EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-1547-AIR-E **TCEQ ID:** RN102523107 **CASE NO.:** 31051

RESPONDENT NAME: Lyondell Chemical Company

ORDER TYPE:

X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__AMENDED ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__SHUTDOWN ORDER	__FINDINGS DEFAULT ORDER	__EMERGENCY ORDER	

CASE TYPE:

__AGRICULTURE	X AIR	__INDUSTRIAL AND HAZARDOUS WASTE	__MUNICIPAL SOLID WASTE
__OCCUPATIONAL CERTIFICATION	__PETROLEUM STORAGE TANKS	__PUBLIC WATER SUPPLY	__RADIOACTIVE WASTE
__MULTI-MEDIA (check all that apply)	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL	__USED OIL
__USED OIL FILTER	__WATER QUALITY		

SITE WHERE VIOLATION(S) OCCURRED: Lyondell Chemical Bayport Plant, 10801 Choate Road, Pasadena, Harris County

TYPE OF OPERATION: Chemical manufacturing

SMALL BUSINESS: ___ Yes __X__ No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on March 19, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Ms. Sherronda Martin, Enforcement Division, Enforcement Section III, MC R-12, (713) 767-3680; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896

TCEQ Field Investigator: Mr. Steven Roberts, Houston Regional Office, MC R-12, (713) 767-3758

Respondent: CT Corporation System, Registered Agent, Lyondell Chemical Company, 350 North Paul Street, Dallas, Texas 75201
Mr. Steven M. Wood, Plant Manager, Lyondell Chemical Company, 10801 Choate Road, Pasadena, Texas 77507

Respondent's Attorney: Not represented by counsel on this enforcement matter

Attachment: Site Compliance History

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: __ Complaint _X_ Routine __ Enforcement Follow-up __ Records Review **Date of Complaint Relating to this Case:** None **Date of Investigation Relating to this Case:** July 26, 2006 **Date of NOE Relating to this Case:** August 11, 2006 (NOE) **Background Facts:** This was a routine investigation. One violation was documented. **AIR** Failed to comply with permitted emission limits by allowing unauthorized emissions of 4,492 pounds ("lbs") of isobutane, 2,735 lbs of t-Butyl Alcohol, 286 lbs of n-butane, and 260 lbs of acetone to be released from the safety relief valve of Tank F-1209B which occurred on July 14, 2005 and lasted for 9 hours. Since the emissions event was avoidable, Lyondell Chemical Company failed to meet the demonstrations for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222 [NSR Permit No. 9395, Special Condition No. 8, 30 TEX. ADMIN. CODE § 116.115(c) and TEX. HEALTH & SAFETY CODE § 382.085(b)].	**Total Assessed:** $10,000 **Total Deferred:** $2,000 _X_ Expedited Settlement __ Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid to General Revenue:** $8,000 **Site Compliance History Classification:** __ High _X_ Avg. __ Poor **Person Compliance History Classification:** __ High _X_ Avg. __ Poor **Major Source:** _X_ Yes __ No **Applicable Penalty Policy:** September 2002	**Ordering Provisions:** The Order will require the Respondent to: a. Within 30 days after the effective date of this Agreed Order, develop and implement operating procedures designed to prevent the reoccurrence of same or similar emissions events from occurring; and b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision a. The certification shall include detailed supporting documentation including receipts, and/or other records as applicable to demonstrate compliance.

Penalty Calculation Worksheet (PCW)

TCEQ

Policy Revision 2 (September 2002) *PCW Revision April 25, 2006*

DATES					
Assigned	14-Aug-2006				
PCW	15-Dec-2006	Screening	01-Sep-2006	EPA Due	29-May-2007

RESPONDENT/FACILITY INFORMATION

Respondent	Lyondell Chemical Company		
Reg. Ent. Ref. No.	RN102523107		
Facility/Site Region	12-Houston	Major/Minor Source	Major Source

CASE INFORMATION

Enf./Case ID No.	31051	No. of Violations	1
Docket No.	2006-1547-AIR-E	Order Type	1660
Media Program(s)	Air Quality	Enf. Coordinator	Sherronda Martin
Multi-Media		EC's Team	Enforcement Team 5
Admin. Penalty $ Limit Minimum	$0	Maximum	$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1* $5,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 109% Enhancement *Subtotals 2, 3, & 7* $5,450

Notes: Compliance history enhancements due to 12 Notices of Violation (NOVs) with same or similar violations, three NOVs with non similar violations, one 1660-type order, and one Findings order, and reductions due to two audits.

Culpability No 0% Enhancement *Subtotal 4* $0

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction *Subtotal 5* $0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	*(mark with a small x)*

Notes: The Respondent does not meet the good faith effort criteria.

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

**Capped at the Total EB $ Amount*

Total EB Amounts	$182
Approx. Cost of Compliance	$2,000

SUM OF SUBTOTALS 1-7 Final Subtotal $10,450

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment $0

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

Notes:

Final Penalty Amount $10,000

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty $10,000

DEFERRAL 20% Reduction Adjustment -$2,000

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

Notes: Deferral offered for expedited settlement

PAYABLE PENALTY $8,000

Screening Date 01-Sep-2006 **Docket No.** 2006-1547-AIR-E **PCW**
Respondent Lyondell Chemical Company *Policy Revision 2 (September 2002)*
Case ID No. 31051 *PCW Revision April 25, 2006*
Reg. Ent. Reference No. RN102523107
Media [Statute] Air Quality
Enf. Coordinator Sherronda Martin

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)*	12	60%
	Other written NOVs	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability *(number of orders meeting criteria)*	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
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*	2	-2%
	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) **109%**

>> 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 Compliance history enhancements due to 12 Notices of Violation (NOVs) with same or similar violations, three NOVs with non similar violations, one 1660-type order, and one Findings order, and reductions due to two audits.

Total Adjustment Percentage (Subtotals 2, 3, & 7) **109%**

PCW

Policy Revision 2 (September 2002)
PCW Revision April 25, 2006

Screening Date	01-Sep-2006
Docket No.	2006-1547-AIR-E
Respondent	Lyondell Chemical Company
Case ID No.	31051
Reg. Ent. Reference No.	RN102523107
Media [Statute]	Air Quality
Enf. Coordinator	Sherronda Martin

Violation Number 1

Primary Rule Cite(s) 30 Tex. Admin. Code § 116.115(c) and NSR Permit No. 9395, Special Condition No. 8

Secondary Rule Cite(s) Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to comply with permitted emission limits by allowing unauthorized emissions of 4,492 pounds ("lbs") of isobutane, 2,735 lbs of t-Butyl Alcohol, 286 lbs of n-butane, and 260 lbs of acetone to be released from the safety relief valve of Tank F-1209B. The event occurred on July 14, 2005 and lasted for 9 hours. Since the emissions event was avoidable, Lyondell Chemical Company 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: Major	Moderate	Minor
Actual		x	
Potential			

Percent 50%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

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

Adjustment -$5,000

Base Penalty Subtotal $5,000

Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one use a small x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $5,000

A single event is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $182

Statutory Limit Test

Violation Final Penalty Total $10,450

This violation Final Assessed Penalty (adjusted for limits) $10,000

Economic Benefit Worksheet

Respondent	Lyondell Chemical Company
Case ID No.	31051
Reg. Ent. Reference No.	RN102523107
Media [Statute]	Air Quality
Violation No.	1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
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)	$2,000	14-Jul-2005	10-May-2007	1.8	$182	n/a	$182
Notes for DELAYED costs	Estimated costs to complete operating procedure improvements to prevent the recurrence of the incident. Date required is the date of the emission event and the final date is the expected date of compliance.						
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: $2,000

TOTAL: $182

Compliance History

Customer/Respondent/Owner-Operator:	CN600344402	Lyondell Chemical Company	Classification: AVERAGE	Rating: 1.53
Regulated Entity:	RN102523107	LYONDELL CHEMICAL BAYPORT PLANT	Classification: AVERAGE	Site Rating: 1.04

ID Number(s):	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD058265067
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	30368
	WASTEWATER	PERMIT	WQ0002756000
	WASTEWATER	PERMIT	TPDES0030228
	WASTEWATER	PERMIT	TX0030228
	AIR NEW SOURCE PERMITS	PERMIT	1409
	AIR NEW SOURCE PERMITS	PERMIT	11035
	AIR NEW SOURCE PERMITS	PERMIT	9395
	AIR NEW SOURCE PERMITS	PERMIT	16448
	AIR NEW SOURCE PERMITS	PERMIT	18327
	AIR NEW SOURCE PERMITS	PERMIT	20122
	AIR NEW SOURCE PERMITS	PERMIT	28989
	AIR NEW SOURCE PERMITS	PERMIT	33282
	AIR NEW SOURCE PERMITS	PERMIT	41261
	AIR NEW SOURCE PERMITS	PERMIT	41261A
	AIR NEW SOURCE PERMITS	PERMIT	46855
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG0537O
	AIR NEW SOURCE PERMITS	AFS NUM	0477
	AIR NEW SOURCE PERMITS	REGISTRATION	75541
	AIR NEW SOURCE PERMITS	REGISTRATION	76118
	AIR NEW SOURCE PERMITS	REGISTRATION	76557
	AIR NEW SOURCE PERMITS	REGISTRATION	78478
	AIR NEW SOURCE PERMITS	REGISTRATION	78545
	AIR NEW SOURCE PERMITS	REGISTRATION	78732
	AIR OPERATING PERMITS	ACCOUNT NUMBER	HG0537O
	AIR OPERATING PERMITS	PERMIT	1421
	AIR OPERATING PERMITS	ACCOUNT NUMBER	HG0537O
	AIR OPERATING PERMITS	PERMIT	1421
	WATER LICENSING	LICENSE	1011527
	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1011527
	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1011527
	INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	50275
	INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	50275
	INDUSTRIAL AND HAZARDOUS WASTE COMPLIANCE PLANS	PERMIT	50275
	IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	30368
	UNDERGROUND INJECTION CONTROL	PERMIT	5X2600218

Location:	10801 CHOATE RD, PASADENA, TX, 77507	Rating Date: September 01 05 Repeat Violator: NO
TCEQ Region:	REGION 12 - HOUSTON	
Date Compliance History Prepared:	August 23, 2006	
Agency Decision Requiring Compliance History:	Enforcement	
Compliance Period:	August 23, 2001 to August 23, 2006	

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

Name: Sherronda Martin Phone: 713-767-3680

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.

Effective Date: 08/29/2005 ADMINORDER 2005-0008-AIR-E

Classification: Major

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: 9395 General Condition 8 PERMIT
Description: Failed to limit emissions from the relief valves (EPN E-P3FUG, fugitive components RV-33204 and RV-33205) in the Plant 3 catalyst dissolving tanks (F-3350 and F-3360), and from the head gasket (E-P2FUG) of Exchanger E2430 in the Tertiary Butyl Alcohol Plant to those authorized by the permit.

Effective Date: 06/26/2006 ADMINORDER 2005-2012-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: General Condition#8 PERMIT
Description: Failed to prevent unauthorized emissions.

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	04/14/2003	(11094)
2	07/28/2003	(112847)
3	08/31/2004	(262864)
4	10/27/2003	(303364)
5	01/07/2004	(259000)
6	11/26/2002	(303365)
7	11/25/2002	(13530)
8	05/08/2006	(456613)
9	11/25/2003	(303366)
10	03/31/2006	(456395)
11	12/19/2003	(303367)
12	01/21/2004	(303368)
13	01/02/2005	(280599)
14	02/17/2006	(471572)
15	08/23/2005	(404918)
16	04/27/2005	(374354)
17	03/13/2006	(458927)
18	01/07/2005	(283291)
19	03/21/2006	(471573)
20	08/09/2006	(487018)
21	08/19/2005	(442464)
22	10/21/2005	(471574)
23	09/21/2005	(442465)
24	01/17/2003	(176935)
25	01/14/2002	(176934)
26	06/28/2006	(484214)
27	11/17/2005	(471575)
28	12/20/2002	(176931)
29	12/14/2004	(289128)
30	12/17/2001	(176930)
31	12/20/2004	(287248)
32	12/29/2004	(286921)
33	01/04/2005	(283333)

34	12/17/2004	(289036)
35	12/22/2005	(471576)
36	11/26/2002	(176927)
37	11/19/2001	(176926)
38	08/22/2005	(403115)
39	01/17/2006	(471577)
40	04/21/2006	(454631)
41	10/18/2002	(176923)
42	10/15/2001	(176922)
43	02/02/2005	(347509)
44	09/19/2002	(176920)
45	09/25/2001	(176919)
46	04/27/2005	(374765)
47	12/29/2004	(286968)
48	08/23/2002	(176917)
49	04/19/2006	(500186)
50	08/31/2002	(10342)
51	05/19/2006	(500187)
52	11/23/2005	(435602)
53	06/21/2006	(500188)
54	07/26/2002	(176914)
55	11/22/2004	(338643)
56	06/24/2002	(176911)
57	08/24/2005	(403120)
58	05/15/2002	(176908)
59	12/30/2004	(288660)
60	02/17/2006	(453889)
61	04/11/2006	(455463)
62	04/26/2004	(355245)
63	05/20/2004	(355246)
64	04/18/2003	(176905)
65	04/28/2006	(457605)
66	07/16/2004	(355247)
67	04/18/2002	(176904)
68	03/17/2005	(383655)
69	08/19/2004	(355248)
70	11/16/2004	(383656)
71	12/27/2002	(14736)
72	04/27/2006	(457606)
73	02/08/2006	(454579)
74	09/21/2004	(355249)
75	12/20/2004	(383657)
76	10/19/2004	(355250)
77	01/20/2005	(383658)
78	03/19/2003	(176900)
79	04/27/2006	(457607)
80	03/08/2002	(176899)
81	11/10/2005	(406005)
82	02/10/2006	(343597)
83	02/14/2003	(176897)
84	03/13/2006	(418541)
85	02/08/2002	(176896)
86	12/13/2004	(288677)
87	12/30/2004	(289054)
88	12/09/2004	(341246)
89	12/13/2004	(287264)
90	08/23/2005	(404416)
91	04/14/2005	(374791)
92	06/30/2005	(372779)
93	05/26/2006	(459647)
94	08/24/2005	(405503)
95	12/08/2004	(341396)
96	03/16/2005	(374291)
97	12/08/2004	(341380)
98	11/03/2004	(292495)
99	03/16/2005	(374350)
100	08/22/2005	(402571)

101 05/09/2003 (33278)
102 02/23/2004 (303349)
103 03/25/2004 (303351)
104 11/28/2001 (103706)
105 01/28/2002 (103707)
106 05/19/2003 (303353)
107 02/17/2005 (421476)
108 02/07/2002 (103708)
109 04/22/2005 (421477)
110 05/15/2002 (103709)
111 06/16/2003 (303355)
112 05/12/2005 (421478)
113 06/16/2004 (303356)
114 06/08/2004 (254374)
115 06/21/2005 (421479)
116 07/07/2005 (421480)
117 07/22/2003 (303358)
118 04/14/2005 (376955)
119 02/10/2006 (453008)
120 08/20/2003 (303360)
121 12/09/2004 (342323)
122 07/18/2006 (481672)
123 09/26/2003 (303362)

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

Date: 01/04/2005 (289054)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
5C THC Chapter 382, SubChapter A 382.085(b)
Rqmt Prov: PERMIT IA
Description: Failure to prevent the premature failure of the field-mounted pneumatic pressure controller on storage tank F-1001B, resulting in unauthorized emissions.

Date: 07/18/2006 (481672)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
5C THC Chapter 382, SubChapter D 382.085(b)
Rqmt Prov: PA IA
Description: Failed to prevent tank overpressure, resulting in unauthorized emissions.

Date: 09/30/2005 (471574)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 12/29/2004 (286968)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
5C THC Chapter 382, SubChapter A 382.085(b)
Rqmt Prov: PERMIT IA
Description: Failure to prevent the unplanned shutdown of compressor C-3220, resulting in unauthorized emissions.

Date: 12/29/2004 (286921)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
5C THC Chapter 382, SubChapter A 382.085(b)
Rqmt Prov: PERMIT IA
Description: Failure to prevent the motor failure in the propylene recycle compressor, C-2450, resulting in unauthorized emissions.

Date: 12/20/2004 (289036)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)

5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: PERMIT IA

Description: Failure to prevent the overpressure of Tank F-1001C, resulting in unauthorized emissions.

Date: 03/13/2006 (418541)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 335, SubChapter A 335.1

30 TAC Chapter 335, SubChapter A 335.6(c)

Description: Failure to update the facility's Notice of Registration

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)(1)(A)

40 CFR Chapter 265, SubChapter I, PT 265, SubPT I 265.174

Description: Failure to properly document inspections of hazardous waste management units.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 335, SubChapter A 335.10(b)(1)

Description: Failure to document the unique five-digit numbers for hazardous waste manifests.

Date: 12/09/2004 (342323)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)[G]

5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to control emissions.

Date: 01/04/2005 (288660)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)

5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: PERMIT IA

Description: Failure to prevent a gearbox failure on Compressor C-3450, resulting in unauthorized emissions.

Date: 06/08/2004 (254374)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: PERMIT IA

Description: Lyondell exceeded a permit limit during an avoidable emissions event.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)

Description: Lyondell failed to report a reportable emissions event within 24 hours from the discovery of the emissions event.

Date: 12/21/2004 (287248)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)

5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: PERMIT IA

Description: Failure to maintain the wiring in the junction box of the D-3310 Epoxider, resulting in unauthorized emissions.

Date: 08/24/2005 (403120)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: PERMIT IA

Description: Failure to prevent over pressure of C4 Splitter column, resulting in unauthorized emissions.

Date: 02/29/2004 (303351)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 12/13/2004 (288677)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)

5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: PERMIT IA

Description: Failure to maintain the overhead piping for the Distillation Column, resulting in unauthorized emissions.

Date: 01/17/2002 (103707)

Self Report? NO Classification: Moderate

Citation: 5C THC Chapter 382, SubChapter A 382.085(a)

Description: UNAUTH EMISSIONS CIVIL

F. Environmental audits.

Notice of Intent Date: 03/04/2003 (29848)

No DOV Associated

Notice of Intent Date: 10/09/2001 (32841)

No DOV Associated

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	**TEXAS COMMISSION ON**
LYONDELL CHEMICAL COMPANY	§	
RN102523107	§	**ENVIRONMENTAL QUALITY**
	§	

AGREED ORDER
DOCKET NO. 2006-1547-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 Lyondell Chemical Company ("Lyondell") 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 Lyondell appear before the Commission and together stipulate that:

1. Lyondell owns and operates a chemical plant at 10801 Choate Road in Pasadena, Harris 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 Lyondell agree that the Commission has jurisdiction to enter this Agreed Order, and that Lyondell is subject to the Commission's jurisdiction.

4. Lyondell received notice of the violations alleged in Section II ("Allegations") on or about August 16, 2006.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Lyondell of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Ten Thousand Dollars ($10,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Lyondell has paid Eight Thousand Dollars ($8,000) of the administrative penalty and Two Thousand Dollars ($2,000) is deferred contingent upon Lyondell's 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 Lyondell fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Lyondell 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 Lyondell 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 Lyondell 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, Lyondell is alleged to have failed to comply with permitted emission limits by allowing unauthorized emissions of 4,492 pounds ("lbs") of isobutane, 2,735 lbs of t-Butyl Alcohol, 286 lbs of n-butane, and 260 lbs of acetone to be released from the safety relief valve of Tank F-1209B which occurred on July 14, 2005 and lasted for 9 hours, in violation of NSR Permit No. 9395, Special Condition No. 8, 30 TEX. ADMIN. CODE § 116.115(c) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on July 26, 2006. Since the emissions event was avoidable, Lyondell failed to meet the demonstrations for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Lyondell pay an administrative penalty as set forth in Section I, Paragraph 6 above. The imposition of this administrative penalty and Lyondell's 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: Lyondell Chemical Company, Docket No. 2006-1547-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 Lyondell shall undertake the following technical requirements:

   a. Within 30 days after the effective date of this Agreed Order, develop and implement operating procedures designed to prevent the reoccurrence of same or similar emissions events from occurring; and

   b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.a. as described below. The certification shall include detailed supporting documentation including receipts, and/or other records as applicable to demonstrate compliance, 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
   Houston Regional Office
   Texas Commission on Environmental Quality
   5425 Polk Avenue, Suite H
   Houston, Texas 77023

3. The provisions of this Agreed Order shall apply to and be binding upon Lyondell. Lyondell 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 Lyondell 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, Lyondell's failure to comply is not a violation of this Agreed Order. Lyondell shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Lyondell shall notify the Executive Director within seven days after Lyondell 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 Lyondell shall be made in writing to the Executive Director. Extensions are not effective until Lyondell 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 Lyondell 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 Lyondell, or three days after the date on which the Commission mails notice of the Order to Lyondell, 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

_____ 4/3/07
For the Executive Director 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, if any, 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 my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- 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 against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

_____ 12/20/2006
Signature Date

Steven M. Wood _____ Plant Manager
Name (Printed or typed) Title
Authorized Representative of
Lyondell Chemical Company

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.