

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2008-1013-AIR-E **TCEQ ID:** RN102325974 **CASE NO.:** 36088
RESPONDENT NAME: LCY Elastomers LP

ORDER TYPE:		
<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	
CASE TYPE:		
<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>SITE WHERE VIOLATION(S) OCCURRED: LCY Elastomers, 4803 Decker Drive, Baytown, Harris County</p> <p>TYPE OF OPERATION: Thermoplastic elastomers production plant</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on December 1, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Roshondra Lowe, Enforcement Division, Enforcement Team 5, MC R-12, (713) 767-3553; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Terry Sain, Safety and Environmental Manager, LCY Elastomers LP, 4803 Decker Drive, Baytown, Texas 77520 Mr. Cecil Lee, Site General Manager, LCY Elastomers LP, 4803 Decker Drive, Baytown, Texas 77520 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: April 29, 2008</p> <p>Date of NOV/NOE Relating to this Case: June 4, 2008 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>AIR</p> <p>Failure to prevent unauthorized emissions. Specifically, 44 pounds of Volatile Organic Compounds were released into the atmosphere due to the blocked discharge valve of Pump P-7641 and failure to ensure that a loose lock nut on the nitrogen regulator was tightened. The emissions event that occurred on March 10, 2008 lasted three hours and 22 minutes. Since the emissions event was avoidable, the Respondent failed to meet the demonstration for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN. CODE § 116.115(c), TEX. HEALTH & SAFETY CODE § 382.085(b), and Air Permit No. 20311, Special Condition No. 1].</p>	<p>Total Assessed: \$3,650</p> <p>Total Deferred: \$730 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$2,920</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, implement maintenance procedures designed to prevent the blocking of P-7641 and ensure regulators are tightened; and</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification demonstrating compliance with Ordering Provision a. The certification shall include detailed supporting documentation including receipts, monitoring records, training records, and/or other records to demonstrate compliance.</p>

Additional ID No(s): HG3757A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

DATES	Assigned	9-Jun-2008			
	PCW	2-Jul-2008	Screening	17-Jun-2008	EPA Due 27-Feb-2009

RESPONDENT/FACILITY INFORMATION	
Respondent	LCY Elastomers LP
Reg. Ent. Ref. No.	RN102325974
Facility/Site Region	12-Houston
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	36088	No. of Violations	1
Docket No.	2008-1013-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Roshondra Lowe
		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)	<i>Subtotal 1</i>	\$2,500
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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	46.0% Enhancement	<i>Subtotals 2, 3, & 7</i>	\$1,150
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Notes: Penalty enhanced due to two NOVs for same or similar violations, four NOVs for unrelated issues, four unrelated effluent discharge violations and one 1660-style Agreed Order with denial of liability.

Culpability	No	0.0% Enhancement	<i>Subtotal 4</i>	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	<i>Subtotal 5</i>	\$0
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Economic Benefit	0.0% Enhancement*	<i>Subtotal 6</i>	\$0
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Total EB Amounts \$245
 Approx. Cost of Compliance \$5,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	<i>Final Subtotal</i>	\$3,650
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	<i>Adjustment</i>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<i>Final Penalty Amount</i>	\$3,650
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STATUTORY LIMIT ADJUSTMENT	<i>Final Assessed Penalty</i>	\$3,650
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DEFERRAL	20.0% Reduction	<i>Adjustment</i>	-\$730
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$2,920
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Screening Date 17-Jun-2008

Docket No. 2008-1013-AIR-E

PCW

Respondent LCY Elastomers LP

Policy Revision 2 (September 2002)

Case ID No. 36088

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN102325974

Media [Statute] Air

Enf. Coordinator Roshondra Lowe

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)	2	10%
	Other written NOVs	8	16%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of 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) 46%

>> 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

Penalty enhanced due to two NOVs for same or similar violations, four NOVs for unrelated issues, four unrelated effluent discharge violations and one 1660-style Agreed Order with denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 46%

Screening Date 17-Jun-2008 **Docket No.** 2008-1013-AIR-E **PCW**
Respondent LCY Elastomers LP *Policy Revision 2 (September 2002)*
Case ID No. 36088 *PCW Revision June 12, 2008*
Reg. Ent. Reference No. RN102325974
Media [Statute] Air
Enf. Coordinator Roshondra Lowe

Violation Number
Rule Cite(s) 30 Tex. Admin. Code § 116.115(c), Tex. Health & Safety Code § 382.085(b) and Air Permit No. 20311, Special Condition No. 1
Violation Description
 Failed to prevent unauthorized emissions. Specifically, 44 pounds of volatile organic compounds were released into the atmosphere due to the blocked discharge valve of Pump P-7641 and failure to ensure that a loose lock nut on the nitrogen regulator was tightened. The emissions event that occurred on March 10, 2008 lasted three hours and 22 minutes. Since the emissions event was avoidable, the Respondent failed to meet the demonstration for an affirmative defense in 30 Tex. Admin. Code § 101.222.
Base Penalty

>> Environmental, Property and Human Health Matrix
 OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text" value="25%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

Matrix Notes
 Human health or the environment in the Houston-Galveston-Brazoria nonattainment area 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 this violation.
Adjustment

Adjustment **Subtotal**

Violation Events
 Number of Violation Events Number of violation days
 mark only one with an x

daily	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input checked="" type="text" value="x"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty
 One quarterly event is recommended.

Good Faith Efforts to Comply Reduction **Subtotal**
 Before NOV NOV to EDRP/Settlement Offer
 Extraordinary
 Ordinary
 N/A (mark with x)
Notes The Respondent does not meet the good faith criteria for this violation.
Violation Subtotal

Economic Benefit (EB) for this violation **Statutory Limit Test**
 Estimated EB Amount **Violation Final Penalty Total**
This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent LCY Elastomers LP
Case ID No. 36088
Reg. Ent. Reference No. RN102325974
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

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)	\$5,000	10-Mar-2008	2-Mar-2009	0.98	\$245	n/a	\$245

Notes for DELAYED costs

Estimated cost to implement maintenance procedures designed to prevent the blocking of P-7641 and ensure regulators are tightened. Date required is date of the emissions event. Final date based on the projected date corrective actions will be completed.

Avoided Costs

ANNUALIZE [1] 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 [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$245

9 01/27/2005 (343596)
 10 06/02/2005 (375715)
 11 08/30/2005 (372066)
 12 10/11/2005 (418629)
 13 12/29/2005 (436334)
 14 01/26/2006 (452639)
 15 03/28/2006 (452399)
 16 05/26/2006 (467581)
 17 10/30/2006 (517040)
 18 11/29/2006 (517875)
 19 07/16/2007 (543324)
 20 08/20/2007 (606096)
 21 09/12/2007 (571406)
 22 09/19/2007 (606097)
 23 10/19/2007 (606098)
 24 11/17/2007 (634308)
 25 12/17/2007 (634309)
 26 01/08/2008 (634310)
 27 01/23/2008 (635978)
 28 02/13/2008 (678053)
 29 02/19/2008 (678055)
 30 02/19/2008 (678057)
 31 02/19/2008 (678058)
 32 02/19/2008 (678059)
 33 02/19/2008 (678060)
 34 03/10/2008 (678054)
 35 04/18/2008 (678056)
 36 06/03/2008 (654471)

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

Date: 12/29/2003 (251574)
 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: PA TCEQ AIR PERMIT #20311, SC #1
 Description: Polimeri failed to prevent an emissions event that was avoidable by good design,
 operation, or maintenance practices.
 Date: 08/30/2005 (372066)
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
 30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)(i)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)
 Rqmt Prov: PA 20311, Special Condition #9
 Description: visible emissions from a smoking flare more than 5 minutes in any 2 hour period
 in Unit H-7902.
 Date: 01/26/2006 (452639)
 Self Report? NO Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
 Description: Failure to prevent process wastewater from entering a storm water containment
 pond.
 Date: 11/28/2006 (517875)
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 324, SubChapter A 324.6
 40 CFR Chapter 279, SubChapter I, PT 279, SubPT C 279.22(c)
 Description: Failure to label containers with used oil with the words "Used Oil."
 Date: 07/16/2007 (543324)
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(2)
 5C THC Chapter 382, SubChapter D 382.085(b)
 Rqmt Prov: OP O-01756, SC 11
 PERMIT Permit 20311, SC 9
 Description: Low pressure flare had no pilot flame.
 Self Report? NO Classification: Minor

Citation:	30 TAC Chapter 122, SubChapter B 122.145(2)(A) 5C THC Chapter 382, SubChapter D 382.085(b)		
Rqmt Prov:	OP O-01756, GC		
Description:	All deviations were not included in the Semiannual Deviation Report.		
Date:	07/31/2007 (606096)		
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	10/31/2007 (634308)		
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	01/23/2008 (635978)		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate

Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Date:	01/31/2008 (678053)		
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	02/29/2008 (678054)		
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		

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
LCY ELASTOMERS LP
RN102325974

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§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-1013-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 LCY Elastomers LP ("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 appear before the Commission and together stipulate that:

1. The Respondent owns and operates a thermoplastic elastomers production plant at 4803 Decker Drive in Baytown, 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 the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about June 9, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Three Thousand Six Hundred Fifty Dollars (\$3,650) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Thousand Nine Hundred Twenty Dollars (\$2,920) of the administrative penalty and Seven Hundred Thirty Dollars (\$730) is deferred contingent upon the

Respondent'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 the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent 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 the Respondent 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 the Respondent 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, the Respondent is alleged to have failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE § 116.115(c), TEX. HEALTH & SAFETY CODE § 382.085(b) and Air Permit No. 20311, Special Condition No. 1, as documented during an investigation conducted on April 29, 2008. Specifically, 44 pounds of Volatile Organic Compounds were released into the atmosphere due to the blocked discharge valve of Pump P-7641 and failure to ensure that a loose lock nut on the nitrogen regulator was tightened. The emissions event that occurred on March 10, 2008 lasted three hours and 22 minutes. Since the emissions event was avoidable, the Respondent failed to meet the demonstration for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent'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: LCY Elastomers LP, Docket No. 2008-1013-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 the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, implement maintenance procedures designed to prevent the blocking of P-7641 and ensure regulators are tightened; and
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification demonstrating compliance with Ordering Provision 2.a. The certification shall include detailed supporting documentation including receipts, monitoring records, training records, and/or other records to demonstrate compliance, and be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, 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:

Air Section, Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

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

[Handwritten Signature]
For the Executive Director

10/30/2008
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.

[Handwritten Signature]
Signature

September 8, 2008
Date

Cecil Lee
Name (Printed or typed)
Authorized Representative of
LCY Elastomers LP

Site General 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.

