

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2007-0488-AIR-E **TCEQ ID:** RN104964267 **CASE NO.:** 33074

**RESPONDENT NAME:** Texas Petrochemicals LP

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Port Neches Operations C4 Plant, 2102 Spur 136, Port Neches, Jefferson County</p> <p><b>TYPE OF OPERATION:</b> Industrial organic chemicals facility</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is one additional pending enforcement action regarding this facility location; Docket No. 2007-0080-IHW-E.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on July 30, 2007. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Mr. Daniel Siringi, Enforcement Division, Enforcement Team 5, R-10, (409) 899-8799; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468  <b>Respondent:</b> Mr. Michael Bankston, Plant Manager, Texas Petrochemicals LP, Post Office Box 847, Port Neches, Texas 77651  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> February 5, 2007</p> <p><b>Date of NOE Relating to this Case:</b> March 20, 2007 (NOE)</p> <p><b>Background Facts:</b> This was a routine record review. One violation was documented.</p> <p><b>AIR</b></p> <p>Failure to prevent unauthorized emissions of 256.50 pounds ("lbs") of 1, 3 Butadiene during an emissions event which began on September 22, 2006 in Tank 25 Discharge Line and lasted for 35 minutes. Since the emissions event was avoidable, the Respondent failed to meet the demonstrations for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN. CODE §§ 116.115(c), 122.143(4), Federal Operating Permit ("FOP") No. 1327, General Terms and Conditions and Special Condition 15, Air Permit No. 20485, Special Condition 1 and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)]</p>	<p><b>Total Assessed:</b> \$2,500</p> <p><b>Total Deferred:</b> \$500  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$2,000</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, implement measures designed to prevent the recurrence of an emissions event due to causes the same as those associated with September 22, 2006 event; and</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification including detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision March 19, 2007

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	26-Mar-2007
	<b>PCW</b>	10-Apr-2007
	<b>Screening</b>	28-Mar-2007
	<b>EPA Due</b>	28-Dec-2007

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Texas Petrochemicals LP
<b>Reg. Ent. Ref. No.</b>	RN104964267
<b>Facility/Site Region</b>	10-Beaumont
<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	33074	<b>No. of Violations</b>	1
<b>Docket No.</b>	2007-0488-AIR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Air	<b>Enf. Coordinator</b>	Daniel Siringi
<b>Multi-Media</b>		<b>EC's Team</b>	Enforcement Team 6
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History** **Subtotals 2, 3, & 7**

**Notes**

**Culpability** **Subtotal 4**

**Notes**

**Good Faith Effort to Comply** **Subtotal 5**

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	X	(mark with x)

**Notes**

**Total EB Amounts**  **Subtotal 6**   
**Approx. Cost of Compliance**  **0% Enhancement\***  
*\*Capped at the Total EB \$ Amount*

**SUM OF SUBTOTALS 1-7** **Final Subtotal**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

**Notes**

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL** **Adjustment**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes**

**PAYABLE PENALTY**

Screening Date 28-Mar-2007

Docket No. 2007-0488-AIR-E

PCW

Respondent Texas Petrochemicals LP

Policy Revision 2 (September 2002)

Case ID No. 33074

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN104964267

Media [Statute] Air

Enf. Coordinator Daniel Siringi

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements 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%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No change due to average performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 28-Mar-2007

Docket No. 2007-0488-AIR-E

PCW

Respondent Texas Petrochemicals LP

Policy Revision 2 (September 2002)

Case ID No. 33074

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN104964267

Media [Statute] Air

Enf. Coordinator Daniel Siringi

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(c), 122.143(4), Federal Operating Permit ("FOP") No. 1327, General Terms and Conditions and Special Condition 15, Air Permit No. 20485, Special Condition 1 and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to prevent unauthorized emissions of 256.50 pounds ("lbs") of 1, 3 Butadiene during an emissions event which began on September 22, 2006 in Tank 25 Discharge Line and lasted for 35 minutes. Since the emissions event was avoidable, the Respondent failed to meet the demonstrations for an affirmative defense in 30 Tex. Admin. Code § 101.222.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual			x	25%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 1

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$2,500

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$107

Violation Final Penalty Total \$2,500

This violation Final Assessed Penalty (adjusted for limits) \$2,500

## Economic Benefit Worksheet

**Respondent** Texas Petrochemicals LP  
**Case ID No.** 33074  
**Reg. Ent. Reference No.** RN104964267  
**Media** Air  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$1,500	22-Sep-2006	29-Sep-2007	1.0	\$5	\$102	\$107
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost of replacing a leaking pipe and update procedures which may have prevented the emission. The date required is the date of the emissions event and the final date is the estimated date of corrective action completion.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

**TOTAL**

\$107

## Compliance History

Customer/Respondent/Owner-Operator:	CN600130322	Texas Petrochemicals LP	Classification: AVERAGE	Rating: 7.69
Regulated Entity:	RN104964267	PORT NECHES OPERATIONS C4 PLANT	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID		TXR000069476
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)		87942
	INDUSTRIAL AND HAZARDOUS WASTE PROCESSING	PERMIT		50396
	INDUSTRIAL AND HAZARDOUS WASTE PROCESSING	PERMIT		50396
	AIR OPERATING PERMITS	PERMIT		1327
	AIR NEW SOURCE PERMITS	REGISTRATION		79464
	AIR NEW SOURCE PERMITS	REGISTRATION		80323
	AIR NEW SOURCE PERMITS	PERMIT		20485
	AIR NEW SOURCE PERMITS	REGISTRATION		80330
	AIR NEW SOURCE PERMITS	PERMIT		12599
	AIR NEW SOURCE PERMITS	PERMIT		13377
	AIR NEW SOURCE PERMITS	PERMIT		23141
	AIR NEW SOURCE PERMITS	PERMIT		32823
	AIR NEW SOURCE PERMITS	PERMIT		33285
	AIR NEW SOURCE PERMITS	PERMIT		36831
	AIR NEW SOURCE PERMITS	PERMIT		40103
	AIR NEW SOURCE PERMITS	PERMIT		42061
	AIR NEW SOURCE PERMITS	PERMIT		42324
	AIR NEW SOURCE PERMITS	PERMIT		44454
	AIR NEW SOURCE PERMITS	PERMIT		45278
	AIR NEW SOURCE PERMITS	PERMIT		46059
	AIR NEW SOURCE PERMITS	PERMIT		46489
	AIR NEW SOURCE PERMITS	PERMIT		47513
	AIR NEW SOURCE PERMITS	PERMIT		47939
	AIR NEW SOURCE PERMITS	PERMIT		49429
	AIR NEW SOURCE PERMITS	PERMIT		49615
	AIR NEW SOURCE PERMITS	PERMIT		51027
	AIR NEW SOURCE PERMITS	PERMIT		51587
	AIR NEW SOURCE PERMITS	PERMIT		51889
	AIR NEW SOURCE PERMITS	PERMIT		52313
	AIR NEW SOURCE PERMITS	PERMIT		52531
	AIR NEW SOURCE PERMITS	PERMIT		52583
	AIR NEW SOURCE PERMITS	PERMIT		53005
	AIR NEW SOURCE PERMITS	PERMIT		53808
	AIR NEW SOURCE PERMITS	PERMIT		54057
	AIR NEW SOURCE PERMITS	PERMIT		55077
	AIR NEW SOURCE PERMITS	PERMIT		56738
	AIR NEW SOURCE PERMITS	PERMIT		70023
	AIR NEW SOURCE PERMITS	PERMIT		70858
	AIR NEW SOURCE PERMITS	PERMIT		71038
	AIR NEW SOURCE PERMITS	PERMIT		71126
	AIR NEW SOURCE PERMITS	PERMIT		71130
	AIR NEW SOURCE PERMITS	PERMIT		71975
	AIR NEW SOURCE PERMITS	PERMIT		71986
	AIR NEW SOURCE PERMITS	PERMIT		72336
	AIR NEW SOURCE PERMITS	PERMIT		72802
	AIR NEW SOURCE PERMITS	PERMIT		73601
	AIR NEW SOURCE PERMITS	PERMIT		75064
	AIR NEW SOURCE PERMITS	PERMIT		76510
	AIR NEW SOURCE PERMITS	PERMIT		76627
	AIR NEW SOURCE PERMITS	PERMIT		77217
	AIR NEW SOURCE PERMITS	PERMIT		78199
	AIR NEW SOURCE PERMITS	PERMIT		39235
	AIR NEW SOURCE PERMITS	PERMIT		49295
	AIR NEW SOURCE PERMITS	PERMIT		53515
	AIR NEW SOURCE PERMITS	PERMIT		72329
	AIR NEW SOURCE PERMITS	PERMIT		74096
	AIR NEW SOURCE PERMITS	PERMIT		76932
	AIR NEW SOURCE PERMITS	PERMIT		44812

AIR NEW SOURCE PERMITS	PERMIT	46604
AIR NEW SOURCE PERMITS	PERMIT	79036
AIR NEW SOURCE PERMITS	PERMIT	79198
AIR NEW SOURCE PERMITS	REGISTRATION	79122
AIR NEW SOURCE PERMITS	REGISTRATION	44685
PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	35486

Location: 2102 SPUR 136, PORT NECHES, TX, 77651 Rating Date: 9/1/2006 Repeat Violator: NO

TCEQ Region: REGION 10 - BEAUMONT

Date Compliance History Prepared: March 27, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: March 27, 2002 to March 27, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Daniel Siringl Phone: (409) 899-8799

**Site Compliance History Components**

- 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 of the site during the compliance period? No
- 3. If Yes, who is the current owner? N/A
- 4. If Yes, who was/were the prior owner(s)? N/A
- 5. When did the change(s) in ownership occur? N/A

**Components (Multimedia) for the Site :**

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

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

- 1 09/25/2006 (509296)
- 2 11/01/2006 (510843)
- 3 11/27/2006 (515231)
- 4 12/18/2006 (534458)
- 5 12/22/2006 (516848)
- 6 12/28/2006 (516774)
- 7 01/17/2007 (534894)
- 8 01/17/2007 (534961)
- 9 02/28/2007 (539917)
- 10 03/20/2007 (539234)

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

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  
TEXAS PETROCHEMICALS LP  
RN104964267**

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**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2007-0488-AIR-E**

### **I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Texas Petrochemicals LP ("Texas Petrochemicals") 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 Texas Petrochemicals appear before the Commission and together stipulate that:

1. Texas Petrochemicals owns and operates an industrial organic chemicals facility at 2102 Spur 136 in Port Neches, Jefferson County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and Texas Petrochemicals agree that the Commission has jurisdiction to enter this Agreed Order, and that Texas Petrochemicals is subject to the Commission's jurisdiction.
4. Texas Petrochemicals received notice of the violations alleged in Section II ("Allegations") on or about March 25, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Texas Petrochemicals of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Two Thousand Five Hundred Dollars (\$2,500) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Texas Petrochemicals has paid Two Thousand Dollars (\$2,000) of the administrative penalty and Five Hundred Dollars (\$500) is deferred contingent upon Texas Petrochemicals' timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Texas Petrochemicals fails



to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Texas Petrochemicals to pay all or part of the deferred penalty.

7. 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.
8. The Executive Director of the TCEQ and Texas Petrochemicals have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. 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 Texas Petrochemicals has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## **II. ALLEGATIONS**

As owner and operator of the Plant, Texas Petrochemicals is alleged to have failed to prevent unauthorized emissions of 256.50 pounds ("lbs") of 1, 3 Butadiene during an emissions event which began on September 22, 2006 in Tank 25 Discharge Line and lasted for 35 minutes, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c), 122.143(4), Federal Operating Permit ("FOP") No. 1327, General Terms and Conditions and Special Condition 15, Air Permit No. 20485, Special Condition 1 and TEX. HEALTH & SAFETY CODE § 382.085(b) as documented during a record review conducted on February 5, 2007. Since the emissions event was avoidable, Texas Petrochemicals failed to meet the demonstrations for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222.

## **III. DENIALS**

Texas Petrochemicals generally denies each allegation in Section II ("Allegations").

## **IV. ORDERING PROVISIONS**

1. It is, therefore, ordered by the TCEQ that Texas Petrochemicals pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Texas Petrochemicals' compliance with all the terms and conditions set forth in this Agreed 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. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Texas Petrochemicals LP, Docket No. 2007-0488-AIR-E" to:



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

2. It is further ordered that Texas Petrochemicals shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, implement measures designed to prevent the recurrence of an emissions event due to causes the same as those associated with September 22, 2006 event; and
  - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.

The certification shall be notarized by a State of Texas Notary Public and 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 fine and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Manager, Air Section  
Beaumont Regional Office  
Texas Commission on Environmental Quality  
3870 Eastex Freeway  
Beaumont, Texas 77703-1892

3. The provisions of this Agreed Order shall apply to and be binding upon Texas Petrochemicals. Texas Petrochemicals is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.



4. If Texas Petrochemicals fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Texas Petrochemicals' failure to comply is not a violation of this Agreed Order. Texas Petrochemicals shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Texas Petrochemicals shall notify the Executive Director within seven days after Texas Petrochemicals becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Texas Petrochemicals shall be made in writing to the Executive Director. Extensions are not effective until Texas Petrochemicals receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Texas Petrochemicals in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed 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.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Texas Petrochemicals, or three days after the date on which the Commission mails notice of the Order to Texas Petrochemicals, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

8/27/07  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, 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 Attorney General's Office 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 Attorney General's Office 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 25, 2007  
Date

Michael Bankston  
Name (Printed or typed)  
Authorized Representative of  
Texas Petrochemicals LP

Plant Manager  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Handwritten scribbles or marks at the bottom right of the page.