

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-0524-AIR-E **TCEQ ID:** RN104964267 **CASE NO.:** 37445

RESPONDENT NAME: Texas Petrochemicals LLC

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: Port Neches Operations C4 Plant, 2102 Spur 136, Port Neches, Jefferson County</p> <p>TYPE OF OPERATION: Petrochemical 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 October 5, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: SEP Coordinator: Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732 TCEQ Enforcement Coordinator: Ms. Miriam Hall, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-1044; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Michael Bankston, Plant Manager, Texas Petrochemicals LLC, 2102 Spur 136, Port Neches, Texas 77651 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: January 13-29, 2009</p> <p>Date of NOV Relating to this Case: February 20, 2009 (NOE)</p> <p>Background Facts: These were a routine investigations.</p> <p>AIR</p> <p>Failure to comply with the rolling 12 month annual Raffinate loading throughput limits as required by the confidential section of the permit application submitted on April 6, 2006, Appendix B of the Raffinate 1 Loading Amendment Application. Specifically, from January 1 through August 31, 2008, the throughput rate ranged from 3.64% to 21.91% over the permit limit [30 TEX. ADMIN. CODE §§ 116.115(c), 116.116(b), and 122.143(4), New Source Review Permit ("NSRP") No. 20485, Special Condition No. 21.A., Federal Operating Permit No. O1327, Special Terms and Condition No. 15, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$10,200</p> <p>Total Deferred: \$2,040 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$4,080</p> <p>Total Paid to General Revenue: \$4,080</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input 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>Corrective Actions Taken:</p> <p>1) The Executive Director recognizes that the Respondent has reduced Raffinate production and has maintained throughput limits since September 1, 2008.</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>

Additional ID No(s): JEA007G

Attachment A
Docket Number: 2009-0524-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Texas Petrochemicals LLC
Penalty Amount: Eight Thousand One Hundred Sixty Dollars (\$8,160)
SEP Offset Amount: Four Thousand Eighty Dollars (\$4,080)
Type of SEP: Pre-approved
Third-Party Recipient: Texas PTA – *Clean School Bus Program*
Location of SEP: Texas Air Quality Control Region 106

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 Offset 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 shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to *Texas PTA* for the *Clean School Bus Program* in Texas Air Quality Control Region 106 as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to reimburse local school districts for the cost of the following activities to reduce emissions: 1) replacing older diesel buses with alternative fuelled or clean diesel buses; or 2) retrofitting older diesel buses with new, cleaner technology. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

The Respondent certifies that it has no prior commitment to make this contribution and that it is being done 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 Offset 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 Offset Amount to the Third-Party Recipient. The Respondent shall mail a copy of the Agreed Order with the contribution to:

Texas Congress of Parents and Teachers dba Texas PTA
Clean School Bus Program
Suzy Swan, Director of Finance
408 West 11th Street
Austin, Texas 78707

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset 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 expenditure of the SEP Offset 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 Offset Amount.

In the event of incomplete performance, the Respondent shall include on the check the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. The Respondent shall make the payment for the amount due to "Texas Commission on Environmental Quality" and mail it to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3087

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 a 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 October 30, 2008

DATES	Assigned	23-Feb-2009
	PCW	28-May-2009
	Screening	13-Apr-2009
	EPA Due	17-Nov-2009

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

CASE INFORMATION			
Enf./Case ID No.	37445	No. of Violations	1
Docket No.	2009-0524-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Miriam Hall
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	<i>Subtotal 1</i>	\$7,500
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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	61.0% Enhancement	<i>Subtotals 2, 3, & 7</i>	\$4,575
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Notes: The penalty was enhanced for one other NOV and three 1660 orders.
The penalty was reduced for one notice of audit.

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>	\$1,875
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Economic Benefit	0.0% Enhancement*	<i>Subtotal 6</i>	\$0
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Total EB Amounts \$17
Approx. Cost of Compliance \$500
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	<i>Final Subtotal</i>	\$10,200
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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>	\$10,200
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STATUTORY LIMIT ADJUSTMENT	<i>Final Assessed Penalty</i>	\$10,200
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DEFERRAL	20.0% Reduction	<i>Adjustment</i>	-\$2,040
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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	\$8,160
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Screening Date 13-Apr-2009

Docket No. 2009-0524-AIR-E

PCW

Respondent Texas Petrochemicals LLC

Policy Revision 2 (September 2002)

Case ID No. 37445

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104964267

Media [Statute] Air

Enf. Coordinator Miriam Hall

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOV's with same or similar violations as those in the current enforcement action (number of NOV's meeting criteria)	0	0%
	Other written NOV's	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	3	60%
	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)	1	-1%
	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%
<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) 61%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The penalty was enhanced for one other NOV and three 1660 orders. The penalty was reduced for one notice of audit.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 61%

Screening Date 13-Apr-2009	Docket No. 2009-0524-AIR-E	PCW		
Respondent Texas Petrochemicals LLC	<small>Policy Revision 2 (September 2002)</small>			
Case ID No. 37445	<small>PCW Revision October 30, 2008</small>			
Reg. Ent. Reference No. RN104964267				
Media [Statute] Air				
Enf. Coordinator Miriam Hall				
Violation Number <input type="text" value="1"/>				
Rule Cite(s)	30 Tex. Admin. Code §§ 116.115(c), 116.116(b) and 122.143(4), New Source Review Permit ("NSRP") No. 20485, Special Condition No. 21.A., Federal Operating Permit No. O1327, Special Terms and Conditions No. 15, and Tex. Health & Safety Code § 382.085(b)			
Violation Description	Failed to comply with the rolling 12 month annual Raffinate loading throughput limits as required by the confidential section of the permit application submitted on April 6, 2006, Appendix B of the Raffinate 1 Loading Amendment Application. Specifically, from January 1 through August 31, 2008, the throughput rate ranged from 3.64% to 21.91% over the permit limit.			
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"/>	<input type="text"/>
	Potential	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>
Percent				<input type="text" value="25%"/>
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Percent				<input type="text" value="0%"/>
Matrix Notes	Human health or the environment could have been exposed to significant emissions which would 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="3"/>	<input type="text" value="243"/>	Number of violation days
<small>mark only one with an x</small>	daily	<input type="text"/>	<input type="text"/>	Violation Base Penalty
	weekly	<input type="text"/>	<input type="text"/>	
	monthly	<input type="text"/>	<input type="text"/>	
	quarterly	<input checked="" type="text" value="x"/>	<input type="text"/>	
	semiannual	<input type="text"/>	<input type="text"/>	
	annual	<input type="text"/>	<input type="text"/>	
	single event	<input type="text"/>	<input type="text"/>	
<input type="text" value="Three quarterly events are recommended for January 1 through August 31, 2008."/>				<input type="text" value="\$7,500"/>
Good Faith Efforts to Comply		<input type="text" value="25.0%"/>	Reduction	<input type="text" value="\$1,875"/>
		<input type="text"/>	<input type="text"/>	
	Extraordinary	<input type="text"/>	<input type="text"/>	
	Ordinary	<input checked="" type="text" value="x"/>	<input type="text"/>	
	N/A	<input type="text"/>	<input type="text"/>	
	Notes	The Respondent has been in compliance since September 1, 2008. The NOE was issued February 20, 2009.		
Violation Subtotal				<input type="text" value="\$5,625"/>
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount		<input type="text" value="\$17"/>	Violation Final Penalty Total	<input type="text" value="\$10,200"/>
This violation Final Assessed Penalty (adjusted for limits)				<input type="text" value="\$10,200"/>

Economic Benefit Worksheet

Respondent Texas Petrochemicals LLC
Case ID No. 37445
Reg. Ent. Reference No. RN104964267
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
<small>No commas or \$</small>							

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	\$500	1-Jan-2008	1-Sep-2008	0.67	\$17	n/a	\$17
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The estimated cost for additional oversight and management practices designed to ensure that throughput limit is not exceeded from the date of the first violation to compliance date. The Respondent has cut back production significantly since August 2008.

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

\$500

TOTAL

\$17

Compliance History Report

Customer/Respondent/Owner-Operator:	CN603436122	TEXAS PETROCHEMICALS LLC	Classification:	Rating:
Regulated Entity:	RN104964267	PORT NECHES OPERATIONS C4 PLANT	Classification:	Site Rating:
ID Number(s):	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID		TXR000069476
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)		87942
	INDUSTRIAL AND HAZARDOUS WASTE PROCESSING	PERMIT		50396
	AIR OPERATING PERMITS	PERMIT		1327
	AIR NEW SOURCE PERMITS	REGISTRATION		79464
	AIR NEW SOURCE PERMITS	PERMIT		20485
	AIR NEW SOURCE PERMITS	REGISTRATION		80323
	AIR NEW SOURCE PERMITS	REGISTRATION		80330
	AIR NEW SOURCE PERMITS	PERMIT		12599
	AIR NEW SOURCE PERMITS	PERMIT		13377
	AIR NEW SOURCE PERMITS	PERMIT		23141
	AIR NEW SOURCE PERMITS	PERMIT		32823
	AIR NEW SOURCE PERMITS	PERMIT		33285
	AIR NEW SOURCE PERMITS	PERMIT		36831
	AIR NEW SOURCE PERMITS	PERMIT		40103
	AIR NEW SOURCE PERMITS	PERMIT		42061
	AIR NEW SOURCE PERMITS	PERMIT		42324
	AIR NEW SOURCE PERMITS	PERMIT		44454
	AIR NEW SOURCE PERMITS	PERMIT		45278
	AIR NEW SOURCE PERMITS	PERMIT		46059
	AIR NEW SOURCE PERMITS	PERMIT		46489
	AIR NEW SOURCE PERMITS	PERMIT		47513
	AIR NEW SOURCE PERMITS	PERMIT		47939
	AIR NEW SOURCE PERMITS	PERMIT		49615
	AIR NEW SOURCE PERMITS	PERMIT		51587
	AIR NEW SOURCE PERMITS	PERMIT		52531
	AIR NEW SOURCE PERMITS	PERMIT		53005
	AIR NEW SOURCE PERMITS	PERMIT		54057
	AIR NEW SOURCE PERMITS	PERMIT		55077
	AIR NEW SOURCE PERMITS	PERMIT		56738
	AIR NEW SOURCE PERMITS	PERMIT		70023
	AIR NEW SOURCE PERMITS	PERMIT		70858
	AIR NEW SOURCE PERMITS	PERMIT		71038
	AIR NEW SOURCE PERMITS	PERMIT		71130
	AIR NEW SOURCE PERMITS	PERMIT		71986
	AIR NEW SOURCE PERMITS	PERMIT		78199
	AIR NEW SOURCE PERMITS	PERMIT		53515
	AIR NEW SOURCE PERMITS	PERMIT		72329
	AIR NEW SOURCE PERMITS	PERMIT		44812
	AIR NEW SOURCE PERMITS	PERMIT		46604
	AIR NEW SOURCE PERMITS	PERMIT		79036
	AIR NEW SOURCE PERMITS	PERMIT		79198
	AIR NEW SOURCE PERMITS	REGISTRATION		79122
	AIR NEW SOURCE PERMITS	REGISTRATION		44685
	AIR NEW SOURCE PERMITS	REGISTRATION		85193
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER		JEA007G
	AIR NEW SOURCE PERMITS	AFS NUM		4824500715
	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION		35486
Location:	2102 SPUR 136, PORT NECHES, TX, 77651			
TCEQ Region:	REGION 10 - BEAUMONT			
Date Compliance History Prepared:	April 13, 2009			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	April 13, 2004 to April 13, 2009			

Name: Miriam Hall Phone: (512) 239-1044

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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
- 6.

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: 09/22/2008 ADMINORDER 2008-0182-AIR-E
 Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 Rqmt Prov: 1322 Special Condition 17 OP
 Permit 20485 Special Condition 1 PERMIT
 Description: Failure to maintain emissions below the allowable emission limit. The July 22, 2007 event was caused as a result of the emergency shutdown of the South 4 group. The emergency shutdown occurred when a leaking cooling water outlet block valve, (known to be leaking when the blind was installed earlier and that attempts to change the valve by freeze plugging the line had failed earlier) was removed from the cooling water line while the system was still in service.

Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 Rqmt Prov: 1322 Special Condition 17 OP
 2048 Special Condition 1 PERMIT
 Description: Failure to maintain emissions below the allowable emission limit. The August 10, 2007, event was caused when Tank 6-TK-12 was overfilled as a result of lack of proper monitoring during tank fill.

Effective Date: 02/22/2009 ADMINORDER 2008-1194-AIR-E
 Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 Rqmt Prov: Special Condition 1 PERMIT
 Special Condition 15 OP
 Description: Failure to maintain emissions below the allowable emission limit during the April 4, 2008, emissions event.

Effective Date: 04/05/2009 ADMINORDER 2008-1568-AIR-E
 Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 Rqmt Prov: Special Condition 1 PERMIT
 Special Condition 15 OP
 Description: Failure to maintain emissions below the allowable emission limit.
 Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 Rqmt Prov: Special Condition 1 PERMIT
 Special Condition 15 OP
 Description: Failure to maintain emissions below the allowable emission limit.

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

N/A

C. Chronic excessive emissions events.

N/A

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

1	09/25/2006	(509296)
2	11/27/2006	(515231)
3	08/16/2007	(570181)
4	01/14/2008	(613800)
5	04/17/2008	(612398)
6	05/08/2008	(640085)
7	07/10/2008	(682283)
8	09/09/2008	(687328)
9	02/20/2009	(725135)
10	02/20/2009	(725829)
11	02/20/2009	(725920)
12	03/11/2009	(725828)
13	04/13/2009	(740923)

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

Date: 03/11/2009 (725828)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT G 63.138(d)(3)
5C THSC Chapter 382 382.085(b)
Special Condition 2 PERMIT
Special Conditions 15 OP

Description: Failure to operate the wastewater stripper (EPN: N2D7) in accordance with the requirements of 40 CFR 63.138.

F. Environmental audits.

Notice of Intent Date: 04/02/2008 (654019)

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
ENFORCEMENT ACTION
CONCERNING
TEXAS PETROCHEMICALS LLC
RN104964267

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-0524-AIR-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Texas Petrochemicals LLC ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a petrochemical plant at 2102 Spur 136 in Port Neches, Jefferson County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and 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 February 25, 2009.
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 Ten Thousand Two Hundred Dollars (\$10,200) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Four Thousand Eighty Dollars (\$4,080) of the administrative penalty

and Two Thousand Forty Dollars (\$2,040) 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. Four Thousand Eighty Dollars (\$4,080) 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 recognizes that the Respondent has reduced Raffinate production and has maintained throughput limits since September 1, 2008.
10. 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.
11. 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.
12. 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 comply with the rolling 12 month annual Raffinate loading throughput limits as required by the confidential section of the permit application submitted on April 6, 2006, Appendix B of the Raffinate 1 Loading Amendment Application, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c), 116.116(b) and 122.143(4), New Source Review Permit ("NSRP") No. 20485, Special Condition No. 21.A., Federal Operating Permit No. O1327, Special Terms and Conditions No. 15, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on January 13 through 29, 2009. Specifically, from January 1 through August 31, 2008, the throughput rate ranged from 3.64% to 21.91% over the permit limit.

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: Texas Petrochemicals LLC, Docket No. 2009-0524-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 in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Four Thousand Eighty Dollars (\$4,080) 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. 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.

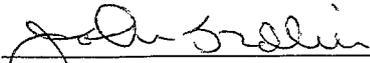
7. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.

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



For the Executive Director

9/3/2009
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

June 11, 2009
Date

MICHAEL BANKSTON
Name (Printed or typed)
Authorized Representative of
Texas Petrochemicals LLC

PLANT MANAGER, PETRO OPERATIONS
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: 2009-0524-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Texas Petrochemicals LLC
Penalty Amount:	Eight Thousand One Hundred Sixty Dollars (\$8,160)
SEP Offset Amount:	Four Thousand Eighty Dollars (\$4,080)
Type of SEP:	Pre-approved
Third-Party Recipient:	Texas PTA – <i>Clean School Bus Program</i>
Location of SEP:	Texas Air Quality Control Region 106

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 Offset 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 shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to *Texas PTA* for the *Clean School Bus Program* in Texas Air Quality Control Region 106 as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to reimburse local school districts for the cost of the following activities to reduce emissions: 1) replacing older diesel buses with alternative fuelled or clean diesel buses; or 2) retrofitting older diesel buses with new, cleaner technology. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

The Respondent certifies that it has no prior commitment to make this contribution and that it is being done 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 Offset 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 Offset Amount to the Third-Party Recipient. The Respondent shall mail a copy of the Agreed Order with the contribution to:

Texas Congress of Parents and Teachers dba Texas PTA
Clean School Bus Program
Suzy Swan, Director of Finance
408 West 11th Street
Austin, Texas 78707

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset 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 expenditure of the SEP Offset 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 Offset Amount.

In the event of incomplete performance, the Respondent shall include on the check the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. The Respondent shall make the payment for the amount due to "Texas Commission on Environmental Quality" and mail it to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3087

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 a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

