

Executive Summary – Enforcement Matter – Case No. 60449
The Chemours Company FC, LLC
RN108202599
Docket No. 2021-0413-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

Chemours FC, 12350 Strang Road, La Porte, Harris County

Type of Operation:

Chemical manufacturing plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: April 7, 2023

Comments Received: No

Penalty Information

Total Penalty Assessed: \$23,576

Amount Deferred for Expedited Settlement: \$4,715

Total Paid to General Revenue: \$9,431

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project (“SEP”) Conditional Offset: \$9,430

Name of SEP: Houston Regional Monitoring Corporation (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 and January 2021

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: December 2, 2020 through December 7, 2020, December 4, 2020 through December 7, 2020, December 10, 2020 through December 24, 2020, March 3, 2021 through April 21, 2021, and March 4, 2021 through April 1, 2021

Date(s) of NOE(s): December 18, 2020, January 5, 2021, March 10, 2021, and April 28, 2021

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Docket No. 2021-0413-AIR-E

Violation Information

1. Failed to prevent unauthorized emissions. Specifically, the Respondent released 100.00 pounds ("lbs") of fluorospar as fugitive emissions, during an emissions event (Incident No. 309683) that occurred on October 29, 2015 and lasted 30 minutes. The emissions event occurred due to an obstruction in the baghouse recycle pipe, resulting in the release to the atmosphere. Since the Respondent did not comply with the emissions event reporting requirements, the emissions event was not caused by a sudden unavoidable breakdown of equipment or process beyond the control of the owner or operator, and the emissions event could have been avoided by better design and/or better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), New Source Review ("NSR") Permit No. 20800, Special Conditions ("SC") No. 1, Federal Operating Permit ("FOP") No. O1846, General Terms and Conditions ("GTC") and Special Terms and Conditions ("STC") No. 6, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

2. Failed to prevent unauthorized emissions. Specifically, the Respondent released 100.00 lbs of fluorospar as fugitive emissions, during an emissions event (Incident No. 309679) that occurred on October 28, 2015 and lasted five minutes. The emissions event occurred when the baghouse was plugged, resulting in the release to the atmosphere. Since the Respondent did not comply with the emissions event reporting requirements, the emissions event was not caused by a sudden unavoidable breakdown of equipment or process beyond the control of the owner or operator, and the emissions event could have been avoided by better design and/or better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), NSR Permit No. 20800, SC No. 1, FOP No. O1846, GTC and STC No. 6, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

3. Failed to prevent unauthorized emissions. Specifically, the Respondent released 44.25 pounds lbs of nitrogen oxides, 2.06 lbs of particulate matter, 3,028.49 lbs of sulfur dioxide ("SO₂"), 10.9 lbs of sulfuric acid, 1.49 lbs of volatile organic compounds, and 22.81 lbs of carbon monoxide from the Primary Sulfuric Acid Stack, Emissions Point Number SA-01, during an emissions event (Incident No. 346639) that began on November 19, 2020 and lasted 19 hours. The emissions event occurred due to a solidified sulfur obstruction that caused inadequate molten sulfur delivery to the furnace and due to the loss of heat from the aborted first startup attempt that impacted the full activation of the catalyst bed, resulting in the release to the atmosphere. Since the Respondent did not comply with the emissions event reporting requirements, the emissions event was not caused by a sudden unavoidable breakdown of equipment or process beyond the control of the owner or operator, and the emissions event could have been avoided by better design and/or better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN. CODE §§ 116.115(c) and

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122.143(4), NSR Permit No. 21130, SC No. 1, FOP No. O4053, GTC and STC No. 7, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

4. Failed to submit an initial notification for a reportable emissions event no later than 24 hours after the discovery of an emissions event. Specifically, the initial notification for Incident No. 346639 was due by November 20, 2020 at 4:20 p.m., but was not submitted until November 25, 2020 at 5:12 p.m. [30 TEX. ADMIN. CODE §§ 101.201(a)(1)(B) and 122.143(4), FOP No. O4053, GTC and STC No. 2.F, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

5. Failed to certify compliance with the terms and conditions of the permit for at least each 12-month period following initial permit issuance and failed to submit a permit compliance certification ("PCC") within 30 days of any certification period. Specifically, the PCC for FOP No. O4053 for the October 30, 2019 through April 29, 2020 certification period was due by May 29, 2020, but was not submitted until March 15, 2021 [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.146(1) and (2), FOP No. O4053, GTC and STC No. 10, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

6. Failed to certify compliance with the terms and conditions of the permit for at least each 12-month period following initial permit issuance and failed to submit a PCC within 30 days of any certification period. Specifically, the PCC for FOP No. O4045 for the October 10, 2019 through April 9, 2020 certification period was due by May 9, 2020, but was not submitted until March 15, 2021 [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.146(1) and (2), FOP No. O4045, GTC and STC No. 13, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent implemented the following corrective measures:

a. In order to prevent the recurrence of emissions events due to the same or similar causes as Incident Nos. 309679 and 309683:

i. On March 7, 2016, implemented Preventative Maintenance tasks to improve the startup process and reduce the likelihood of future airborne spar releases;

ii. By September 3, 2016, updated the operating procedures for the spar drying process to reduce the likelihood of a future airborne spar release and conducted training for the Operations Personnel with the special emphasis on the steps that can help prevent an airborne spar release; and

iii. By March 29, 2018, installed equipment to the Spar Baghouse to minimize aerosolized dust and installed temperature sensors on the surface of the baghouse

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that are linked to the Distributed Control System and monitored by the Operations Personnel.

b. On November 25, 2020, submitted the initial notification for Incident No. 346639; and

c. On March 15, 2021, submitted a revised PCC for FOP No. O4053 for the October 30, 2019 through October 29, 2020 certification period and submitted a revised PCC for FOP No. O4045 for the October 10, 2019 through October 9, 2020 certification period.

Technical Requirements:

1. The Order will require the Respondent to implement and complete a SEP (see SEP Attachment A).

2. The Order will also require the Respondent to:

a. Within 30 days:

i. Implement measures and/or procedures designed to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 346639; and

ii. Implement measures and/or procedures designed to ensure that the initial notifications for reportable emissions events are submitted in a timely manner.

b. Within 45 days, submit written certification to demonstrate compliance with a.

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Amanda Diaz, Enforcement Division, Enforcement Team 2, MC R-12, (713) 422-8912; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

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

SEP Third-Party Administrator: Houston Regional Monitoring Corporation, 1800 Post Oak Boulevard, Suite 400, Houston, Texas 77056

Respondent: Rosalie Becsey, Plant Manager, The Chemours Company FC, LLC, 12350 Strang Road, La Porte, Texas 77571

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

DATES	Assigned PCW	4-Jan-2021	Screening	4-Feb-2021	EPA Due	
		27-Feb-2023				

RESPONDENT/FACILITY INFORMATION	
Respondent	The Chemours Company FC, LLC
Reg. Ent. Ref. No.	RN108202599 (PCW No. 1 of 2)
Facility/Site Region	12-Houston
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	60449	No. of Violations	4
Docket No.	2021-0413-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Amanda Diaz
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$11,500
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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	30.0% Adjustment	Subtotals 2, 3, & 7	\$3,450
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Notes: Enhancement for two NOV's with same/similar violations and one agreed order containing a denial of liability.

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	-\$1,874
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$4,279
 Estimated Cost of Compliance: \$29,750
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$13,076
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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	\$13,076
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$13,076
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DEFERRAL	20.0% Reduction	Adjustment	-\$2,615
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$10,461
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Screening Date 4-Feb-2021

Docket No. 2021-0413-AIR-E

PCW

Respondent The Chemours Company FC, LLC

Case ID No. 60449

Policy Revision 4 (April 2014)

Reg. Ent. Reference No. RN108202599 (PCW No. 1 of 2)

PCW Revision March 26, 2014

Media Air

Enf. Coordinator Amanda Diaz

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	2	10%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	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) 30%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for two NOVs with same/similar violations and one agreed order containing a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 30%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 30%

Screening Date 4-Feb-2021

Docket No. 2021-0413-AIR-E

PCW

Respondent The Chemours Company FC, LLC

Policy Revision 4 (April 2014)

Case ID No. 60449

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN108202599 (PCW No. 1 of 2)

Media Air

Enf. Coordinator Amanda Diaz

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), New Source Review ("NSR") Permit No. 20800, Special Conditions ("SC") No. 1, Federal Operating Permit ("FOP") No. O1846, General Terms and Conditions ("GTC") and Special Terms and Conditions ("STC") No. 6, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to prevent unauthorized emissions. Specifically, the Respondent released 100.00 pounds ("lbs") of fluorospar as fugitive emissions, during an emissions events (Incident No. 309683) that occurred on October 29, 2015 and lasted 30 minutes. The emissions event occurred due to an obstruction in the baghouse recycle pipe, resulting in the release to the atmosphere. Since the Respondent did not comply with the emissions event reporting requirements, the emissions event was not caused by a sudden unavoidable breakdown of equipment or process beyond the control of the owner or operator, and the emissions event could have been avoided by better design and/or better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 Tex. Admin. Code § 101.222.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (15.0%).

>> Programmatic Matrix

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

Matrix Notes Human health or the environment has been exposed to insignificant amounts of pollutants that did 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 Number of violation days 1

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

Violation Base Penalty \$3,750

One quarterly event is recommended.

Good Faith Efforts to Comply

25.0%

Reduction \$937

Table with columns: Before NOE/NOV, NOE/NOV to EDPRP/Settlement Offer, Extraordinary, Ordinary, N/A.

Notes The Respondent completed the corrective measures by March 29, 2018, prior to the Notice of Enforcement ("NOE") dated January 5, 2021.

Violation Subtotal \$2,813

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2,631

Violation Final Penalty Total \$3,938

This violation Final Assessed Penalty (adjusted for limits) \$3,938

Economic Benefit Worksheet

Respondent The Chemours Company FC, LLC
Case ID No. 60449
Reg. Ent. Reference No. RN108202599 (PCW No. 1 of 2)
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	\$15,000	28-Oct-2015	29-Mar-2018	2.42	\$121	\$2,419	\$2,540
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	28-Oct-2015	3-Sep-2016	0.85	\$64	n/a	\$64
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	28-Oct-2015	7-Mar-2016	0.36	\$27	n/a	\$27

Notes for DELAYED costs

Estimated delayed costs to implement Preventative Maintenance tasks to improve the startup process and reduce the likelihood of future airborne spar releases (\$1,500), update the operating procedures for the spar drying process to reduce the likelihood of a future airborne spar release and conduct training for the Operations Personnel with the special emphasis on the steps that can help prevent an airborne spar release (\$1,500), and install equipment to the Spar Baghouse to minimize aerosolized dust and install temperature sensors on the surface of the baghouse that are linked to the Distributed Control System and monitored by the Operations Personnel (\$15,000) in order to prevent the recurrence of emissions events due to the same or similar causes as Incident Nos. 309679 and 309683. The Dates Required are the date Incident No. 309679 occurred 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

\$18,000

TOTAL

\$2,631

Screening Date 4-Feb-2021
Respondent The Chemours Company FC, LLC
Case ID No. 60449
Reg. Ent. Reference No. RN108202599 (PCW No. 1 of 2)
Media Air
Enf. Coordinator Amanda Diaz

Docket No. 2021-0413-AIR-E

PCW

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

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), NSR Permit No. 20800, SC No. 1, FOP No. O1846, GTC and STC No. 6, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to prevent unauthorized emissions. Specifically, the Respondent released 100.00 lbs of fluorospar as fugitive emissions, during an emissions events (Incident No. 309679) that occurred on October 28, 2015 and lasted five minutes. The emissions event occurred when the baghouse was plugged, resulting in the release to the atmosphere. Since the Respondent did not comply with the emissions event reporting requirements, the emissions event was not caused by a sudden unavoidable breakdown of equipment or process beyond the control of the owner or operator, and the emissions event could have been avoided by better design and/or better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 Tex. Admin. Code § 101.222.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent

Human health or the environment has been exposed to insignificant amounts of pollutants that did 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 1 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One quarterly event is recommended.

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 completed the corrective measures by March 29, 2018, prior to the NOE dated December 18, 2020.

Violation Subtotal \$2,813

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0 **Violation Final Penalty Total** \$3,938

This violation Final Assessed Penalty (adjusted for limits) \$3,938

Economic Benefit Worksheet

Respondent The Chemours Company FC, LLC
Case ID No. 60449
Reg. Ent. Reference No. RN108202599 (PCW No. 1 of 2)
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
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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: See the Economic Benefit in Violation No. 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 4-Feb-2021
Respondent The Chemours Company FC, LLC
Case ID No. 60449
Reg. Ent. Reference No. RN108202599 (PCW No. 1 of 2)
Media Air
Enf. Coordinator Amanda Diaz

Docket No. 2021-0413-AIR-E

PCW

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

Violation Number

Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), NSR Permit No. 21130, SC No. 1, FOP No. O4053, GTC and STC No. 7, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to prevent unauthorized emissions. Specifically, the Respondent released 44.25 lbs of nitrogen oxides, 2.06 lbs of particulate matter, 3,028.49 lbs of sulfur dioxide ("SO2"), 10.9 lbs of sulfuric acid, 1.49 lbs of volatile organic compounds, and 22.81 lbs of carbon monoxide from the Primary Sulfuric Acid Stack, Emissions Point Number SA-01, during an emissions event (Incident No. 346639) that began on November 19, 2020 and lasted 19 hours. The emissions event occurred due to a solidified sulfur obstruction that caused inadequate molten sulfur delivery to the furnace and due to the loss of heat from the aborted first startup attempt that impacted the full activation of the catalyst bed, resulting in the release to the atmosphere. Since the Respondent did not comply with the emissions event reporting requirements, the emissions event was not caused by a sudden unavoidable breakdown of equipment or process beyond the control of the owner or operator, and the emissions event could have been avoided by better design and/or better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 Tex. Admin. Code § 101.222.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text" value="15.0%"/>
	Potential	<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 Human health or the environment has been exposed to insignificant amounts of pollutants that did 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="checkbox"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

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 checked="" type="checkbox"/>	<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 The Chemours Company FC, LLC
Case ID No. 60449
Reg. Ent. Reference No. RN108202599 (PCW No. 1 of 2)
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
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	19-Nov-2020	1-Oct-2023	2.87	\$1,433	n/a	\$1,433

Notes for DELAYED costs

Estimated costs to implement measures and/or procedures designed to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 346639. The Date Required is the date the emissions event began and the Final Date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$1,433

Screening Date 4-Feb-2021
Respondent The Chemours Company FC, LLC
Case ID No. 60449
Reg. Ent. Reference No. RN108202599 (PCW No. 1 of 2)
Media Air
Enf. Coordinator Amanda Diaz

Docket No. 2021-0413-AIR-E

PCW

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

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code §§ 101.201(a)(1)(B) and 122.143(4), FOP No. O4053, GTC and STC No. 2-F, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to submit an initial notification for a reportable emissions event no later than 24 hours after the discovery of an emissions event. Specifically, the initial notification for Incident No. 346639 was due by November 20, 2020 at 4:20 p.m., but was not submitted until November 25, 2020 at 5:12 p.m.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
				x	1.0%
Less than 30% of the rule requirements were not met.					

Adjustment \$24,750

\$250

Violation Events

Number of Violation Events 1 5 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

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 \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$215

Violation Final Penalty Total \$325

This violation Final Assessed Penalty (adjusted for limits) \$325

Economic Benefit Worksheet

Respondent The Chemours Company FC, LLC
Case ID No. 60449
Reg. Ent. Reference No. RN108202599 (PCW No. 1 of 2)
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
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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	20-Nov-2020	1-Oct-2023	2.86	\$215	n/a	\$215
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$250	20-Nov-2020	25-Nov-2020	0.01	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs to submit the initial notification for Incident No. 346639 (\$250) and implement measures and/or procedures designed to ensure that the initial notifications for reportable emissions events are submitted in a timely manner (\$1,500). The Dates Required are the date the initial notification was due 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 \$1,750

TOTAL \$215



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	3-May-2021			
	PCW	27-Feb-2023	Screening	2-Jun-2021	EPA Due

RESPONDENT/FACILITY INFORMATION					
Respondent	The Chemours Company FC, LLC				
Reg. Ent. Ref. No.	RN108202599 (PCW No. 2 of 2)				
Facility/Site Region	12-Houston	Major/Minor Source	Major		

CASE INFORMATION					
Enf./Case ID No.	60449	No. of Violations	2		
Docket No.	2021-0413-AIR-E	Order Type	1660		
Media Program(s)	Air	Government/Non-Profit	No		
Multi-Media		Enf. Coordinator	Amanda Diaz		
		EC's Team	Enforcement Team 2		
Admin. Penalty \$ Limit	Minimum	\$0	Maximum	\$25,000	

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$10,000
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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	30.0%	Adjustment	Subtotals 2, 3, & 7	\$3,000
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Notes: Enhancement for two NOVs with same/similar violations and one agreed order containing a denial of liability.

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	-\$2,500
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$21
Estimated Cost of Compliance	\$500

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$10,500
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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	\$10,500
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$10,500
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DEFERRAL	20.0%	Reduction	Adjustment	-\$2,100
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$8,400
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Screening Date 2-Jun-2021

Docket No. 2021-0413-AIR-E

PCW

Respondent The Chemours Company FC, LLC

Policy Revision 5 (January 28, 2021)

Case ID No. 60449

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN108202599 (PCW No. 2 of 2)

Media Air

Enf. Coordinator Amanda Diaz

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	2	10%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	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) 30%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for two NOVs with same/similar violations and one agreed order containing a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 30%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 30%

Screening Date 2-Jun-2021
Respondent The Chemours Company FC, LLC
Case ID No. 60449
Reg. Ent. Reference No. RN108202599 (PCW No. 2 of 2)
Media Air
Enf. Coordinator Amanda Diaz

Docket No. 2021-0413-AIR-E

PCW

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 122.143(4) and 122.146(1) and (2), Federal Operating Permit ("FOP") No. O4053, General Terms and Conditions ("GTC") and Special Terms and Conditions ("STC") No. 10, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to certify compliance with the terms and conditions of the permit for at least each 12-month period following initial permit issuance and failed to submit a permit compliance certification ("PCC") within 30 days of any certification period. Specifically, the PCC for FOP No. O4053 for the October 30, 2019 through April 29, 2020 certification period was due by May 29, 2020, but was not submitted until March 15, 2021.

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
		x			20.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$20,000

\$5,000

Violation Events

Number of Violation Events 1 290 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$5,000

One single event is recommended for the late PCC.

Good Faith Efforts to Comply

25.0%

Reduction \$1,250

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

Notes

The Respondent completed the corrective measures on March 15, 2021, prior to the Notice of Enforcement ("NOE") dated April 28, 2021.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$10

Violation Final Penalty Total \$5,250

This violation Final Assessed Penalty (adjusted for limits) \$5,250

Economic Benefit Worksheet

Respondent The Chemours Company FC, LLC
Case ID No. 60449
Reg. Ent. Reference No. RN108202599 (PCW No. 2 of 2)
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)	\$250	29-May-2020	15-Mar-2021	0.79	\$10	n/a	\$10

Notes for DELAYED costs

Estimated cost to submit a revised PCC for FOP No. 04053 for the October 30, 2019 through October 29, 2020 certification period. The Date Required is the date the PCC for the October 30, 2019 through April 29, 2020 certification period was due 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

\$250

TOTAL

\$10

Screening Date 2-Jun-2021 **Docket No.** 2021-0413-AIR-E **PCW**
Respondent The Chemours Company FC, LLC *Policy Revision 5 (January 28, 2021)*
Case ID No. 60449 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN108202599 (PCW No. 2 of 2)
Media Air
Enf. Coordinator Amanda Diaz

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 122.143(4) and 122.146(1) and (2), FOP No. O4045, GTC and STC No. 13, and Tex. Health & Safety Code § 382.085(b)

Violation Description
 Failed to certify compliance with the terms and conditions of the permit for at least each 12-month period following initial permit issuance and failed to submit a PCC within 30 days of any certification period. Specifically, the PCC for FOP No. O4045 for the October 10, 2019 through April 9, 2020 certification period was due by May 9, 2020, but was not submitted until March 15, 2021.

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
	x			20.0%

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$20,000

\$5,000

Violation Events

Number of Violation Events 1 310 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$5,000

One single event is recommended for the late PCC.

Good Faith Efforts to Comply 25.0% Reduction \$1,250

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

Notes The Respondent completed the corrective measures on March 15, 2021, prior to the NOE dated April 28, 2021.

Violation Subtotal \$3,750

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

Estimated EB Amount \$11 **Violation Final Penalty Total** \$5,250

This violation Final Assessed Penalty (adjusted for limits) \$5,250

Economic Benefit Worksheet

Respondent The Chemours Company FC, LLC
Case ID No. 60449
Reg. Ent. Reference No. RN108202599 (PCW No. 2 of 2)
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)	\$250	9-May-2020	15-Mar-2021	0.85	\$11	n/a	\$11

Notes for DELAYED costs

Estimated cost to submit a PCC for FOP No. O4045 for the October 10, 2019 through October 9, 2020 certification period. The Date Required is the date the PCC for FOP No. O4045 for the October 10, 2019 through April 9, 2020 certification period was due 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

\$250

TOTAL

\$11



Compliance History Report

Compliance History Report for CN604722413, RN108202599, Rating Year 2022 which includes Compliance History (CH) components from September 1, 2017, through August 31, 2022.

Customer, Respondent, or Owner/Operator:	CN604722413, The Chemours Company FC, LLC	Classification:	SATISFACTORY	Rating:	9.66
Regulated Entity:	RN108202599, CHEMOURS FC	Classification:	SATISFACTORY	Rating:	15.52
Complexity Points:	13	Repeat Violator:	NO		
CH Group:	05 - Chemical Manufacturing				
Location:	12350 STRANG ROAD, LA PORTE, HARRIS COUNTY, TEXAS				
TCEQ Region:	REGION 12 - HOUSTON				

ID Number(s):

AIR OPERATING PERMITS PERMIT 1845	AIR OPERATING PERMITS PERMIT 4045
AIR OPERATING PERMITS PERMIT 4053	AIR NEW SOURCE PERMITS REGISTRATION 51618
AIR NEW SOURCE PERMITS REGISTRATION 71515	AIR NEW SOURCE PERMITS REGISTRATION 55169
AIR NEW SOURCE PERMITS REGISTRATION 77924	AIR NEW SOURCE PERMITS PERMIT 20800
AIR NEW SOURCE PERMITS PERMIT 21130	AIR NEW SOURCE PERMITS REGISTRATION 71485
AIR NEW SOURCE PERMITS REGISTRATION 170454	AIR NEW SOURCE PERMITS AFS NUM 4820102005
PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 90121	STORMWATER PERMIT TXR05EY41
AIR EMISSIONS INVENTORY ACCOUNT NUMBER HGA151U	POLLUTION PREVENTION PLANNING ID NUMBER P09505
INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 96009	INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXR000083188
TAX RELIEF ID NUMBER 20955	TAX RELIEF ID NUMBER 20931

Compliance History Period: September 01, 2017 to August 31, 2022 **Rating Year:** 2022 **Rating Date:** 09/01/2022

Date Compliance History Report Prepared: December 20, 2022

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: December 20, 2017 to December 20, 2022

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

Name: Amanda Diaz

Phone: (713) 422-8912

Site and Owner/Operator History:

- | | |
|--|-----|
| 1) Has the site been in existence and/or operation for the full five year compliance period? | YES |
| 2) Has there been a (known) change in ownership/operator of the site during the compliance period? | NO |

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

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

1 Effective Date: 01/21/2020 ADMINORDER 2018-0772-AIR-E (1660 Order-Agreed Order With Denial)

Classification: Major

Citation: 30 TAC Chapter 122, SubChapter B 122.121
30 TAC Chapter 122, SubChapter B 122.133(2)
30 TAC Chapter 122, SubChapter C 122.241(b)
5C THSC Chapter 382 382.054
5C THSC Chapter 382 382.085(b)

Description: Failure to renew a Title V Air Permit resulting in operation without proper authorization. (Category A2b)

Classification: Major

Citation: 30 TAC Chapter 122, SubChapter B 122.121
30 TAC Chapter 122, SubChapter B 122.133(2)
30 TAC Chapter 122, SubChapter C 122.241(b)
5C THSC Chapter 382 382.054
5C THSC Chapter 382 382.085(b)

Description: Failure to renew a Title V Air Permit resulting in operation without proper authorization. (Category A2b)

Classification: Major

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

30 TAC Chapter 116, SubChapter B 116.115(c)

30 TAC Chapter 122, SubChapter B 122.143(4)

5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Condition 1 PERMIT

Special Condition 3B PERMIT

Special Terms and Conditions 6 PERMIT

Description: Failure to comply with the hourly maximum emissions rate during a stack test for the Sulfuric Acid Stack, EPN SA-01 (Category A6).

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	September 10, 2018	(1513053)
Item 2	August 12, 2019	(1575144)
Item 3	August 22, 2019	(1582933)
Item 4	November 12, 2019	(1540229)
Item 5	January 09, 2020	(1618867)
Item 6	February 19, 2020	(1630844)
Item 7	June 11, 2020	(1633304)
Item 8	July 21, 2020	(1633088)
Item 9	January 08, 2021	(1686804)

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: 06/24/2022 (1797009)		
	Self Report? NO	Classification: Moderate	
	Citation: 30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THSC Chapter 382 382.085(b) Special Condition 9 PERMIT Special Term & Condition 9 OP		
	Description: Failure to maintain the differential pressure at or below 6 inches for the Weigh Bin Dust Collector (EPN HF-30). [Category C4]		
	Self Report? NO	Classification: Minor	
	Citation: 30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THSC Chapter 382 382.085(b) Special Condition 8 PERMIT Special Term & Condition 9 OP		
	Description: Failure to document daily visible emissions inspection for the HF-08 unit vent. [Category B3]		
	Self Report? NO	Classification: Minor	
	Citation: 30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THSC Chapter 382 382.085(b) Special Condition 8 PERMIT Special Term & Condition 9 OP		
	Description: Failure to document daily visible emissions inspection for the HF-09 unit vent. [Category B3]		
2	Date: 08/25/2022 (1797000)		
	Self Report? NO	Classification: Moderate	
	Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(2) 30 TAC Chapter 122, SubChapter B 122.143(4) 4053 PERMIT 5C THSC Chapter 382 382.085(b)		
	Description: Failure to submit initial report within 24 hours (Category B1).		
	Self Report? NO	Classification: Moderate	
	Citation: 21130 PERMIT 30 TAC Chapter 116, SubChapter B 116.115(c)		

30 TAC Chapter 122, SubChapter B 122.143(4)
 4053 PERMIT
 5C THSC Chapter 382 382.085(b)
 Description: Failure to conduct SO2 sampling prior to MSS vessel and equipment openings
 (Category B1)
 Self Report? NO Classification: Moderate
 Citation: 21130 PERMIT
 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 4053 PERMIT
 5C THSC Chapter 382 382.085(b)
 Description: Failure to maintain records for MSS vessel and equipment openings (Category B1)
 Self Report? NO Classification: Moderate
 Citation: 21130 PERMIT
 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 4053 OP
 5C THSC Chapter 382 382.085(b)
 Description: Failure to conduct the minimum of six consecutive weekly samples below 750
 ppm for EPN: SA-03 (Category B1).
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
 4053 OP
 5C THSC Chapter 382 382.085(b)
 Description: Failure to report all deviations (Category C3).

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
THE CHEMOURS COMPANY FC, LLC
RN108202599

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2021-0413-AIR-E

I. JURISDICTION AND STIPULATIONS

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

1. The Respondent owns and operates a chemical manufacturing plant located at 12350 Strang Road in La Porte, Harris County, Texas (the "Plant"). The Plant consists or consisted of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$23,576 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$9,431 of the penalty and \$4,715 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, \$9,430 of the penalty shall be conditionally offset by the Respondent's timely and satisfactory completion of a Supplemental Environmental Project ("SEP") as defined in the attached SEP Agreement ("Attachment A", 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 Agreement, 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. In order to prevent the recurrence of emissions events due to the same or similar causes as Incident Nos. 309679 and 309683:
 - i. On March 7, 2016, implemented Preventative Maintenance tasks to improve the startup process and reduce the likelihood of future airborne spar releases;
 - ii. By September 3, 2016, updated the operating procedures for the spar drying process to reduce the likelihood of a future airborne spar release and conducted training for the Operations Personnel with the special emphasis on the steps that can help prevent an airborne spar release; and
 - iii. By March 29, 2018, installed equipment to the Spar Baghouse to minimize aerosolized dust and installed temperature sensors on the surface of the baghouse that are linked to the Distributed Control System and monitored by the Operations Personnel.
 - b. On November 25, 2020, submitted the initial notification for Incident No. 346639; and
 - c. On March 15, 2021, submitted a revised permit compliance certification ("PCC") for Federal Operating Permit ("FOP") No. O4053 for the October 30, 2019 through October 29, 2020 certification period and submitted a revised PCC for FOP No. O4045 for the October 10, 2019 through October 9, 2020 certification period.

II. ALLEGATIONS

1. During a record review for the Plant conducted from December 2, 2020 through December 7, 2020, an investigator documented that the Respondent failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and

122.143(4), New Source Review ("NSR") Permit No. 20800, Special Conditions ("SC") No. 1, FOP No. O1846, General Terms and Conditions ("GTC") and Special Terms and Conditions ("STC") No. 6, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent released 100.00 pounds ("lbs") of fluorospar as fugitive emissions, during an emissions event (Incident No. 309683) that occurred on October 29, 2015 and lasted 30 minutes. The emissions event occurred due to an obstruction in the baghouse recycle pipe, resulting in the release to the atmosphere. Since the Respondent did not comply with the emissions event reporting requirements, the emissions event was not caused by a sudden unavoidable breakdown of equipment or process beyond the control of the owner or operator, and the emissions event could have been avoided by better design and/or better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.

2. During a record review for the Plant conducted from December 4, 2020 through December 7, 2020, an investigator documented that the Respondent failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), NSR Permit No. 20800, SC No. 1, FOP No. O1846, GTC and STC No. 6, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent released 100.00 lbs of fluorospar as fugitive emissions, during an emissions event (Incident No. 309679) that occurred on October 28, 2015 and lasted five minutes. The emissions event occurred when the baghouse was plugged, resulting in the release to the atmosphere. Since the Respondent did not comply with the emissions event reporting requirements, the emissions event was not caused by a sudden unavoidable breakdown of equipment or process beyond the control of the owner or operator, and the emissions event could have been avoided by better design and/or better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.
3. During a record review for the Plant conducted from December 10, 2020 through December 24, 2020, an investigator documented that the Respondent:
 - a. Failed to prevent unauthorized emissions in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), NSR Permit No. 21130, SC No. 1, FOP No. O4053, GTC and STC No. 7, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent released 44.25 pounds lbs of nitrogen oxides, 2.06 lbs of particulate matter, 3,028.49 lbs of sulfur dioxide ("SO₂"), 10.9 lbs of sulfuric acid, 1.49 lbs of volatile organic compounds, and 22.81 lbs of carbon monoxide from the Primary Sulfuric Acid Stack, Emissions Point Number SA-01, during an emissions event (Incident No. 346639) that began on November 19, 2020 and lasted 19 hours. The emissions event occurred due to a solidified sulfur obstruction that caused inadequate molten sulfur delivery to the furnace and due to the loss of heat from the aborted first startup attempt that impacted the full activation of the catalyst bed, resulting in the release to the atmosphere. Since the Respondent did not comply with the emissions event reporting requirements, the emissions event was not caused by a sudden unavoidable breakdown of equipment or process beyond the control of the owner or operator, and the emissions event could have been avoided by better design and/or better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.
 - b. Failed to submit an initial notification for a reportable emissions event no later than 24 hours after the discovery of an emissions event, in violation of 30 TEX.

ADMIN. CODE §§ 101.201(a)(1)(B) and 122.143(4), FOP No. O4053, GTC and STC No. 2.F, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the initial notification for Incident No. 346639 was due by November 20, 2020 at 4:20 p.m., but was not submitted until November 25, 2020 at 5:12 p.m.

4. During a record review for the Plant conducted from March 3, 2021 through April 21, 2021, an investigator documented that the Respondent failed to certify compliance with the terms and conditions of the permit for at least each 12-month period following initial permit issuance and failed to submit a PCC within 30 days of any certification period, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.146(1) and (2), FOP No. O4053, GTC and STC No. 10, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the PCC for FOP No. O4053 for the October 30, 2019 through April 29, 2020 certification period was due by May 29, 2020, but was not submitted until March 15, 2021.
5. During a record review for the Plant conducted from March 4, 2021 through April 1, 2021, an investigator documented that the Respondent failed to certify compliance with the terms and conditions of the permit for at least each 12-month period following initial permit issuance and failed to submit a PCC within 30 days of any certification period, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.146(1) and (2), FOP No. O4045, GTC and STC No. 13, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the PCC for FOP No. O4045 for the October 10, 2019 through April 9, 2020 certification period was due by May 9, 2020, but was not submitted until March 15, 2021.

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: The Chemours Company FC, LLC, Docket No. 2021-0413-AIR-E" to:

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

2. The Respondent shall implement and complete the SEP as set forth in Section I, Paragraph No. 4. The amount of \$9,430 of the assessed penalty is conditionally offset based on the Respondent's implementation and completion of the SEP pursuant to the terms of the SEP Agreement, as defined in Attachment A. Penalty payments for any portion of the SEP 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 at the Plant:
 - a. Within 30 days after the effective date of this Order:
 - i. Implement measures and/or procedures designed to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 346639; and
 - ii. Implement measures and/or procedures designed to ensure that the initial notifications for reportable emissions events are submitted in a timely manner.
 - b. Within 45 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.a. 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:

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

with a copy to:

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

4. All relief not expressly granted in this Order is denied.
5. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the 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 Enforcement Division 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



5/2/2023

For the Executive Director

Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the OAG 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 OAG 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

3/6/2023

Date

ROSALIE BECSEY

Name (Printed or typed)
Authorized Representative of
The Chemours Company FC, LLC

Plant Manager

Title

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

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

Attachment A
Docket Number: 2021-0413-AIR-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	The Chemours Company FC, LLC
Payable Penalty Amount:	\$18,861
SEP Offset Amount:	\$9,430
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Houston Regional Monitoring Corporation
Project Name:	<i>Houston Area Air Monitoring Project</i>
Location of SEP:	Harris 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 **Houston Regional Monitoring Corporation** for the *Houston Area Air Monitoring Project* SEP. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to operate a network of ambient air monitoring stations that continuously measure and record concentrations of ambient air pollutants. This network includes the Houston Regional Monitor (“HRM”) 617 Wallisville Road site, the HRM 615 Lynchburg Ferry site, and the HRM 3 Haden Road site. The Third-Party Administrator shall use the SEP Offset Amount to report data from these three existing sites in the Houston Regional Monitoring Corporation ambient air quality monitoring network in the Houston-Galveston Air Quality Control Region No. 216. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

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

The Respondent’s signature affixed to this Agreed Order certifies that 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 provide TCEQ with near real-time access to high quality, short time resolution volatile organic compound, nitrogen oxide, ozone, and meteorological data sets that can be used to evaluate and track air pollution emission events as they occur, conduct source attribution studies, and to assess potential ambient community exposure to a limited number

of hazardous air pollutants. Data from the monitors can be used with data from other monitors to provide critical information that can be used to evaluate the effectiveness of current and proposed emission control strategies aimed at achieving compliance with the 8-hour ozone National Ambient Air Quality Standards. It also provides a key source of information that is essential to furthering our overall understanding of those emission sources that contribute to ambient community exposure to toxic air contaminants. Because the information is available in near real-time, it can be used to provide both agency staff and industry personnel with time critical information to investigate emission events in a timely fashion. Another key benefit is the ability to measure the change in the ambient air concentration of the individual target species and quantify control measure effectiveness. Data from these monitors will be publicly accessible through the TCEQ's website and will be used in evaluating air quality in the area, in ozone forecasts, and ozone warnings. Thus, the public will directly benefit by having access to the data and the forecasting and notification tools which can be used for public awareness.

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 contribution payable to **Houston Regional Monitoring Corporation SEP** and shall mail the contribution with a copy of the Agreed Order to:

Houston Regional Monitoring Corporation
c/o Christopher B. Amandes
Amandes PLLC
1800 Post Oak Boulevard, Suite 400
Houston, Texas 77056

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