

Executive Summary – Enforcement Matter – Case No. 64213

Topsoe, Inc.

RN101211498

Docket No. 2023-0797-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

Haldor Topsoe, 10010 Bayport Boulevard, Pasadena, Harris County

Type of Operation:

Chemical manufacturing plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: June 14, 2024

Comments Received: No

Penalty Information

Total Penalty Assessed: \$8,913

Amount Deferred for Expedited Settlement: \$1,782

Total Paid to General Revenue: \$3,566

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project (“SEP”) Conditional Offset: \$3,565

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): N/A

Complaint Information: N/A

Date(s) of Investigation: April 15, 2022 through February 3, 2023

Date(s) of NOE(s): June 15, 2023

Executive Summary – Enforcement Matter – Case No. 64213

Topsoe, Inc.

RN101211498

Docket No. 2023-0797-AIR-E

Violation Information

1. Failed to prevent unauthorized emissions. Specifically, the Respondent released 200.00 pounds of aluminum oxide as fugitive emissions, during an emissions event (Incident No. 376837) that occurred on March 23, 2022 and lasted five minutes [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), New Source Review Permit No. 9203, Special Conditions No. 1, Federal Operating Permit ("FOP") No. O1217, General Terms and Conditions ("GTC") and Special Terms and Conditions ("STC") No. 14, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

2. Failed to submit a final record for a reportable emissions event no later than two weeks after the end of the emissions event. Specifically, the final record for Incident No. 376837 was due by April 6, 2022, but was not submitted until April 12, 2022 [30 TEX. ADMIN. CODE §§ 101.201(c) and 122.143(4), FOP No. O1217, 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. By March 28, 2022, conducted training to ensure that the liners are inspected prior to unloading operations and the flow is verified to prevent "slug" loading in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 376837; and

b. On April 12, 2022, submitted the final record for Incident No. 376837.

Technical Requirements:

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

**Executive Summary – Enforcement Matter – Case No. 64213
Topsoe, Inc.
RN101211498
Docket No. 2023-0797-AIR-E**

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Michael Wilkins, Enforcement Division, Enforcement Team 2, MC R-03, (325) 698-6134; 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: Julio Charlemagne Holgado, Plant Manager, Topsoe, Inc., 10010 Bayport Boulevard, Pasadena, Texas 77507-1412

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	20-Jun-2023	
	PCW	12-Apr-2024	Screening 22-Jun-2023 EPA Due

RESPONDENT/FACILITY INFORMATION	
Respondent	Topsoe, Inc.
Reg. Ent. Ref. No.	RN101211498
Facility/Site Region	12-Houston
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	64213	No. of Violations	2
Docket No.	2023-0797-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Michael Wilkins
		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	\$7,750
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	40.0%	Adjustment	Subtotals 2, 3, & 7	\$3,100
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Notes	Enhancement for two orders containing a denial of liability.
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Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$1,937
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$1
Estimated Cost of Compliance \$1,750
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$8,913
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
Final Penalty Amount	\$8,913

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$8,913
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DEFERRAL	20.0%	Reduction	Adjustment	-\$1,782
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes	Deferral offered for expedited settlement.
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PAYABLE PENALTY	\$7,131
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Screening Date

22-Jun-2023

Docket No.

2023-0797-AIR-E

PCW

Respondent

Topsoe, Inc.

Case ID No.

64213

Reg. Ent. Reference No.

RN101211498

Media

Air

Enf. Coordinator

Michael Wilkins

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2)40%

>> Repeat Violator (Subtotal 3)

NoAdjustment Percentage (Subtotal 3)0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory PerformerAdjustment Percentage (Subtotal 7)0%

>> Compliance History Summary

Compliance History Notes

Enhancement for two orders containing a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)40%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100%40%

Screening Date	22-Jun-2023	Docket No.	2023-0797-AIR-E	PCW	
Respondent	Topsoe, Inc.	<i>Policy Revision 5 (January 28, 2021)</i>			
Case ID No.	64213	<i>PCW Revision February 11, 2021</i>			
Reg. Ent. Reference No.	RN101211498				
Media	Air				
Enf. Coordinator	Michael Wilkins				
Violation Number	1				
Rule Cite(s)	30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), New Source Review Permit No. 9203, Special Conditions No. 1, Federal Operating Permit ("FOP") No. O1217, General Terms and Conditions ("GTC") and Special Terms and Conditions ("STC") No. 14, and Tex. Health & Safety Code § 382.085(b)				
Violation Description	Failed to prevent unauthorized emissions. Specifically, the Respondent released 200.00 pounds of aluminum oxide as fugitive emissions, during an emissions event (Incident No. 376837) that occurred on March 23, 2022 and lasted five 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 do not exceed levels that are protective of human health or environmental receptors as a result of the violation.				
Adjustment				\$17,500	
					\$7,500
Violation Events					
Number of Violation Events		1	1	Number of violation days	
	daily				
	weekly				
	monthly	X			
	quarterly				
	semiannual				
	annual				
	single event				
				Violation Base Penalty	\$7,500
				One monthly event is recommended.	
Good Faith Efforts to Comply		25.0%	Reduction		\$1,875
	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer			
Extraordinary					
Ordinary	X				
N/A					
Notes	The Respondent completed the corrective measures by March 28, 2022, prior to the Notice of Enforcement ("NOE") dated June 15, 2023.				
Violation Subtotal				\$5,625	
Economic Benefit (EB) for this violation					Statutory Limit Test
Estimated EB Amount		\$1	Violation Final Penalty Total		\$8,625
This violation Final Assessed Penalty (adjusted for limits)				\$8,625	

Economic Benefit Worksheet

Respondent Case ID No. Reg. Ent. Reference No. Media Violation No.

Topsoe, Inc. 64213 RN101211498 Air 1

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$1,500	23-Mar-2022	28-Mar-2022	0.01	\$1	n/a	\$1
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 to ensure that the liners are inspected prior to unloading operations and the flow is verified to prevent "slug" loading in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 376837. 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	\$1
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Screening Date 22-Jun-2023		Docket No. 2023-0797-AIR-E		PCW	
Respondent Topsoe, Inc.		<i>Policy Revision 5 (January 28, 2021)</i>			
Case ID No. 64213		<i>PCW Revision February 11, 2021</i>			
Reg. Ent. Reference No. RN101211498					
Media Air					
Enf. Coordinator Michael Wilkins					
Violation Number 2					
Rule Cite(s)		30 Tex. Admin. Code §§ 101.201(c) and 122.143(4), FOP No. 01217, GTC and STC No. 2.F., and Tex. Health & Safety Code § 382.085(b)			
Violation Description		Failed to submit a final record for a reportable emissions event no later than two weeks after the end of the emissions event. Specifically, the final record for Incident No. 376837 was due by April 6, 2022, but was not submitted until April 12, 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		1	6	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		25.0%		Reduction \$62	
	Extraordinary				
	Ordinary	x			
	N/A				
Notes	The Respondent completed the corrective measures on April 12, 2022, prior to the NOE dated June 15, 2023.				
				Violation Subtotal	\$188
Economic Benefit (EB) for this violation			Statutory Limit Test		
Estimated EB Amount		\$0		Violation Final Penalty Total	\$288
This violation Final Assessed Penalty (adjusted for limits)				\$288	

Economic Benefit Worksheet

Respondent Case ID No. Reg. Ent. Reference No. Media Violation No. Topsoe, Inc. 64213 RN101211498 Air 2

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$250	6-Apr-2022	12-Apr-2022	0.02	\$0	n/a	\$0
Notes for DELAYED costs	Estimated costs to submit the final record for Incident No. 376837. The Date Required is the date the final record was due and the Final Date is the date the final record was submitted.						

Avoided Costs

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

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

Approx. Cost of Compliance	\$250	TOTAL	\$0
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Compliance History Report

Compliance History Report for CN600132435, RN101211498, Rating Year 2023 which includes Compliance History (CH) components from September 1, 2018, through August 31, 2023.

Customer, Respondent, or Owner/Operator: CN600132435, Topsoe, Inc.

Classification: SATISFACTORY

Rating: 12.50

Regulated Entity: RN101211498, HALDOR TOPSOE

Classification: SATISFACTORY

Rating: 12.50

Complexity Points: 11

Repeat Violator: NO

CH Group: 05 - Chemical Manufacturing

Location: 10010 Bayport Boulevard, Pasadena, Harris County, Texas

TCEQ Region: REGION 12 - HOUSTON

ID Number(s):

AIR OPERATING PERMITS ACCOUNT NUMBER HG0903L

AIR OPERATING PERMITS PERMIT 1217

PUBLIC WATER SYSTEM/SUPPLY REGISTRATION

AIR NEW SOURCE PERMITS PERMIT 9203

1012763

AIR NEW SOURCE PERMITS PERMIT 21178

AIR NEW SOURCE PERMITS ACCOUNT NUMBER HG0903L

AIR NEW SOURCE PERMITS AFS NUM 4820101413

AIR NEW SOURCE PERMITS REGISTRATION 167120

AIR NEW SOURCE PERMITS REGISTRATION 164180

AIR NEW SOURCE PERMITS REGISTRATION 143859

AIR NEW SOURCE PERMITS REGISTRATION 148165

AIR NEW SOURCE PERMITS REGISTRATION 160513

AIR NEW SOURCE PERMITS REGISTRATION 169189

AIR NEW SOURCE PERMITS PERMIT AMOC232

STORMWATER PERMIT TXR05L230

AIR EMISSIONS INVENTORY ACCOUNT NUMBER

POLLUTION PREVENTION PLANNING ID NUMBER

HG0903L

P00294

INDUSTRIAL AND HAZARDOUS WASTE EPA ID

INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE

TXD054460464

REGISTRATION # (SWR) 34841

TAX RELIEF ID NUMBER 22681

TAX RELIEF ID NUMBER 20560

TAX RELIEF ID NUMBER 22932

TAX RELIEF ID NUMBER 22601

TAX RELIEF ID NUMBER 25918

Compliance History Period: September 01, 2018 to August 31, 2023

Rating Year: 2023

Rating Date: 09/01/2023

Date Compliance History Report Prepared: January 29, 2024

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: January 29, 2019 to January 29, 2024

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

Name: Michael Wilkins

Phone: (325) 698-6134

Site and Owner/Operator History:

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

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

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

- | | | | | |
|---|---|------------|-----------------|---------------------------------------|
| 1 | Effective Date: 12/21/2021 | ADMINORDER | 2020-1581-AIR-E | (1660 Order-Agreed Order With Denial) |
| | Classification: Moderate | | | |
| | Citation: 30 TAC Chapter 116, SubChapter B 116.115(c) | | | |
| | 30 TAC Chapter 122, SubChapter B 122.143(4) | | | |
| | 5C THSC Chapter 382 382.085(b) | | | |
| | Rqmt Prov: FOP No. 01217, GTC and STC No. 14 OP | | | |
| | Special Condition 1 PERMIT | | | |
| | Description: Failed to prevent unauthorized emissions (Category A12.i.(6)). | | | |

Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 Rqmt Prov: FOP No. O1217, GTC and STC No. 14 OP
 Special Condition 1 PERMIT
 Description: Failed to prevent unauthorized emissions [Category A12.i.(6)].

2 Effective Date: 11/15/2022 ADMINORDER 2021-0398-AIR-E (1660 Order-Agreed Order With Denial)
 Classification: Moderate
 Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(B)
 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 No. O1217, GTC and STC No. 14 OP
 NSR Permit No. 9203, SC No. 1 PERMIT
 Description: Failed to prevent unauthorized emissions. Specifically, the Respondent experienced 50 percent opacity and released 45.77 pounds of NOx from the Phase II Stack, Emissions Point Number ST-11, during an emissions event (Incident No. 328565) that occurred on January 21, 2020 and lasted one hour and 50 minutes.
 Classification: Minor
 Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(1)(G)
 30 TAC Chapter 101, SubChapter F 101.201(b)(1)(H)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 Rqmt Prov: FOP No. O1217, GTC and STC No. 2.F OP
 Description: Failed to identify all required information on the final record for a reportable emissions event. Specifically, the Respondent did not identify the estimated total quantity of NOx on the final record for Incident No. 328565.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	May 04, 2020	(1633677)
Item 2	June 02, 2021	(1722193)
Item 3	December 14, 2021	(1771956)
Item 4	April 24, 2023	(1902099)

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

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

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
TOPSOE, INC.
RN101211498

§ BEFORE THE
§ TEXAS COMMISSION ON
§ ENVIRONMENTAL QUALITY
§

AGREED ORDER DOCKET NO. 2023-0797-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 Topsoe, Inc. (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a chemical manufacturing plant located at 10010 Bayport Boulevard in Pasadena, Harris County, Texas (the "Plant"). The Plant consists or consisted of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$8,913 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$3,566 of the penalty and \$1,782 of the penalty is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order and shall be waived only upon full compliance with all the terms and conditions of this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms and conditions contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.

Pursuant to TEX. WATER CODE § 7.067, \$3,565 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. By March 28, 2022, conducted training to ensure that the liners are inspected prior to unloading operations and the flow is verified to prevent "slug" loading in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 376837; and
 - b. On April 12, 2022, submitted the final record for Incident No. 376837.

II. ALLEGATIONS

During a record review for the Plant conducted from April 15, 2022 through February 3, 2023, an investigator documented that the Respondent:

1. Failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), New Source Review Permit No. 9203, Special Conditions No. 1, Federal Operating Permit ("FOP") No. 01217, General Terms and Conditions ("GTC") and Special Terms and Conditions ("STC") No. 14, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent released 200.00 pounds of aluminum oxide as fugitive emissions, during an emissions event (Incident No. 376837) that occurred on March 23, 2022 and lasted five minutes.
2. Failed to submit a final record for a reportable emissions event no later than two weeks after the end of the emissions event, in violation of 30 TEX. ADMIN. CODE §§ 101.201(c) and 122.143(4), FOP No. 01217, GTC and STC No. 2.F., and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the final record for Incident No. 376837 was due by April 6, 2022, but was not submitted until April 12, 2022.

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: Topsoe, Inc., Docket No. 2023-0797-AIR-E" to:

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

2. The Respondent shall implement and complete the SEP as set forth in Section I, Paragraph No. 4. The amount of \$3,565 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 duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Plant operations referenced in this Order.
4. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used.

The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

7. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



For the Executive Director

6/24/2024

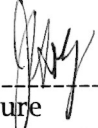
Date

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

5-3-24

Date

Julio Hilgado

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

Plant Manager

Title

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

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

Attachment A
Docket Number: 2023-0797-AIR-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Topsoe, Inc.
Payable Penalty Amount:	\$7,131
SEP Offset Amount:	\$3,565
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Texas Congress of Parents and Teachers dba Texas PTA
Project Name:	<i>Texas PTA Clean School Bus Replacement Program</i>
Location of SEP:	Texas Air Quality Control Region 216: Houston-Galveston - Preference for Harris County

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

1. Project Description

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **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.