

Executive Summary – Enforcement Matter – Case No. 60700

Kuraray America, Inc.

RN100212216

Docket No. 2021-0569-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

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

Type of Operation:

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: July 21, 2023

Comments Received: No

Penalty Information

Total Penalty Assessed: \$22,125

Amount Deferred for Expedited Settlement: \$885

Total Paid to General Revenue: \$21,240

Total Due to General Revenue: \$0

Payment Plan: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014 and January 2021

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: December 3, 2020 through December 17, 2020 and September 1, 2021 through September 27, 2021

Date(s) of NOE(s): April 28, 2021 and November 29, 2021

Executive Summary – Enforcement Matter – Case No. 60700

Kuraray America, Inc.

RN100212216

Docket No. 2021-0569-AIR-E

Violation Information

1. Failed to prevent unauthorized emissions. Specifically, the Respondent released 385.54 pounds ("lbs") of volatile organic compounds ("VOC"), 12.89 lbs of nitrogen oxides, 67.52 lbs of carbon monoxide, and 276.97 lbs of methyl acetate from the Flare, Emission Point Number ("EPN") 400, and 12.00 lbs of VOC as fugitives, during an emissions event (Incident No. 334587) that occurred on April 27, 2020 and lasted 11 hours and 32 minutes. The emissions event occurred due to the failure of a Teflon O-ring seal gasket that led to a power outage, resulting in the release to the atmosphere and in flaring. Since the emissions event was not caused by a sudden avoidable breakdown of equipment or process beyond the control of the owner or operator and could have been avoided by better design and/or 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. 9576, Special Conditions ("SC") No. 1, Federal Operating Permit ("FOP") No. O1561, General Terms and Conditions ("GTC") and Special Terms and Conditions ("STC") No. 16, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

2. Failed to comply with the maximum allowable emissions rate ("MAER") and certified emissions rate. Specifically, the Respondent exceeded the combined methyl acetate MAER and certified emissions rate of 1.18 pounds per hour ("lbs/hr") by a range of 0.01 lb/hr to 11.78 lbs/hr for a total of 302 hours on 103 days from April 7, 2020 to September 30, 2020 for the Flare, EPN 400, resulting in 143.30 pounds of unauthorized methyl acetate emissions [30 TEX. ADMIN. CODE §§ 106.6(c), 106.261, 116.115(b)(2)(F) and (c), and 122.143(4), Permit by Rule Registration No. 147121, NSR Permit No. 9576, SC No. 1, FOP No. O1561, GTC and STC No. 16, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent implemented the following corrective measures:

a. By October 31, 2020, installed an uninterrupted power supply to the 8500 Area to keep the Distributed Control System in communication with the nitrogen valves in the event of a power outage and began monthly inspections of the gas pressure and oil levels for the Hydraulic Mechanism Type B in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 334587; and

b. By October 27, 2020, idled each storage tank contributing to the breathing losses in order to comply with the combined methyl acetate hourly MAER for the Flare, EPN 400.

Technical Requirements:

N/A

Executive Summary – Enforcement Matter – Case No. 60700
Kuraray America, Inc.
RN100212216
Docket No. 2021-0569-AIR-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Yuliya Dunaway, Enforcement Division, Enforcement Team 2, MC R-13, (210) 403-4077; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: Hans Vandommele, General Manager, Kuraray America, Inc., 11500 Bay Area Boulevard, Pasadena, Texas 77507

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

DATES	Assigned	14-Apr-2021	Screening	21-Apr-2021	EPA Due	
	PCW	26-May-2023				

RESPONDENT/FACILITY INFORMATION	
Respondent	Kuraray America, Inc.
Reg. Ent. Ref. No.	RN100212216 (PCW No. 1 of 2)
Facility/Site Region	12-Houston
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	60700	No. of Violations	1
Docket No.	2021-0569-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Yuliya Dunaway
		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	\$3,750
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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	43.0% Adjustment	Subtotals 2, 3, & 7	\$1,612
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Notes	Enhancement for two NOVs with same/similar violations and two orders containing a denial of liability. Reduction for three notices of intent to conduct an audit and two disclosures of 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	-\$937
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$512	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$20,000	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$4,425
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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	\$4,425
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$4,425
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DEFERRAL	20.0%	Reduction	Adjustment	-\$885
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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	\$3,540
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Screening Date 21-Apr-2021

Docket No. 2021-0569-AIR-E

PCW

Respondent Kuraray America, Inc.

Policy Revision 4 (April 2014)

Case ID No. 60700

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100212216 (PCW No. 1 of 2)

Media Air

Enf. Coordinator Yuliya Dunaway

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>)	2	40%
	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>)	3	-3%
	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>)	2	-4%
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) 43%

>> 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 two orders containing a denial of liability. Reduction for three notices of intent to conduct an audit and two disclosures of violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 43%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 43%

Screening Date 21-Apr-2021 **Docket No.** 2021-0569-AIR-E **PCW**
Respondent Kuraray America, Inc. *Policy Revision 4 (April 2014)*
Case ID No. 60700 *PCW Revision March 26, 2014*
Reg. Ent. Reference No. RN100212216 (PCW No. 1 of 2)
Media Air
Enf. Coordinator Yuliya Dunaway

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), New Source Review Permit No. 9576, Special Conditions No. 1, Federal Operating Permit No. O1561, General Terms and Conditions and Special Terms and Conditions No. 16, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to prevent unauthorized emissions. Specifically, the Respondent released 385.54 pounds ("lbs") of volatile organic compounds ("VOC"), 12.89 lbs of nitrogen oxides, 67.52 lbs of carbon monoxide, and 276.97 lbs of methyl acetate from the Flare, Emissions Point Number 400, and 12.00 lbs of VOC as fugitives, during an emissions event (Incident No. 334587) that occurred on April 27, 2020 and lasted 11 hours and 32 minutes. The emissions event occurred due to the failure of a Teflon O-ring seal gasket that led to a power outage, resulting in the release to the atmosphere and in flaring. Since the emissions event was not caused by a sudden avoidable breakdown of equipment or process beyond the control of the owner or operator and could have been avoided by better design and/or 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

	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 Number of violation days 1

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 October 31, 2020, prior to the Notice of Enforcement dated April 28, 2021.

Violation Subtotal \$2,813

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$512

Violation Final Penalty Total \$4,426

This violation Final Assessed Penalty (adjusted for limits) \$4,426

Economic Benefit Worksheet

Respondent Kuraray America, Inc.
Case ID No. 60700
Reg. Ent. Reference No. RN100212216 (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				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)	\$20,000	27-Apr-2020	31-Oct-2020	0.51	\$512	n/a	\$512

Notes for DELAYED costs

Estimated costs to install an uninterrupted power supply to the 8500 Area to keep the Distributed Control System in communication with the nitrogen valves in the event of a power outage and to begin monthly inspections of the gas pressure and oil levels for the Hydraulic Mechanism Type B in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 334587. The Date Required is the date the emissions event occurred 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

\$20,000

TOTAL

\$512



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	6-Dec-2021	Screening	13-Dec-2021	EPA Due	
	PCW	26-May-2023				

RESPONDENT/FACILITY INFORMATION	
Respondent	Kuraray America, Inc.
Reg. Ent. Ref. No.	RN100212216 (PCW No. 2 of 2)
Facility/Site Region	12-Houston
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	60700	No. of Violations	1
Docket No.	2021-0569-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Yuliya Dunaway
		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	\$15,000
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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	43.0% Adjustment	Subtotals 2, 3, & 7	\$6,450
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Notes: Enhancement for two NOVs with same/similar violations and two orders containing a denial of liability. Reduction for three notices of intent to conduct an audit and two disclosures of violations.

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	-\$3,750
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$42
 Estimated Cost of Compliance: \$1,500
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$17,700
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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	\$17,700
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$17,700
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: No deferral for orders in which the Respondent has two or more prior administrative penalty orders as set out in Tex. Water Code § 7.105(b)(2), (b)(4), and (b)(6).

PAYABLE PENALTY	\$17,700
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Screening Date 13-Dec-2021

Docket No. 2021-0569-AIR-E

PCW

Respondent Kuraray America, Inc.

Policy Revision 5 (January 28, 2021)

Case ID No. 60700

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN100212216 (PCW No. 2 of 2)

Media Air

Enf. Coordinator Yuliya Dunaway

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>)	2	40%
	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>)	3	-3%
	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>)	2	-4%
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) 43%

>> 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 two orders containing a denial of liability. Reduction for three notices of intent to conduct an audit and two disclosures of violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 43%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 43%

Screening Date 13-Dec-2021 **Docket No.** 2021-0569-AIR-E **PCW**
Respondent Kuraray America, Inc. *Policy Revision 5 (January 28, 2021)*
Case ID No. 60700 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN100212216 (PCW No. 2 of 2)
Media Air
Enf. Coordinator Yuliya Dunaway

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 106.6(c), 106.261, 116.115(b)(2)(F) and (c), and 122.143(4), Permit by Rule Registration No. 147121, New Source Review Permit No. 9576, Special Conditions No. 1, Federal Operating Permit No. O1561, General Terms and Conditions and Special Terms and Conditions No. 16, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to comply with the maximum allowable emissions rate ("MAER") and certified emissions rate. Specifically, the Respondent exceeded the combined methyl acetate MAER and certified emissions rate of 1.18 pounds per hour ("lbs/hr") by a range of 0.01 lb/hr to 11.78 lbs/hr for a total of 302 hours on 103 days from April 7, 2020 to September 30, 2020 for the Flare, Emissions Point Number ("EPN") 400, resulting in 143.30 pounds of unauthorized methyl acetate emissions.

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 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 \$17,500

\$7,500

Violation Events

Number of Violation Events 2 103 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$15,000

Two quarterly events are recommended for the instances of non-compliance that occurred from April 7, 2020 to September 30, 2020.

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 completed the corrective measures by October 27, 2020, prior to the Notice of Enforcement dated November 29, 2021.

Violation Subtotal \$11,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$42

Violation Final Penalty Total \$17,700

This violation Final Assessed Penalty (adjusted for limits) \$17,700

Economic Benefit Worksheet

Respondent Kuraray America, Inc.
Case ID No. 60700
Reg. Ent. Reference No. RN100212216 (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
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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)	\$1,500	7-Apr-2020	27-Oct-2020	0.56	\$42	n/a	\$42

Notes for DELAYED costs

Estimated cost to idle each storage tank contributing to the breathing losses in order to comply with the combined methyl acetate hourly MAER for the Flare, EPN 400. 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

\$1,500

TOTAL

\$42



Compliance History Report

Compliance History Report for CN603315953, RN100212216, Rating Year 2022 which includes Compliance History (CH) components from September 1, 2017, through August 31, 2022.

Customer, Respondent, or Owner/Operator: CN603315953, Kuraray America, Inc. **Classification:** SATISFACTORY **Rating:** 6.43
Regulated Entity: RN100212216, EVAL BUSINESS UNIT **Classification:** SATISFACTORY **Rating:** 4.17
Complexity Points: 14 **Repeat Violator:** NO
CH Group: 05 - Chemical Manufacturing
Location: 11500 BAY AREA BOULEVARD, PASADENA, HARRIS COUNTY, TEXAS
TCEQ Region: REGION 12 - HOUSTON

ID Number(s):

AIR OPERATING PERMITS PERMIT 1561	AIR OPERATING PERMITS ACCOUNT NUMBER HG13100
AIR NEW SOURCE PERMITS PERMIT 9576	AIR NEW SOURCE PERMITS REGISTRATION 28727
AIR NEW SOURCE PERMITS REGISTRATION 33413	AIR NEW SOURCE PERMITS REGISTRATION 44286
AIR NEW SOURCE PERMITS ACCOUNT NUMBER HG13100	AIR NEW SOURCE PERMITS REGISTRATION 146607
AIR NEW SOURCE PERMITS AFS NUM 4820100404	AIR NEW SOURCE PERMITS REGISTRATION 80133
AIR NEW SOURCE PERMITS REGISTRATION 81932	AIR NEW SOURCE PERMITS REGISTRATION 121974
AIR NEW SOURCE PERMITS REGISTRATION 140894	AIR NEW SOURCE PERMITS REGISTRATION 110519
AIR NEW SOURCE PERMITS REGISTRATION 131327	AIR NEW SOURCE PERMITS REGISTRATION 121854
AIR NEW SOURCE PERMITS REGISTRATION 169341	AIR NEW SOURCE PERMITS REGISTRATION 168503
AIR NEW SOURCE PERMITS REGISTRATION 168050	AIR NEW SOURCE PERMITS REGISTRATION 147701
AIR NEW SOURCE PERMITS REGISTRATION 161351	AIR NEW SOURCE PERMITS REGISTRATION 167932
AIR NEW SOURCE PERMITS REGISTRATION 163606	IHW CORRECTIVE ACTION SOLID WASTE REGISTRATION # (SWR) 32728
STORMWATER PERMIT TXR05AN06	AIR EMISSIONS INVENTORY ACCOUNT NUMBER HG13100
POLLUTION PREVENTION PLANNING ID NUMBER P03126	INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXD981148059

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

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: Yuliya Dunaway

Phone: (210) 403-4077

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: 10/25/2019 ADMINORDER 2018-1098-AIR-E (1660 Order-Agreed Order With Denial)
Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: 9576 Special Condition 1 PERMIT
GTC OP
STC 16 OP

Description: Failed to prevent unauthorized emissions. Specifically, the Respondent released 11,348 pounds ("lbs") of ethylene, a highly reactive volatile organic compound, 14 lbs of carbon monoxide ("CO"), and three lbs of nitrogen oxides ("NOx") as fugitive emissions from the Process 1400 Unit Line during an avoidable emissions event (Incident No. 250628) that began on January 17, 2017 and lasted 16 hours and 40 minutes. The emissions event occurred due to a leak in the vent piping for the ethylene

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(1)(G)
30 TAC Chapter 101, SubChapter F 101.201(b)(1)(H)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: GTC OP
STC 2.F. OP

Description: Failed to identify all required information on the final record for a reportable emissions event. Specifically, the Respondent did not identify 14 lbs of CO and three lbs of NOx and did not identify the correct estimated total amount of ethylene in the final record for Incident No. 250628.

2 Effective Date: 02/14/2020 ADMINORDER 2019-0190-AIR-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter H 115.722(c)(1)
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

Description: Failure to meet the demonstration criteria for an affirmative defense for unauthorized emissions during an emissions event. (Category A12(i)(6))

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	April 30, 2018	(1481497)
Item 2	August 08, 2018	(1499015)
Item 3	July 10, 2019	(1518043)
Item 4	December 13, 2019	(1597714)
Item 5	May 22, 2020	(1639071)
Item 6	June 23, 2020	(1645223)
Item 7	June 10, 2021	(1724960)
Item 8	June 21, 2021	(1679448)
Item 9	July 19, 2021	(1724163)
Item 10	August 03, 2021	(1690271)

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: 08/24/2022 (1818172)

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 18 PERMIT
Special Term and Condition 13 PERMIT
Special Term and Condition 1A OP

Description: Failure to maintain records of material presence in the collection pot for the Septon Process Unit (EPN: PROSEPTON) (Category C3)

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 17A PERMIT

Description: Special Term and Condition 13 PERMIT
Failure to maintain records for visible emissions inspections during operation of the Septon Process Unit (EPN: PROSEPTON) (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)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(3)(ii)
5C THSC Chapter 382 382.085(b)
Special Condition 11A PERMIT
Special Term and Condition 13 PERMIT
Special Term and Condition 1A OP
Description: Failure to maintain net heating value above the minimum permitted limit for the Flare (EPN: 6) (Category C4).

2 Date: 12/07/2022 (1841028)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.167(a)(1)
5C THSC Chapter 382 382.085(b)
Special Conditions 31E and 39 PERMIT
Special Terms and Conditions 1A and 18 OP
Description: Failure to prevent open-ended lines (OELs). (Category C10)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)(ii)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Term and Condition 1A OP
Description: Failure to record visible emission observations of Flare (EPN: 400). (Category C3)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 115, SubChapter H 115.725(d)(5)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(3)(ii)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.11(b)(6)(ii)
5C THSC Chapter 382 382.085(b)
Special Conditions 4A, 5A, and 17A PERMIT
Special Terms and Conditions 1A and 18 OP
Description: Failure to maintain the net heating value above the minimum permitted limit for the Flare (EPN: 400). (Category C4)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(1)
5C THSC Chapter 382 382.085(b)
Special Condition 17C PERMIT
Special Terms and Conditions 1A and 18 OP
Description: Failure to prevent visible emissions from Flare (EPN: 400). (Category B17)

F. Environmental audits:

Notice of Intent Date: 09/14/2019 (1597223)

Disclosure Date: 11/08/2019

Viol. Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.142
40 CFR Chapter 63, SubChapter C, PT 63, SubPT FFFF 63.2485
40 CFR Chapter 63, SubChapter C, PT 63, SubPT FFFF 63.2485(a)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT FFFF 63.2485(b)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT FFFF 63.2485(c)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT FFFF 63.2485(d)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT FFFF 63.2485(e)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT FFFF 63.2485(f)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT FFFF 63.2485(g)

Rqmt Prov: PERMIT SC 5

Description: Failed to maintain complete process unit vent applicability determinations for control devices F1483, F3102, and FL8432.

Viol. Classification: Major

Citation: 30 TAC Chapter 122, SubChapter B 122.142

Description: Failed to include all emissions sources in the Title V Permit. Specifically, Storage Tanks V8501, V8505, V8606-1, and V8606-2 were inadvertently excluded from the Title V Permit.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)

30 TAC Chapter 116, SubChapter B 116.115(c)

30 TAC Chapter 122, SubChapter B 122.142

40 CFR Chapter 63, SubChapter C, PT 63, SubPT FFFF 63.2485

40 CFR Chapter 63, SubChapter C, PT 63, SubPT FFFF 63.2485(a)

40 CFR Chapter 63, SubChapter C, PT 63, SubPT FFFF 63.2485(c)

40 CFR Chapter 63, SubChapter C, PT 63, SubPT FFFF 63.2485(d)

40 CFR Chapter 63, SubChapter C, PT 63, SubPT FFFF 63.2485(e)

40 CFR Chapter 63, SubChapter C, PT 63, SubPT FFFF 63.2485(f)

Rqmt Prov: PERMIT SC 5

Description: Failed to properly manage wastewater streams 2101, 2301, and 3101. Specifically wastewater streams 2101, 2301, and 3101 are determined Group 1 wastewaters currently managed as Group 2 in an open-system.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)

30 TAC Chapter 116, SubChapter B 116.115(c)

40 CFR Chapter 63, SubChapter C, PT 63, SubPT FFFF 63.2520

40 CFR Chapter 63, SubChapter C, PT 63, SubPT FFFF 63.2520(c)

40 CFR Chapter 63, SubChapter C, PT 63, SubPT FFFF 63.2520(d)

Rqmt Prov: PERMIT Special Conditions No. 5

Description: Failed to compile and submit accurate precompliance and notice of compliance status reports. Specifically precompliance and notice of compliance status reports were incorrect for applicability determinations.

Viol. Classification: Moderate

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

Rqmt Prov: PERMIT Special Conditions No. 1

Description: Failed to include all sources of emissions in the NSR permit. Specifically, EPNs 75 A-D and 56A-B were inadvertently removed from the NSR permit.

Notice of Intent Date: 05/20/2020 (1651531)

No DOV Associated

Notice of Intent Date: 10/18/2021 (1771198)

Disclosure Date: 12/03/2021

Viol. Classification: Minor

Citation: 30 TAC Chapter 106, SubChapter W 106.511

30 TAC Chapter 122, SubChapter B 122.143(4)

Rqmt Prov: OP STC 19

Description: Failed to operate portable diesel engines utilized for non-emergency operation 10% or less of the unit normal annual operating schedule.

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



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

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2021-0569-AIR-E

I. JURISDICTION AND STIPULATIONS

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

1. The Respondent owns and operates a chemical manufacturing plant located at 11500 Bay Area Boulevard in Pasadena, Harris County, Texas (the "Plant"). The Plant consists or consisted of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$22,125 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$21,240 of the penalty and \$885 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order. The deferred amount shall be waived only upon full compliance with all the terms and conditions contained in this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms or requirements contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.
5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.

6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Order.
7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Executive Director recognizes that the Respondent implemented the following corrective measures at the Plant:
 - a. By October 31, 2020, installed an uninterrupted power supply to the 8500 Area to keep the Distributed Control System in communication with the nitrogen valves in the event of a power outage and began monthly inspections of the gas pressure and oil levels for the Hydraulic Mechanism Type B in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 334587; and
 - b. By October 27, 2020, idled each storage tank contributing to the breathing losses in order to comply with the combined methyl acetate hourly maximum allowable emissions rate ("MAER") for the Flare, Emission Point Number ("EPN") 400.

II. ALLEGATIONS

1. During a record review for the Plant conducted from December 3, 2020 through December 17, 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. 9576, Special Conditions ("SC") No. 1, Federal Operating Permit ("FOP") No. O1561, General Terms and Conditions ("GTC") and Special Terms and Conditions ("STC") No. 16, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent released 385.54 pounds ("lbs") of volatile organic compounds ("VOC"), 12.89 lbs of nitrogen oxides, 67.52 lbs of carbon monoxide, and 276.97 lbs of methyl acetate from the Flare, EPN 400, and 12.00 lbs of VOC as fugitives, during an emissions event (Incident No. 334587) that occurred on April 27, 2020 and lasted 11 hours and 32 minutes. The emissions event occurred due to the failure of a Teflon O-ring seal gasket that led to a power outage, resulting in the release to the atmosphere and in flaring. Since the emissions event was not caused by a sudden avoidable breakdown of equipment or process beyond the control of the owner or operator and could have been avoided by better design and/or 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 September 1, 2021 through September 27, 2021, an investigator documented that the Respondent failed to comply with the MAER and certified emissions rate, in violation of 30 TEX. ADMIN. CODE §§ 106.6(c), 106.261, 116.115(b)(2)(F) and (c), and 122.143(4), Permit by Rule Registration No. 147121, NSR Permit No. 9576, SC No. 1, FOP No. O1561, GTC and STC No. 16, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent exceeded the combined methyl acetate MAER and certified emissions rate of 1.18 pounds per hour ("lbs/hr") by a range of 0.01 lb/hr to 11.78 lbs/hr for a total of 302 hours on 103 days from April 7, 2020 to September 30, 2020 for the Flare, EPN 400, resulting in 143.30 pounds of unauthorized methyl acetate emissions.

III. DENIALS

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

IV. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Kuraray America, Inc., Docket No. 2021-0569-AIR-E" to:

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

2. All relief not expressly granted in this Order is denied.
3. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Plant operations referenced in this Order.
4. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

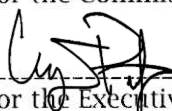
6. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
7. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



For the Executive Director

8/11/2023

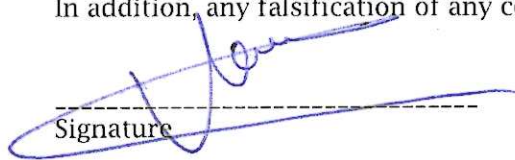
Date

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

06/29/23

Date

HANS VANDOMMELE

Name (Printed or typed)
Authorized Representative of
Kuraray America, Inc.

GENERAL 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.