

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-0157-AIR-E **TCEQ ID:** RN102830866 **CASE NO.:** 35295

RESPONDENT NAME: La Porte Methanol Company, L.P.

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: La Porte Methanol, 11603 Strang Road, La Porte, Harris County</p> <p>TYPE OF OPERATION: Chemical manufacturing 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 August 4, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768 TCEQ Enforcement Coordinator: Ms. Roshondra Lowe, Enforcement Division, Enforcement Team 5, R-12, (713) 767-3553; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Joshua Burnett, Cluster Manager, La Porte Methanol Company, L.P., 11603 Strang Road, La Porte, Texas 77571 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: October 11 through 12, 2007</p> <p>Date of NOV/NOE Relating to this Case: January 7, 2008 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>AIR</p> <p>Failure to prevent unauthorized emissions. Specifically, during an emissions event at the Marine Loading Dock on November 24, 2006, the Respondent allowed the condenser/refrigeration unit outlet temperature to increase above -2.58 degrees Fahrenheit, which is greater than 50 degrees Fahrenheit above the baseline testing temperature, for one three hour block average causing the unauthorized release of 165 pounds of methanol into the atmosphere. Since the emissions event was avoidable, the Respondent failed to meet the demonstration criteria for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN. CODE § 122.143(4), 40 CODE OF FEDERAL REGULATIONS § 63.563(b)(7), TEX. HEALTH & SAFETY CODE § 382.085(b), Air Permit No. 40938, Special Condition No. 1, and Federal Operating Permit No. O-02291, Special Condition 1D].</p>	<p>Total Assessed: \$3,925</p> <p>Total Deferred: \$785 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$1,570</p> <p>Total Paid to General Revenue: \$1,570</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input checked="" type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input checked="" 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>1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP) (See SEP Attachment A).</p> <p>2) The Order will also require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, implement measures designed to maintain the condenser/refrigeration unit outlet temperatures at greater than 50 degrees Fahrenheit above the baseline temperature; and</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification demonstrating compliance with Ordering Provision 2.a.</p>

Additional ID No(s): AIR HX2302N

Attachment A
Docket Number: 2008-0157-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: La Porte Methanol Company, L.P.
Payable Penalty Amount: Three Thousand One Hundred Forty Dollars (\$3,140)
SEP Amount: One Thousand Five Hundred Seventy Dollars (\$1,570)
Type of SEP: Pre-approved
Third-Party Recipient: Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program
Location of SEP: Harris County

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

1. Project Description

A. Project

The Respondent will contribute to Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program in Harris County. The contribution will be used in accordance with the *Supplemental Environmental Project Agreement between the Houston-Galveston AERCO and the Texas Commission on Environmental Quality*. SEP monies will be used to aid local school districts and area transit agencies in reaching local match requirements mandated by the Federal Highway Administration's ("FHWA") Congestion Mitigation/Air Quality funding program. SEP monies will be disbursed to school districts and transit agencies in need of funding assistance in the Houston-Galveston non-attainment area. Those SEP monies will be used exclusively by the school districts and transit agencies as supplements to meet the local match requirements of the EPA. SEP monies will be used to pay for the cost of replacing older diesel buses with alternative fueled or clean diesel buses. The old buses will be permanently retired and only sold for scrap. The schools and transit agencies will also use the SEP monies to retrofit more buses to reduce emissions. Houston-Galveston AERCO will send the TCEQ verification in the form of paid invoices and other documentation to show that the retrofits were completed. Retrofit technologies include particulate matter traps, diesel particulate matter filters, NOx reduction catalyst technology in combination with diesel particulate filters, and other emission control technologies that are developed and approved by EPA or the California Air Resources Board.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

La Porte Methanol Company, L.P.
Agreed Order – Attachment A

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing particulate emissions on buses by more than 90% below today's level and reducing hydrocarbons below measurement capability.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Houston-Galveston Area Council
Houston-Galveston AERCO
P.O. Box 22777
Houston, Texas 77227-2777

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

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

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision November 6, 2007

DATES	Assigned	14-Jan-2008	Screening	25-Jan-2008	EPA Due	6-Oct-2008
	PCW	4-Feb-2008				

RESPONDENT/FACILITY INFORMATION			
Respondent	La Porte Methanol Company, L.P.		
Reg. Ent. Ref. No.	RN102830866		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	35295	No. of Violations	1
Docket No.	2008-0157-AIR-E	Order Type	1660
Media Program(s)	Air	Enf. Coordinator	Roshondra Lowe
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)	<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	57% Enhancement	<i>Subtotals 2, 3, & 7</i>	\$1,425
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Notes: Penalty enhanced due to one NOV for same or similar violation, one NOV for an unrelated issue, and two 1660-style Agreed Orders with denial of liability.

Culpability	No	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	0% Reduction	<i>Subtotal 5</i>	\$0
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	Before NOV	NOV to EDRP/ Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

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

	0% Enhancement*	<i>Subtotal 6</i>	\$0
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Total EB Amounts	\$326	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$3,500	

SUM OF SUBTOTALS 1-7	<i>Final Subtotal</i>	\$3,925
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OTHER FACTORS AS JUSTICE MAY REQUIRE	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>	\$3,925
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STATUTORY LIMIT ADJUSTMENT	<i>Final Assessed Penalty</i>	\$3,925
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DEFERRAL	20% Reduction	<i>Adjustment</i>	-\$785
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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	\$3,140
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Screening Date 25-Jan-2008	Docket No. 2008-0157-AIR-E	PCW
Respondent La Porte Methanol Company, L.P.	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 35295	<i>PCW Revision November 6, 2007</i>	
Reg. Ent. Reference No. RN102830866		
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 <i>(number of NOVs meeting criteria)</i>	1	5%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgements or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%
<i>Please Enter Yes or No</i>			
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) 47%

>> **Repeat Violator (Subtotal 3)**

No	Adjustment Percentage (Subtotal 3) 0%
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>> **Compliance History Person Classification (Subtotal 7)**

Poor Performer	Adjustment Percentage (Subtotal 7) 10%
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>> **Compliance History Summary**

Compliance History Notes	Penalty enhanced due to one NOV for same or similar violation, one NOV for an unrelated issue, and two 1660-style Agreed Orders with denial of liability.
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Total Adjustment Percentage (Subtotals 2, 3, & 7) 57%

Screening Date 25-Jan-2008	Docket No. 2008-0157-AIR-E	PCW	
Respondent La Porte Methanol Company, L.P.		<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 35295		<i>PCW Revision November 6, 2007</i>	
Reg. Ent. Reference No. RN102830866			
Media [Statute] Air			
Enf. Coordinator Roshondra Lowe			
Violation Number <input type="text" value="1"/>			
Rule Cite(s)	30 Tex. Admin. Code § 122.143(4), 40 Code of Federal Regulations § 63.563(b)(7), Tex. Health & Safety Code § 382.085(b), Air Permit No. 40938, Special Condition No. 1, and Federal Operating Permit No. O-02291, Special Condition No. 1D		
Violation Description	Failed to prevent unauthorized emissions. Specifically, during an emissions event at the Marine Loading Dock on November 24, 2006, the Respondent allowed the condenser/refrigeration unit outlet temperature to increase above -2.58 degrees Fahrenheit for one three hour block average causing the unauthorized release of 165 pounds of methanol into the atmosphere. 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	<input type="text" value="\$10,000"/>	
>> Environmental, Property and Human Health Matrix			
OR	Harm		
	Release	Major Moderate Minor	
	Actual	<input type="text"/>	<input type="text" value="x"/>
	Potential	<input type="text"/>	<input type="text"/>
		Percent	<input type="text" value="25%"/>
>> Programmatic Matrix			
	Falsification	Major Moderate Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>
		Percent	<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	<input type="text" value="\$7,500"/>	
			<input type="text" value="\$2,500"/>
Violation Events			
	Number of Violation Events	<input type="text" value="1"/>	Number of violation days
		<input type="text" value="1"/>	
<i>mark only one with an x</i>	daily	<input type="text"/>	
	monthly	<input type="text"/>	
	quarterly	<input type="text" value="x"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input type="text"/>	
		Violation Base Penalty	<input type="text" value="\$2,500"/>
One quarterly event is recommended.			
Economic Benefit (EB) for this violation		Statutory Limit Test	
Estimated EB Amount	<input type="text" value="\$326"/>	Violation Final Penalty Total	<input type="text" value="\$3,925"/>
		This violation Final Assessed Penalty (adjusted for limits)	<input type="text" value="\$3,925"/>

Economic Benefit Worksheet

Respondent La Porte Methanol Company, L.P.
Case ID No. 35295
Reg. Ent. Reference No. RN102830866
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
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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)	\$3,500	24-Nov-2006	3-Oct-2008	1.9	\$326	n/a	\$326

Notes for DELAYED costs

Estimated cost to implement measures designed to maintain the condenser/refrigeration unit outlet temperatures at greater than 50 degrees Fahrenheit above the baseline temperature. Date required is date of violation. Final date based on estimated date corrective actions will be completed.

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

\$3,500

TOTAL

\$326

Compliance History

Customer/Respondent/Owner-Operator: CN601436389 La Porte Methanol Company, L.P. Classification: 139.80 Rating: Poor
 Regulated Entity: RN102830866 LA PORTE METHANOL Classification: 139.80 Site Rating: Poor

ID Number(s):	AIR NEW SOURCE PERMITS	PERMIT	40938
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HX2302N
	AIR NEW SOURCE PERMITS	PERMIT	43747
	AIR NEW SOURCE PERMITS	AFS NUM	4820101503
	AIR NEW SOURCE PERMITS	REGISTRATION	72875
	AIR NEW SOURCE PERMITS	REGISTRATION	43747
	AIR OPERATING PERMITS	ACCOUNT NUMBER	HX2302N
	AIR OPERATING PERMITS	PERMIT	2291
	AIR OPERATING PERMITS	ACCOUNT NUMBER	2291
	PETROLEUM STORAGE TANK	REGISTRATION	77168
	REGISTRATION		
		Rating Date: September 1, 07	
		Repeat Violator: No	
	Location:	11603 STRANG RD, LA PORTE, TX, 77571	

TCEQ Region: REGION 12 - HOUSTON
 Date Compliance History Prepared: January 24, 2008
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: January 14, 2003 to January 14, 2008

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

Name: Roshondra Lowe Phone: (713) 767-3553

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? Yes
3. If Yes, who is the current owner? La Porte Methanol Company, L.P.
4. If Yes, who was/were the prior owner(s)? La Porte Methanol Company, L.P.
5. When did the change(s) in ownership occur? 12/20/2004

Components (Multimedia) for the Site :

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

- 1660-1** Effective Date: 11/06/2005 ADMINORDER 2004-0973-AIR-E
- Classification: Moderate
- Citation: 30 TAC Chapter 115, SubChapter D 115.354(1)(B)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.168(i)(3)
- 5C THC Chapter 382, SubChapter A 382.085(b)
- Description: Failure to monitor valves, annually.
 Classification: Minor
- Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.167(a)(1)
- 5C THC Chapter 382, SubChapter A 382.085(b)
- Rqmt Prov: 40938 PERMIT
 Description: Failed to equip two open ended lines with either a cap, blind flange, plug or a second valve.
- Classification: Moderate
- Citation: 30 TAC Chapter 115, SubChapter D 115.355(1)
 5C THC Chapter 382, SubChapter A 382.085(b)
- Description: Failed to properly conduct Test Method 21 monitoring for determining volatile organic compound leaks.
- 1660-2** Effective Date: 03/06/2006 ADMINORDER 2004-1673-AIR-E
- Classification: Minor
- Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
 30 TAC Chapter 122, SubChapter B 122.143(4)
- 40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.6(e)(3)(i)
 5C THC Chapter 382, SubChapter A 382.085(b)
- Rqmt Prov: O-02291(Special Terms & Conditions #6C) OP
 Description: Failure to develop, implement, and maintain a Start up, Shutdown, and Malfunction Plan for its HON sources.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
30 TAC Chapter 122, SubChapter B 122.143(4)

40 CFR Part 63, Subpart F 63.104(a)
40 CFR Part 63, Subpart F 63.104(b)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: O-02291(Special Term & Condition # 1C) OP

Description: Failure to conduct the required monthly monitoring (required monthly for the first six months, then quarterly) of the HON heat exchange system.

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
30 TAC Chapter 122, SubChapter B 122.143(4)

40 CFR Part 63, Subpart F 63.105(b)
40 CFR Part 63, Subpart F 63.105(e)

Rqmt Prov: O-02291(Special Term & Condition # 1C) OP

Description: Failure to have a complete Maintenance Wastewater Plan.

Classification: Moderate

Citation: 30 TAC Chapter 117, SubChapter B 117.206(l)
30 TAC Chapter 122, SubChapter B 122.143(4)

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

Rqmt Prov: O-02291(Special Terms & Conditions #10A) OP

Description: Failure to observe the rule which states that no person shall start or operate any stationary diesel or dual-fuel engine for testing or maintenance between the hours of 6:00 a.m. and noon in the Houston/Galveston ozone nonattainment area.

Classification: Minor

Citation: 30 TAC Chapter 117, SubChapter B 117.213(i)
30 TAC Chapter 117, SubChapter B 117.219(f)

30 TAC Chapter 117, SubChapter B 117.219(f)(6)(B)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to record the operating run-time and maintain other required records of weekly tests of the stationary gas turbine (PW453-50-0) for the period June 2, 2003 to January 2, 2004.

Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter D 115.356(1)
30 TAC Chapter 122, SubChapter B 122.143(4)

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

Rqmt Prov: O-02291(Special Term & Condition # 1C) OP

Description: Failure to maintain complete records identifying each process unit subject to fugitive monitoring. Specifically, the expected volatile organic compound (VOC) emissions due to a shutdown or repair were not included for the period June 2, 2003 to April 6, 2004.

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
30 TAC Chapter 115, SubChapter C 115.216(4)(B)

30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Part 63, Subpart Y 63.567(h)
40 CFR Part 63, Subpart Y 63.567(i)

Rqmt Prov: O-02291(Special Term & Condition # 1C) OP

Description: Failure to maintain records of the vapor tightness tests for each marine vessel loaded at the plant for at least two years.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
30 TAC Chapter 115, SubChapter C 115.212(a)(6)(A)

30 TAC Chapter 115, SubChapter C 115.216(1)(A)(ii)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT Y 63.564(a)(2)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT Y 63.564(h)(1)
40 CFR Part 63, Subpart Y 63.562(b)(2)
40 CFR Part 63, Subpart Y 63.562(e)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: O-02291(Special Term & Condition # 1C) OP

Description: Failure to monitor and record continuously the inlet and outlet temperatures of the vapor recovery/refrigeration system for the Methanol Barge Loading during loading operations; and by failing to maintain the 97 percent recovery requirement in Maximum Achievable Control Technology (MACT) Subpart Y (40 CFR 63, Subpart Y

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
30 TAC Chapter 122, SubChapter B 122.143(4)

40 CFR Part 63, Subpart Y 63.562(e)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: O-02291(Special Term & Condition # 1C) OP
Description: Failure to operate and maintain a source of air emissions in a manner consistent with safety and good air pollution control practices. Specifically, on two occasions, operators opened a drain valve on the marine loading vapor recovery system in order to prevent liquid build-up in the system.

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
30 TAC Chapter 122, SubChapter B 122.143(4)

40 CFR Part 63, Subpart Y 63.562(e)(2)
40 CFR Part 63, Subpart Y 63.562(e)(5)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: O-02291(Special Term & Condition # 1C) OP
Description: Failure to develop and implement a written operation and maintenance plan for the marine loading operation.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
30 TAC Chapter 122, SubChapter B 122.143(4)

40 CFR Part 63, Subpart Y 63.567(e)(1)
40 CFR Part 63, Subpart Y 63.567(e)(6)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: O-02291(Special Term & Condition # 1C) OP
Description: Failure to complete and submit periodic excess emission reports and CMS performance and/or summary reports to the Administrator as required.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
30 TAC Chapter 122, SubChapter B 122.143(4)

40 CFR Part 63, Subpart Y 63.567(j)(3)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: O-02291(Special Term & Condition # 1C) OP
Description: Failure to submit an annual report of HAP emissions and vapor collection system control efficiency on compliance date.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)
30 TAC Chapter 122, SubChapter B 122.143(4)

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

Rqmt Prov: O-02291(Special Terms & Conditions #2F) OP
Description: Failure create a final record of fourteen non-reportable emission events within two weeks after the end of the events during the June 2, 2003 through June 2, 2004 reporting period.

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
30 TAC Chapter 122, SubChapter B 122.143(4)

40 CFR Part 63, Subpart G 63.120(a)(5)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: O-02291(Special Term & Condition # 1C) OP
Description: Failure to notify the Administrator in writing at least thirty (30) calendar days prior to the filling of a degassed Methanol Tank SG112-1-1. Specifically, notification was provided on March 5, 2004 and the tank was filled on March 14, 2004.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)

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

Rqmt Prov: NSR # 40938 (Special Condition #1) PA
O-02291(Special Terms & Conditions #12A) OP

Description: Failure to meet the maximum allowable short-term emission rates for the marine loading dock when

the maximum allowable loading rate of 1500 gallons per minute (gpm) was exceeded for the period December 3, 2003 to August 18, 2004.

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter B 115.112(a)(1)
30 TAC Chapter 122, SubChapter B 122.143(4)

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

Rqmt Prov: O-02291(Special Term & Condition # 1C) OP

Description: Failure to ensure all VOC containers are capable of maintaining working pressure sufficient at all times to prevent any vapor or gas loss to the atmosphere or are equipped with appropriate control device.

Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)

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

Rqmt Prov: O-02291(General Terms & Conditions) OP

Description: Failure to report four (4) deviations no later than 30 days after the end of the reporting period.

Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter C 122.210(a)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to submit a Title V revision request to the TCEQ in order to add the High Pressure Flare (EPN: SG21-1-1) to the permit as back up control for tank SG110-1-1.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
30 TAC Chapter 115, SubChapter D 115.352(1)

30 TAC Chapter 115, SubChapter D 115.352(2)

30 TAC Chapter 116, SubChapter B 116.115(c)

30 TAC Chapter 122, SubChapter B 122.143(4)

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

Rqmt Prov: O-02291(Special Term & Condition # 11) OP

Description: Failure to repair one valve (TAG No. 7302497) within fifteen calendar days after the leak was found.

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	05/28/2004	(268617)
2	08/31/2004	(258302)
3	01/23/2007	(512477)
4	08/16/2007	(568680)
5	01/08/2008	(598127)
6	01/08/2008	(609583)

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

SIM-1

Date: 01/24/2007 (512477)

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: OP No. O-02291, Special Condition 11

Description: failure to keep the fill pipe to Organic Waste Tank No. SG105-24-1 submerged at all times.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 117, SubChapter B 117.206(i)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: OP No. O-02291, SC 10A

Description: failure to operate diesel engine outside the hours of 0600 hours to noon.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: PERMIT No. 40938, Special Condition 2E

OP No. O-02291, Special Condition 12A

OP No. O-02291, Special Condition 1A

Description: failure to equip open ended lines with a cap, plug, blind flange or second valve.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THC Chapter 382, SubChapter D 382.085(b)
 Rqmt Prov: PERMIT No. 40938, Special Condition 1
 OP No. O-02291, Special Condition 12A
 Description: failure to operate Bulk Methanol Tanks SG120-1-1 & SG 120-2-1 within the VOC
 emission limits specified in the Maximum Allowable Emission Rate Table of NSR Permit
 No. 40938.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THC Chapter 382, SubChapter D 382.085(b)
 Rqmt Prov: PERMIT No. 40938, Special Condition 1
 OP No. O-02291, Special Condition 12A
 Description: failure to operate West Methanol Day Tank SG112-1-1 and East Methanol Day Tank
 SG112-11-1 within the VOC Emission Limits Specified in the Maximum Allowable
 Emission Rate Table of NSR Permit No. 40938

N/SAME-1 Date: 01/07/2008 (609583)

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)
 5C THSC Chapter 382 382.085(b)
 Rqmt Prov: OP FOP O-02291 GC
 Description: Failure to report all instances of deviations.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 115, SubChapter F 115.541(a)(1)(B)
 30 TAC Chapter 115, SubChapter F 115.542(a)(1)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 Rqmt Prov: OP FOP O-02291 SC 4A
 Description: Failure to perform degassing operations.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(2)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 Rqmt Prov: OP FOP O-02291 SC 2F
 Description: Failure to record the correct data for an emissions event.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 Rqmt Prov: OP FOP O-02291 SC 12
 Description: Failure to follow requirements of Periodic Monitoring Summary.

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
LA PORTE METHANOL COMPANY,
L.P.
RN102830866**

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

AGREED ORDER DOCKET NO. 2008-0157-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 La Porte Methanol Company, L.P. ("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 chemical manufacturing plant at 11603 Strang Road in La Porte, 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 January 12, 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 Nine Hundred Twenty-Five Dollars (\$3,925) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Thousand Five Hundred Seventy Dollars (\$1,570) of the administrative penalty and Seven Hundred Eighty-Five Dollars (\$785) 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. One Thousand Five Hundred Seventy Dollars (\$1,570) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

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 § 122.143(4), 40 CODE OF FEDERAL REGULATIONS § 63.563(b)(7), TEX. HEALTH & SAFETY CODE § 382.085(b), Air Permit No. 40938, Special Condition No. 1, and Federal Operating Permit No. O-02291, Special Condition 1D, as documented during an investigation conducted on October 11 through 12, 2007. Specifically, during an emissions event at the Marine Loading Dock on November 24, 2006, the Respondent allowed the condenser/refrigeration unit outlet temperature to increase above -2.58 degrees Fahrenheit, which is greater than 50 degrees Fahrenheit above the baseline testing temperature, for one three hour block average causing the unauthorized release of 165 pounds of methanol into the atmosphere. Since the emissions event was avoidable, the Respondent failed to meet the demonstration criteria 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: La Porte Methanol Company, L.P., Docket No. 2008-0157-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. The Respondent shall implement and complete a SEP accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, One Thousand Five Hundred Seventy Dollars (\$1,570) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. 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 measures designed to maintain the condenser/refrigeration unit outlet temperatures at greater than 50 degrees Fahrenheit above the baseline temperature; and
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification demonstrating compliance with Ordering Provision 3.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

4. 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.
5. 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.
6. 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.
7. 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.
8. 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.
9. 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



For the Executive Director

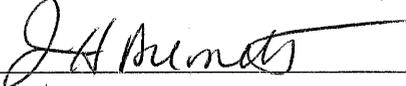
7/21/2008
Date

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.



Signature

5/21/08
Date

Joshua Burnett
Name (Printed or typed)
Authorized Representative of
La Porte Methanol Company, L.P.

Cluster 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.

Attachment A
Docket Number: 2008-0157-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: La Porte Methanol Company, L.P.
Payable Penalty Amount: Three Thousand One Hundred Forty Dollars (\$3,140)
SEP Amount: One Thousand Five Hundred Seventy Dollars (\$1,570)
Type of SEP: Pre-approved
Third-Party Recipient: Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program
Location of SEP: Harris County

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

1. Project Description

A. Project

The Respondent will contribute to Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program in Harris County. The contribution will be used in accordance with the *Supplemental Environmental Project Agreement between the Houston-Galveston AERCO and the Texas Commission on Environmental Quality*. SEP monies will be used to aid local school districts and area transit agencies in reaching local match requirements mandated by the Federal Highway Administration's ("FHWA") Congestion Mitigation/Air Quality funding program. SEP monies will be disbursed to school districts and transit agencies in need of funding assistance in the Houston-Galveston non-attainment area. Those SEP monies will be used exclusively by the school districts and transit agencies as supplements to meet the local match requirements of the EPA. SEP monies will be used to pay for the cost of replacing older diesel buses with alternative fueled or clean diesel buses. The old buses will be permanently retired and only sold for scrap. The schools and transit agencies will also use the SEP monies to retrofit more buses to reduce emissions. Houston-Galveston AERCO will send the TCEQ verification in the form of paid invoices and other documentation to show that the retrofits were completed. Retrofit technologies include particulate matter traps, diesel particulate matter filters, NOx reduction catalyst technology in combination with diesel particulate filters, and other emission control technologies that are developed and approved by EPA or the California Air Resources Board.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing particulate emissions on buses by more than 90% below today's level and reducing hydrocarbons below measurement capability.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Houston-Galveston Area Council
Houston-Galveston AERCO
P.O. Box 22777
Houston, Texas 77227-2777

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

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

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

