

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.:** 2008-1568-AIR-E **TCEQ ID:** RN104964267 **CASE NO.:** 36637  
**RESPONDENT NAME:** Texas Petrochemicals LP

<b>ORDER TYPE:</b>		
<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	
<b>CASE TYPE:</b>		
<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><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Port Neches Operations C4 Plant, 2102 Spur 136, Port Neches, Jefferson County</p> <p><b>TYPE OF OPERATION:</b> Chemical manufacturing plant</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is one additional pending enforcement action regarding this facility location, Docket No. 2008-1194-AIR-E.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on March 16, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768  <b>TCEQ Enforcement Coordinator:</b> Ms. Suzanne Walrath, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-2134;  Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> Mr. Michael Bankston, Plant Manager, Texas Petrochemicals LP, 2102 Spur 136, Port Neches, Texas 77651  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> July 21, 2008</p> <p><b>Date of NOV/NOE Relating to this Case:</b> September 9, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a record review.</p> <p><b>AIR</b></p> <p>Failure to prevent the unauthorized release of air contaminants into the atmosphere. Specifically, on April 28, 2008, during a three hour and thirty minute emissions event, a small crack in the crude butadiene line that connects the initial water wash tower to the reactors caused a leak of 142.30 pounds ("lbs") of 1,3-butadiene and 72.4 lbs of volatile organic compounds, and on May 14, 2008, during a one hour and fifty-four minute emissions event, a regulator bypass valve at Tank 19 was left open, and 47.62 lbs of 1,3-butadiene, 29.4 lbs of carbon monoxide, and 4.18 lbs of oxides of nitrogen were released to the North/South Flare (EPN Flare N/S). Because these emissions events could have been avoided by better operation and maintenance practices, the demonstrations for affirmative defense in 30 TEX. ADMIN. CODE § 101.222 could not be met [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), Air Permit No. 20485, Special Condition No. 1, Federal Operating Permit No. O-01327, Special Terms and Conditions No. 15, and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>	<p><b>Total Assessed:</b> \$8,000</p> <p><b>Total Deferred:</b> \$1,600  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$3,200</p> <p><b>Total Paid to General Revenue:</b> \$3,200</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:</p> <p>a. On May 14, 2008, implemented procedural changes and new communications processes to closely control the bypass valve activity in the future; and</p> <p>b. On May 22, 2008, completed repairs to the corroded section of line, and prioritized a corrosion inspection schedule for lines under insulation throughout the Plant.</p> <p><b>Ordering Provisions:</b></p> <p>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: 2008-1568-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

<b>Respondent:</b>	<b>Texas Petrochemicals LP</b>
<b>Penalty Amount:</b>	<b>Six Thousand Four Hundred Dollars (\$6,400)</b>
<b>SEP Offset Amount:</b>	<b>Three Thousand Two Hundred Dollars (\$3,200)</b>
<b>Type of SEP:</b>	<b>Pre-approved</b>
<b>Third-Party Recipient:</b>	<b>Texas PTA – <i>Clean School Bus Program</i></b>
<b>Location of SEP:</b>	<b>Jefferson County</b>

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 Jefferson County 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 11<sup>th</sup> 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 June 12, 2008

<b>DATES</b>	Assigned	15-Sep-2008	Screening	30-Sep-2008	EPA Due	6-Jun-2009
	PCW	5-Nov-2008				

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

<b>CASE INFORMATION</b>			
Enf./Case ID No.	36637	No. of Violations	1
Docket No.	2008-1568-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Suzanne Walrath
		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)** **Subtotal 1**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History**  Enhancement **Subtotals 2, 3, & 7**

Notes:

**Culpability**   Enhancement **Subtotal 4**

Notes:

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5**

**Economic Benefit**  Enhancement\* **Subtotal 6**

Total EB Amounts    
 Approx. Cost of Compliance    
 \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal**

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL**  Reduction **Adjustment**

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

Notes:

**PAYABLE PENALTY**

**Screening Date** 30-Sep-2008

**Docket No.** 2008-1568-AIR-E

**PCW**

**Respondent** Texas Petrochemicals LP

Policy Revision 2 (September 2002)

**Case ID No.** 36637

PCW Revision June 12, 2008

**Reg. Ent. Reference No.** RN104964267

**Media [Statute]** Air

**Enf. Coordinator** Suzanne Walrath

**Compliance History Worksheet**

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	4	80%
	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)** 85%

>> **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**

The Respondent has received three Notices of Violation for dissimilar violations, four Agreed Orders containing a denial of liability, and has submitted one letter notifying of an intended audit.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 85%

<b>Screening Date</b> 30-Sep-2008	<b>Docket No.</b> 2008-1568-AIR-E	<b>PCW</b>
<b>Respondent</b> Texas Petrochemicals LP		<small>Policy Revision 2 (September 2002)</small>
<b>Case ID No.</b> 36637		<small>PCW Revision June 12, 2008</small>
<b>Reg. Ent. Reference No.</b> RN104964267		
<b>Media [Statute]</b> Air		
<b>Enf. Coordinator</b> Suzanne Walrath		
<b>Violation Number</b> <input type="text" value="1"/>		
<b>Rule Cite(s)</b>	30 Tex. Admin. Code §§ 116.115(c), 122.143(4), Air Permit No. 20485, Special Condition No. 1, Federal Operating Permit No. O-01327, Special Terms and Conditions No. 15, and Tex. Health & Safety Code § 382.085(b)	
<b>Violation Description</b>	Failed to prevent the unauthorized release of air contaminants into the atmosphere. Specifically, on April 28, 2008, during a three hour and thirty minute emissions event, a small crack in the crude butadiene line that connects the initial water wash tower to the reactors caused a leak of 142.30 pounds ("lbs") of 1,3-butadiene and 72.4 lbs of volatile organic compounds, and on May 14, 2008, during a one hour and fifty-four minute emissions event, a regulator bypass valve at Tank 19 was left open, and 47.62 lbs of 1,3-butadiene, 29.4 lbs of carbon monoxide, and 4.18 lbs of oxides of nitrogen were released to the North/South Flare (EPN Flare N/S). Because these emissions events could have been avoided by better operation and maintenance practices, the demonstrations for affirmative defense in 30 Tex. Admin. Code § 101.222 could not be met.	
	<b>Base Penalty</b>	<input type="text" value="\$10,000"/>
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>		
<b>OR</b>	<b>Release</b>	<b>Harm</b>
		Major    Moderate    Minor
	Actual	<input type="text" value=""/> <input type="text" value=""/> <input checked="" type="text" value="x"/>
	Potential	<input type="text" value=""/> <input type="text" value=""/> <input type="text" value=""/>
	<b>Percent</b>	<input type="text" value="25%"/>
<b>&gt;&gt; Programmatic Matrix</b>		
	<b>Falsification</b>	<b>Major</b> <b>Moderate</b> <b>Minor</b>
	<input type="text" value=""/>	<input type="text" value=""/> <input type="text" value=""/> <input type="text" value=""/>
	<b>Percent</b>	<input type="text" value="0%"/>
<b>Matrix Notes</b>	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.	
	<b>Adjustment</b>	<input type="text" value="\$7,500"/>
		<input type="text" value="\$2,500"/>
<b>Violation Events</b>		
	<b>Number of Violation Events</b>	<input type="text" value="2"/>
		<input type="text" value="2"/> <b>Number of violation days</b>
<small>mark only one with an x</small>	daily	<input type="text" value=""/>
	monthly	<input type="text" value=""/>
	quarterly	<input checked="" type="text" value="x"/>
	semiannual	<input type="text" value=""/>
	annual	<input type="text" value=""/>
	single event	<input type="text" value=""/>
	<b>Violation Base Penalty</b>	<input type="text" value="\$5,000"/>
<input type="text" value="Two quarterly events are recommended."/>		
<b>Good Faith Efforts to Comply</b>		
	<b>25.0% Reduction</b>	<input type="text" value="\$1,250"/>
	<small>Before NOV    NOV to EDPRP/Settlement Offer</small>	
Extraordinary	<input type="text" value=""/>	<input type="text" value=""/>
Ordinary	<input checked="" type="text" value="x"/>	<input type="text" value=""/>
N/A	<input type="text" value=""/>	<small>(mark with x)</small>
<b>Notes</b>	The Respondent achieved compliance for these violations on May 22, 2008.	
	<b>Violation Subtotal</b>	<input type="text" value="\$3,750"/>
<b>Economic Benefit (EB) for this violation</b>		
<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>	<input type="text" value="\$34"/>	<b>Violation Final Penalty Total</b> <input type="text" value="\$8,000"/>
	<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$8,000"/>	

## Economic Benefit Worksheet

**Respondent** Texas Petrochemicals LP  
**Case ID No.** 36637  
**Reg. Ent. Reference No.** RN104964267  
**Media** Air  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

**Delayed Costs**

Equipment	\$5,000	28-Apr-2008	22-May-2008	0.07	\$1	\$22	\$23
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$3,500	28-Apr-2008	14-May-2008	0.04	\$1	\$10	\$11
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: These are estimated costs for the repair of the corroded butadiene line, and for the additional management oversight of operational personnel, beginning on the date of the first emissions event, and ending on the date compliance was achieved.

**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

\$8,500

TOTAL

\$34

# Compliance History Report

Customer/Respondent/Owner-Operator: CN600130322 Texas Petrochemicals LP Classification: AVERAGE Rating: 2.69  
 Regulated Entity: RN104964267 PORT NECHES OPERATIONS C4 Classification: AVERAGE Site Rating: 6.56  
 PLANT

ID Number(s):		EPA ID	TXR000069476
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION		
	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: 9/1/2008 Repeat Violator: NO  
 TCEQ Region: REGION 10 - BEAUMONT  
 Date Compliance History Prepared: October 14, 2008  
 Agency Decision Requiring Compliance History: Enforcement

Compliance Period:

October 14, 2003 to October 14, 2008

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

Name: Suzanne Walrath Phone: 239 - 2134

### 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)

Effective Date: 07/21/2008 ADMINORDER 2008-0043-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  
O-01327 General Terms and Conditions OP

O-01327 Special Condition 15 OP

Description: Failed to prevent unauthorized emissions of 87.13 pounds ("lbs") of 1, 3 Butadiene during an emissions event which began on May 30, 2007 at a Pressure Relief Valve ("PRV") 6RV559 during the loading of a butadiene barge and lasted for 20 seconds.

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.

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	(563963)
12	07/03/2007	(563967)
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)
26	09/09/2008	(687328)

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

Date: 07/03/2007 (563963)

Self NO Classification: Moderate  
Report?

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.

Self NO Classification: Moderate  
Report?

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.

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.

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.

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)(B)

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.

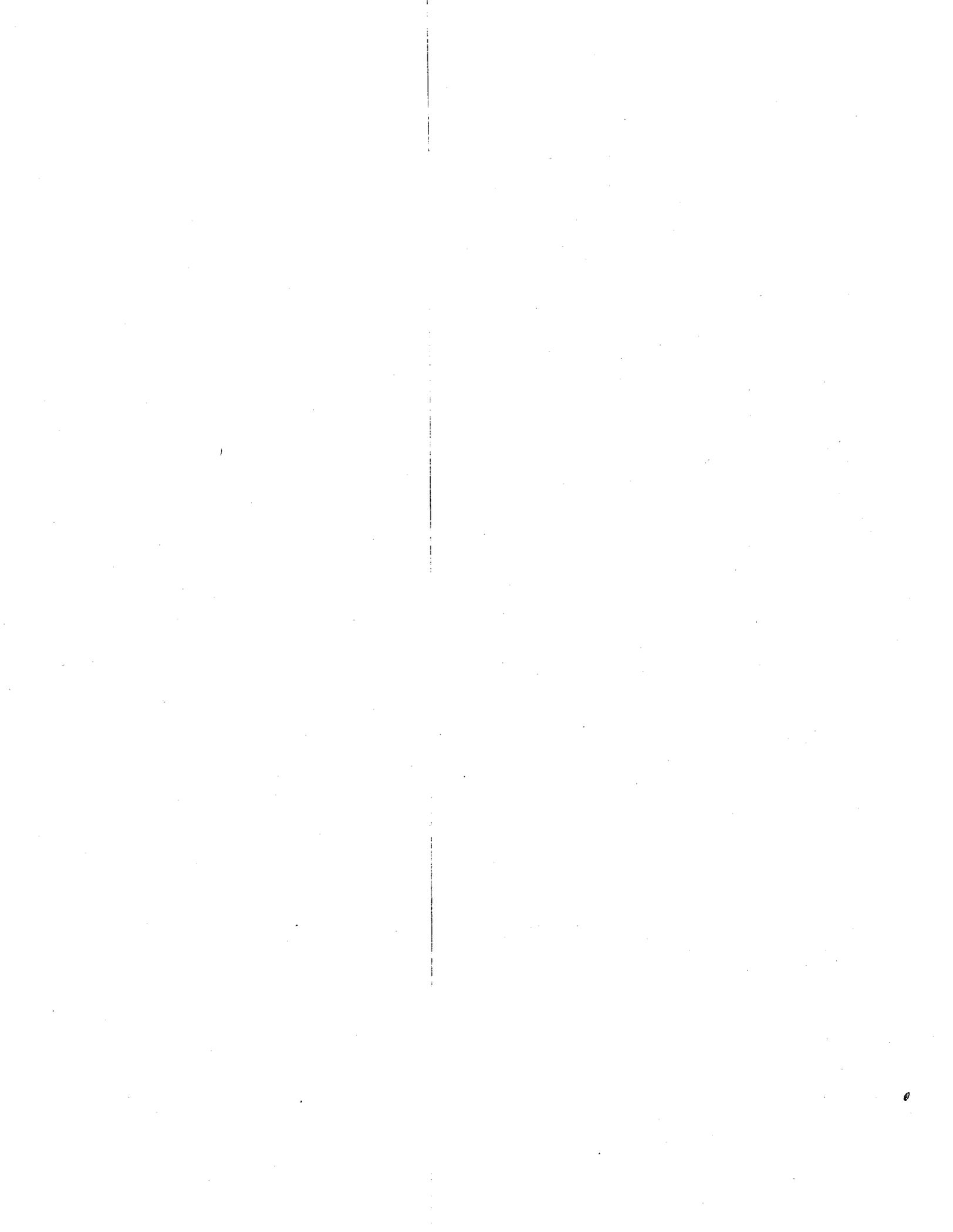
N/A

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. 2008-1568-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 September 14, 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 Eight Thousand Dollars (\$8,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Thousand Two Hundred Dollars (\$3,200) of the administrative penalty and One Thousand Six Hundred Dollars (\$1,600) 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. Three Thousand Two Hundred Dollars (\$3,200) 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 implemented the following corrective measures at the Plant:
    - a. On May 14, 2008, implemented procedural changes and new communications processes to closely control the bypass valve activity in the future; and
    - b. On May 22, 2008, completed repairs to the corroded section of line, and prioritized a corrosion inspection schedule for lines under insulation throughout the Plant.
  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 prevent the unauthorized release of air contaminants into the atmosphere, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c), 122.143(4), Air Permit No. 20485, Special Condition No. 1, Federal Operating Permit No. O-01327, Special Terms and Conditions No. 15, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on July 21, 2008. Specifically, on April 28, 2008, during a three hour and thirty minute emissions event, a small crack in the crude butadiene line that connects the initial water wash tower to the reactors caused a leak of 142.30 pounds ("lbs") of 1,3-butadiene and 72.4 lbs of volatile organic compounds, and on May 14, 2008, during a one hour and fifty-four minute emissions event, a regulator bypass valve at Tank 19 was left open, and 47.62 lbs of 1,3-butadiene, 29.4 lbs of carbon monoxide, and 4.18 lbs of oxides of nitrogen were released to the North/South Flare (EPN Flare N/S). Because these emissions events could have been avoided by better operation and maintenance practices, the demonstrations for affirmative defense in 30 TEX. ADMIN. CODE § 101.222 could not be met.



### 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. 2008-1568-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, Jurisdiction and Stipulations above, Three Thousand Two Hundred Dollars (\$3,200) 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 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 2/16/2009

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 1/6/09

\_\_\_\_\_  
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.



**Attachment A**  
**Docket Number: 2008-1568-AIR-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

**Respondent:** Texas Petrochemicals LP  
**Penalty Amount:** Six Thousand Four Hundred Dollars (\$6,400)  
**SEP Offset Amount:** Three Thousand Two Hundred Dollars (\$3,200)  
**Type of SEP:** Pre-approved  
**Third-Party Recipient:** Texas PTA – *Clean School Bus Program*  
**Location of SEP:** Jefferson 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 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 Jefferson County 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 11<sup>th</sup> 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.

