Executive Summary – Enforcement Matter – Case No. 62814
Tokai Carbon CB Ltd.
RN100222413
Docket No. 2022-1476-AIR-E

Order Type:
1660 Agreed Order
Findings Order Justification:
N/A
Media:
AIR
Small Business:
No
Location(s) Where Violation(s) Occurred:
Borger Carbon Black Plant, 9455 Farm-to-Market Road 1559, Borger, Hutchinson County
Type of Operation:
Carbon black manufacturing plant
Other Significant Matters:
Additional Pending Enforcement Actions: No
Past-Due Penalties: No
Other: N/A
Interested Third-Parties: None
Texas Register Publication Date: July 12, 2024
Comments Received: No

Penalty Information

Total Penalty Assessed: $275,002
Amount Deferred for Expedited Settlement: $55,005
Total Paid to General Revenue: $110,001
Total Due to General Revenue: $0
Payment Plan: N/A
Supplemental Environmental Project ("SEP") Conditional Offset: $110,001
Name of SEP: Texas Congress of Parents and Teachers dba Texas PTA (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): November 10, 2021 to April 6, 2022; November 21 and 26, 2022; and May 11 to May 17, 2023
Complaint Information: Alleged the plant was emitting a large smoke plume and potentially emitting sulfuric acid out of one of the stacks (Nov. 10, 2021 to Apr. 6, 2022). Alleged visible emissions above opacity limit (Nov. 21 and 26, 2022). Alleged visible plume originating from the plant (May 11 to May 17, 2023).

Date(s) of Investigation: June 8, 2022, September 12, 2022 through October 11, 2022, November 30, 2022 through December 13, 2022, May 12, 2023 through May 17, 2023, May 24, 2023 through May 25, 2023, August 25, 2023 through November 21, 2023, and November 10, 2023 through November 15, 2023.
Date(s) of NOE(s): June 29, 2022, January, 25, 2023, July 10, 2023, July 12, 2023, August 1, 2023, November 27, 2023, and November 30, 2023

Violation Information

1. Failed to comply with the representations with regards to construction plans and operation procedures in a permit application and failed to obtain authorization before constructing a new facility or modifying an existing facility which may emit air contaminants into the air. Specifically, the Respondent did not represent any sulfuric acid ("H2SO4") emissions in the application for New Source Review ("NSR") Permit Nos. 1867A and PSDTX1032M1 for the Boiler 1 and 2 Common Stack, Emissions Point Number ("EPN") 119, but the Respondent completed an investigative testing on March 16, 2022 and determined that 11.83 pounds per hour of sulfuric acid was being emitted from the Boiler 1 and 2 Common Stack, EPN 119, resulting in a change in the character of emissions [30 TEX. ADMIN. CODE §§ 101.20(3), 116.110(a), 116.115(c), 116.116(a)(1), and 122.143(4), NSR Permit Nos. 1867A and PSDTX1032M1, Special Conditions ("SC") No. 1, Federal Operating Permit ("FOP") No. O1414, General Terms and Conditions ("GTC") and Special Terms and Conditions ("STC") No. 6, and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b)].

2. Failed to prevent unauthorized emissions. Specifically, the Respondent released 100.00 pounds ("lbs") of carbon disulfide ("CS2"), 1,903.00 lbs of carbon monoxide ("CO"), 9.00 lbs of carbonyl sulfide ("COS"), 26.00 lbs of hydrogen sulfide ("H2S"), 141.00 lbs of nitrogen oxides ("NOx"), 188.00 lbs of particulate matter ("PM"), and 5,048.00 lbs of sulfur dioxide ("SO2") from the Unit 3 Flare and Unit 4 Flare, EPNs Flare-3 and Flare-4, during an emissions event (Incident No. 386529) that occurred on September 2, 2022 and lasted 13 hours and 30 minutes [30 TEX. ADMIN. CODE §§ 101.20(3), 116.115(c), and 122.143(4), NSR Permit Nos. 1867A and PSDTX1032M1, SC No. 2, FOP No. O1414, GTC and STC No. 6, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

3. Failed to comply with the opacity limit. Specifically, on November 30, 2022, TCEQ staff conducted an opacity observation and determined that the opacity limit of 15 percent ("%") averaged over a six-minute period was exceeded by 25% and 18% for the Boiler 1 and 2 Common Stack, EPN 119 [30 TEX. ADMIN. CODE §§ 101.20(3), 111.111(a)(1)(C), 116.115(c), and 122.143(4), NSR Permit Nos. 1867A and PSDTX1032M1, SC No. 2, FOP No. O1414, GTC and STC No. 6, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

4. Failed to submit an initial notification no later than 24 hours after the discovery of an excess opacity event. Specifically, TCEQ staff conducted an opacity observation on November 30, 2022 for the Boiler 1 and 2 Common Stack and determined that the

Respondent had an excess opacity event at the Boiler 1 and 2 Common Stack, but the Respondent did not submit the initial notification for the excess opacity event that occurred on November 30, 2022 by December 1, 2022 [30 TEX. ADMIN. CODE §§ 101.201(e) and 122.143(4), FOP No. O1414, GTC and STC No. 2.F., and TEX. HEALTH & SAFETY CODE § 382.085(b)].

5. Failed to comply with the opacity limit. Specifically, TCEQ staff conducted opacity observations and determined that the opacity limit of 15% averaged over a six-minute period was exceeded by 60% on May 12, 2023, by 60% on May 16, 2023, and by 70% on May 17, 2023 for the Boiler 1 and 2 Common Stack, EPN 119 [30 TEX. ADMIN. CODE §§ 101.20(3), 111.111(a)(1)(C), 116.115(c), and 122.143(4), NSR Permit Nos. 1867A and PSDTX1032M1, SC No. 2, FOP No. O1414, GTC and STC No. 6, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

6. Failed to prevent an excess opacity event. Specifically, the Respondent experienced 48% opacity from the Boiler 1 and 2 Common Stack, EPN 119, during an excess opacity event (Incident No. 397342) that began on March 31, 2022 and lasted 8,400 hours. The excess opacity event occurred due to the operation of the air pollution control device, resulting in the release to the atmosphere. Also, the Respondent experienced 50% opacity from fugitive emissions during an excess opacity event (Incident No. 391594) that occurred on December 6, 2022 and lasted 24 minutes. The excess opacity event occurred when the Line 1 developed a smoke leak on the smoke header, resulting in the release to the atmosphere [30 TEX. ADMIN. CODE §§ 101.20(3), 111.111(a)(1)(C), 111.111(a)(8)(A), 116.115(c), 116.615(2), and 122.143(4), NSR Permit Nos. 1867A and PSDTX1032M1, SC No. 2, Standard Permit Registration No. 157178, FOP No. O1414, GTC and STC No. 6, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

7. Failed to maintain records of visible emissions observations. Specifically, the Respondent provided records showing that there were no visible emissions from the Boiler 1 and 2 Common Stack, EPN 119, in the last two years, but the Respondent has reported continuous visible emissions from the Boiler 1 and 2 Common Stack, EPN 119, since March 31, 2022. Also, the Respondent did not record the visible emissions from the Unit 4 Dryer Stack that occurred on March 31, 2022, from the Purge Filter Stack on April 15, 2022, and from the Unit 4 Purge Filter Stack that occurred on May 23, 2022 [30 TEX. ADMIN. CODE §§ 101.20(3), 116.115(c), and 122.143(4), NSR Permit Nos. 1867A and PSDTX1032M1, SC No. 17.H., FOP No. O1414, GTC and STC No. 6, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

8. Failed to submit an initial notification for a reportable emissions event no later than 24 hours after the discovery of an emissions event. Specifically, the initial notification for Incident No. 408667 was due by August 23, 2023 at 8:55 a.m., but was not submitted until August 23, 2023 at 9:00 a.m. [30 TEX. ADMIN. CODE §§ 101.201(a)(1)(B) and 122.143(4), FOP No. O1414, GTC and STC No. 2.F., and TEX. HEALTH & SAFETY CODE § 382.085(b)].

9. Failed to prevent unauthorized emissions. Specifically, the Respondent released 632.78 lbs of carbon black as fugitive emissions, during an emissions event (Incident No. 408667) that occurred on August 22, 2023 and lasted 35 minutes [30 TEX. ADMIN. CODE §§ 101.20(3), 116.115(c), and 122.143(4), NSR Permit Nos. 1867A and PSDTX1032M1, SC No. 1.A., FOP No. O1414, GTC and STC No. 6, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

10. Failed to prevent unauthorized emissions. Specifically, the Respondent released 190.00 lbs of CS2, 11,821.00 lbs of CO, 63.00 lbs of COS, 190.00 lbs of H2S, 870.00 lbs of NOx, 1,165.00 lbs of PM, and 37,322.00 lbs of SO2 from the Unit No. 1 Flare Stack, EPN FLARE-1; released 8.00 lbs of CS2, 582.00 lbs of CO, 3.00 lbs of COS, 8.00 lbs of H2S, 43.00 lbs of NOx, 57.00 lbs of PM, and 1,514.00 lbs of SO2 from the Unit No. 2 Flare Stack, EPN FLARE-2; and 259.00 lbs of CS2, 17,098.00 lbs of CO, 87.00 lbs of COS, 259.00 lbs of H2S, 1,258.00 lbs of NOx, 1,684.00 lbs of PM, and 50,970.00 lbs of SO2 from the Unit No. 3 Flare Stack, EPN FLARE-3, during an emissions event (Incident No. 394612) that began on January 28, 2023 and lasted 348 hours and 30 minutes [30 TEX. ADMIN. CODE §§ 101.20(3), 116.115(c), and 122.143(4), NSR Permit Nos. 1867A and PSDTX1032M1, SC No. 1.A., FOP No. O1414, GTC and STC No. 6, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

11. Failed to identify all required information on the final record for a reportable emissions event. Specifically, the Respondent did not identify the correct estimated duration of the emissions event, the correct EPNs, and the correct estimated total quantities for the NOx emissions that were released during the emissions event on the final record for Incident No. 394612 [30 TEX. ADMIN. CODE §§ 101.201(b)(1)(D), (F), (G), and (H) and 122.143(4), FOP No. O1414, GTC and STC No. 2.F., and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent implemented the following corrective measures:

a. On May 26, 2022, submitted an amendment application for NSR Permit Nos. 1867A and PSDTX1032M1 to authorize the H2SO4 emissions from the Boiler 1 and 2 Common Stack, EPN 119;

b. By September 3, 2022, replaced the differential pressure transmitter and replaced the duct burner system in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 386529;

c. On December 9, 2022, repaired the smoke leak in order to prevent the recurrence of excess opacity events due to the same or similar causes as Incident No. 391594;

d. By February 6, 2023, installed a temporary pipe in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 394612;

e. On May 11, 2023, provided the correct duration of the emissions event, the correct EPNs, and the correct estimated total quantities for the NOx emissions that were released during the emissions event for Incident No. 394612;

f. On August 23, 2023, submitted the initial notification for Incident No. 408667;
g. By August 25, 2023, implemented new guidelines for recording visible emissions observations that are conducted for the Boiler 1 and 2 Common Stack, Unit 4 Dryer Stack, Purge Filter Stack, and Unit 4 Purge Filter Stack;

h. By August 31, 2023, implemented an engineering improvement plan, engaged two technical experts with expertise in sulfuric acid unit operations, replaced the duct burner system, and completed a shutdown system re-examination of the Plant in order to comply with the opacity limit for the Boiler 1 and 2 Common Stack, EPN 119, and to prevent the recurrence of excess opacity events due to the same or similar causes as Incident No. 397342;

i. By September 11, 2023, conducted training in order to ensure that the initial notifications for excess opacity events are submitted in a timely manner;

j. By September 30, 2023, implemented measures to operate the system in manual mode instead of the automated mode if moisture is detected in the conveying loop in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 408667; and

k. By December 18, 2023, conducted training in order to ensure that the initial notifications for reportable emissions events are submitted in a timely manner and conducted training in order to ensure that all of the required information for the final records for reportable emissions events are identified in a timely manner.

Technical Requirements:

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

2. The Order will also require the Respondent to:

a. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the amendment application for NSR Permit Nos. 1867A and PSDTX1032M1 by any deadline specified in writing; and

b. Within 180 days, submit written certification that either the amendment for NSR Permit Nos. 1867A and PSDTX1032M1 has been obtained or operations have ceased until the proper authorization is obtained to demonstrate compliance.

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Amanda Diaz, Enforcement Division, Enforcement Team 2, MC R-12, (713) 422-8912; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548
TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565
SEP Third-Party Administrator: Texas PTA, 408 West 11th Street, Austin, Texas 78701
Respondent: Long Nguyen, Environmental, Health, & Safety Manager, Tokai Carbon CB Ltd., 301 Commerce Street, Fort Worth, Texas 76102
Mark Leigh, President, Tokai Carbon CB Ltd., 301 Commerce Street, Fort Worth, Texas 76102
Respondent's Attorney: N/A

Penalty Calculation Worksheet (PCW)

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

DATES						
	Assigned	6-Jul-2022				
	PCW	23-May-2024	**Screening**	16-Jul-2022	**EPA Due**	

RESPONDENT/FACILITY INFORMATION

Respondent	Tokai Carbon CB Ltd.		
Reg. Ent. Ref. No.	RN100222413		
Facility/Site Region	1-Amarillo	**Major/Minor Source**	Major

CASE INFORMATION

Enf./Case ID No.	62814	**No. of Violations**	12
Docket No.	2022-1476-AIR-E	**Order Type**	1660
Media Program(s)	Air	**Government/Non-Profit**	No
Multi-Media		**Enf. Coordinator**	Amanda Diaz
		EC's Team	Enforcement Team 2

Admin. Penalty $ Limit Minimum $0 Maximum $25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — ***Subtotal 1*** **$223,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **35.0%** Adjustment — ***Subtotals 2, 3, & 7*** **$78,050**

Notes: Enhancement for three NOVs with same or similar violations and one agreed order containing a denial of liability.

Culpability No **0.0%** Enhancement — ***Subtotal 4*** **$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments — ***Subtotal 5*** **-$26,300**

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

**Capped at the Total EB $ Amount*

Total EB Amounts	$5,013
Estimated Cost of Compliance	$178,250

SUM OF SUBTOTALS 1-7 — ***Final Subtotal*** **$274,750**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.1%** — ***Adjustment*** **$252**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided costs of compliance associated with Violation No. 4.

Final Penalty Amount **$275,002**

STATUTORY LIMIT ADJUSTMENT — ***Final Assessed Penalty*** **$275,002**

DEFERRAL **20.0%** Reduction — ***Adjustment*** **-$55,000**

Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY **$220,002**

Screening Date	16-Jul-2022	**Docket No.** 2022-1476-AIR-E	**PCW**
Respondent	Tokai Carbon CB Ltd.		*Policy Revision 5 (January 28, 2021)*
Case ID No.	62814		*PCW Revision February 11, 2021*
Reg. Ent. Reference No.	RN100222413		
Media	Air		
Enf. Coordinator	Amanda Diaz		

Compliance History Worksheet

>> Compliance History *Site* Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (*number of NOVs meeting criteria*)	3	15%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	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 (*number of judgments or consent decrees meeting criteria*)	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 (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	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 *(number of audits for which notices were submitted)*	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	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) 35%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

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

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 35%

>> Final Compliance History Adjustment

Final Adjustment Percentage ****capped at 100%*** 35%

Screening Date	16-Jul-2022	**Docket No.** 2022-1476-AIR-E	**PCW**
Respondent	Tokai Carbon CB Ltd.		*Policy Revision 5 (January 28, 2021)*
Case ID No.	62814		*PCW Revision February 11, 2021*
Reg. Ent. Reference No.	RN100222413		
Media	Air		
Enf. Coordinator	Amanda Diaz		

Violation Number 1

Rule Cite(s): 30 Tex. Admin. Code §§ 101.20(3), 116.110(a), 116.115(c), 116.116(a)(1), and 122.143(4), New Source Review ("NSR") Permit Nos. 1867A and PSDTX1032M1, Special Conditions ("SC") No. 1, Federal Operating Permit ("FOP") No. O1414, General Terms and Conditions ("GTC") and Special Terms and Conditions ("STC") No. 6, and Tex. Health & Safety Code §§ 382.0518(a) and 382.085(b)

Violation Description: Failed to comply with the representations with regards to construction plans and operation procedures in a permit application and failed to obtain authorization before constructing a new facility or modifying an existing facility which may emit air contaminants into the air. Specifically, the Respondent did not represent any sulfuric acid ("H2SO4") emissions in the application for NSR Permit Nos. 1867A and PSDTX1032M1 for the Boiler 1 and 2 Common Stack, Emissions Point Number ("EPN") 119, but the Respondent completed an investigative testing on March 16, 2022 and determined that 11.83 pounds per hour of H2SO4 was being emitted from the Boiler 1 and 2 Common Stack, EPN 119, resulting in a change in the character of the emissions.

Base Penalty $25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual		x	
Potential			

Percent 50.0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes: Based on the air dispersion modeling provided by the Respondent, human health or the environment has been exposed to significant amounts of pollutants that did not exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment $12,500

$12,500

Violation Events

Number of Violation Events: 4 — 122 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $50,000

Four monthly events are recommended for the period of non-compliance from the March 16, 2022 investigative testing date to the July 16, 2022 screening date.

Good Faith Efforts to Comply

0.0% Reduction $0

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

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

Violation Subtotal $50,000

Economic Benefit (EB) for this violation

Estimated EB Amount $1,648

Statutory Limit Test

Violation Final Penalty Total $67,562

This violation Final Assessed Penalty (adjusted for limits) $67,562

Economic Benefit Worksheet

Respondent Tokai Carbon CB Ltd.
Case ID No. 62814
Reg. Ent. Reference No. RN100222413
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/Construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs	$10,000	16-Mar-2022	1-Jul-2025	3.30	$1,648	n/a	$1,648
Other (as needed)				0.00	$0	n/a	$0
Notes for DELAYED costs	Actual cost to obtain an amendment for NSR Permit Nos. 1867A and PSDTX1032M1 to authorize the H2SO4 emissions from the Boiler 1 and 2 Common Stack, EPN 119. The Date Required is the initial date of non-compliance and the Final Date is the estimated date of compliance.						
Avoided Costs	ANNUALIZE avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling				0.00	$0	$0	$0
Supplies/Equipment				0.00	$0	$0	$0
Financial Assurance				0.00	$0	$0	$0
ONE-TIME avoided costs				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Notes for AVOIDED costs							

Approx. Cost of Compliance $10,000

TOTAL $1,648

Screening Date	16-Jul-2022	**Docket No.** 2022-1476-AIR-E	**PCW**
Respondent	Tokai Carbon CB Ltd.		*Policy Revision 5 (January 28, 2021)*
Case ID No.	62814		*PCW Revision February 11, 2021*
Reg. Ent. Reference No.	RN100222413		
Media	Air		
Enf. Coordinator	Amanda Diaz		

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 101.20(3), 116.115(c), and 122.143(4), NSR Permit Nos. 1867A and PSDTX1032M1, SC No. 2, FOP No. O1414, GTC and STC No. 6, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to prevent unauthorized emissions. Specifically, the Respondent released 100.00 pounds ("lbs") of carbon disulfide ("CS2"), 1,903.00 lbs of carbon monoxide ("CO"), 9.00 lbs of carbonyl sulfide ("COS"), 26.00 lbs of hydrogen sulfide ("H2S"), 141.00 lbs of nitrogen oxides ("NOx"), 188.00 lbs of particulate matter ("PM"), and 5,048.00 lbs of sulfur dioxide ("SO2") from the Unit 3 Flare and Unit 4 Flare, EPNs Flare-3 and Flare-4, during an emissions event (Incident No. 386529) that occurred on September 2, 2022 and lasted 13 hours and 30 minutes.

Base Penalty $25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			x
Potential			

Percent 30.0%

>>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 did not exceed levels that are protective of human health or environmental receptors as a result of this 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 September 3, 2022, prior to the Notice of Enforcement ("NOE") dated August 1, 2023.

Violation Subtotal $5,625

Economic Benefit (EB) for this violation

Estimated EB Amount $7

Statutory Limit Test

Violation Final Penalty Total $8,258

This violation Final Assessed Penalty (adjusted for limits) $8,258

Economic Benefit Worksheet

Respondent Tokai Carbon CB Ltd.
Case ID No. 62814
Reg. Ent. Reference No. RN100222413
Media Air
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/Construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)	$50,000	2-Sep-2022	3-Sep-2022	0.00	$7	n/a	$7
Notes for DELAYED costs	Estimated cost to replace the differential pressure transmitter and replace the duct burner system in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 386529. 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 $50,000

TOTAL $7

Screening Date	16-Jul-2022	**Docket No.** 2022-1476-AIR-E	**PCW**
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Reg. Ent. Reference No.	RN100222413		
Media	Air		
Enf. Coordinator	Amanda Diaz		

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code §§ 101.20(3), 111.111(a)(1)(C), 116.115(c), and 122.143(4), NSR Permit Nos. 1867A and PSDTX1032M1, SC No. 2, FOP No. O1414, GTC and STC No. 6, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to comply with the opacity limit. Specifically, on November 30, 2022, TCEQ staff conducted an opacity observation and determined that the opacity limit of 15 percent ("%") averaged over a six-minute period was exceeded by 25% and 18% for the Boiler 1 and 2 Common Stack, EPN 119.

Base Penalty $25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			x
Potential			

Percent 30.0%

>>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 did not exceed levels that are protective of human health or environmental receptors as a result of this 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 for the instance of non-compliance that occurred on November 30, 2022.

Good Faith Efforts to Comply

10.0% Reduction $750

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

Notes: The Respondent completed the corrective measures by August 31, 2023, after the NOE dated January 25, 2023.

Violation Subtotal $6,750

Economic Benefit (EB) for this violation

Estimated EB Amount $2,815

Statutory Limit Test

Violation Final Penalty Total $9,384

This violation Final Assessed Penalty (adjusted for limits) $9,384

Economic Benefit Worksheet

Respondent Tokai Carbon CB Ltd.
Case ID No. 62814
Reg. Ent. Reference No. RN100222413
Media Air
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/Construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)	$75,000	30-Nov-2022	31-Aug-2023	0.75	$2,815	n/a	$2,815
Notes for DELAYED costs	Estimated cost to implement an engineering improvement plan, engage two technical experts with expertise in sulfuric acid unit operations, replace the duct burner system, and complete a shutdown system re-examination of the Plant in order to comply with the opacity limit for the Boiler 1 and 2 Common Stack, EPN 119, and in order to prevent the recurrence of excess opacity events due to the same or similar causes as Incident No. 397342. The Date Required is the first date of non-compliance and the Final Date is the date of compliance.						
Avoided Costs	ANNUALIZE avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling				0.00	$0	$0	$0
Supplies/Equipment				0.00	$0	$0	$0
Financial Assurance				0.00	$0	$0	$0
ONE-TIME avoided costs				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Notes for AVOIDED costs							

Approx. Cost of Compliance $75,000

TOTAL $2,815

Screening Date	16-Jul-2022	**Docket No.** 2022-1476-AIR-E	**PCW**
Respondent	Tokai Carbon CB Ltd.		*Policy Revision 5 (January 28, 2021)*
Case ID No.	62814		*PCW Revision February 11, 2021*
Reg. Ent. Reference No.	RN100222413		
Media	Air		
Enf. Coordinator	Amanda Diaz		

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code §§ 101.201(e) and 122.143(4), FOP No. O1414, GTC and STC No. 2.F., and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to submit an initial notification no later than 24 hours after the discovery of an excess opacity event. Specifically, TCEQ staff conducted an opacity observation on November 30, 2022 for the Boiler 1 and 2 Common Stack and determined that the Respondent had an excess opacity event at the Boiler 1 and 2 Common Stack, but the Respondent did not submit the initial notification for the excess opacity event that occurred on November 30, 2022 by December 1, 2022.

Base Penalty $25,000

>> Environmental, Property and Human Health Matrix

OR

Harm			
Release	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 20.0%

Matrix Notes: 100% of the rule requirements were not met.

Adjustment $20,000

$5,000

Violation Events

Number of Violation Events: 1 | 84 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $5,000

One single event is recommended.

Good Faith Efforts to Comply

10.0% Reduction $500

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

Notes: The Respondent completed the corrective measures by September 11, 2023, after the NOE dated January 25, 2023.

Violation Subtotal $4,500

Economic Benefit (EB) for this violation

Estimated EB Amount $310

Statutory Limit Test

Violation Final Penalty Total $6,256

This violation Final Assessed Penalty (adjusted for limits) $6,256

Economic Benefit Worksheet

Respondent Tokai Carbon CB Ltd.
Case ID No. 62814
Reg. Ent. Reference No. RN100222413
Media Air
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/Construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling	$1,500	1-Dec-2022	11-Sep-2023	0.78	$58	n/a	$58
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)				0.00	$0	n/a	$0
Notes for DELAYED costs	Estimated cost to conduct training in order to ensure that the initial notifications for excess opacity events are submitted in a timely manner. The Date Required is the date the initial notification was due and the Final Date is the date of compliance.						
Avoided Costs	**ANNUALIZE avoided costs before entering item (except for one-time avoided costs)**						
Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling				0.00	$0	$0	$0
Supplies/Equipment				0.00	$0	$0	$0
Financial Assurance				0.00	$0	$0	$0
ONE-TIME avoided costs				0.00	$0	$0	$0
Other (as needed)	$250	1-Dec-2022	13-Feb-2023	0.20	$2	$250	$252
Notes for AVOIDED costs	Estimated avoided cost to submit the initial notification for the excess opacity event that occurred on November 30, 2022 at the Boiler 1 and 2 Common Stack. The Date Required is the date the initial notification was due and the Final Date is the recommended screening date for Investigation No. 1862003.						

Approx. Cost of Compliance $1,750

TOTAL $310

Screening Date	16-Jul-2022	**Docket No.** 2022-1476-AIR-E	**PCW**
Respondent	Tokai Carbon CB Ltd.		*Policy Revision 5 (January 28, 2021)*
Case ID No.	62814		*PCW Revision February 11, 2021*
Reg. Ent. Reference No.	RN100222413		
Media	Air		
Enf. Coordinator	Amanda Diaz		

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code §§ 101.20(3), 111.111(a)(1)(C), 116.115(c), and 122.143(4), NSR Permit Nos. 1867A and PSDTX1032M1, SC No. 2, FOP No. O1414, GTC and STC No. 6, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to comply with the opacity limit. Specifically, TCEQ staff conducted opacity observations and determined that the opacity limit of 15% averaged over a six-minute period was exceeded by 60% on May 12, 2023, by 60% on May 16, 2023, and by 70% on May 17, 2023 for the Boiler 1 and 2 Common Stack, EPN 119.

Base Penalty $25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			x
Potential			

Percent 30.0%

>>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 did not exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment $17,500

$7,500

Violation Events

Number of Violation Events 1 | 3 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $7,500

One monthly event for the instances of non-compliance that occurred from May 12, 2023 to May 17, 2023.

Good Faith Efforts to Comply

10.0% Reduction $750

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

Notes: The Respondent completed the corrective measures by August 31, 2023, after the NOE dated July 12, 2023.

Violation Subtotal $6,750

Economic Benefit (EB) for this violation

Estimated EB Amount $0

Statutory Limit Test

Violation Final Penalty Total $9,384

This violation Final Assessed Penalty (adjusted for limits) $9,384

Economic Benefit Worksheet

Respondent Tokai Carbon CB Ltd.
Case ID No. 62814
Reg. Ent. Reference No. RN100222413
Media Air
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/Construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)				0.00	$0	n/a	$0
Notes for DELAYED costs	See the Economic Benefit in Violation No. 3.						
Avoided Costs	ANNUALIZE avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling				0.00	$0	$0	$0
Supplies/Equipment				0.00	$0	$0	$0
Financial Assurance				0.00	$0	$0	$0
ONE-TIME avoided costs				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Notes for AVOIDED costs							

Approx. Cost of Compliance	$0	**TOTAL**	$0

Screening Date	16-Jul-2022	**Docket No.** 2022-1476-AIR-E	**PCW**
Respondent	Tokai Carbon CB Ltd.		*Policy Revision 5 (January 28, 2021)*
Case ID No.	62814		*PCW Revision February 11, 2021*
Reg. Ent. Reference No.	RN100222413		
Media	Air		
Enf. Coordinator	Amanda Diaz		

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code §§ 101.20(3), 111.111(a)(1)(C), 116.115(c), 116.615(2), and 122.143(4), NSR Permit Nos. 1867A and PSDTX1032M1, SC No. 2, Standard Permit Registration No. 157178, FOP No. O1414, GTC and STC No. 6, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to prevent an excess opacity event. Specifically, the Respondent experienced 48% opacity from the Boiler 1 and 2 Common Stack, EPN 119, during an excess opacity event (Incident No. 397342) that began on March 31, 2022 and lasted 8,400 hours. The excess opacity event occurred due to the operation of the air pollution control device, resulting in the release to the atmosphere.

Base Penalty $25,000

>> Environmental, Property and Human Health Matrix

OR

Harm			
Release	Major	Moderate	Minor
Actual			x
Potential			

Percent 30.0%

>>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 did not exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment $17,500

$7,500

Violation Events

Number of Violation Events 12 | 350 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $90,000

Twelve monthly events are recommended.

Good Faith Efforts to Comply

10.0% Reduction $9,000

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

Notes: The Respondent completed the corrective measures by August 31, 2023, after the NOE dated July 10, 2023.

Violation Subtotal $81,000

Economic Benefit (EB) for this violation

Estimated EB Amount $0

Statutory Limit Test

Violation Final Penalty Total $112,603

This violation Final Assessed Penalty (adjusted for limits) $112,603

Economic Benefit Worksheet

Respondent Tokai Carbon CB Ltd.
Case ID No. 62814
Reg. Ent. Reference No. RN100222413
Media Air
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/Construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)				0.00	$0	n/a	$0
Notes for DELAYED costs	See the Economic Benefit in Violation No. 3.						
Avoided Costs	ANNUALIZE avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling				0.00	$0	$0	$0
Supplies/Equipment				0.00	$0	$0	$0
Financial Assurance				0.00	$0	$0	$0
ONE-TIME avoided costs				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Notes for AVOIDED costs							

Approx. Cost of Compliance	$0	TOTAL	$0

Screening Date	16-Jul-2022	**Docket No.** 2022-1476-AIR-E	**PCW**
Respondent	Tokai Carbon CB Ltd.		*Policy Revision 5 (January 28, 2021)*
Case ID No.	62814		*PCW Revision February 11, 2021*
Reg. Ent. Reference No.	RN100222413		
Media	Air		
Enf. Coordinator	Amanda Diaz		

Violation Number 7

Rule Cite(s): 30 Tex. Admin. Code §§ 101.20(3), 111.111(a)(8)(A), 116.115(c), 116.615(2), and 122.143(4), NSR Permit Nos. 1867A and PSDTX1032M1, SC No. 2, Standard Permit Registration No. 157178, FOP No. O1414, GTC and STC No. 6, and Tex. Health & Safety Code § 382.085(b)

Violation Description: Failed to prevent an excess opacity event. Specifically, the Respondent experienced 50% opacity from fugitive emissions during an excess opacity event (Incident No. 391594) that occurred on December 6, 2022 and lasted 24 minutes. The excess opacity event occurred when the Line 1 developed a smoke leak on the smoke header, resulting in the release to the atmosphere.

Base Penalty $25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			x
Potential			

Percent 30.0%

>>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 did not exceed levels that are protective of human health or environmental receptors as a result of this 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 on December 9, 2022, prior to the NOE dated July 10, 2023.

Violation Subtotal $5,625

Economic Benefit (EB) for this violation

Estimated EB Amount $6

Statutory Limit Test

Violation Final Penalty Total $8,258

This violation Final Assessed Penalty (adjusted for limits) $8,258

Economic Benefit Worksheet

Respondent Tokai Carbon CB Ltd.
Case ID No. 62814
Reg. Ent. Reference No. RN100222413
Media Air
Violation No. 7

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/Construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				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)	$15,000	6-Dec-2022	9-Dec-2022	0.01	$6	n/a	$6
Notes for DELAYED costs	Estimated cost to repair the smoke leak in order to prevent the recurrence of excess opacity events due to the same or similar causes as Incident No. 391594. 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 $15,000

TOTAL $6

Screening Date	16-Jul-2022	**Docket No.** 2022-1476-AIR-E	**PCW**
Respondent	Tokai Carbon CB Ltd.		*Policy Revision 5 (January 28, 2021)*
Case ID No.	62814		*PCW Revision February 11, 2021*
Reg. Ent. Reference No.	RN100222413		
Media	Air		
Enf. Coordinator	Amanda Diaz		

Violation Number 8

Rule Cite(s) 30 Tex. Admin. Code §§ 101.20(3), 116.115(c), and 122.143(4), NSR Permit Nos. 1867A and PSDTX1032M1, SC No. 17.H., FOP No. O1414, GTC and STC No. 6, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to maintain records of visible emissions observations. Specifically, the Respondent provided records showing that there were no visible emissions from the Boiler 1 and 2 Common Stack, EPN 119, in the last two years, but the Respondent has reported continuous visible emissions from the Boiler 1 and 2 Common Stack, EPN 119, since March 31, 2022. Also, the Respondent did not record the visible emissions from the Unit 4 Dryer Stack that occurred on March 31, 2022, from the Purge Filter Stack on April 15, 2022, and from the Unit 4 Purge Filter Stack that occurred on May 23, 2022.

Base Penalty $25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1.0%

Matrix Notes: Less than 30% of the rule requirements were not met.

Adjustment $24,750

$250

Violation Events

Number of Violation Events: 4 — 495 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $1,000

Four single events are recommended for the incomplete set of records (one event for each stack).

Good Faith Efforts to Comply

10.0% Reduction $100

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

Notes: The Respondent completed the corrective measures by August 25, 2023, after the NOE dated July 10, 2023.

Violation Subtotal $900

Economic Benefit (EB) for this violation

Estimated EB Amount $105

Statutory Limit Test

Violation Final Penalty Total $1,251

This violation Final Assessed Penalty (adjusted for limits) $1,251

Economic Benefit Worksheet

Respondent Tokai Carbon CB Ltd.
Case ID No. 62814
Reg. Ent. Reference No. RN100222413
Media Air
Violation No. 8

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/Construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System	$1,500	31-Mar-2022	25-Aug-2023	1.40	$105	n/a	$105
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)				0.00	$0	n/a	$0
Notes for DELAYED costs	Estimated cost to implement new guidelines for recording visible emissions observations that are conducted for the Boiler 1 and 2 Common Stack, Unit 4 Dryer Stack, Purge Filter Stack, and Unit 4 Purge Filter Stack. The Date Required is the first date of non-compliance and the Final Date is the date of compliance.						
Avoided Costs	**ANNUALIZE avoided costs before entering item (except for one-time avoided costs)**						
Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling				0.00	$0	$0	$0
Supplies/Equipment				0.00	$0	$0	$0
Financial Assurance				0.00	$0	$0	$0
ONE-TIME avoided costs				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Notes for AVOIDED costs							

Approx. Cost of Compliance $1,500

TOTAL $105

Screening Date	16-Jul-2022	**Docket No.** 2022-1476-AIR-E	**PCW**
Respondent	Tokai Carbon CB Ltd.		*Policy Revision 5 (January 28, 2021)*
Case ID No.	62814		*PCW Revision February 11, 2021*
Reg. Ent. Reference No.	RN100222413		
Media	Air		
Enf. Coordinator	Amanda Diaz		

Violation Number 9

Rule Cite(s) 30 Tex. Admin. Code §§ 101.201(a)(1)(B) and 122.143(4), FOP No. O1414, GTC and STC No. 2.F., and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to submit an initial notification for a reportable emissions event no later than 24 hours after the discovery of an emissions event. Specifically, the initial notification for Incident No. 408667 was due by August 23, 2023 at 8:55 a.m., but was not submitted until August 23, 2023 at 9:00 a.m.

Base Penalty $25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1.0%

Matrix Notes: Less than 30% of the rule requirements were not met.

Adjustment $24,750

$250

Violation Events

Number of Violation Events: 1

1 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $250

One single event is recommended.

Good Faith Efforts to Comply

10.0% Reduction $25

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

Notes: The Respondent completed the corrective measures by December 18, 2023, after the NOE dated November 27, 2023.

Violation Subtotal $225

Economic Benefit (EB) for this violation

Estimated EB Amount $24

Statutory Limit Test

Violation Final Penalty Total $313

This violation Final Assessed Penalty (adjusted for limits) $313

Economic Benefit Worksheet

Respondent Tokai Carbon CB Ltd.
Case ID No. 62814
Reg. Ent. Reference No. RN100222413
Media Air
Violation No. 9

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/Construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling	$1,500	23-Aug-2023	18-Dec-2023	0.32	$24	n/a	$24
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)	$250	23-Aug-2023	23-Aug-2023	0.00	$0	n/a	$0

Notes for DELAYED costs: Estimated costs to submit the initial notification for Incident No. 408667 ($250) and to conduct training in order to ensure that the initial notifications for reportable emissions events are submitted in a timely manner ($1,500). The Dates Required is the date the initial notification was due and the Final Dates are the date the initial notification was submitted and the date of compliance.

Avoided Costs	ANNUALIZE avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling				0.00	$0	$0	$0
Supplies/Equipment				0.00	$0	$0	$0
Financial Assurance				0.00	$0	$0	$0
ONE-TIME avoided costs				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0

Notes for AVOIDED costs:

Approx. Cost of Compliance $1,750

TOTAL $24

Screening Date	16-Jul-2022	**Docket No.** 2022-1476-AIR-E	**PCW**
Respondent	Tokai Carbon CB Ltd.		*Policy Revision 5 (January 28, 2021)*
Case ID No.	62814		*PCW Revision February 11, 2021*
Reg. Ent. Reference No.	RN100222413		
Media	Air		
Enf. Coordinator	Amanda Diaz		

Violation Number 10

Rule Cite(s) 30 Tex. Admin. Code §§ 101.20(3), 116.115(c), and 122.143(4), NSR Permit Nos. 1867A and PSDTX1032M1, SC No. 1.A., FOP No. O1414, GTC and STC No. 6, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to prevent unauthorized emissions. Specifically, the Respondent released 632.78 lbs of carbon black as fugitive emissions, during an emissions event (Incident No. 408667) that occurred on August 22, 2023 and lasted 35 minutes.

Base Penalty $25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			x
Potential			

Percent 30.0%

>>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 did not exceed levels that are protective of human health or environmental receptors as a result of this 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 September 30, 2023, prior to the NOE dated November 27, 2023.

Violation Subtotal $5,625

Economic Benefit (EB) for this violation

Estimated EB Amount $8

Statutory Limit Test

Violation Final Penalty Total $8,258

This violation Final Assessed Penalty (adjusted for limits) $8,258

Economic Benefit Worksheet

Respondent Tokai Carbon CB Ltd.
Case ID No. 62814
Reg. Ent. Reference No. RN100222413
Media Air
Violation No. 10

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/Construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)	$1,500	22-Aug-2023	30-Sep-2023	0.11	$8	n/a	$8

Notes for DELAYED costs: Estimated cost to implement measures to operate the system in manual mode instead of the automated mode if moisture is detected in the conveying loop in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 408667. 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 $1,500

TOTAL $8

Screening Date	16-Jul-2022	**Docket No.** 2022-1476-AIR-E	**PCW**
Respondent	Tokai Carbon CB Ltd.		*Policy Revision 5 (January 28, 2021)*
Case ID No.	62814		*PCW Revision February 11, 2021*
Reg. Ent. Reference No.	RN100222413		
Media	Air		
Enf. Coordinator	Amanda Diaz		

Violation Number 11

Rule Cite(s) 30 Tex. Admin. Code §§ 101.20(3), 116.115(c), and 122.143(4), NSR Permit Nos. 1867A and PSDTX1032M1, SC No. 1.A., FOP No. O1414, GTC and STC No. 6, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to prevent unauthorized emissions. Specifically, the Respondent released 190.00 lbs of CS2, 11,821.00 lbs of CO, 63.00 lbs of COS, 190.00 lbs of H2S, 870.00 lbs of NOx, 1,165.00 lbs of PM, and 37,322.00 lbs of SO2 from the Unit No. 1 Flare Stack, EPN FLARE-1; released 8.00 lbs of CS2, 582.00 lbs of CO, 3.00 lbs of COS, 8.00 lbs of H2S, 43.00 lbs of NOx, 57.00 lbs of PM, and 1,514.00 lbs of SO2 from the Unit No. 2 Flare Stack, EPN FLARE-2; and 259.00 lbs of CS2, 17,098.00 lbs of CO, 87.00 lbs of COS, 259.00 lbs of H2S, 1,258.00 lbs of NOx, 1,684.00 lbs of PM, and 50,970.00 lbs of SO2 from the Unit No. 3 Flare Stack, EPN FLARE-3, during an emissions event (Incident No. 394612) that began on January 28, 2023 and lasted 348 hours and 30 minutes.

Base Penalty $25,000

>> Environmental, Property and Human Health Matrix

OR

Harm			
Release	Major	Moderate	Minor
Actual		x	
Potential			

Percent 50.0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes: Based on the Air Quality Analysis Audit performed on the air dispersion modeling provided by the Respondent, human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment $12,500

$12,500

Violation Events

Number of Violation Events: 3 — 15 Number of violation days

daily	
weekly	x
monthly	
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $37,500

Three weekly events are recommended.

Good Faith Efforts to Comply

25.0% Reduction $9,375

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

Notes: The Respondent completed the corrective measures on February 6, 2023, prior to the NOE dated November 30, 2023.

Violation Subtotal $28,125

Economic Benefit (EB) for this violation

Estimated EB Amount $25

Statutory Limit Test

Violation Final Penalty Total $41,288

This violation Final Assessed Penalty (adjusted for limits) $41,288

Economic Benefit Worksheet

Respondent Tokai Carbon CB Ltd.
Case ID No. 62814
Reg. Ent. Reference No. RN100222413
Media Air
Violation No. 11

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/Construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)	$20,000	28-Jan-2023	6-Feb-2023	0.02	$25	n/a	$25
Notes for DELAYED costs	Estimated cost to install a temporary pipe in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 394612. The Date Required is the date the emissions event began and the Final Date is the date of compliance.						
Avoided Costs	ANNUALIZE avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling				0.00	$0	$0	$0
Supplies/Equipment				0.00	$0	$0	$0
Financial Assurance				0.00	$0	$0	$0
ONE-TIME avoided costs				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Notes for AVOIDED costs							

Approx. Cost of Compliance $20,000

TOTAL $25

Screening Date	16-Jul-2022	**Docket No.** 2022-1476-AIR-E	**PCW**
Respondent	Tokai Carbon CB Ltd.		*Policy Revision 5 (January 28, 2021)*
Case ID No.	62814		*PCW Revision February 11, 2021*
Reg. Ent. Reference No.	RN100222413		
Media	Air		
Enf. Coordinator	Amanda Diaz		

Violation Number 12

Rule Cite(s) 30 Tex. Admin. Code §§ 101.201(b)(1)(D), (F), (G), and (H) and 122.143(4), FOP No. O1414, GTC and STC No. 2.F., and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to identify all required information on the final record for a reportable emissions event. Specifically, the Respondent did not identify the correct estimated duration of the emissions event, the correct EPNs, and the correct estimated total quantities for the NOx emissions that were released during the emissions event on the final record for Incident No. 394612.

Base Penalty $25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
		x	

Percent 7.0%

Matrix Notes: More than 30% but less than 70% of the rule requirements were not met.

Adjustment $23,250

$1,750

Violation Events

Number of Violation Events: 1 — 81 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $1,750

One single event is recommended.

Good Faith Efforts to Comply

10.0% Reduction $175

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

Notes: The Respondent completed the corrective measures by December 18, 2023, after the NOE dated November 30, 2023.

Violation Subtotal $1,575

Economic Benefit (EB) for this violation

Estimated EB Amount $65

Statutory Limit Test

Violation Final Penalty Total $2,190

This violation Final Assessed Penalty (adjusted for limits) $2,190

Economic Benefit Worksheet

Respondent Tokai Carbon CB Ltd.
Case ID No. 62814
Reg. Ent. Reference No. RN100222413
Media Air
Violation No. 12

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/Construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling	$1,500	19-Feb-2023	18-Dec-2023	0.83	$62	n/a	$62
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)	$250	19-Feb-2023	11-May-2023	0.22	$3	n/a	$3

Notes for DELAYED costs

Estimated costs to provide the correct duration of the emissions event, the correct EPNs, and the correct estimated total quantities for the NOx emissions that were released during the emissions event for Incident No. 394612 ($250) and to conduct training in order to ensure that all of the required information for the final records for reportable emissions events are identified in a timely manner ($1,500). The Dates Required is the date the final record was due and the Final Dates are the date the required information for Incident No. 394612 was provided and the date of compliance.

Avoided Costs (ANNUALIZE avoided costs before entering item (except for one-time avoided costs))							
Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling				0.00	$0	$0	$0
Supplies/Equipment				0.00	$0	$0	$0
Financial Assurance				0.00	$0	$0	$0
ONE-TIME avoided costs				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0

Notes for AVOIDED costs

Approx. Cost of Compliance $1,750

TOTAL $65

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 CN600131171, RN100222413, Rating Year 2023 which includes Compliance History (CH) components from September 1, 2018, through August 31, 2023.

Customer, Respondent, or Owner/Operator: CN600131171, Tokai Carbon CB Ltd. **Classification:** SATISFACTORY **Rating:** 1.43

Regulated Entity: RN100222413, BORGER CARBON BLACK PLANT **Classification:** SATISFACTORY **Rating:** 2.54

Complexity Points: 19 **Repeat Violator:** NO

CH Group: 05 - Chemical Manufacturing

Location: 9455 FARM-TO-MARKET ROAD 1559, BORGER, HUTCHINSON COUNTY, TEXAS

TCEQ Region: REGION 01 - AMARILLO

ID Number(s):

AIR OPERATING PERMITS ACCOUNT NUMBER HW0017R
AIR OPERATING PERMITS PERMIT 1414
AIR NEW SOURCE PERMITS ACCOUNT NUMBER HW0017R
AIR NEW SOURCE PERMITS PERMIT 1867A
AIR NEW SOURCE PERMITS AFS NUM 4823300002
AIR NEW SOURCE PERMITS REGISTRATION 45755
AIR NEW SOURCE PERMITS EPA PERMIT PSDTX1032
AIR NEW SOURCE PERMITS EPA PERMIT PSDTX1032M1
AIR NEW SOURCE PERMITS REGISTRATION 157178
AIR NEW SOURCE PERMITS EPA PERMIT PSDTX1032M2
AIR NEW SOURCE PERMITS REGISTRATION 172756
STORMWATER PERMIT TXR05CU90
WASTEWATER PERMIT WQG100013
AIR EMISSIONS INVENTORY ACCOUNT NUMBER HW0017R
POLLUTION PREVENTION PLANNING ID NUMBER P06699
INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 37420
INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXR000085416

Compliance History Period: September 01, 2018 to August 31, 2023 **Rating Year:** 2023 **Rating Date:** 09/01/2023

Date Compliance History Report Prepared: February 08, 2024

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: February 08, 2019 to February 08, 2024

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

Name: Amanda Diaz **Phone:** (512) 239-2922

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: 08/27/2020 ADMINORDER 2019-1288-AIR-E (1660 Order-Agreed Order With Denial)

Classification: Moderate
Citation: 30 TAC Chapter 122, SubChapter B 122.132(d)(9)
30 TAC Chapter 122, SubChapter B 122.134(b)(2)
30 TAC Chapter 122, SubChapter C 122.241(b)
5C THSC Chapter 382 382.085(b)

Description: Failure to include required information in initial or subsequent applications of a Federal Operating Permit
Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
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: FOP O1414 GTC and STC No. 6 OP
NSR Permit 1867A PERMIT
NSR Permit 1867A SC No. 1.A PERMIT

Description: Failure to prevent the release of unauthorized emissions to the atmosphere from Flare-1, Flare-2, and Flare-4 during an emissions event (which did not meet the affirmative defense criteria)

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	June 18, 2019	(1576077)
Item 2	August 14, 2019	(1576403)
Item 3	August 15, 2019	(1576471)
Item 4	August 31, 2019	(1590537)
Item 5	June 16, 2020	(1646574)
Item 6	September 23, 2020	(1672742)
Item 7	December 07, 2020	(1683677)
Item 8	February 25, 2021	(1702598)
Item 9	June 08, 2021	(1723039)
Item 10	June 24, 2021	(1709614)
Item 11	June 29, 2021	(1737758)
Item 12	July 19, 2021	(1738936)
Item 13	July 25, 2021	(1745784)
Item 14	July 27, 2021	(1746924)
Item 15	August 02, 2021	(1749226)
Item 16	August 04, 2021	(1749396)
Item 17	October 04, 2021	(1686162)
Item 18	October 18, 2021	(1765808)
Item 19	October 29, 2021	(1764867)
Item 20	November 08, 2021	(1764621)
Item 21	December 02, 2021	(1774788)
Item 22	January 05, 2022	(1782634)
Item 23	January 14, 2022	(1770025)
Item 24	February 17, 2022	(1794553)
Item 25	March 21, 2022	(1802618)
Item 26	March 24, 2022	(1802880)
Item 28	May 18, 2022	(1787376)
Item 29	May 20, 2022	(1806018)
Item 32	November 01, 2022	(1847764)
Item 33	December 28, 2022	(1846209)
Item 34	January 06, 2023	(1867730)
Item 35	February 24, 2023	(1868599)
Item 36	March 01, 2023	(1868471)
Item 37	March 07, 2023	(1868602)
Item 38	March 14, 2023	(1847766)
Item 39	March 15, 2023	(1859736)
Item 46	April 27, 2023	(1868470)
Item 47	June 21, 2023	(1847768)
Item 49	August 17, 2023	(1922680)
Item 50	August 25, 2023	(1909073)
Item 51	September 21, 2023	(1925413)
Item 52	September 29, 2023	(1925386)
Item 54	October 13, 2023	(1925107)
Item 55	October 20, 2023	(1925108)
Item 56	November 01, 2023	(1886266)

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: 07/10/2023 (1910716)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)

Description: Failure to comply with the MAERT for NOx lb./hr. emission limits.

Self Report? NO Classification: Moderate

Citation: 1867A PERMIT
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)

Description: Failure to comply with the continuous flare pilot light requirements.

2 Date: 07/14/2023 (1847700)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)
5C THSC Chapter 382 382.085(b)

Description: Failure to submit a notification for a reportable emissions event within 24 hours after the discovery of the event.

Self Report? NO Classification: Moderate

Citation: 1867A PERMIT
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)

Description: Failure to prevent unauthorized emissions to the atmosphere during an emissions event that was discovered on August 19, 2022, TCEQ/STEERS Incident No. 385849.

3 Date: 09/22/2023 (1874630)

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 January 13, 2023, TCEQ/STEERS Incident No. 393821. (Category B13)

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN	**§**	**BEFORE THE**
ENFORCEMENT ACTION	**§**	
CONCERNING	**§**	**TEXAS COMMISSION ON**
TOKAI CARBON CB LTD.	**§**	
RN100222413	**§**	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2022-1476-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 Tokai Carbon CB Ltd. (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 carbon black manufacturing plant located at 9455 Farm-to-Market Road 1559 in Borger, Hutchinson 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 $275,002 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid $110,001 of the penalty and $55,000 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, $110,001 of the penalty shall be conditionally offset by the Respondent's timely and satisfactory completion of a Supplemental Environmental Project ("SEP") as defined in the attached SEP Agreement ("Attachment A", incorporated herein by reference). The Respondent's obligation to pay the conditionally offset portion of the penalty shall be discharged upon full compliance with all the terms

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

5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.

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

7. This Order represents the complete and fully integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.

8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.

9. The Executive Director recognizes that the Respondent implemented the following corrective measures at the Plant:

   a. On May 26, 2022, submitted an amendment application for New Source Review ("NSR") Permit Nos. 1867A and PSDTX1032M1 to authorize the sulfuric acid ("H2SO4") emissions from the Boiler 1 and 2 Common Stack, Emissions Point Number ("EPN") 119;

   b. By September 3, 2022, replaced the differential pressure transmitter and replaced the duct burner system in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 386529;

   c. On December 9, 2022, repaired the smoke leak in order to prevent the recurrence of excess opacity events due to the same or similar causes as Incident No. 391594;

   d. By February 6, 2023, installed a temporary pipe in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 394612;

   e. On May 11, 2023, provided the correct duration of the emissions event, the correct EPNs, and the correct estimated total quantities for the nitrogen oxides ("NOx") emissions that were released during the emissions event for Incident No. 394612;

   f. On August 23, 2023, submitted the initial notification for Incident No. 408667;

   g. By August 25, 2023, implemented new guidelines for recording visible emissions observations that are conducted for the Boiler 1 and 2 Common Stack, Unit 4 Dryer Stack, Purge Filter Stack, and Unit 4 Purge Filter Stack;

h. By August 31, 2023, implemented an engineering improvement plan, engaged two technical experts with expertise in sulfuric acid unit operations, replaced the duct burner system, and completed a shutdown system re-examination of the Plant in order to comply with the opacity limit for the Boiler 1 and 2 Common Stack, EPN 119, and to prevent the recurrence of excess opacity events due to the same or similar causes as Incident No. 397342;

i. By September 11, 2023, conducted training in order to ensure that the initial notifications for excess opacity events are submitted in a timely manner;

j. By September 30, 2023, implemented measures to operate the system in manual mode instead of the automated mode if moisture is detected in the conveying loop in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 408667; and

k. By December 18, 2023, conducted training in order to ensure that the initial notifications for reportable emissions events are submitted in a timely manner and conducted training in order to ensure that all of the required information for the final records for reportable emissions events are identified in a timely manner.

II. ALLEGATIONS

1. During an investigation at the Plant conducted on June 8, 2022, an investigator documented that the Respondent failed to comply with the representations with regards to construction plans and operation procedures in a permit application and failed to obtain authorization before constructing a new facility or modifying an existing facility which may emit air contaminants into the air, in violation of 30 TEX. ADMIN. CODE §§ 101.20(3), 116.110(a), 116.115(c), 116.116(a)(1), and 122.143(4), NSR Permit Nos. 1867A and PSDTX1032M1, Special Conditions ("SC") No. 1, Federal Operating Permit ("FOP") No. O1414, General Terms and Conditions ("GTC") and Special Terms and Conditions ("STC") No. 6, and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b). Specifically, the Respondent did not represent any H2SO4 emissions in the application for NSR Permit Nos. 1867A and PSDTX1032M1 for the Boiler 1 and 2 Common Stack, EPN 119, but the Respondent completed an investigative testing on March 16, 2022 and determined that 11.83 pounds per hour of H2SO4 was being emitted from the Boiler 1 and 2 Common Stack, EPN 119, resulting in a change in the character of emissions.

2. During a record review for the Plant conducted from September 12, 2022 through October 11, 2022, an investigator documented that the Respondent failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE §§ 101.20(3), 116.115(c), and 122.143(4), NSR Permit Nos. 1867A and PSDTX1032M1, SC No. 2, FOP No. O1414, GTC and STC No. 6, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent released 100.00 pounds ("lbs") of carbon disulfide ("CS2"), 1,903.00 lbs of carbon monoxide ("CO"), 9.00 lbs of carbonyl sulfide ("COS"), 26.00 lbs of hydrogen sulfide ("H2S"), 141.00 lbs of NOx, 188.00 lbs of particulate matter ("PM"), and 5,048.00 lbs of sulfur dioxide ("SO2") from the Unit 3 Flare and Unit 4 Flare, EPNs Flare-3 and Flare-4, during an emissions event (Incident No. 386529) that occurred on September 2, 2022 and lasted 13 hours and 30 minutes.

3. During an investigation at the Plant conducted from November 30, 2022 through December 13, 2022, an investigator documented that the Respondent:

a. Failed to comply with the opacity limit, in violation of 30 TEX. ADMIN. CODE §§ 101.20(3), 111.111(a)(1)(C), 116.115(c), and 122.143(4), NSR Permit Nos. 1867A and PSDTX1032M1, SC No. 2, FOP No. O1414, GTC and STC No. 6, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, on November 30, 2022, TCEQ staff conducted an opacity observation and determined that the opacity limit of 15 percent ("%") averaged over a six-minute period was exceeded by 25% and 18% for the Boiler 1 and 2 Common Stack, EPN 119.

b. Failed to submit an initial notification no later than 24 hours after the discovery of an excess opacity event, in violation of 30 TEX. ADMIN. CODE §§ 101.201(e) and 122.143(4), FOP No. O1414, GTC and STC No. 2.F., and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, TCEQ staff conducted an opacity observation on November 30, 2022 for the Boiler 1 and 2 Common Stack and determined that the Respondent had an excess opacity event at the Boiler 1 and 2 Common Stack, but the Respondent did not submit the initial notification for the excess opacity event that occurred on November 30, 2022 by December 1, 2022.

4. During an investigation at the Plant conducted from May 12, 2023 through May 17, 2023, an investigator documented that the Respondent failed to comply with the opacity limit, in violation of 30 TEX. ADMIN. CODE §§ 101.20(3), 111.111(a)(1)(C), 116.115(c), and 122.143(4), NSR Permit Nos. 1867A and PSDTX1032M1, SC No. 2, FOP No. O1414, GTC and STC No. 6, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, TCEQ staff conducted opacity observations and determined that the opacity limit of 15% averaged over a six-minute period was exceeded by 60% on May 12, 2023, by 60% on May 16, 2023, and by 70% on May 17, 2023 for the Boiler 1 and 2 Common Stack, EPN 119.

5. During an investigation at the Plant conducted from May 24, 2023 through May 25, 2023, an investigator documented that the Respondent:

a. Failed to prevent an excess opacity event, in violation of 30 TEX. ADMIN. CODE §§ 101.20(3), 111.111(a)(1)(C), 111.111(a)(8)(A), 116.115(c), 116.615(2), and 122.143(4), NSR Permit Nos. 1867A and PSDTX1032M1, SC No. 2, Standard Permit Registration No. 157178, FOP No. O1414, GTC and STC No. 6, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent experienced 48% opacity from the Boiler 1 and 2 Common Stack, EPN 119, during an excess opacity event (Incident No. 397342) that began on March 31, 2022 and lasted 8,400 hours. The excess opacity event occurred due to the operation of the air pollution control device, resulting in the release to the atmosphere. Also, the Respondent experienced 50% opacity from fugitive emissions during an excess opacity event (Incident No. 391594) that occurred on December 6, 2022 and lasted 24 minutes. The excess opacity event occurred when the Line 1 developed a smoke leak on the smoke header, resulting in the release to the atmosphere.

b. Failed to maintain records of visible emissions observations, in violation of 30 TEX. ADMIN. CODE §§ 101.20(3), 116.115(c), and 122.143(4), NSR Permit Nos. 1867A and PSDTX1032M1, SC No. 17.H., FOP No. O1414, GTC and STC No. 6, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent provided records showing that there were no visible emissions from the Boiler 1 and 2 Common Stack, EPN 119, in the last two years, but the Respondent has reported continuous visible emissions from the Boiler 1 and 2 Common Stack, EPN 119, since March 31, 2022. Also, the Respondent did not record the visible emissions from the Unit 4 Dryer Stack that occurred on March 31, 2022, from the Purge

Filter Stack on April 15, 2022, and from the Unit 4 Purge Filter Stack that occurred on May 23, 2022.

6. During a record review for the Plant conducted from August 25, 2023 through November 21, 2023, an investigator documented that the Respondent:

   a. Failed to submit an initial notification for a reportable emissions event no later than 24 hours after the discovery of an emissions event, in violation of 30 TEX. ADMIN. CODE §§ 101.201(a)(1)(B) and 122.143(4), FOP No. O1414, GTC and STC No. 2.F., and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the initial notification for Incident No. 408667 was due by August 23, 2023 at 8:55 a.m., but was not submitted until August 23, 2023 at 9:00 a.m.

   b. Failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE §§ 101.20(3), 116.115(c), and 122.143(4), NSR Permit Nos. 1867A and PSDTX1032M1, SC No. 1.A., FOP No. O1414, GTC and STC No. 6, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent released 632.78 lbs of carbon black as fugitive emissions, during an emissions event (Incident No. 408667) that occurred on August 22, 2023 and lasted 35 minutes.

7. During a record review for the Plant conducted from November 10, 2023 through November 15, 2023, an investigator documented that the Respondent:

   a. Failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE §§ 101.20(3), 116.115(c), and 122.143(4), NSR Permit Nos. 1867A and PSDTX1032M1, SC No. 1.A., FOP No. O1414, GTC and STC No. 6, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent released 190.00 lbs of CS2, 11,821.00 lbs of CO, 63.00 lbs of COS, 190.00 lbs of H2S, 870.00 lbs of NOx, 1,165.00 lbs of PM, and 37,322.00 lbs of SO2 from the Unit No. 1 Flare Stack, EPN FLARE-1; released 8.00 lbs of CS2, 582.00 lbs of CO, 3.00 lbs of COS, 8.00 lbs of H2S, 43.00 lbs of NOx, 57.00 lbs of PM, and 1,514.00 lbs of SO2 from the Unit No. 2 Flare Stack, EPN FLARE-2; and 259.00 lbs of CS2, 17,098.00 lbs of CO, 87.00 lbs of COS, 259.00 lbs of H2S, 1,258.00 lbs of NOx, 1,684.00 lbs of PM, and 50,970.00 lbs of SO2 from the Unit No. 3 Flare Stack, EPN FLARE-3, during an emissions event (Incident No. 394612) that began on January 28, 2023 and lasted 348 hours and 30 minutes.

   b. Failed to identify all required information on the final record for a reportable emissions event, in violation of 30 TEX. ADMIN. CODE §§ 101.201(b)(1)(D), (F), (G), and (H) and 122.143(4), FOP No. O1414, GTC and STC No. 2.F., and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent did not identify the correct estimated duration of the emissions event, the correct EPNs, and the correct estimated total quantities for the NOx emissions that were released during the emissions event on the final record for Incident No. 394612.

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: Tokai Carbon CB Ltd., Docket No. 2022-1476-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 $110,001 of the assessed penalty is conditionally offset based on the Respondent's implementation and completion of the SEP pursuant to the terms of the SEP Agreement, as defined in Attachment A. Penalty payments for any portion of the SEP deemed by the Executive Director as not complete shall be paid within 30 days after the date the Executive Director demands payment.

3. The Respondent shall undertake the following technical requirements at the Plant:

   a. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the amendment application for NSR Permit Nos. 1867A and PSDTX1032M1 by any deadline specified in writing.

   b. Within 180 days after the effective date of this Order, submit written certification that either the amendment for NSR Permit Nos. 1867A and PSDTX1032M1 has been obtained or operations have ceased until the proper authorization is obtained, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. The certification shall be signed by the Respondent and shall include the following certification language:

      "I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Air Section Manager
Amarillo Regional Office
Texas Commission on Environmental Quality
3918 Canyon Drive
Amarillo, Texas 79109-4933

4. All relief not expressly granted in this Order is denied.

5. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Plant operations referenced in this Order.

6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Enforcement Division at the address listed above.

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

For the Commission	Date
For the Executive Director	7/16/2024 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	6-10-24 Date
Mark Leigh Name (Printed or typed) Authorized Representative of Tokai Carbon CB Ltd.	President 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: 2022-1476-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**Tokai Carbon CB Ltd.**
Payable Penalty Amount:	**$220,002**
SEP Offset Amount:	**$110,001**
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:	***Texas PTA Clean School Bus Replacement Program***
Location of SEP:	**Texas Air Quality Control Region 211: Amarillo-Lubbock - Preference for Hutchinson County**

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

1. Project Description

a. Project

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

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

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

b. Environmental Benefit

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

c. Minimum Expenditure

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

2. Performance Schedule

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

Texas PTA
408 West 11th Street
Austin, Texas 78701

3. Records and Reporting

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

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

4. Failure to Fully Perform

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

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

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

5. Publicity

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

6. Recognition

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

7. Other SEPs by TCEQ or Other Agencies

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