

Executive Summary – Enforcement Matter – Case No. 64272
Evonik Active Oxygens, LLC
RN100215417
Docket No. 2023-0865-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

Bayport Facility, 12000 Bay Area Boulevard, Pasadena, Harris County

Type of Operation:

Chemical manufacturing plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: June 21, 2024

Comments Received: No

Penalty Information

Total Penalty Assessed: \$25,200

Amount Deferred for Expedited Settlement: \$5,040

Total Paid to General Revenue: \$20,160

Total Due to General Revenue: \$0

Payment Plan: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: January 2021

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: December 06, 2022 through May 10, 2023

Date(s) of NOE(s): June 20, 2023

Executive Summary – Enforcement Matter – Case No. 64272
Evonik Active Oxygens, LLC
RN100215417
Docket No. 2023-0865-AIR-E

Violation Information

Failed to comply with the maximum allowable emissions rate ("MAER"). Specifically, the Respondent exceeded the volatile organic compounds ("VOC") MAER of 24.65 tons per year based on a 12-month rolling period for the 12-month periods ending from July 2021 through August 2022 for the Solvent Removal System ("SRS"), Emissions Point Number ("EPN") 10, resulting in 3.38 tons of unauthorized VOC emissions [30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and (c) and 122.143(4), New Source Review Permit No. 6532, Special Conditions No. 1, Federal Operating Permit No. O1309, General Terms and Conditions and Special Terms and Conditions No. 9, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

By July 12, 2023, the Respondent added SRS emission annual and rolling 365-day totalizer to a distributive control system ("DCS") with an alarm, added SRS emission daily totalizer to a DCS with an alarm, implemented an engineering review that is completed daily with a report as required, made adjustments to the SRS to lower emissions, reviewed the design limits with the Process Technology Team to optimize operations, and updated Operating Procedure OP-HP-01-3003 to include hourly and annual SRS emission limits in order to comply with the VOC annual MAER for the SRS, EPN 10, and provided emissions data for year 2023 that demonstrates compliance with the VOC annual MAER for the SRS, EPN 10.

Technical Requirements:

N/A

Contact Information

TCEQ Attorney: N/A

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

Respondent: Karl Kriger, Acting Site Manager, Evonik Active Oxygens, LLC, 12000 Bay Area Boulevard, Pasadena, Texas 77507

Geoffrey Varga, Corporate Officer, Evonik Active Oxygens, LLC, 12000 Bay Area Boulevard, Pasadena, Texas 77507

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	27-Jun-2023			
	PCW	6-Feb-2024	Screening	5-Jul-2023	EPA Due 17-Dec-2023

RESPONDENT/FACILITY INFORMATION

Respondent	Evonik Active Oxygens, LLC				
Reg. Ent. Ref. No.	RN100215417				
Facility/Site Region	12-Houston	Major/Minor Source	Major		

CASE INFORMATION

Enf./Case ID No.	64272	No. of Violations	1	
Docket No.	2023-0865-AIR-E	Order Type	1660	
Media Program(s)	Air	Government/Non-Profit	No	
Multi-Media		Enf. Coordinator	Yuliya Dunaway	
		EC's Team	Enforcement Team 2	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$22,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	22.0%	Adjustment	Subtotals 2, 3, & 7	\$4,950
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Notes	Enhancement for one NOV with dissimilar violations and one order 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	-\$2,250
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$1,015	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$10,000	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$25,200
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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	

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$25,200
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DEFERRAL	20.0%	Reduction	Adjustment	-\$5,040
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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	\$20,160
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Screening Date

5-Jul-2023

Docket No.

2023-0865-AIR-E

PCW

Respondent

Evonik Active Oxygens, LLC

Case ID No.

64272

Reg. Ent. Reference No.

RN100215417

Media

Air

Enf. Coordinator

Yuliya Dunaway

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

22%

>> 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 one NOV with dissimilar violations and one order containing a denial of liability.

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

22%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100%

22%

Screening Date	5-Jul-2023	Docket No.	2023-0865-AIR-E	PCW	
Respondent	Evonik Active Oxygens, LLC	<i>Policy Revision 5 (January 28, 2021)</i>			
Case ID No.	64272	<i>PCW Revision February 11, 2021</i>			
Reg. Ent. Reference No.	RN100215417				
Media	Air				
Enf. Coordinator	Yuliya Dunaway				
Violation Number	1				
Rule Cite(s)	30 Tex. Admin. Code §§ 116.115(b)(2)(F) and (c) and 122.143(4), New Source Review Permit No. 6532, Special Conditions No. 1, Federal Operating Permit No. 01309, General Terms and Conditions and Special Terms and Conditions No. 9, and Tex. Health & Safety Code § 382.085(b)				
Violation Description	Failed to comply with the maximum allowable emissions rate ("MAER"). Specifically, the Respondent exceeded the volatile organic compounds ("VOC") MAER of 24.65 tons per year based on a 12-month rolling period for the 12-month period from July 2021 through August 2022 for the Solvent Removal System ("SRS"), Emissions Point Number ("EPN") 10, resulting in 3.38 tons of unauthorized VOC emissions.				
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		3	426	Number of violation days	
	daily				
	weekly				
	monthly				
	quarterly				
	semiannual	x			
	annual				
	single event				
Violation Base Penalty \$22,500					
Three semiannual events are recommended for the period of non-compliance that occurred from July 1, 2021 through August 31, 2022.					
Good Faith Efforts to Comply		10.0%	Reduction	\$2,250	
	Before NOE/NOV		NOE/NOV to EDPRP/Settlement Offer		
	Extraordinary				
	Ordinary		x		
	N/A				
	Notes	The Respondent achieved compliance by July 12, 2023, after the Notice of Enforcement dated June 20, 2023.			
Violation Subtotal			\$20,250		
Economic Benefit (EB) for this violation		Statutory Limit Test			
Estimated EB Amount	\$1,015	Violation Final Penalty Total	\$25,200		
This violation Final Assessed Penalty (adjusted for limits)			\$25,200		

Economic Benefit Worksheet

Respondent Case ID No. Evonik Active Oxygens, LLC
Reg. Ent. Reference No. 64272
Media RN100215417
Violation No. 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				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	1-Jul-2021	12-Jul-2023	2.03	\$1,015	n/a	\$1,015
Notes for DELAYED costs	Estimated cost to add SRS emission annual and rolling 365-day totalizer to a distributive control system ("DCS") with an alarm, add SRS emission daily totalizer to a DCS with an alarm, implement an engineering review that is completed daily with a report as required, make adjustments to the SRS to lower emissions, review the design limits with the Process Technology Team to optimize operations, and update Operating Procedure OP-HP-01-3003 to include hourly and annual SRS emission limits in order to comply with the VOC annual MAER for the SRS, EPN 10, and provide emissions data for year 2023 that demonstrates compliance with the VOC annual MAER for the SRS, EPN 10. 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	\$10,000	TOTAL	\$1,015
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Compliance History Report

Compliance History Report for CN604535526, RN100215417, Rating Year 2023 which includes Compliance History (CH) components from September 1, 2018, through August 31, 2023.

Customer, Respondent, or Owner/Operator: CN604535526, Evonik Active Oxygens, LLC **Classification:** SATISFACTORY **Rating:** 2.27

Regulated Entity: RN100215417, BAYPORT FACILITY **Classification:** SATISFACTORY **Rating:** 2.27

Complexity Points: 12 **Repeat Violator:** NO

CH Group: 05 - Chemical Manufacturing

Location: 12000 BAY AREA BLVD, PASADENA, HARRIS COUNTY, TX

TCEQ Region: REGION 12 - HOUSTON

ID Number(s):

AIR OPERATING PERMITS ACCOUNT NUMBER HG0245H

AIR NEW SOURCE PERMITS REGISTRATION 92974

AIR NEW SOURCE PERMITS REGISTRATION 44717

AIR NEW SOURCE PERMITS REGISTRATION 52644

AIR NEW SOURCE PERMITS REGISTRATION 79470

AIR NEW SOURCE PERMITS REGISTRATION 82938

AIR NEW SOURCE PERMITS REGISTRATION 86911

AIR NEW SOURCE PERMITS REGISTRATION 90397

AIR NEW SOURCE PERMITS REGISTRATION 131132

AIR NEW SOURCE PERMITS REGISTRATION 152456

AIR NEW SOURCE PERMITS REGISTRATION 161174

AIR NEW SOURCE PERMITS REGISTRATION 157349

AIR NEW SOURCE PERMITS REGISTRATION 161482

AIR NEW SOURCE PERMITS REGISTRATION 157346

AIR EMISSIONS INVENTORY ACCOUNT NUMBER

HG0245H

INDUSTRIAL AND HAZARDOUS WASTE EPA ID

TXD083570051

AIR OPERATING PERMITS PERMIT 1309

AIR NEW SOURCE PERMITS PERMIT 6532

AIR NEW SOURCE PERMITS ACCOUNT NUMBER
HG0245H

AIR NEW SOURCE PERMITS AFS NUM 4820100094

AIR NEW SOURCE PERMITS REGISTRATION 82237

AIR NEW SOURCE PERMITS REGISTRATION 86912

AIR NEW SOURCE PERMITS REGISTRATION 91403

AIR NEW SOURCE PERMITS REGISTRATION 124033

AIR NEW SOURCE PERMITS REGISTRATION 124512

AIR NEW SOURCE PERMITS REGISTRATION 157910

AIR NEW SOURCE PERMITS REGISTRATION 157348

AIR NEW SOURCE PERMITS REGISTRATION 157911

AIR NEW SOURCE PERMITS REGISTRATION 157347

STORMWATER PERMIT TXR05CA49

POLLUTION PREVENTION PLANNING ID NUMBER

P00251

INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE

REGISTRATION # (SWR) 30614

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

Date Compliance History Report Prepared: February 06, 2024

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: February 06, 2019 to February 06, 2024

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

Name: Yuliya Dunaway

Phone: (210) 403-4077

Site and Owner/Operator History:

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

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

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

- 1 Effective Date: 04/27/2020 ADMINORDER 2019-0872-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: Permit 6532 Special Condition 7 PERMIT
Description: Failure to meet the permitted hydrogen peroxide (H2O2) destruction removal efficiency (DRE).
Category B1 Violation.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	February 14, 2020	(1623671)
Item 2	August 26, 2022	(1775968)
Item 3	March 13, 2023	(1881855)
Item 4	March 31, 2023	(1893602)
Item 5	August 31, 2023	(1923490)
Item 6	November 20, 2023	(1924887)

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:	06/20/2023	(1846496)	
	Self Report?	NO		Classification: Moderate
	Citation:	30 TAC Chapter 101, SubChapter F 101.201(b) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THSC Chapter 382 382.085(b) O1309 OP		
	Description:	Failure to submit Final Reportable Emission Event Report within the required timeframe (Category B3)		
	Self Report?	NO		Classification: Moderate
	Citation:	30 TAC Chapter 122, SubChapter B 122.143(4) 30 TAC Chapter 122, SubChapter B 122.145(2)(A) 5C THSC Chapter 382 382.085(b) O1309 OP		
	Description:	Failure to report all instances of deviations during the April 7, 2021 through October 6, 2021 reporting period (Category B3)		

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

Component Appendices

Appendix A

All NOV's Issued During Component Period 2/6/2019 and 2/6/2024

1	Date: 11/02/2020 (1672478)	
	Self Report? NO	Classification: Moderate
	Citation:	
	30 TAC Chapter 122, SubChapter B 122.143(4)	
	30 TAC Chapter 122, SubChapter B 122.145(2)(A)	
	5C THSC Chapter 382 382.085(b)	
	FOP General Terms and Conditions OP	
	Description: Failure to report all instances of deviations in a deviation report. (Category B3 Violation)	
	Self Report? NO	Classification: Moderate
	Citation:	
	30 TAC Chapter 122, SubChapter B 122.143(4)	
	30 TAC Chapter 122, SubChapter B 122.165(a)(7)	
	5C THSC Chapter 382 382.085(b)	
	FOP General Terms and Conditions OP	
	Description: Failure to certify the deviation report (DR). (Category B3 Violation)	
2*	Date: 06/20/2023 (1846496)	
	Self Report? NO	Classification: Moderate
	Citation:	
	30 TAC Chapter 101, SubChapter F 101.201(b)	
	30 TAC Chapter 122, SubChapter B 122.143(4)	
	5C THSC Chapter 382 382.085(b)	
	O1309 OP	
	Description: Failure to submit Final Reportable Emission Event Report within the required timeframe (Category B3)	
	Self Report? NO	Classification: Moderate
	Citation:	
	30 TAC Chapter 122, SubChapter B 122.143(4)	
	30 TAC Chapter 122, SubChapter B 122.145(2)(A)	
	5C THSC Chapter 382 382.085(b)	
	O1309 OP	
	Description: Failure to report all instances of deviations during the April 7, 2021 through October 6, 2021 reporting period (Category B3)	

* NOV's applicable for the Compliance History rating period 9/1/2018 to 8/31/2023

Appendix B

All Investigations Conducted During Component Period February 06, 2019 and February 06, 2024

Item 1	June 12, 2019**	(1558279)
Item 2*	February 14, 2020**	(1623671)
Item 3	October 29, 2020**	(1672478)
Item 4	December 02, 2020**	(1692330)
Item 5*	August 26, 2022**	(1775968)
Item 6*	March 13, 2023**	(1881855)
Item 7*	March 31, 2023**	(1893602)
Item 8	June 20, 2023**	(1846496)
Item 9	August 04, 2023**	(1866350)
Item 10*	August 31, 2023**	(1923490)
Item 11*	November 20, 2023	(1924887)

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2018 and 08/31/2023.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
EVONIK ACTIVE OXYGENS, LLC
RN100215417

§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2023-0865-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 Evonik Active Oxygens, LLC (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 12000 Bay Area Boulevard in Pasadena, Harris County, Texas (the "Plant"). The Plant consists or consisted of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$25,200 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$20,160 of the penalty and \$5,040 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order. The deferred amount shall be waived only upon full compliance with all the terms and conditions contained in this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms or requirements contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.
5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.

6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Order.
7. This Order represents the complete and fully integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Executive Director recognizes that by July 12, 2023, the Respondent added Solvent Removal System ("SRS") emission annual and rolling 365-day totalizer to a distributive control system ("DCS") with an alarm, added SRS emission daily totalizer to a DCS with an alarm, implemented an engineering review that is completed daily with a report as required, made adjustments to the SRS to lower emissions, reviewed the design limits with the Process Technology Team to optimize operations, and updated Operating Procedure OP-HP-01-3003 to include hourly and annual SRS emission limits in order to comply with the volatile organic compounds ("VOC") annual maximum allowable emissions rate ("MAER") for the SRS, Emissions Point Number ("EPN") 10, and provided emissions data for year 2023 that demonstrates compliance with the VOC annual MAER for the SRS, EPN 10.

II. ALLEGATIONS

During a record review for the Plant conducted from December 6, 2022 through May 10, 2023, an investigator documented that the Respondent failed to comply with the MAER, in violation of 30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and (c) and 122.143(4), New Source Review Permit No. 6532, Special Conditions No. 1, Federal Operating Permit No. O1309, General Terms and Conditions and Special Terms and Conditions No. 9, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent exceeded the VOC MAER of 24.65 tons per year based on a 12-month rolling period for the 12-month periods ending from July 2021 through August 2022 for the SRS, EPN 10, resulting in 3.38 tons of unauthorized VOC emissions.

III. DENIALS

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

IV. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Evonik Active Oxygens, LLC, Docket No. 2023-0865-AIR-E" to:

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

2. All relief not expressly granted in this Order is denied.
3. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Plant operations referenced in this Order.
4. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
7. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



For the Executive Director

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

May 21, 2024

Date

Geoffrey Varga

Name (Printed or typed)
Authorized Representative of
Evonik Active Oxygens, LLC

Corporate Officer

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.