

**Executive Summary – Enforcement Matter – Case No. 61210**

**Oxy Vinyls, LP**

**RN100225879**

**Docket No. 2021-1101-AIR-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

AIR

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

Deer Park PVC, 1000 Tidal Road, Deer Park, 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:** February 3, 2023

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$7,950

**Amount Deferred for Expedited Settlement:** \$1,590

**Total Paid to General Revenue:** \$3,180

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**Supplemental Environmental Project (“SEP”) Conditional Offset:** \$3,180

Name of SEP: Houston Regional Monitoring Corporation (Third-Party Pre-Approved)

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - Satisfactory

**Major Source:** Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** January 2021

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** June 25, 2021

**Date(s) of NOE(s):** July 27, 2021

**Executive Summary – Enforcement Matter – Case No. 61210**

**Oxy Vinyls, LP**

**RN100225879**

**Docket No. 2021-1101-AIR-E**

***Violation Information***

Failed to prevent unauthorized emissions. Specifically, the Respondent released 145.56 pounds of vinyl chloride monomer as fugitive emissions during an emissions event (Incident No. 310355) that occurred on June 5, 2019 and lasted two hours and five minutes. The emissions event occurred when the piping flanges were out of alignment tolerances according to the industry guidance that caused stress to exceed the strength of the gasket material, resulting in a leak and in the release to the atmosphere. Since the emissions event was not caused by a sudden unavoidable breakdown of equipment or process beyond the control of the owner or operator and could have been avoided by better design and/or better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), New Source Review Permit No. 4673B, Special Conditions No. 1, Federal Operating Permit No. O3018, General Terms and Conditions and Special Terms and Conditions No. 15, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

By June 17, 2021, the Respondent implemented a training module covering the piping and flange alignments in accordance with the industry guidelines, conducted training for all boilermakers and millwrights, changed the piping specifications for polyvinyl chloride services, and redesigned the condenser coating piping and supports on Reactors A through F to minimize or eliminate vibration from the Reactor System during the batch processes in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 310355.

**Technical Requirements:**

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

**Executive Summary – Enforcement Matter – Case No. 61210**

**Oxy Vinyls, LP**

**RN100225879**

**Docket No. 2021-1101-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:** Houston Regional Monitoring Corporation, Amandes Amandes PLLC, 1414 West Clay Street, Houston, Texas 77019

**Respondent:** John Brenon, Senior Vice President of Manufacturing, Oxy Vinyls, LP, P.O. Box 500, Deer Park, Texas 77536

Craig Horak, Plant Manager, Oxy Vinyls, LP, P.O. Box 500, Deer Park, Texas 77536

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

<b>DATES</b>	<b>Assigned</b>	2-Aug-2021	<b>Screening</b>	9-Aug-2021	<b>EPA Due</b>	
	<b>PCW</b>	3-Nov-2022				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Oxy Vinyls, LP
<b>Reg. Ent. Ref. No.</b>	RN100225879
<b>Facility/Site Region</b>	12-Houston
<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	61210	<b>No. of Violations</b>	1
<b>Docket No.</b>	2021-1101-AIR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Mackenzie Mehlmann
		<b>EC's Team</b>	Enforcement Team 5
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$7,500
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	31.0%	Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	\$2,325
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Notes: Enhancement for two NOV's with same or similar violations, one NOV with dissimilar violations, and one order containing a denial of liability. Reduction for one notice of intent to conduct an audit.

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	-\$1,875
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<b>Economic Benefit</b>	0.0%	Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts: \$1,018  
 Estimated Cost of Compliance: \$10,250  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$7,950
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$7,950
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$7,950
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<b>DEFERRAL</b>	20.0%	Reduction	<b>Adjustment</b>	-\$1,590
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes:

Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$6,360
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**Screening Date** 9-Aug-2021

**Docket No.** 2021-1101-AIR-E

**PCW**

**Respondent** Oxy Vinyls, LP

*Policy Revision 5 (January 28, 2021)*

**Case ID No.** 61210

*PCW Revision February 11, 2021*

**Reg. Ent. Reference No.** RN100225879

**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> )	2	10%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgments or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	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)** 31%

**>> 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 or similar violations, one NOV with dissimilar violations, and one order containing a denial of liability. Reduction for one notice of intent to conduct an audit.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 31%

**>> Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** 31%

**Screening Date** 9-Aug-2021  
**Respondent** Oxy Vinyls, LP  
**Case ID No.** 61210

**Docket No.** 2021-1101-AIR-E

**PCW**

*Policy Revision 5 (January 28, 2021)  
 PCW Revision February 11, 2021*

**Reg. Ent. Reference No.** RN100225879

**Media** Air  
**Enf. Coordinator** Mackenzie Mehlmann

**Violation Number** 1

**Rule Cite(s)**

30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), New Source Review Permit No. 4673B, Special Conditions No. 1, Federal Operating Permit No. O3018, General Terms and Conditions and Special Terms and Conditions No. 15, and Tex. Health & Safety Code § 382.085(b)

**Violation Description**

Failed to prevent unauthorized emissions. Specifically, the Respondent released 145.56 pounds of vinyl chloride monomer as fugitive emissions during an emissions event (Incident No. 310355) that occurred on June 5, 2019 and lasted two hours and five minutes. The emissions event occurred when the piping flanges were out of the alignment tolerances according to the industry guidance that caused stress to exceed the strength of the gasket material, resulting in a leak and in the release to the atmosphere. Since the emissions event was not caused by a sudden unavoidable breakdown of equipment or process beyond the control of the owner or operator and could have been avoided by better design and/or better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 Tex. Admin. Code § 101.222.

**Base Penalty** \$25,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual				X	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 that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

**Adjustment** \$17,500

\$7,500

**Violation Events**

Number of Violation Events 1 1 Number of violation days

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

**Violation Base Penalty** \$7,500

One monthly event is recommended.

**Good Faith Efforts to Comply**

25.0%

Reduction

\$1,875

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

Extraordinary		
Ordinary	X	
N/A		

Notes The Respondent completed the corrective measures by June 17, 2021, prior to the Notice of Enforcement dated July 27, 2021.

**Violation Subtotal** \$5,625

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$1,018

**Violation Final Penalty Total** \$7,950

**This violation Final Assessed Penalty (adjusted for limits)** \$7,950

## Economic Benefit Worksheet

**Respondent** Oxy Vinyls, LP  
**Case ID No.** 61210  
**Reg. Ent. Reference No.** RN100225879  
**Media** Air  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	5-Jun-2019	17-Jun-2021	2.04	\$1,018	n/a	\$1,018

#### Notes for DELAYED costs

Estimated cost to implement a training module covering the piping and flange alignments in accordance with the industry guidelines, conduct training for all boilermakers and millwrights, change the piping specifications for polyvinyl chloride services, and redesign the condenser coating piping and supports on Reactors A through F to minimize or eliminate vibration from the Reactor System during the batch processes in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 310355. 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

\$10,000

**TOTAL**

\$1,018

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# Compliance History Report

Compliance History Report for CN600129126, RN100225879, Rating Year 2022 which includes Compliance History (CH) components from September 1, 2017, through August 31, 2022.

**Customer, Respondent, or Owner/Operator:** CN600129126, Oxy Vinyls, LP      **Classification:** SATISFACTORY      **Rating:** 3.26  
**Regulated Entity:** RN100225879, Deer Park PVC      **Classification:** SATISFACTORY      **Rating:** 2.00  
**Complexity Points:** 27      **Repeat Violator:** NO  
**CH Group:** 05 - Chemical Manufacturing  
**Location:** 1000 Tidal Road, Deer Park, Harris County, Texas  
**TCEQ Region:** REGION 12 - HOUSTON

**ID Number(s):**

**AIR OPERATING PERMITS** ACCOUNT NUMBER HG1028K  
**AIR OPERATING PERMITS** ACCOUNT NUMBER HG0192D  
**AIR NEW SOURCE PERMITS** PERMIT 4673B  
**AIR NEW SOURCE PERMITS** REGISTRATION 1836B  
**AIR NEW SOURCE PERMITS** REGISTRATION 3944B  
**AIR NEW SOURCE PERMITS** REGISTRATION 13493B  
**AIR NEW SOURCE PERMITS** REGISTRATION 46117  
**AIR NEW SOURCE PERMITS** AFS NUM 4820100009  
**AIR NEW SOURCE PERMITS** REGISTRATION 52110  
**AIR NEW SOURCE PERMITS** REGISTRATION 56068  
**AIR NEW SOURCE PERMITS** REGISTRATION 159412  
**PETROLEUM STORAGE TANK REGISTRATION** REGISTRATION 12822  
**VOLUNTARY CLEANUP PROGRAM** ID NUMBER 348  
**WASTEWATER** PERMIT WQ0000305000  
**AIR EMISSIONS INVENTORY** ACCOUNT NUMBER HG0192D  
**INDUSTRIAL AND HAZARDOUS WASTE** SOLID WASTE REGISTRATION # (SWR) 30550  
**TAX RELIEF** ID NUMBER 20782  
**TAX RELIEF** ID NUMBER 20786  
**TAX RELIEF** ID NUMBER 20776

**AIR OPERATING PERMITS** PERMIT 3018  
**PUBLIC WATER SYSTEM/SUPPLY** REGISTRATION 1011155  
**AIR NEW SOURCE PERMITS** REGISTRATION 15141B  
**AIR NEW SOURCE PERMITS** REGISTRATION 3920B  
**AIR NEW SOURCE PERMITS** REGISTRATION 10172B  
**AIR NEW SOURCE PERMITS** REGISTRATION 38736  
**AIR NEW SOURCE PERMITS** ACCOUNT NUMBER HG0192D  
**AIR NEW SOURCE PERMITS** REGISTRATION 70782  
**AIR NEW SOURCE PERMITS** REGISTRATION 79213  
**AIR NEW SOURCE PERMITS** REGISTRATION 105029  
**AIR NEW SOURCE PERMITS** REGISTRATION 156628  
**PETROLEUM STORAGE TANK REGISTRATION** REGISTRATION 53231  
**STORMWATER** PERMIT TXR05P253  
**WASTEWATER** EPA ID TX0007412  
**POLLUTION PREVENTION PLANNING** ID NUMBER P00482  
**INDUSTRIAL AND HAZARDOUS WASTE** EPA ID TXD056263528  
**TAX RELIEF** ID NUMBER 20798  
**TAX RELIEF** ID NUMBER 20788

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

**Date Compliance History Report Prepared:** November 03, 2022

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** November 03, 2017 to November 03, 2022

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

**Name:** Mackenzie Mehlmann

**Phone:** (512) 239-2572

**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: 12/21/2021 ADMINORDER 2019-0870-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: O3018 GTC and STC 15 OP  
Special Condition 1 PERMIT  
Description: Failure to prevent 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	November 16, 2017	(1461481)
Item 2	December 19, 2017	(1467861)
Item 3	January 19, 2018	(1474566)
Item 4	February 15, 2018	(1486792)
Item 5	March 20, 2018	(1490469)
Item 6	April 11, 2018	(1493706)
Item 7	May 15, 2018	(1500624)
Item 8	June 08, 2018	(1507741)
Item 9	July 16, 2018	(1514059)
Item 10	August 15, 2018	(1520121)
Item 11	August 23, 2018	(1511177)
Item 12	September 18, 2018	(1527285)
Item 13	November 16, 2018	(1541478)
Item 14	December 19, 2018	(1545262)
Item 15	January 10, 2019	(1559761)
Item 16	February 19, 2019	(1559759)
Item 17	March 14, 2019	(1559760)
Item 18	May 13, 2019	(1557989)
Item 19	May 20, 2019	(1583326)
Item 20	June 17, 2019	(1583327)
Item 21	July 18, 2019	(1593174)
Item 22	August 19, 2019	(1599518)
Item 23	September 19, 2019	(1606423)
Item 24	October 17, 2019	(1613269)
Item 25	November 20, 2019	(1619083)
Item 26	December 18, 2019	(1626435)
Item 27	January 16, 2020	(1634076)
Item 28	February 20, 2020	(1640695)
Item 29	March 19, 2020	(1647215)
Item 30	April 20, 2020	(1653551)
Item 31	May 19, 2020	(1633118)
Item 32	June 18, 2020	(1666642)
Item 33	July 09, 2020	(1673599)
Item 34	August 20, 2020	(1680375)
Item 35	September 15, 2020	(1686943)
Item 36	November 19, 2020	(1712560)
Item 37	December 17, 2020	(1712561)
Item 38	February 10, 2021	(1725615)
Item 39	March 16, 2021	(1725616)
Item 40	April 20, 2021	(1725617)
Item 41	May 18, 2021	(1740110)

Item 42	June 17, 2021	(1747600)
Item 43	August 20, 2021	(1755462)
Item 44	September 20, 2021	(1766283)
Item 45	October 20, 2021	(1776746)
Item 46	November 18, 2021	(1783655)
Item 47	December 16, 2021	(1790681)
Item 48	January 25, 2022	(1787709)
Item 49	February 16, 2022	(1806349)
Item 50	March 18, 2022	(1813416)
Item 51	March 31, 2022	(1775533)
Item 52	April 19, 2022	(1819987)
Item 53	May 19, 2022	(1828826)
Item 54	June 16, 2022	(1835119)
Item 55	July 20, 2022	(1842323)
Item 56	August 18, 2022	(1848456)

**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: 11/05/2021 (1763687)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
Special Condition 1 PERMIT  
Description: Failure to prevent unauthorized emissions to the atmosphere during an emissions event that was discovered on August 7, 2021, TCEQ/STEERS Incident No. 364401. [Category B13]
  
- 2 Date: 12/14/2021 (1690117)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
Special Condition 1 PERMIT  
Description: Failure to prevent unauthorized emissions to the atmosphere during an emissions event that was discovered on November 6, 2019, TCEQ/STEERS Incident No. 324255.
  
- 3 Date: 08/05/2022 (1817517)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.145(2)(A)  
5C THSC Chapter 382 382.085(b)  
General Terms and Conditions OP  
Description: Failure to report all deviations for the reporting period of January 1, 2021 through June 30, 2021 (Category B3).  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.145(2)(A)  
5C THSC Chapter 382 382.085(b)  
General Terms and Conditions OP  
Description: Failure to report all deviations for eight reporting periods from January 1, 2017 through December 31, 2020 (Category B3).  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.165(a)(7)  
5C THSC Chapter 382 382.085(b)  
Special Term and Condition 1G(vi) OP  
Description: Failure to certify the 2019 MECT report with a signed OP-CRO1 Form (Category B3).  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(8)(B)(i)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
Special Term and Condition 3C(iii)(1) OP  
Description: Failure to conduct quarterly VE monitoring for Paint Yard Operations (EPN: F-DP-M01A), Site-wide Paint Operations (EPN: F-DP-M01B), Abrasive Blast Yard

Operations (EPN: F-DP-M02A), and Site-wide Blast Operations (EPN: F-DP-M02B)  
(Category B1).

**F. Environmental audits:**

Notice of Intent Date: 03/10/2021 (1705185)  
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  
OXY VINYLs, LP  
RN100225879

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2021-1101-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 Oxy Vinyls, LP (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 1000 Tidal Road in Deer Park, 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 \$7,950 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$3,180 of the penalty and \$1,590 of the penalty is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order and shall be waived only upon full compliance with all the terms and conditions of this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms and conditions contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.

Pursuant to TEX. WATER CODE § 7.067, \$3,180 of the penalty shall be conditionally offset by the Respondent's timely and satisfactory completion of a Supplemental Environmental Project ("SEP") as defined in the attached SEP Agreement ("Attachment A", incorporated herein by reference). The Respondent's obligation to pay the conditionally offset portion of the penalty shall be discharged upon full compliance with all the terms and conditions of this Order, which includes the timely and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director.

5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Order.
7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Executive Director recognizes that by June 17, 2021, the Respondent implemented a training module covering the piping and flange alignments in accordance with the industry guidelines, conducted training for all boilermakers and millwrights, changed the piping specifications for polyvinyl chloride services, and redesigned the condenser coating piping and supports on Reactors A through F to minimize or eliminate vibration from the Reactor System during the batch processes in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 310355.

## **II. ALLEGATIONS**

During a record review for the Plant conducted on June 25, 2021, 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 Permit No. 4673B, Special Conditions No. 1, Federal Operating Permit No. O3018, General Terms and Conditions and Special Terms and Conditions No. 15, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent released 145.56 pounds of vinyl chloride monomer as fugitive emissions during an emissions event (Incident No. 310355) that occurred on June 5, 2019 and lasted two hours and five minutes. The emissions event occurred when the piping flanges were out of alignment tolerances according to the industry guidance that caused stress to exceed the strength of the gasket material, resulting in a leak and in the release to the atmosphere. Since the emissions event was not caused by a sudden unavoidable breakdown of equipment or process beyond the control of the owner or operator and could have been avoided by better design and/or better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.

## **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: Oxy Vinyls, LP, Docket No. 2021-1101-AIR-E" to:

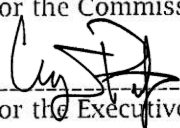
Financial Administration Division, Revenue Operations Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. The Respondent shall implement and complete the SEP as set forth in Section I, Paragraph No. 4. The amount of \$3,180 of the assessed penalty is conditionally offset based on the Respondent's implementation and completion of the SEP pursuant to the terms of the SEP Agreement, as defined in Attachment A. Penalty payments for any portion of the SEP deemed by the Executive Director as not complete shall be paid within 30 days after the date the Executive Director demands payment.
3. 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. 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.

8. 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.
9. 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

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For the Commission  
  
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For the Executive Director

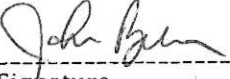
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Date  
2/24/2023  
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Date

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.

  
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Signature

12/22/2022  
-----  
Date

John Brennan  
-----  
Name (Printed or typed)  
Authorized Representative of  
Oxy Vinyls, LP

SVP Manufacturing  
-----  
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: 2021-1101-AIR-E**  
**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>Oxy Vinyls, LP</b>
<b>Payable Penalty Amount:</b>	<b>\$6,360</b>
<b>SEP Offset Amount:</b>	<b>\$3,180</b>
<b>Type of SEP:</b>	<b>Contribution to a Third-Party Pre-Approved SEP</b>
<b>Third-Party Administrator:</b>	<b>Houston Regional Monitoring Corporation</b>
<b>Project Name:</b>	<b><i>Houston Area Air Monitoring Project</i></b>
<b>Location of SEP:</b>	<b>Harris County</b>

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

**1. Project Description**

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Houston Regional Monitoring Corporation** for the *Houston Area Air Monitoring Project* SEP. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to operate a network of ambient air monitoring stations that continuously measure and record concentrations of ambient air pollutants. This network includes the Houston Regional Monitor (“HRM”) 617 Wallisville Road site, the HRM 615 Lynchburg Ferry site, and the HRM 3 Haden Road site. The Third-Party Administrator shall use the SEP Offset Amount to report data from these three existing sites in the Houston Regional Monitoring Corporation ambient air quality monitoring network in the Houston-Galveston Air Quality Control Region No. 216. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

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

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

b. Environmental Benefit

This SEP will provide TCEQ with near real-time access to high quality, short time resolution volatile organic compound, nitrogen oxide, ozone, and meteorological data sets that can be used to evaluate and track air pollution emission events as they occur, conduct source attribution studies, and to assess potential ambient community exposure to a limited number

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

c. Minimum Expenditure

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

**2. Performance Schedule**

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

Houston Regional Monitoring Corporation  
c/o Christopher B. Amandes  
Amandes PLLC  
1414 West Clay Street  
Houston, Texas 77019

**3. Records and Reporting**

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

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

#### 4. Failure to Fully Perform

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

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

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

#### 4. 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.

#### 5. Recognition

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

#### 6. Other SEPs by TCEQ or Other Agencies

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