

Executive Summary – Enforcement Matter – Case No. 60749

Poly-America, L.P.

RN100641752

Docket No. 2021-0625-AIR-E

Order Type:

Findings Agreed Order

Findings Order Justification:

People or environmental receptors have been exposed to pollutants which exceed levels that are protective.

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

Poly-America, 2000 West Marshall Drive, Grand Prairie, Dallas County

Type of Operation:

Plastic manufacturing plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

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

Texas Register Publication Date: March 3, 2023

Comments Received: No

Penalty Information

Total Penalty Assessed: \$9,750

Total Paid to General Revenue: \$4,875

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project (“SEP”) Conditional Offset: \$1,625

Name of SEP: North Central Texas Council of Governments (Third-Party Pre-Approved)

Supplemental Environmental Project (“SEP”) Conditional Offset: \$1,625

Name of SEP: Texas Congress of Parents and Teachers dba Texas PTA (Third-Party Pre-Approved)

Supplemental Environmental Project (“SEP”) Conditional Offset: \$1,625

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

Compliance History Classifications:

Person/CN - High

Site/RN - Unclassified

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: January 2021

Executive Summary – Enforcement Matter – Case No. 60749
Poly-America, L.P.
RN100641752
Docket No. 2021-0625-AIR-E

Investigation Information

Complaint Date(s): August 19, 2020 and August 20, 2020

Complaint Information: Alleged that smoke plume from the alleged source caused the complainant's nose to bleed.

Date(s) of Investigation: April 29, 2021

Date(s) of NOE(s): April 30, 2021

Violation Information

1. Failed to submit a final record for a reportable emissions event no later than two weeks after the end of the emissions event [30 TEX. ADMIN. CODE § 101.201(c) and TEX. HEALTH & SAFETY CODE § 382.085(b)].

2. Failed to prevent unauthorized emissions. Since the Respondent did not comply with the emissions event reporting requirements and the unauthorized emissions caused or contributed to an exceedance of the national ambient air quality standards, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222 [TEX. HEALTH & SAFETY CODE § 382.085(a)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent implemented the following corrective measures:

- a. On September 9, 2020, submitted the final record for Incident No. 341918; and
- b. In order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 341918:
 - i. By August 25, 2020, hired a third-party security firm;
 - ii. By August 27, 2020, hired a fire protection consultant; and
 - iii. By September 25, 2020, installed 250 security cameras.

Technical Requirements:

The Order will require the Respondent to implement and complete three SEP's (see SEP Attachments A, B, and C).

**Executive Summary – Enforcement Matter – Case No. 60749
Poly-America, L.P.
RN100641752
Docket No. 2021-0625-AIR-E**

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Mackenzie Mehlmann, Enforcement Division, Enforcement Team 2, MC 219, (512) 239-2572; 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: NCTCOG, P.O. Box 5888, Arlington, Texas 76005-5888

SEP Third-Party Administrator: Texas PTA, 408 West 11th Street, Austin, Texas 78701

SEP Third-Party Administrator: Texas Natural Gas Foundation, 2315 Newfield Lane, Austin, Texas 78703

Respondent: John Scifres, Safety and Environmental Manager, Poly-America, L.P., 2000 West Marshall Drive, Grand Prairie, Texas 75051

Jesse Raia, Vice President, Poly-America, L.P., 2000 West Marshall Drive, Grand Prairie, Texas 75051

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	3-May-2021		
	PCW	2-Jan-2023	Screening	12-May-2021
			EPA Due	

RESPONDENT/FACILITY INFORMATION				
Respondent	Poly-America, L.P.			
Reg. Ent. Ref. No.	RN100641752			
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor	

CASE INFORMATION				
Enf./Case ID No.	60749	No. of Violations	2	
Docket No.	2021-0625-AIR-E	Order Type	Findings	
Media Program(s)	Air	Government/Non-Profit	No	
Multi-Media		Enf. Coordinator	Mackenzie Mehlmann	
		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	-10.0%	Adjustment	Subtotals 2, 3, & 7	-\$1,500
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Notes: Since the reduction for one notice of intent to conduct an audit is below zero, the Adjustment Percentage (Subtotal 2) defaults to zero. Reduction for high performer classification.

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: \$182
 Estimated Cost of Compliance: \$30,250
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$9,750
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$9,750
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$9,750
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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 is recommended for Findings Orders.

PAYABLE PENALTY	\$9,750
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Screening Date 12-May-2021

Docket No. 2021-0625-AIR-E

PCW

Respondent Poly-America, L.P.

Policy Revision 5 (January 28, 2021)

Case ID No. 60749

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN100641752

Media Air

Enf. Coordinator Mackenzie Mehlmann

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	1	-1%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance History Notes

Since the reduction for one notice of intent to conduct an audit is below zero, the Adjustment Percentage (Subtotal 2) defaults to zero. Reduction for high performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) -10%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% -10%

Screening Date 12-May-2021
Respondent Poly-America, L.P.
Case ID No. 60749
Reg. Ent. Reference No. RN100641752
Media Air
Enf. Coordinator Mackenzie Mehlmann

Docket No. 2021-0625-AIR-E

PCW

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 101.201(c) and Tex. Health & Safety Code § 382.085(b)

Violation Description
 Failed to submit a final record for a reportable emissions event no later than two weeks after the end of the emissions event. Specifically, the final record for Incident No. 341918 was due by September 2, 2020, but was not submitted until September 9, 2020.

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			10.0%

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

Adjustment \$22,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 7

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$2,500

One single event is recommended.

Good Faith Efforts to Comply

25.0%

Reduction \$625

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

Extraordinary		
Ordinary	x	
N/A		

Notes The Respondent completed corrective measures on September 9, 2020, prior to the Notice of Enforcement ("NOE") dated April 30, 2021.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$1,625

This violation Final Assessed Penalty (adjusted for limits) \$1,625

Economic Benefit Worksheet

Respondent Poly-America, L.P.
Case ID No. 60749
Reg. Ent. Reference No. RN100641752
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)	\$250	2-Sep-2020	9-Sep-2020	0.02	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to submit the final record for Incident No. 341918. The Date Required is the date the final record was due and the Final Date is the date the final record was submitted.

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

\$0

Screening Date 12-May-2021 **Docket No.** 2021-0625-AIR-E **PCW**
Respondent Poly-America, L.P. *Policy Revision 5 (January 28, 2021)*
Case ID No. 60749 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN100641752
Media Air
Enf. Coordinator Mackenzie Mehlmann

Violation Number

Rule Cite(s)

Violation Description

Failed to prevent unauthorized emissions. Specifically, the Respondent released 7,464.22 pounds ("lbs") of nitrogen oxides, 40,614.16 lbs of carbon monoxide, 0.10 lb of sulfur dioxide, 44,127.84 lbs of particulate matter, and 5.17 lbs of volatile organic compounds as fugitive emissions, during an emissions event (Incident No. 341918) that occurred on August 19, 2020 and lasted 18 hours. The emissions event occurred when scrap plastic that was stored on a concrete loading pad caught on fire, resulting in the release to the atmosphere. Since the Respondent did not comply with the emissions event reporting requirements and the unauthorized emissions caused or contributed to an exceedance of the national ambient air quality standards, 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" value="x"/>			<input type="text" value="50.0%"/>
	Potential				

>> Programmatic Matrix

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

Matrix Notes

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

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Good Faith Efforts to Comply Reduction

	Before NOE/NOV	NOE/NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary	<input type="text" value="x"/>	
N/A		

Notes

The Respondent completed the corrective measures by September 25, 2020, prior to the NOE dated April 30, 2021.

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 Poly-America, L.P.
Case ID No. 60749
Reg. Ent. Reference No. RN100641752
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	\$25,000	19-Aug-2020	25-Sep-2020	0.10	\$8	\$169	\$177
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)	\$5,000	19-Aug-2020	27-Aug-2020	0.02	\$5	n/a	\$5

Notes for DELAYED costs

Estimated costs to hire a third-party security firm and a fire protection consultant (\$5,000) and to install 250 security cameras (\$25,000) in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 341918. The Dates Required are the date the emissions event 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

\$30,000

TOTAL

\$182

The TCEQ is committed to accessibility.

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



Compliance History Report

Compliance History Report for CN602612517, RN100641752, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

Customer, Respondent, or Owner/Operator: CN602612517, Poly-America, L.P. **Classification:** HIGH **Rating:** 0.00

Regulated Entity: RN100641752, POLY-AMERICA **Classification:** UNCLASSIFIED **Rating:** -----

Complexity Points: 7 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 2000 WEST MARSHALL DRIVE IN GRAND PRAIRIE, DALLAS COUNTY, TEXAS

TCEQ Region: REGION 04 - DFW METROPLEX

ID Number(s):

AIR NEW SOURCE PERMITS REGISTRATION 14901	AIR NEW SOURCE PERMITS REGISTRATION 33351
AIR NEW SOURCE PERMITS REGISTRATION 45568	AIR NEW SOURCE PERMITS REGISTRATION 46574
AIR NEW SOURCE PERMITS REGISTRATION 47283	AIR NEW SOURCE PERMITS ACCOUNT NUMBER DB0658J
AIR NEW SOURCE PERMITS REGISTRATION 74717	TIRES REGISTRATION 404
STORMWATER PERMIT TXR05N661	POLLUTION PREVENTION PLANNING ID NUMBER P02115
INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXD988048112	INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 20242

Compliance History Period: September 01, 2015 to August 31, 2020 **Rating Year:** 2020 **Rating Date:** 09/01/2020

Date Compliance History Report Prepared: May 12, 2021

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: May 12, 2016 to May 12, 2021

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

Name: Toni Red **Phone:** (512) 239-1704

Site and Owner/Operator History:

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

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

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

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 2 October 15, 2020 (1672740)

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

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

N/A

F. Environmental audits:

Notice of Intent Date: 01/11/2021 (1699249)

No DOV Associated

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
POLY-AMERICA, L.P.
RN100641752

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BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2021-0625-AIR-E

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Poly-America, L.P. (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this Order to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Order are binding upon the Respondent.

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

I. FINDINGS OF FACT

1. The Respondent owns and operates a plastic manufacturing plant located at 2000 West Marshall Drive in Grand Prairie, Dallas 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. During a record review for the Plant conducted on April 29, 2021, an investigator documented that:
 - a. The final record for Incident No. 341918 was due by September 2, 2020, but was not submitted until September 9, 2020.
 - b. The Respondent released 7,464.22 pounds ("lbs") of nitrogen oxides, 40,614.16 lbs of carbon monoxide, 0.10 lb of sulfur dioxide, 44,127.84 lbs of particulate matter, and 5.17 lbs of volatile organic compounds as fugitive emissions, during an emissions event (Incident No. 341918) that occurred on August 19, 2020 and lasted 18 hours. The emissions event occurred when scrap plastic that was stored on a concrete loading pad caught on fire, resulting in the release to the atmosphere. TCEQ staff determined that the Respondent did not comply with

the emissions event reporting requirements and the unauthorized emissions caused or contributed to an exceedance of the national ambient air quality standards.

3. The Executive Director recognizes that the Respondent implemented the following corrective measures at the Plant:
 - a. On September 9, 2020, submitted the final record for Incident No. 341918; and
 - b. In order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 341918:
 - i. By August 25, 2020, hired a third-party security firm;
 - ii. By August 27, 2020, hired a fire protection consultant; and
 - iii. By September 25, 2020, installed 250 security cameras.

II. CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, the Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a, the Respondent failed to submit a final record for a reportable emissions event no later than two weeks after the end of the emissions event, in violation of 30 TEX. ADMIN. CODE § 101.201(c) and TEX. HEALTH & SAFETY CODE § 382.085(b).
3. As evidenced by Finding of Fact No. 2.b, the Respondent failed to prevent unauthorized emissions, in violation of TEX. HEALTH & SAFETY CODE § 382.085(a). Since the Respondent did not comply with the emissions event reporting requirements and the unauthorized emissions caused or contributed to an exceedance of the national ambient air quality standards, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.
4. Pursuant to TEX. WATER CODE § 7.051, the TCEQ has the authority to assess an administrative penalty against the Respondent for violations of state statutes within the TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of \$9,750 is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent paid \$4,875 of the penalty. Pursuant to TEX. WATER CODE § 7.067, \$4,875 of the penalty shall be conditionally offset by the Respondent's timely and satisfactory completion of three Supplemental Environmental Projects ("SEPs") as defined in the attached SEP Agreements ("Attachment A", Attachment B", and "Attachment C", incorporated herein by reference). The Respondent's obligation to pay the conditionally offset portion of the penalty shall be discharged upon full compliance with all the terms

and conditions of this Order, which includes the timely and satisfactory completion of all provisions of the SEP Agreements, as determined by the Executive Director.

III. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Conclusion of Law No. 5 for violations of state statutes and rules of the TCEQ. The payment of this penalty and the Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations that are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Poly-America, L.P., Docket No. 2021-0625-AIR-E" to:

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

2. The Respondent shall implement and complete three SEPs as set forth in Conclusion of Law No. 5. The amount of \$4,875 of the assessed penalty is conditionally offset based on the Respondent's implementation and completion of the SEPs pursuant to the terms of the SEP Agreements, as defined in Attachment A, Attachment B, and Attachment C. Penalty payments for any portion of the SEPs deemed by the Executive Director as not complete shall be paid within 30 days after the date of the Executive Director demands payment.
3. All relief not expressly granted in this Order is denied.
4. 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.
5. 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.
6. 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.

7. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms in this Order.
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. 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.
10. 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.
11. 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



4/17/2023

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

Date

Jesse Ruin

1/9/23

VP

Name (Printed or typed)
Authorized Representative of
Poly-America, L.P.

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: 2021-0625-AIR-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Poly-America, L.P.
Payable Penalty Amount:	\$9,750
SEP Offset Amount:	\$1,625
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	North Central Texas Council of Governments
Project Name:	<i>North Central Texas Clean School Bus Program</i>
Location of SEP:	Dallas - Fort Worth - Air Quality Control Region No. 215

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 **North Central Texas Council of Governments** for the *North Central Texas Clean School Bus Program* SEP. The contribution will be used in accordance with the SEP, the Third-Party Administrator, and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to reduce nitrogen oxides, volatile organic compounds, carbon monoxide, and particulate matter emissions by replacing older diesel buses with newer buses, or retrofitting them with nitrogen oxides reduction technology, that meet more stringent emission standards. The Third-Party Administrator shall use the SEP Offset Amount for up to either 100% of the purchase price of a school bus that is model year 2010 or newer, to replace a diesel school bus that is model year 2002 or older, or 100% of the cost to retrofit a diesel school bus that is model year 2002 or older, and with nitrogen oxides reduction technology. 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 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.

Poly-America, L.P.
Agreed Order - Attachment A

b. Environmental Benefit

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

c. Minimum Expenditure

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

2. Performance Schedule

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

NCTCOG
Attn: TCEQ NCT Clean School Bus Program, TRX1726
Evan Paret, Transportation Department
P.O. Box 5888
Arlington, Texas 76005-5888

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:

Poly-America, L.P.
Agreed Order - Attachment A

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

5. Publicity

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

6. Recognition

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

7. Other SEPs by TCEQ or Other Agencies

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

Attachment B
Docket Number: 2021-0625-AIR-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Poly-America, L.P.
Payable Penalty Amount:	\$9,750
SEP Offset Amount:	\$1,625
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Texas Congress of Parents and Teachers dba Texas PTA
Project Name:	<i>Texas PTA Clean School Bus Replacement Program</i>
Location of SEP:	Texas Air Quality Control Region 215: Dallas-Fort Worth - Preference for Dallas 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 B.

1. Project Description

a. Project

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

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

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

Poly-America, L.P.
Agreed Order - Attachment B

b. Environmental Benefit

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

c. Minimum Expenditure

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

2. Performance Schedule

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

Texas PTA
408 West 11th Street
Austin, Texas 78701

3. Records and Reporting

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

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

4. Failure to Fully Perform

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

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

Poly-America, L.P.
Agreed Order - Attachment B

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

5. Publicity

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

6. Recognition

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

7. Other SEPs by TCEQ or Other Agencies

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

Attachment C
Docket Number: 2021-0625-AIR-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Poly-America, L.P.
Penalty Amount:	\$9,750
SEP Offset Amount:	\$1,625
Type of SEP:	Contribution to a Third-Party Administrator SEP
Third-Party Administrator:	Texas Natural Gas Foundation
Project Name:	<i>High Emission Vehicle Replacement Project</i>
Location of SEP:	TCEQ Air Quality Control Region 215 - Dallas-Fort Worth - Preference for Dallas County

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

1. Project Description

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above, **Texas Natural Gas Foundation**, for the *High Emission Vehicle Replacement Project* (the “Project”). The contribution will be used in accordance with the Supplemental Environmental Project between the Third-Party Administrator and the TCEQ, which details the terms and conditions of the Project.

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

Old, diesel-fueled vehicles emit large amounts of nitrogen oxides (“NOx”) and particulate matter (“PM”), as well as other harmful pollutants such as volatile organic compounds (“VOCs”) and carbon monoxide (“CO”). These pollutants contribute to serious public health problems. This Project shall reduce NOx, PM, VOCs, and CO emissions by replacing high-emission, diesel-fueled vehicles with low-emission, alternative-fueled vehicles. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

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

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

b. Environmental Benefit

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

c. Minimum Expenditure

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

2. Performance Schedule

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

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

3. Records and Reporting

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

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

4. Failure to Fully Perform

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

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

Poly-America, L.P.
Agreed Order - Attachment C

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

5. Publicity

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

6. Recognition

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

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Attachment C and in the 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.