>	<input type="text"/>

Notes

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent voestalpine Texas LLC (PCW 5 of 5)
Case ID No. 55381
Reg. Ent. Reference No. RN106597875
Media Air
Violation No. 12

Percent Interest	Years of Depreciation
5.0	15

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

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	1-Nov-2017	1-Dec-2019	2.08	\$1,041	n/a	\$1,041

Notes for DELAYED costs

Estimated cost to implement measures and/or procedures designed to prevent visible iron oxide and/or metallic iron fugitive emissions from process buildings or fugitive sources from leaving the property. The Date Required is the observed date of non-compliance 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

\$1,041

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 CN604261545, RN106597875, Rating Year 2017 which includes Compliance History (CH) components from September 1, 2012, through August 31, 2017.

Customer, Respondent, or Owner/Operator: CN604261545, voestalpine Texas LLC **Classification:** SATISFACTORY **Rating:** 0.63

Regulated Entity: RN106597875, LA QUINTA PLANT **Classification:** SATISFACTORY **Rating:** 0.63

Complexity Points: 17 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 2800 KAY BAILEY HUTCHISON RD, SAN PATRICIO COUNTY, PORTLAND, TX 78374-7400

TCEQ Region: REGION 14 - CORPUS CHRISTI

ID Number(s):

AIR NEW SOURCE PERMITS EPA PERMIT PSDTX1344

AIR NEW SOURCE PERMITS PERMIT 108113

AIR NEW SOURCE PERMITS EPA PERMIT GHGPSDTX43

AIR NEW SOURCE PERMITS REGISTRATION 147082

WASTEWATER EPA ID TX0134911

AIR OPERATING PERMITS PERMIT 3903

TAX RELIEF ID NUMBER 20334

TAX RELIEF ID NUMBER 20390

INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXR000084679

INDUSTRIAL AND HAZARDOUS WASTE OTS REQUEST 40074

POLLUTION PREVENTION PLANNING ID NUMBER P09963

AIR NEW SOURCE PERMITS EPA PERMIT PSDTX1344M1

AIR NEW SOURCE PERMITS REGISTRATION 134619

AIR NEW SOURCE PERMITS REGISTRATION 150444

AIR NEW SOURCE PERMITS AFS NUM 4840900240

WASTEWATER PERMIT WQ0005097000

STORMWATER PERMIT TXR05CR67

TAX RELIEF ID NUMBER 20387

INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 97213

INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXP490353846

AIR EMISSIONS INVENTORY ACCOUNT NUMBER SDA012L

Compliance History Period: September 01, 2012 to August 31, 2017 **Rating Year:** 2017 **Rating Date:** 09/01/2017

Date Compliance History Report Prepared: August 13, 2018

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: August 13, 2013 to August 13, 2018

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:

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	December 18, 2013	(1134111)
Item 2	September 13, 2016	(1374639)
Item 3	October 03, 2016	(1380794)

Item 4	October 27, 2016	(1374633)
Item 5	November 01, 2016	(1386751)
Item 6	December 01, 2016	(1392873)
Item 7	December 15, 2016	(1399476)
Item 8	February 01, 2017	(1406392)
Item 9	April 03, 2017	(1419958)
Item 10	May 01, 2017	(1427598)
Item 11	May 15, 2017	(1407219)
Item 12	June 01, 2017	(1433613)
Item 13	September 01, 2017	(1452439)
Item 14	October 06, 2017	(1458302)
Item 15	November 13, 2017	(1463747)
Item 16	December 11, 2017	(1470192)
Item 17	January 19, 2018	(1476900)
Item 18	February 19, 2018	(1489032)
Item 19	March 19, 2018	(1492683)
Item 20	April 16, 2018	(1495996)
Item 21	May 03, 2018	(1502972)

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:

Notice of Intent Date: 05/25/2018 (1498261)
No DOV Associated

Notice of Intent Date: 05/29/2018 (1498257)
No DOV Associated

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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Compliance History Report

Compliance History Report for CN604261545, RN106597875, Rating Year 2017 which includes Compliance History (CH) components from September 1, 2012, through August 31, 2017.

Customer, Respondent, or Owner/Operator: CN604261545, voestalpine Texas LLC **Classification:** SATISFACTORY **Rating:** 0.24
Regulated Entity: RN106597875, LA QUINTA PLANT **Classification:** SATISFACTORY **Rating:** 0.24
Complexity Points: 15 **Repeat Violator:** NO
CH Group: 14 - Other
Location: 2800 KAY BAILEY HUTCHISON ROAD, PORTLAND, SAN PATRICIO COUNTY, TEXAS 78374
TCEQ Region: REGION 14 - CORPUS CHRISTI

ID Number(s):

AIR NEW SOURCE PERMITS EPA PERMIT PSDTX1344	AIR NEW SOURCE PERMITS EPA PERMIT PSDTX1344M1
AIR NEW SOURCE PERMITS PERMIT 108113	AIR NEW SOURCE PERMITS REGISTRATION 134619
AIR NEW SOURCE PERMITS EPA PERMIT GHGPSDTX43	AIR NEW SOURCE PERMITS REGISTRATION 147082
AIR NEW SOURCE PERMITS AFS NUM 4840900240	WASTEWATER EPA ID TX0134911
WASTEWATER PERMIT WQ0005097000	AIR OPERATING PERMITS PERMIT 3903
TAX RELIEF ID NUMBER 20334	TAX RELIEF ID NUMBER 20387
TAX RELIEF ID NUMBER 20390	AIR EMISSIONS INVENTORY ACCOUNT NUMBER SDA012L
TIER II ID NUMBER 74659	

Compliance History Period: September 01, 2012 to August 31, 2017 **Rating Year:** 2017 **Rating Date:** 09/01/2017

Date Compliance History Report Prepared: November 07, 2017

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: November 07, 2012 to November 07, 2017

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:

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	December 18, 2013	(1134111)
Item 2	September 13, 2016	(1374639)
Item 3	October 03, 2016	(1380794)
Item 4	October 27, 2016	(1374633)
Item 5	November 01, 2016	(1386751)

Item 6	December 01, 2016	(1392873)
Item 7	December 15, 2016	(1399476)
Item 8	February 01, 2017	(1406392)
Item 9	April 03, 2017	(1419958)
Item 10	May 01, 2017	(1427598)
Item 11	May 15, 2017	(1407219)
Item 12	June 01, 2017	(1433613)

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

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

- 1 Date: 02/28/2017 (1413507)
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

- 2 Date: 06/30/2017 (1442170)
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

- 3 Date: 07/31/2017 (1445833)
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

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

K. Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
VOESTALPINE TEXAS LLC
RN106597875**

**§
§
§
§
§**

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2018-1266-MLM-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 voestalpine Texas LLC (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent, represented by Marshall Coover of the law firm of Texas Star Alliance, together stipulate that:

1. The Respondent owns and operates a direct reduced iron/hot briquetting iron production plant located at 2800 Kay Bailey Hutchison Road in Portland, San Patricio County, Texas (the "Plant"). The Plant consists or consisted of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12) and is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
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. WATER CODE ch. 26, 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 \$658,926 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$263,571 of the penalty and \$131,785 of the penalty is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order and shall be waived only upon full compliance with all the terms and conditions of this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms and conditions contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.

Pursuant to TEX. WATER CODE § 7.067, \$263,570 of the penalty shall be conditionally offset by the Respondent's timely and satisfactory completion of two Supplemental Environmental Projects ("SEPs") as defined in the attached SEP Agreements ("Attachment A" and "Attachment B", 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.

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 the Respondent implemented the following corrective measures at the Plant:
 - a. On December 18, 2016, began sampling the cooling water for the concentration of total dissolved solids ("TDS") once a week;
 - b. On December 26, 2016, began sampling the cooling water for the conductivity once a day;
 - c. On May 25, 2017, began conducting quarterly fugitive visible emissions observations of the process buildings and/or fugitive sources;
 - d. By May 31, 2017, began maintaining records for the quarterly inspections of the hoods and ductwork for the emission capture and control systems;
 - e. By June 30, 2017, implemented measures and procedures in order to ensure that the baghouses for Emissions Point Numbers ("EPNs") 6 and 7D were operating properly during normal operations;
 - f. On July 6, 2017, obtained Permit by Rule ("PBR") Registration No. 147082 to authorize storage piles at the Plant;

- g. By November 11, 2017, evaluated the stormwater system and certified that discharges of non-stormwater and non-permitted flows do not occur;
- h. By November 17, 2017, provided employees with stormwater pollution prevention training;
- i. On November 20, 2017, depicted the location of each outfall on the Drainage Area Site Map;
- j. By November 30, 2017, demonstrated compliance with the particulate matter ("PM") annual maximum allowable emissions rate ("MAER") for EPN 6;
- k. On December 7, 2017, began conducting daily visible emissions observations of EPNs 8, 9, 11, and 38;
- l. On December 7, 2017, began conducting semiannual benchmark monitoring as required by Texas Pollutant Discharge Elimination System ("TPDES") Multi-Sector General Permit ("MSGP") No. TXR05CR67, Part IV, Section B.1(a);
- m. By December 31, 2017, demonstrated compliance with the PM annual MAER for EPN 7D;
- n. By February 28, 2018, implemented measures in order to decrease the level of throughput at EPN 44;
- o. By March 31, 2018, began conducting quarterly visible emissions observations of EPNs 4A, 4B, 5A, 5B, 6, 7A, 7B, 7C, 7D, 8, 16, 17, and 29;
- p. By November 30, 2018, demonstrated compliance with the certified particulate matter equal to or less than 2.5 microns in diameter ("PM2.5") emissions rate for EPN 44;
- q. On January 22, 2019, obtained a revision for PBR Registration No. 147082 to certify the revised emissions and to represent that the fugitive dust emissions from the storage piles are controlled by a water spray and/or dust suppressant spray;
- r. On May 30, 2019, submitted an amendment application for New Source Review ("NSR") Permit Nos. 108113 and PSDTX1344M that includes the incorporation of PBR No. 147082; the increase of the carbon monoxide ("CO") hourly MAER for EPN 8; the increase of the PM, particulate matter equal to or less than 10 microns in diameter ("PM10"), and PM2.5 MAERs for EPN 29; and the amendment of the PM, PM10, and PM2.5 MAERs for EPN 33;
- s. By June 1, 2019, removed the five non-enclosed storage piles containing iron ore pellets and has ensured that all iron ore pellets are stored in enclosed storage in order to comply with NSR Permit Nos 108113 and PSDTX1344M1; and
- t. On January 21, 2020, obtained approval for the plan (the "Plan") dated November 11, 2019 that identified measures taken to date, proposed upgrades

and changes to equipment and work practices, incorporated best management practices, and provided schedules and plans for implementation in order to address visible iron oxide and/or metallic iron fugitive emissions from process buildings or fugitive sources from leaving the property and to address iron oxide and/or metallic iron dust from creating nuisance conditions.

II. ALLEGATIONS

1. During an investigation conducted on from May 16, 2017 through October 16, 2017, an investigator documented that the Respondent:
 - a. Failed to prevent nuisance conditions, in violation of 30 TEX. ADMIN. CODE § 101.4 and TEX. HEALTH & SAFETY CODE § 382.085(a) and (b). Specifically, on May 16, 2017, May 17, 2017, May 18, 2017, May 19, 2017, May 20, 2017, May 23, 2017, May 24, 2017, May 25, 2017, May 26, 2017, May 30, 2017, June 2, 2017, June 5, 2017, June 8, 2017, June 13, 2017, June 15, 2017, June 23, 2017, June 30, 2017, July 13, 2017, July 19, 2017, September 8, 2017, and October 16, 2017, TCEQ staff documented iron ore dust at 141 off-site properties. Laboratory analysis of tape-lift samples that were collected from 20 of the off-site properties indicated that the dust particles had diameters and x-ray spectra consistent with the reference samples taken from the outdoor stockpiles at the Plant.
 - b. Failed to store iron ore pellets in enclosed storage, in violation of 30 TEX. ADMIN. CODE §§ 101.20(3) and 116.115(c), NSR Permit Nos. 108113 and PSDTX1344M1, Special Conditions ("SC") No. 17, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, TCEQ staff observed five non-enclosed storage piles containing iron ore pellets.
 - c. Failed to obtain a permit amendment prior to constructing and operating additional sources of air contaminants, in violation of 30 TEX. ADMIN. CODE §§ 116.110(a) and 116.116(b)(1) and TEX. HEALTH & SAFETY CODE §§ 382.085(b) and 382.0518(a). Specifically, the Respondent did not obtain a permit amendment before operating additional non-enclosed stockpiles containing fines, clusters, chips, sludge, and remet.
2. During an investigation conducted from November 14, 2017 through January 22, 2018, an investigator documented that the Respondent failed to prevent nuisance conditions, in violation of 30 TEX. ADMIN. CODE § 101.4 and TEX. HEALTH & SAFETY CODE § 382.085(a) and (b). Specifically, TCEQ staff documented iron ore dust nuisance conditions at three off-site properties on November 15, 2017 and December 1, 2017 and obtained citizen-collected evidence from one of the properties that documented additional dust nuisance conditions on November 9, 2017, November 16, 2017, and December 19, 2017. Laboratory analysis of tape-lift samples that were collected from two of the off-site properties indicated that the dust particles had diameters and x-ray spectra consistent with the reference samples taken from the outdoor stockpiles at the Plant.
3. During a record review conducted from November 24, 2017 through April 17, 2018, an investigator documented that the Respondent:

- a. Failed to comply with the MAER, in violation of 30 TEX. ADMIN. CODE §§ 101.20(3), 116.115(b)(2)(F) and (c), and 122.143(4), NSR Permit Nos. 108113 and PSDTX1344M1, General Conditions ("GC") Nos. 1, 8, and 14 and SC No. 1, Federal Operating Permit ("FOP") No. O3903, General Terms and Conditions ("GTC") and Special Terms and Conditions ("STC") No. 7, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, during stack testing conducted on March 8 and 9, 2017, the Respondent exceeded the PM MAER of 4.20 pounds per hour ("lbs/hr") by 13.42 lbs/hr for the Reformer Main Flue Ejector Stack, EPN 29, resulting in 139,782.72 lbs of unauthorized PM.
 - b. Failed to comply with the MAER, in violation of 30 TEX. ADMIN. CODE §§ 101.20(3), 116.115(b)(2)(F) and (c), and 122.143(4), NSR Permit Nos. 108113 and PSDTX1344M1, GC Nos. 1, 8, and 14 and SC No. 1, FOP No. O3903, GTC and STC No. 7, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, during a stack test conducted on March 15, 2017, the Respondent exceeded the CO MAER of 873.00 lbs/hr by 17.58 lbs/hr for the Furnace Dedusting Wet Scrubber Stack, EPN 8, resulting in 180,159.8 lbs of unauthorized CO.
4. During an investigation conducted from November 1, 2017 through June 14, 2018, an investigator documented that the Respondent:
- a. Failed to conduct employee training at least once per year, in violation of 30 TEX. ADMIN. CODE §§ 281.25(a)(4) and 305.125(1), 40 CODE OF FEDERAL REGULATIONS ("CFR") § 122.26(c), and TPDES MSGP No. TXR05CR67, Part III, Section A.4(f)(1). Specifically, operations at the Plant began in September of 2016 but employees had not received training on the stormwater pollution prevention plan.
 - b. Failed to certify that the Plant's stormwater system has been evaluated and that discharges of non-stormwater and non-permitted flows do not occur, in violation of 30 TEX. ADMIN. CODE §§ 281.25(a)(4) and 305.125(1), 40 CFR § 122.26(c), and TPDES MSGP No. TXR05CR67, Part III, Section B.1(c). Specifically, the stormwater pollution prevention plan certification was not available for review upon request.
 - c. Failed to identify all stormwater outfalls at the Plant, in violation of 30 TEX. ADMIN. CODE §§ 281.25(a)(4) and 305.125(1), 40 CFR § 122.26(c), and TPDES MSGP No. TXR05CR67, Part III, Section A.3(d)(1). Specifically, the Respondent depicted one stormwater outfall on the Drainage Area Site Map, but additional outfalls were identified around the dock area and on the north side of the Plant.
 - d. Failed to conduct benchmark monitoring once every six months (January through June or July through December) following permit issuance and then once each subsequent semiannual period, in violation of 30 TEX. ADMIN. CODE §§ 281.25(a)(4) and 305.125(1), 40 CFR § 122.26(c), and TPDES MSGP No. TXR05CR67, Part IV, Section B.1(a). Specifically, TPDES MSGP No. TXR05CR67 was issued on April 27, 2016, the Plant began operating in September 2016, and the Respondent had not conducted any benchmark monitoring.

- e. Failed to comply with the MAER, in violation of 30 TEX. ADMIN. CODE §§ 101.20(3) and 116.115(b)(2)(F) and (c), NSR Permit Nos. 108113 and PSDTX1344M1, GC Nos. 1, 8, and 14 and SC No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent exceeded the PM MAER of 0.22 ton per year ("tpy") based on a 12-month rolling period for the 12-month periods ending from January 2017 through October 2017 for the Oxide Pellet Transfer (Post Storage) Fabric Filter Stack, EPN 6, resulting in 0.241 ton of unauthorized PM.
- f. Failed to comply with the MAER, in violation of 30 TEX. ADMIN. CODE §§ 101.20(3) and 116.115(b)(2)(F) and (c), NSR Permit Nos. 108113 and PSDTX1344M1, GC Nos. 1, 8, and 14 and SC No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent exceeded the PM MAER of 0.22 tpy based on a 12-month rolling period for the 12-month periods ending from January 2017 through November 2017 for the Oxide Tower Transfer Fabric Filter Stack, EPN 7D, resulting in 0.0022 ton of unauthorized PM.
- g. Failed to comply with the MAERs, in violation of 30 TEX. ADMIN. CODE §§ 101.20(3) and 116.115(b)(2)(F) and (c), NSR Permit Nos. 108113 and PSDTX1344M1, GC Nos. 1, 8, and 14 and SC No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specially, the Respondent exceeded the PM, PM10, and the PM2.5 MAERs of 18.39 tpy based on a 12-month rolling period for the 12-month periods ending from March 2017 through November 2017 for the Reformer Main Flue Ejector Stack, EPN 29, resulting in 55.68 tons of unauthorized PM.
- h. Failed to comply with the MAERs, in violation of 30 TEX. ADMIN. CODE §§ 101.20(3) and 116.115(b)(2)(F) and (c), NSR Permit Nos. 108113 and PSDTX1344M1, GC Nos. 1, 8, and 14 and SC No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent exceeded the PM MAER of 11.44 tpy based on a 12-month rolling period and the PM10 and PM2.5 MAERs of 0.34 tpy based on a 12-month rolling period for the 12-month periods ending from June 2017 through November 2017 for the Salt Water Cooling Tower, EPN 33, resulting in 4.42 tons of unauthorized PM.
- i. Failed to conduct quarterly visible emissions observations, in violation of 30 TEX. ADMIN. CODE §§ 101.20(3) and 116.115(c), NSR Permit Nos. 108113 and PSDTX1344M1, SC No. 6, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent did not conduct quarterly visible emissions observations for 13 EPNs from the second quarter of 2016 through the third quarter of 2017.
- j. Failed to conduct quarterly visible emissions observations, in violation of 30 TEX. ADMIN. CODE §§ 101.20(3) and 116.115(c), NSR Permit Nos. 108113 and PSDTX1344M1, SC No. 7, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent did not conduct quarterly fugitive visible emissions observations of the process buildings and/or fugitive sources for the second, third, and fourth quarters of 2016 and the first quarter of 2017.

- k. Failed to maintain records for the quarterly inspections, in violation of 30 TEX. ADMIN. CODE §§ 101.20(3) and 116.115(c), NSR Permit Nos. 108113 and PSDTX1344M1, SC No. 42D, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent did not maintain records for the quarterly inspections of the hoods and ductwork for the emission capture and control systems in the third and fourth quarters of 2016.
- l. Failed to sample the cooling water for the concentration of TDS once a week, in violation of 30 TEX. ADMIN. CODE §§ 101.20(3) and 116.115(c), NSR Permit Nos. 108113 and PSDTX1344M1, SC No. 25A, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent did not sample the cooling water TDS concentrations for the Salt Water Cooling Tower, EPN 33, for 11 weeks from September 26, 2016 through December 11, 2016.
- m. Failed to sample the cooling water once a day for conductivity or monitor the cooling water continuously for conductivity, in violation of 30 TEX. ADMIN. CODE §§ 101.20(3) and 116.115(c), NSR Permit Nos. 108113 and PSDTX1344M1, SC No. 25A, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent did not sample and analyze the cooling water conductivity for the Salt Water Cooling Tower, EPN 33, on 34 days: October 1, 2016, October 5 through 10, 2016, October 12 through 24, 2016, October 26 through 31, 2016, November 6, 2016, November 13, 2016, November 20, 2016, November 27, 2016, December 4, 2016, December 11, 2016, December 18, 2016, and December 25, 2016.
- n. Failed to conduct daily visible emissions observations for the wet scrubbers, in violation of 30 TEX. ADMIN. CODE §§ 101.20(3) and 116.115(c), NSR Permit Nos. 108113 and PSDTX1344M1, SC No. 30, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent did not conduct daily visible emissions observations for the Furnace Dedusting (BSG Dust Collection) Wet Scrubber Stack, EPN 8, and the Hot Pressure Relief Vent (Flare), EPN 38, on 284 days and did not to conduct daily visible emissions observations for the Briquetter Dedusting Scrubber Stack, EPN 9, and the Hot Iron Briquette Cooling Conveyer Scrubber Stack, EPN 11, on 286 days during the time period from September 28, 2016 to December 6, 2017.
- o. Failed to comply with the certified emissions rate, in violation of 30 TEX. ADMIN. CODE §§ 106.6(c) and 106.261, PBR Registration No. 147082, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent exceeded the certified PM_{2.5} emissions rate of 0.01 tpy based on any consecutive 12-month period for the 12-month periods ending from October 2017 through November 2017 for the 75,000 metric tons Grade C Hot Briquette Iron, EPN 44, resulting in 0.01 ton of unauthorized PM_{2.5}.
- p. Failed to prevent fugitive emissions from leaving the property from process buildings or fugitive sources resulting in the unauthorized discharge of industrial waste into or adjacent to any water in the state, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE §§ 101.20(3) and 116.115(c), NSR Permit Nos. 108113 and PSDTX1344M1, SC No. 7, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, on November 1, 2017, iron oxide dust was observed on

the Plant's grounds and in the adjacent marsh area owned by the Port of Corpus Christi Authority, directly north of the Plant's loading dock.

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: voestalpine Texas LLC, Docket No. 2018-1266-MLM-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 two SEPs as set forth in Section I, Paragraph No. 4. The amount of \$263,570 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 and Attachment B. 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 the Executive Director demands payment.
3. The Respondent shall undertake the following technical requirements:
 - a. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit amendment application within 30 days after the date of such requests, or by any other deadline specified in writing;
 - b. Within 30 days after the effective date of this Order, implement all provisions of the approved Plan in accordance with the schedule in the approved Plan;
 - c. Within 15 days after completion of the approved Plan implementation, submit written certification to demonstrate compliance with Ordering Provision No. 3.b, as described in Ordering Provision No. 3.d; and
 - d. Within 360 days after the effective date of this Order, submit written certification that either the amendment for NSR Permit Nos. 108113 and PSDTX1344M1 has been obtained or that the operation has ceased until such time that appropriate authorization is obtained, and include detailed supporting documentation

including photographs, receipts, and/or other records to demonstrate compliance. 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
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 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.
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. 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.
9. 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.
10. 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



For the Executive Director

12/30/2021

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.

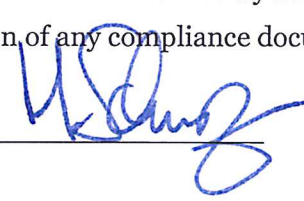
I also understand that failure to comply with the Ordering Provisions, if any, in this Order and/or failure to timely pay the penalty amount, may result in:

- 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



Signature

02/28/2020

Date

02/28/2020

Date

STEFAN EINFALL
Name (Printed or typed)

HELMUT SCHWARZ
Name (Printed or typed)

CEO

Title

CTO

Title

Authorized Representative of
voestalpine Texas LLC

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

Attachment A
Docket Number: 2018-1266-MLM-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	voestalpine Texas LLC
Payable Penalty Amount:	\$527,141
SEP Offset Amount:	\$131,785
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Texas Congress of Parents and Teachers dba Texas PTA
Project Name:	<i>Texas PTA Clean School Bus Replacement Program</i>
Location of SEP:	Texas Air Quality Control Region 214: Corpus Christi-Victoria - Preference for San Patricio County

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 SEP Offset Amount is set forth above and such offset 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 **Texas Congress of Parents and Teachers dba Texas PTA** for the *Texas PTA Clean School Bus Replacement Program*. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the contribution will be used to reduce nitrogen oxides, volatile organic compounds, carbon monoxide, and particulate matter emissions by replacing older diesel buses with newer buses that meet more stringent emission standards. The Third-Party Administrator shall use the SEP Offset Amount for up to 100% of the purchase price of a model year 2010 or newer bus to replace a diesel school bus that is model year 2002 or older. 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 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 it 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 in any manner from this SEP.

b. Environmental Benefit

This SEP will directly benefit air quality by reducing harmful exhaust emissions which contribute to the formation of ozone and may cause or exacerbate many respiratory diseases, including asthma. In addition, by encouraging less school bus idling, this SEP contributes to public awareness of environmental matters.

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 Congress of Parents and Teachers SEP** and shall mail the contribution with a copy of the Agreed Order to:

Texas PTA
408 West 11th Street
Austin, Texas 78701

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount due 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:

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 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 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: 2018-1266-MLM-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	voestalpine Texas LLC
Payable Penalty Amount:	\$527,141
SEP Offset Amount:	\$131,785
Type of SEP:	Contribution to a Third-Party Administrator SEP
Third-Party Administrator:	Texas Natural Gas Foundation
Project Name:	<i>High Emission Vehicle Replacement Project</i>
Location of SEP:	Texas Air Quality Control Region 214: Corpus Christi-Victoria - Preference for San Patricio County

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, **Texas Natural Gas Foundation**, for the *High Emission Vehicle Replacement Project* (the “Project”). The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ, which details the terms and conditions of the Project.

Specifically, the SEP Offset Amount will be used to reimburse an eligible public entity for the total purchase price or five-year lease price of a standard base model alternative-fueled vehicle that will replace an eligible older, diesel-fueled vehicle that the public entity has decommissioned and removed from its fleet. Public entities eligible to receive assistance include state agencies, counties, municipalities, school districts, or other political subdivisions created under the constitution or any statute of this state.

Old, diesel-fueled vehicles emit large amounts of nitrogen oxides (“NOx”) and particulate matter (“PM”), as well as other harmful pollutants such as volatile organic compounds (“VOCs”) and carbon monoxide (“CO”). These pollutants contribute to serious public health problems. This Project shall reduce NOx, PM, VOCs, and CO emissions by replacing high-emission, diesel-fueled vehicles with low-emission, alternative-fueled

vehicles. 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, 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 in any manner from this SEP.

b. Environmental Benefit

This Project will directly benefit air quality by reducing harmful exhaust emissions that contribute to the formation of ozone and may cause or exacerbate several respiratory diseases, including asthma. For example, replacing a model year 2002 heavy-duty diesel dump truck with a model year 2010 or newer dump truck powered by natural gas or propane may reduce passengers' exposure to NOx by 95% and PM by 99.9%. Moreover, replacing a model year 1989 diesel school bus with a model year 2010 or newer school bus powered by natural gas or propane may reduce passengers' exposure to NOx by 98%, VOCs by 83%; and PM by 99%.

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 Natural Gas Foundation SEP** and shall mail the contribution with a copy of the Agreed Order to:

Texas Natural Gas Foundation
Attention: Heather Ball, Executive Director
2315 Newfield Lane
Austin, Texas 78703

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 Executive Director may require immediate payment of all or part of the SEP Offset Amount.

In the event the Executive Director 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 Executive Director, 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.