

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-1475-AIR-E **TCEQ ID:** RN102553336 **CASE NO.:** 36519

RESPONDENT NAME: ExxonMobil Oil Corporation

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: Colonial Storage Facility, 14713 West Port Arthur Road, Beaumont, Jefferson County</p> <p>TYPE OF OPERATION: Gasoline bulk storage 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 March 30, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768 TCEQ Enforcement Coordinator: Mr. James Nolan, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-6634; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Daniel Risso, Agent and Attorney-In-Fact, ExxonMobil Oil Corporation, P.O. Box 3311, Beaumont, Texas 77701 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: July 31, 2008</p> <p>Date of NOV/NOE Relating to this Case: August 27, 2008 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>AIR</p> <p>1) Failure to disclose a deviation within the semi-annual deviation reporting period and to accurately certify the Annual Compliance Certification. Specifically, the Respondent failed to report a deviation for volatile organic compound ("VOC") emissions exceedances that occurred on July 29, 2007. The deviation was not listed in the semi-annual deviation report for the period of February 1, 2007 through August 1, 2007 or the Annual Compliance Certification for the period of February 1, 2007 through February 1, 2008 [30 TEX. ADMIN. CODE §§ 122.143(4), 122.145(2)(A), and 122.146(5)(C)(v), Federal Operating Permit No. O-02715 General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>2) Failure to prevent unauthorized emissions. Specifically, Tank 3000 released 426.99 pounds per day ("lbs/day") of VOCs, 387.33 lbs/day over the authorized limit of 39.36 lbs/day over a period of 177 hours from May 4, 2007 through May 10, 2007. Since the emissions event could have been avoided by emptying and refilling the tank in a continuous and rapid manner, it does not meet the demonstrations for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222(b) [30 TEX. ADMIN. CODE §§ 101.20(3), 116.115(b)(2)(F), 116.115(c), and 122.143(4), Federal Operating Permit</p>	<p>Total Assessed: \$2,599</p> <p>Total Deferred: \$519 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$1,040</p> <p>Total Paid to General Revenue: \$1,040</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>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:</p> <p>a. On May 17, 2007, Tank 3000 was taken out of service and degassed; and</p> <p>b. On September 29, 2008, an attachment was submitted to the semi-annual deviation reports and Annual Compliance Certification.</p> <p>Ordering Provisions:</p> <p>1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p> <p>2) The Order will also require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, implement procedures designed to ensure proper reporting of deviations in semi-annual deviation reports and Annual Compliance Certification reports; 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 No. 2.a.</p>

No. O-02715 Special Terms and Conditions 7, New Source Review Permit No. 49131 Special Condition 1, and TEX. HEALTH & SAFETY CODE § 382.085(b)].		
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Additional ID No(s): JE0149F

Attachment A
Docket Number: 2008-1475-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	ExxonMobil Oil Corporation
Payable Penalty Amount:	Two Thousand Eighty Dollars (\$2,080)
SEP Amount:	One Thousand Forty Dollars (\$1,040)
Type of SEP:	Pre-approved
Third-Party Recipient:	Jefferson County: Retrofit/Replacement of Heavy Equipment and Vehicles with Alternative Fueled Equipment and Vehicles
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 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 to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the Third-Party Recipient will contribute to Jefferson County for its Retrofit/Replacement of Heavy Equipment and Vehicles with Alternative Fueled Equipment and Vehicles. Specifically, the contribution will be used to purchase alternative fueled equipment such as propane or electric powered lawn mowers, propane powered light duty and heavy equipment, and alternative fueled vehicles and retire diesel and gasoline powered equipment and vehicles. Jefferson County will also convert current equipment and vehicles to alternative fueled equipment in order to lower emissions.

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 there is 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 air emissions generated by gasoline and diesel powered equipment and vehicles in the Beaumont/Port Arthur ozone non-attainment area.

C. Minimum Expenditure

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

2. Performance Schedule

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

The Honorable Judge Ron Walker
Jefferson County Judge
1149 Pearl Street, 4th Floor
Beaumont, Texas 77701

3. Records and Reporting

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

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

4. Failure to Fully Perform

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

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

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

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

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision June 12, 2008

DATES	Assigned	2-Sep-2008			
	PCW	17-Nov-2008	Screening	10-Sep-2008	EPA Due 23-May-2009

RESPONDENT/FACILITY INFORMATION	
Respondent	ExxonMobil Oil Corporation
Reg. Ent. Ref. No.	RN102553336
Facility/Site Region	10-Beaumont
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	36519	No. of Violations	2
Docket No.	2008-1475-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	James Nolan
		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	\$2,600
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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	24.0% Enhancement	Subtotals 2, 3, & 7	\$624
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Notes Penalty enhancement due to one previous 1660-style order and one previous similar NOV. Penalty reduction due to one NOI.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$625
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$41
 Approx. Cost of Compliance \$2,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$2,599
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$2,599

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$2,599
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DEFERRAL	20.0% Reduction	Adjustment	-\$519
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$2,080
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Screening Date 10-Sep-2008	Docket No. 2008-1475-AIR-E	PCW
Respondent ExxonMobil Oil Corporation	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 36519	<i>PCW Revision June 12, 2008</i>	
Reg. Ent. Reference No. RN102553336		
Media [Statute] Air		
Enf. Coordinator James Nolan		

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i>	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <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%
<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) 24%

>> Repeat Violator (Subtotal 3)

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

Average Performer		Adjustment Percentage (Subtotal 7)	0%
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>> Compliance History Summary

Compliance History Notes

Penalty enhancement due to one previous 1660-style order and one previous similar NOV. Penalty reduction due to one NOI.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 24%

Screening Date: 10-Sep-2008	Docket No.: 2008-1475-AIR-E	PCW																		
Respondent: ExxonMobil Oil Corporation	<i>Policy Revision 2 (September 2002)</i>																			
Case ID No.: 36519	<i>PCW Revision June 12, 2008</i>																			
Reg. Ent. Reference No.: RN102553336																				
Media [Statute]: Air																				
Enf. Coordinator: James Nolan																				
Violation Number: 1																				
Rule Cite(s):	30 Tex. Admin. Code §§ 122.143(4), 122.145(2)(A), and 122.146(5)(C)(v), Federal Operating Permit No. O-02715 General Terms and Conditions, and Tex. Health & Safety Code § 382.085(b)																			
Violation Description:	Failed to disclose a deviation within the semi-annual deviation reporting period and to accurately certify the Annual Compliance Certification, as documented during an investigation conducted on July 31, 2008. Specifically, the Respondent failed to report a deviation for volatile organic compound ("VOC") emissions exceedances that occurred on July 29, 2007. The deviation was not listed in the semi-annual deviation report for the period of February 1, 2007 through August 1, 2007 or the Annual Compliance Certification for the period of February 1, 2007 through February 1, 2008.																			
Base Penalty:	\$10,000																			
>> Environmental, Property and Human Health Matrix																				
OR	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td></td> <th colspan="3">Harm</th> <td></td> </tr> <tr> <td>Release</td> <th>Major</th> <th>Moderate</th> <th>Minor</th> <td></td> </tr> <tr> <td>Actual</td> <td></td> <td></td> <td></td> <td rowspan="2" style="text-align: right;">Percent <input type="text" value="0%"/></td> </tr> <tr> <td>Potential</td> <td></td> <td></td> <td></td> </tr> </table>		Harm				Release	Major	Moderate	Minor		Actual				Percent <input type="text" value="0%"/>	Potential			
	Harm																			
Release	Major	Moderate	Minor																	
Actual				Percent <input type="text" value="0%"/>																
Potential																				
>> Programmatic Matrix																				
	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td></td> <th>Falsification</th> <th>Major</th> <th>Moderate</th> <th>Minor</th> <td></td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td style="text-align: center;">x</td> <td rowspan="2" style="text-align: right;">Percent <input type="text" value="1%"/></td> </tr> </table>		Falsification	Major	Moderate	Minor						x	Percent <input type="text" value="1%"/>							
	Falsification	Major	Moderate	Minor																
				x	Percent <input type="text" value="1%"/>															
Matrix Notes:	The Respondent failed to comply with less than 30% of the rule requirement.																			
Adjustment:	\$9,900																			
-\$100																				
Violation Events																				
Number of Violation Events:	<input type="text" value="1"/>	Number of violation days: <input type="text" value="375"/>																		
<i>mark only one with an x</i>	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr><td>daily</td><td></td></tr> <tr><td>monthly</td><td></td></tr> <tr><td>quarterly</td><td></td></tr> <tr><td>semiannual</td><td></td></tr> <tr><td>annual</td><td></td></tr> <tr><td>single event</td><td style="text-align: center;">x</td></tr> </table>	daily		monthly		quarterly		semiannual		annual		single event	x	Violation Base Penalty <input type="text" value="\$100"/>						
daily																				
monthly																				
quarterly																				
semiannual																				
annual																				
single event	x																			
One single event is recommended.																				
Good Faith Efforts to Comply																				
	<input type="text" value="0.0%"/> Reduction	\$0																		
	Before NOV NOV to EDPRP/Settlement Offer																			
Extraordinary	<input type="text"/>																			
Ordinary	<input type="text"/>																			
N/A	x (mark with x)																			
Notes:	The Respondent does not meet the good faith criteria for this violation.																			
Violation Subtotal:	\$100																			
Economic Benefit (EB) for this violation																				
Estimated EB Amount:	<input type="text" value="\$37"/>	Violation Final Penalty Total: <input type="text" value="\$124"/>																		
Statutory Limit Test																				
This violation Final Assessed Penalty (adjusted for limits): <input type="text" value="\$124"/>																				

Economic Benefit Worksheet

Respondent: ExxonMobil Oil Corporation
Case ID No.: 36519
Reg. Ent. Reference No.: RN102553336
Media: Air
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	1-Sep-2007	1-Mar-2009	1.50	\$37	n/a	\$37

Notes for DELAYED costs: The estimated cost for modifications to reporting policies and procedures to prevent the reoccurrence of similar violations. Date required is the date the first complete and accurate report was due. Final date is the estimated date of compliance.

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

\$37

Screening Date 10-Sep-2008	Docket No. 2008-1475-AIR-E	PCW
Respondent ExxonMobil Oil Corporation		<small>Policy Revision 2 (September 2002)</small>
Case ID No. 36519		<small>PCW Revision June 12, 2008</small>
Reg. Ent. Reference No. RN102553336		
Media [Statute] Air		
Enf. Coordinator James Nolan		
Violation Number	<input type="text" value="2"/>	
Rule Cite(s)	30 Tex. Admin. Code §§ 101.20(3), 116.115(b)(2)(F), 116.115(c), and 122.143(4), Federal Operating Permit No. O-02715 Special Terms and Conditions 7, New Source Review Permit No. 49131 Special Condition 1, and Tex. Health & Safety Code § 382.085(b)	
Violation Description	Failed to prevent unauthorized emissions. Specifically, Tank 3000 released 426.99 pounds per day ("lbs/day") of VOCs, 387.33 lbs/day over the authorized limit of 39.36 lbs/day over a period of 177 hours from May 4, 2007 through May 10, 2007. Since the emissions event could have been avoided by emptying and refilling the tank in a continuous and rapid manner, it does not meet the demonstrations for an affirmative defense in 30 Tex. Admin. Code § 101.222(b).	
Base Penalty		<input type="text" value="\$10,000"/>

>> Environmental, Property and Human Health Matrix

OR	Harm					
		Major	Moderate	Minor		
	Actual	<input type="text"/>	<input type="text"/>	X		
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>			

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

<small>mark only one with an x</small>	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	X
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

Good Faith Efforts to Comply Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	X	<input type="text"/>
N/A	(mark with x)	

Notes

Violation Subtotal

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent: ExxonMobil Oil Corporation
Case ID No.: 36519
Reg. Ent. Reference No.: RN102553336
Media: Air
Violation No.: 2

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)				0.00	\$0	\$0	\$0
Engineering/construction	\$1,500	4-May-2007	17-May-2007	0.04	\$0	\$4	\$4
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
 The estimated cost for changes to policies, procedures, and/or engineering controls to prevent same or similar violations. Date required is the date of the emission event. Final date is the date Tank 3000 was removed from service.

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

\$1,500

TOTAL

\$4

Compliance History Report

Customer/Respondent/Owner-Operator: CN600920748 ExxonMobil Oil Corporation Classification: AVERAGE Rating: 3.71
 Regulated Entity: RN102553336 COLONIAL STORAGE FACILITY Classification: AVERAGE Site Rating: 17.50

ID Number(s):	AIR NEW SOURCE PERMITS	PERMIT	49131
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	JE0149F
	AIR NEW SOURCE PERMITS	AFS NUM	4824500079
	AIR NEW SOURCE PERMITS	REGISTRATION	79997
	AIR NEW SOURCE PERMITS	REGISTRATION	84605
	AIR OPERATING PERMITS	PERMIT	JE0149F
	AIR OPERATING PERMITS	ACCOUNT NUMBER	JE0149F
	AIR OPERATING PERMITS	PERMIT	2715
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	32075
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXT490010287

Location: 14713 WEST PORT ARTHUR ROAD, BEAUMONT, TX, 77705 Rating Date: 9/1/2008 Repeat Violator: NO

TCEQ Region: REGION 10 - BEAUMONT

Date Compliance History Prepared: October 16, 2008

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: September 10, 2003 to September 10, 2008

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

Name: James Nolan Phone: (512) 239-6634

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: 08/30/2004 ADMINORDER 2003-1234-AIR-E
 Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(1)
 5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: 99, General Condition 7F PERMIT
 Description: Failure to monitor 74 components in VOC service on a quarterly basis during the reporting period of February 9, 2002 to August 8, 2002.

Classification: Moderate
 Citation: 30 TAC Chapter 113, SubChapter C 113.230
 30 TAC Chapter 116, SubChapter H 116.814(a)
 5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: 49131, Special Condition 5A PERMIT
 Description: Failure to conduct monthly visual, audible and/or olfactory inspections within the operating area and on all equipment in gasoline service.

Classification: Major
 Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)
 5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to submit a deviation report for failure to conduct monthly inspections as required.

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	12/19/2003	(257510)
2	06/29/2004	(276945)
3	10/08/2004	(335850)
4	08/17/2005	(403669)
5	08/25/2006	(509124)
6	07/10/2007	(559895)
7	12/03/2007	(609021)
8	01/14/2008	(610786)
9	08/27/2008	(688221)

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

Date: 07/11/2007 (559895)

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 THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: OP FOP O-02715 General Terms and Conditions

Description: Failure to report the occurrence of deviations in semi-annual deviation reports.

Self Report? NO

Classification: Moderate

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

30 TAC Chapter 122, SubChapter B 122.146(1)

30 TAC Chapter 122, SubChapter B 122.146(5)(C)

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

Rqmt Prov: OP FOP O-02715 General Terms and Conditions

Description: Failure to accurately certify compliance in the Annual Compliance Certification (ACC).

F. Environmental audits.

Notice of Intent Date: 07/18/2008 (700396)

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
EXXONMOBIL OIL CORPORATION
RN102553336

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-1475-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 ExxonMobil Oil Corporation ("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 gasoline bulk storage plant at 14713 West Port Arthur Road in Beaumont, 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 1, 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 Two Thousand Five Hundred Ninety-Nine Dollars (\$2,599) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Thousand Forty Dollars (\$1,040) of the administrative penalty and Five Hundred Nineteen Dollars (\$519) is deferred contingent upon the

Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. One Thousand Forty Dollars (\$1,040) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project.

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 17, 2007, Tank 3000 was taken out of service and degassed; and
 - b. On September 29, 2008, an attachment was submitted to the semi-annual deviation reports and Annual Compliance Certification.
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:

1. Failed to disclose a deviation within the semi-annual deviation reporting period and to accurately certify the Annual Compliance Certification, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4), 122.145(2)(A), and 122.146(5)(C)(v), Federal Operating Permit No. O-02715 General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on July 31, 2008. Specifically, the Respondent failed to report a deviation for volatile organic compound ("VOC") emissions exceedances that occurred on July 29, 2007. The deviation was not listed in the semi-annual deviation report for the period of February 1, 2007 through August 1, 2007 or the Annual Compliance Certification for the period of February 1, 2007 through February 1, 2008.
2. Failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE §§ 101.20(3), 116.115(b)(2)(F), 116.115(c), and 122.143(4), Federal Operating Permit No. O-02715 Special

Terms and Conditions 7, New Source Review Permit No. 49131 Special Condition 1, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on July 31, 2008. Specifically, Tank 3000 released 426.99 pounds per day ("lbs/day") of VOCs, 387.33 lbs/day over the authorized limit of 39.36 lbs/day over a period of 177 hours from May 4, 2007 through May 10, 2007. Since the emissions event could have been avoided by emptying and refilling the tank in a continuous and rapid manner, it does not meet the demonstrations for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222(b).

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: ExxonMobil Oil Corporation, Docket No. 2008-1475-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 Supplemental Environmental Project ("SEP") in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, One Thousand Forty Dollars (\$1,040) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, implement procedures designed to ensure proper reporting of deviations in semi-annual deviation reports and Annual Compliance Certification reports; 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. 3.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

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by

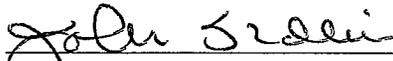
facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

3/9/2009
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

1/12/09
Date

Daniel Risso

Name (Printed or typed)
Authorized Representative of
ExxonMobil Oil Corporation

Agent and Attorney-In-Fact

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Attachment A
Docket Number: 2008-1475-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	ExxonMobil Oil Corporation
Payable Penalty Amount:	Two Thousand Eighty Dollars (\$2,080)
SEP Amount:	One Thousand Forty Dollars (\$1,040)
Type of SEP:	Pre-approved
Third-Party Recipient:	Jefferson County: Retrofit/Replacement of Heavy Equipment and Vehicles with Alternative Fueled Equipment and Vehicles
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 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 to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the Third-Party Recipient will contribute to Jefferson County for its Retrofit/Replacement of Heavy Equipment and Vehicles with Alternative Fueled Equipment and Vehicles. Specifically, the contribution will be used to purchase alternative fueled equipment such as propane or electric powered lawn mowers, propane powered light duty and heavy equipment, and alternative fueled vehicles and retire diesel and gasoline powered equipment and vehicles. Jefferson County will also convert current equipment and vehicles to alternative fueled equipment in order to lower emissions.

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 there is 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 air emissions generated by gasoline and diesel powered equipment and vehicles in the Beaumont/Port Arthur ozone non-attainment area.

C. Minimum Expenditure

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

2. Performance Schedule

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

The Honorable Judge Ron Walker
Jefferson County Judge
1149 Pearl Street, 4th Floor
Beaumont, Texas 77701

3. Records and Reporting

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

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

4. Failure to Fully Perform

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

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

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

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

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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

