

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2008-1194-AIR-E **TCEQ ID:** RN104964267 **CASE NO.:** 36217
RESPONDENT NAME: Texas Petrochemicals LP

| | | |
|---|---|--|
| ORDER TYPE: | | |
| <input checked="" type="checkbox"/> 1660 AGREED ORDER | <input type="checkbox"/> FINDINGS AGREED ORDER | <input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING |
| <input type="checkbox"/> FINDINGS DEFAULT ORDER | <input type="checkbox"/> SHUTDOWN ORDER | <input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER |
| <input type="checkbox"/> AMENDED ORDER | <input type="checkbox"/> EMERGENCY ORDER | |
| CASE TYPE: | | |
| <input checked="" type="checkbox"/> AIR | <input type="checkbox"/> MULTI-MEDIA (check all that apply) | <input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE |
| <input type="checkbox"/> PUBLIC WATER SUPPLY | <input type="checkbox"/> PETROLEUM STORAGE TANKS | <input type="checkbox"/> OCCUPATIONAL CERTIFICATION |
| <input type="checkbox"/> WATER QUALITY | <input type="checkbox"/> SEWAGE SLUDGE | <input type="checkbox"/> UNDERGROUND INJECTION CONTROL |
| <input type="checkbox"/> MUNICIPAL SOLID WASTE | <input type="checkbox"/> RADIOACTIVE WASTE | <input type="checkbox"/> DRY CLEANER REGISTRATION |
| <p>SITE WHERE VIOLATION(S) OCCURRED: Port Neches Operations C4 Plant, 2102 Spur 136, Port Neches, Jefferson 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 January 5, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Raymond Marlow, Enforcement Division, Enforcement Team 5, MC R-10, (409) 898-3838; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Michael Bankston, Plant Manager, Texas Petrochemicals LP, 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: June 26, 2008</p> <p>Date of NOE Relating to this Case: July 10, 2008 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>AIR</p> <p>Failure to prevent unauthorized emissions of 59.37 pounds ("lbs") of 1, 3 butadiene during an emissions event which began on April 4, 2008 and lasted for 44 minutes. Specifically, unauthorized emissions were caused by an electric power failure on power pole 504B in the North Unit flare due to the improper installation of the 13.8 kilovolts ("kV") power connection by allowing it to contact a 5 kV rated insulator that was installed for support purposes. Since the emissions event was avoidable, the Respondent failed to meet the demonstrations for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN. CODE §§ 116.115(c), 122.143(4), Air Permit No. 20485, Special Condition ("SC") 1, Federal Operating Permit No. 1327, SC 15, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> | <p>Total Assessed: \$3,625</p> <p>Total Deferred: \$725 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$2,900</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> | <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a) Within 30 days after the effective date of this Agreed Order, implement measures, including but not limited to, training of personnel responsible for electrical work at the Plant, in order to prevent the recurrence of an emissions event due to causes the same as those associated with the April 4, 2008 event; and</p> <p>b) Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p> |

Additional ID No(s): Air Account No. JEA007G



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision June 12, 2008

TCEQ

| | | | | | | |
|--------------|-----------------|-------------|------------------|-------------|----------------|-------------|
| DATES | Assigned | 14-Jul-2008 | Screening | 15-Jul-2008 | EPA Due | 11-Apr-2009 |
| | PCW | 7-Aug-2008 | | | | |

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

| | | | |
|--|-----------------|------------------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 36217 | No. of Violations | 1 |
| Docket No. | 2008-1194-AIR-E | Order Type | 1660 |
| Media Program(s) | Air | Government/Non-Profit | No |
| Multi-Media | | Enf. Coordinator | Daniel Siringi |
| | | EC's Team | Enforcement Team 5 |
| Admin. Penalty \$ Limit Minimum | \$0 | Maximum | \$10,000 |

Penalty Calculation Section

| | | |
|---|-------------------|---------|
| TOTAL BASE PENALTY (Sum of violation base penalties) | Subtotal 1 | \$2,500 |
|---|-------------------|---------|

| | | |
|--|-------------------|--------------------------------|
| ADJUSTMENTS (+/-) TO SUBTOTAL 1 | | |
| Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage. | | |
| Compliance History | 45.0% Enhancement | Subtotals 2, 3, & 7 |
| | | \$1,125 |

Notes
Enhancement is recommended for two 1660 orders and three NOVs without same or similar violations as those in the current enforcement action and a reduction for a notice of audit.

| | | | | |
|--------------------|----|------------------|-------------------|-----|
| Culpability | No | 0.0% Enhancement | Subtotal 4 | \$0 |
|--------------------|----|------------------|-------------------|-----|

Notes
The Respondent does not meet the culpability criteria.

| | | |
|--|-------------------|-----|
| Good Faith Effort to Comply Total Adjustments | Subtotal 5 | \$0 |
|--|-------------------|-----|

| | | | |
|-------------------------|-------------------|-------------------|-----|
| Economic Benefit | 0.0% Enhancement* | Subtotal 6 | \$0 |
|-------------------------|-------------------|-------------------|-----|

Total EB Amounts \$811
Approx. Cost of Compliance \$15,000
*Capped at the Total EB \$ Amount

| | | |
|-----------------------------|-----------------------|---------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$3,625 |
|-----------------------------|-----------------------|---------|

| | | | |
|---|------|-------------------|-----|
| OTHER FACTORS AS JUSTICE MAY REQUIRE | 0.0% | Adjustment | \$0 |
|---|------|-------------------|-----|

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

| | |
|-----------------------------|---------|
| Final Penalty Amount | \$3,625 |
|-----------------------------|---------|

| | | |
|-----------------------------------|-------------------------------|---------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$3,625 |
|-----------------------------------|-------------------------------|---------|

| | | | |
|-----------------|-----------------|-------------------|--------|
| DEFERRAL | 20.0% Reduction | Adjustment | -\$725 |
|-----------------|-----------------|-------------------|--------|

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

Notes
Deferral offered for expedited settlement.

| | |
|------------------------|---------|
| PAYABLE PENALTY | \$2,900 |
|------------------------|---------|

Screening Date 15-Jul-2008

Docket No. 2008-1194-AIR-E

PCW

Respondent Texas Petrochemicals LP

Policy Revision 2 (September 2002)

Case ID No. 36217

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN104964267

Media [Statute] Air

Enf. Coordinator Daniel Siringi

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

| Component | Number of... | Enter Number Here | Adjust. |
|-------------------------------|--|-------------------|---------|
| NOVs | Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>) | 0 | 0% |
| | Other written NOVs | 3 | 6% |
| 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>) | 1 | -1% |
| | 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% |

Please Enter Yes or No

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

Adjustment Percentage (Subtotal 2) 45%

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

No

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

Enhancement is recommended for two 1660 orders and three NOVs without same or similar violations as those in the current enforcement action and a reduction for a notice of audit.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 45%

| | | | | |
|--------------------------------|---|-------------------|-----------------|---|
| Screening Date | 15-Jul-2008 | Docket No. | 2008-1194-AIR-E | PCW |
| Respondent | Texas Petrochemicals LP | | | <i>Policy Revision 2 (September 2002)</i> |
| Case ID No. | 36217 | | | <i>PCW Revision June 12, 2008</i> |
| Reg. Ent. Reference No. | RN104964287 | | | |
| Media [Statute] | Air | | | |
| Enf. Coordinator | Daniel Siringi | | | |
| Violation Number | 1 | | | |
| Rule Cite(s) | 30 Tex. Admin. Code §§ 116.115(c), 122.143(4), Air Permit No. 20485, Special Condition ("SC") 1, Federal Operating Permit No. 1327, SC 15 and Tex. Health & Safety Code § 382.085(b) | | | |
| Violation Description | Failed to prevent unauthorized emissions of 59.37 pounds ("lbs") of 1, 3 butadiene during an emissions event which began on April 4, 2008 and lasted for 44 minutes. Specifically, unauthorized emissions were caused by an electric power failure on power pole 504B in the North Unit flare due to the improper installation of the 13.8 kilovolts ("kV") power connection by allowing it to contact a 5 kV rated insulator that was installed for support purposes. Since the emissions event was avoidable, the Respondent failed to meet the demonstrations for an affirmative defense in 30 Tex. Admin. Code § 101.222. | | | |
| Base Penalty | \$10,000 | | | |

>> Environmental, Property and Human Health Matrix

| | | | | |
|-----------|-------------|----------|-------|---------|
| OR | Harm | | | Percent |
| | Major | Moderate | Minor | |
| | Actual | | x | |
| Potential | | | 25% | |

>> Programmatic Matrix

| | | | | |
|---------------|-------|----------|-------|---------|
| | Major | Moderate | Minor | Percent |
| Falsification | | | | |
| | | | | 0% |

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

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events: 1 Number of violation days: 1

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

Violation Base Penalty \$2,500

One quarterly event is recommended.

Good Faith Efforts to Comply 0.0% Reduction \$0

| | | |
|---------------|------------|-------------------------------|
| | Before NOV | NOV to EDPRP/Settlement Offer |
| Extraordinary | | |
| Ordinary | | |
| N/A | x | (mark with x) |

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

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount \$811 Violation Final Penalty Total \$3,625

This violation Final Assessed Penalty (adjusted for limits) \$3,625

Economic Benefit Worksheet

Respondent Texas Petrochemicals LP
Case ID No. 36217
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 |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| No commas or \$ | | | | | | | |

Delayed Costs

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|--------------------------|-----------|---------------|-------------|------|----------------|---------------|-----------|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | \$15,000 | 4-Apr-2008 | 11-Jan-2009 | 0.77 | \$39 | \$773 | \$811 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Estimated cost of designing and installing a 15kV rated insulator and implementing good engineering practices. The date required is the date of the emissions event and the final date is the estimated date of corrective action.

Avoided Costs

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

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|-------------------------------|-----------|---------------|------------|------|----------------|---------------|-----------|
| 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

\$15,000

TOTAL

\$811

Compliance History

| | | | |
|---|---|----------------------------------|---------------------|
| Customer/Respondent/Owner-Operator: | CN600130322 Texas Petrochemicals LP | Classification: AVERAGE | Rating: 7.47 |
| Regulated Entity: | RN104964267 PORT NECHES OPERATIONS C4 PLANT | Classification: AVERAGE | Site Rating: 4.85 |
| ID Number(s): | INDUSTRIAL AND HAZARDOUS WASTE GENERATION | EPA ID | TXR000069476 |
| | INDUSTRIAL AND HAZARDOUS WASTE GENERATION | SOLID WASTE REGISTRATION # (SWR) | 87942 |
| | INDUSTRIAL AND HAZARDOUS WASTE PROCESSING | PERMIT | 50396 |
| | INDUSTRIAL AND HAZARDOUS WASTE PROCESSING | PERMIT | 50396 |
| | AIR OPERATING PERMITS | PERMIT | 1327 |
| | AIR NEW SOURCE PERMITS | REGISTRATION | 79464 |
| | AIR NEW SOURCE PERMITS | 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 | Rating Date: 9/1/2007 | Repeat Violator: NO |
| TCEQ Region: | REGION 10 - BEAUMONT | | |
| Date Compliance History Prepared: | July 15, 2008 | | |
| Agency Decision Requiring Compliance History: | Enforcement | | |

Compliance Period:

July 15, 2003 to July 15, 2008

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

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

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

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

Effective Date: 08/31/2007

ADMINORDER 2007-0080-IHW-E

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter D 305.64(g)
40 CFR Chapter 270, SubChapter I, PT 270, SubPT D 270.40(b)
5B THC Chapter 361, SubChapter A 361.085

Description: Failure to secure financial assurance within six months of obtaining ownership or operational control of permitted unit.

Effective Date: 11/09/2007

ADMINORDER 2007-0488-AIR-E

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: 20485 Special Condition 1 PERMIT
FOP 1327 General Terms and Conditions OP
FOP 1327 Special Condition 15 OP

Description: Failure to maintain emissions below the allowable emission limits of the Maximum Allowable Emission Rates Table (MAERT) of Permit 20485. The MAERT of Permit 20485 does not authorize emissions from Tank 25 Discharge Line. MOD 2(D) EIC A8(c)(2(A)(ii))

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

N/A

- C. Chronic excessive emissions events.

N/A

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

| | | |
|----|------------|----------|
| 1 | 09/25/2006 | (509296) |
| 2 | 11/01/2006 | (510843) |
| 3 | 11/27/2006 | (515231) |
| 4 | 12/18/2006 | (534458) |
| 5 | 12/22/2006 | (516848) |
| 6 | 12/28/2006 | (516774) |
| 7 | 01/17/2007 | (534894) |
| 8 | 01/17/2007 | (534961) |
| 9 | 02/28/2007 | (539917) |
| 10 | 03/20/2007 | (539234) |
| 11 | 07/03/2007 | (563967) |
| 12 | 07/03/2007 | (563963) |
| 13 | 08/16/2007 | (570181) |
| 14 | 10/03/2007 | (593660) |
| 15 | 10/03/2007 | (593677) |
| 16 | 11/19/2007 | (595271) |
| 17 | 12/21/2007 | (595889) |
| 18 | 01/04/2008 | (488636) |
| 19 | 01/09/2008 | (598390) |
| 20 | 01/14/2008 | (613800) |
| 21 | 02/25/2008 | (613954) |
| 22 | 04/07/2008 | (638234) |
| 23 | 04/17/2008 | (612398) |

24 05/08/2008 (640085)
25 07/10/2008 (682283)

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

Date: 07/03/2007 (563963)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 335, SubChapter H 335.221(a)(14)
30 TAC Chapter 335, SubChapter H 335.221(a)(6)
40 CFR Chapter 266, SubChapter I, PT 266, SubPT H 266.102(e)(8)(iv)
40 CFR Chapter 266, SubChapter I, PT 266, SubPT H 266.103(j)(4)
Rqmt Prov: PERMIT P.P.II.C.1.p
PERMIT P.P.II.C.2.i
Description: Failure to test for all associated alarms and parameters during the automatic waste feed cut-off monthly test as required by the permit.

Date: 07/03/2007 (563967)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 335, SubChapter F 335.152(a)(1)
40 CFR Chapter 264, SubChapter I, PT 264, SubPT B 264.15(a)(1)
40 CFR Chapter 264, SubChapter I, PT 264, SubPT B 264.15(a)(2)
Rqmt Prov: PERMIT P.P.II.C.1.I
PERMIT P.P.II.C.2.a
Description: Failure to conduct the required daily inspections of the hazardous waste tanks for malfunctions, deteriorations, operator errors, and discharges.

Date: 07/03/2007 (563967)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 335, SubChapter F 335.152(a)(1)
40 CFR Chapter 264, SubChapter I, PT 264, SubPT B 264.15(d)
Rqmt Prov: PERMIT P.P.II.C.1.I
PERMIT P.P.II.C.2.a
Description: Failure to input the date and signature of the inspector on the daily inspection logs.

Date: 07/03/2007 (563967)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)(4)
30 TAC Chapter 335, SubChapter C 335.69(a)(4)(A)
30 TAC Chapter 335, SubChapter C 335.69(a)(4)(B)
30 TAC Chapter 335, SubChapter C 335.69(a)(4)(C)
40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(a)(4)
Description: Failure to familiarize local hospitals with the properties of hazardous waste handled at the facility and the types of injuries or illnesses which could result from fires, explosions, or releases at the facility.

Date: 07/03/2007 (563967)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)(4)
30 TAC Chapter 335, SubChapter C 335.69(a)(4)(A)
30 TAC Chapter 335, SubChapter C 335.69(a)(4)(B)
30 TAC Chapter 335, SubChapter C 335.69(a)(4)(C)
40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(a)(4)
Description: Failure to include the addresses of the emergency coordinators in the facility's contingency plan. The plan must list names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator, and this list must be kept up to date.

Date: 07/03/2007 (563967)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)(4)
30 TAC Chapter 335, SubChapter C 335.69(a)(4)(A)
30 TAC Chapter 335, SubChapter C 335.69(a)(4)(B)
30 TAC Chapter 335, SubChapter C 335.69(a)(4)(C)
40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(a)(4)
Description: Failure to conduct annual training for all personnel involved in hazardous waste management.

Date: 01/09/2008 (598390)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.146(2)
5C THSC Chapter 382 382.085(b)
Rqmt Prov: OP O-01327 General Terms and Conditions
OP O-01327 Special Condition 18
Description: Failure to submit an annual permit compliance certification (ACC) report within 30 days of the certification period.

| | | | |
|--------------|---|-----------------|----------|
| Self Report? | NO | Classification: | Moderate |
| Citation: | 30 TAC Chapter 122, SubChapter B 122.143(4) 30 TAC Chapter 122, SubChapter B 122.145(2)(E) 30 TAC Chapter 122, SubChapter B 122.145(2)(C) 5C THSC Chapter 382 382.085(b) | | |
| Rqmt Prov: | OP O-01327 General Terms and Conditions | | |
| Description: | Failure to submit a semiannual deviation report in a timely manner. | | |
| Self Report? | NO | Classification: | Moderate |
| Citation: | 30 TAC Chapter 122, SubChapter B 122.143(4) 30 TAC Chapter 122, SubChapter B 122.145(2)(A) 5C THSC Chapter 382 382.085(b) | | |
| Rqmt Prov: | OP O-01327 General Terms and Conditions | | |
| Description: | Failure to report all instances of deviations. | | |
| Self Report? | NO | Classification: | Moderate |
| Citation: | 30 TAC Chapter 117, SubChapter B 117.219(d) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THSC Chapter 382 382.085(b) | | |
| Rqmt Prov: | OP O-01327 General Terms and Conditions OP O-01327 Special Condition 1D | | |
| Description: | Failure to submit semiannual reports within 30 days of the end of the reporting period. | | |

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 LP
RN104964267

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2008-1194-AIR-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Texas Petrochemicals LP ("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 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 July 15, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Three Thousand Six Hundred Twenty-Five Dollars (\$3,625) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Thousand Nine Hundred Dollars (\$2,900) of the administrative penalty and Seven Hundred Twenty-Five Dollars (\$725) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have failed to prevent unauthorized emissions of 59.37 pounds ("lbs") of 1, 3 butadiene during an emissions event which began on April 4, 2008, and lasted for 44 minutes, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c), 122.143(4), Air Permit No. 20485, Special Condition ("SC") 1, Federal Operating Permit No. 1327, SC 15 and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on June 26, 2008. Specifically, unauthorized emissions were caused by an electric power failure on power pole 504B in the North Unit flare due to the improper installation of the 13.8 kilovolts ("kV") power connection by allowing it to contact a 5 kV rated insulator that was installed for support purposes. Since the emissions event was avoidable, the Respondent failed to meet the demonstrations 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: Texas Petrochemicals LP, Docket No. 2008-1194-AIR-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, implement measures, including but not limited to, training of personnel responsible for electrical work at the Plant, in order to prevent the recurrence of an emissions event due to causes the same as those associated with the April 4, 2008 event; and
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.

The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

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

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

Date 12/15/2008

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

Date 10-22-08

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

Title
Plant Manager

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.

