

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.:** 2010-0922-AIR-E **TCEQ ID:** RN101379287 **CASE NO.:** 39819  
**RESPONDENT NAME:** American Acryl L.P.

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" 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> American Acryl Pasadena, 4923 Bayport Road, Pasadena, Harris 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 no record of additional pending enforcement actions regarding this facility location.</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 November 8, 2010. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Mr. Raymond Marlow, Enforcement Division, Enforcement Team 5, MC R-10, (409) 899-8785; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> Mr. Joseph Goins, General Manager, American Acryl L.P., 12100 Port Road, Pasadena, Texas 77507  <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 checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input 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> December 10, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> March 29, 2010 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>AIR</b></p> <p>Failed to prevent unauthorized emissions during a December 9, 2009 emissions event (Incident No. 133091). Specifically, unauthorized emissions of 17,160 pounds ("lbs") of carbon monoxide, 2,040 lbs of toluene (a hazardous air pollutant), 34 lbs of nitrogen oxides and 24,500 lbs of particulate matter were released from storage tank TK-1124, due to the accumulation of oxygen in the storage tank that was in excess of the lower explosive limit for toluene that resulted in an explosion and fire (Incident No. 133091) that began on December 9, 2009, and lasted for one hour and 15 minutes. Since this event could have been avoided by better Plant design, the demonstrations for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222 were not met [30 TEX. ADMIN. CODE § 116.115(b)(2)(F), TEX. HEALTH &amp; SAFETY CODE § 382.085(b), and Air Permit No. 37978/NO09, Maximum Allowable Emission Rates].</p>	<p><b>Total Assessed:</b> \$10,000</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$10,000</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Site 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>Findings Orders Justification:</b></p> <p>Environmental receptors have been exposed to pollutants which exceed levels that are protective.</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. Completed design changes that prevent and mitigate oxygen accumulation in Tank TK-1124 on June 30, 2010; and</p> <p>b. Conducted training on June 18, 2010 for personnel responsible for operating the Plant regarding the proper operation after the design changes, and the proper action to take in response to the activation of alarms associated with the design changes.</p>

Additional ID No(s): HX1772C



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	17-May-2010	Screening	4-Jun-2010	EPA Due	
	PCW	24-Aug-2010				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	American Acryl L.P.		
Reg. Ent. Ref. No.	RN101379287		
Facility/Site Region	Region 12 Houston	Major/Minor Source	Major

<b>CASE INFORMATION</b>			
Enf./Case ID No.	39819	No. of Violations	1
Docket No.	2010-0922-AIR-E	Order Type	Findings
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Raymond Marlow
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$10,000</b>
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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.

<b>Compliance History</b>	15.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$1,500</b>
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Notes: Penalty enhancement due to one NOV for dissimilar violations and one agreed order containing a denial of liability. Penalty reduction due to three letters of intended audits and two disclosures of violations.

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>\$1,000</b>
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts: \$78  
 Approx. Cost of Compliance: \$2,000  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$10,500</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	<b>\$10,500</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$10,000</b>
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<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	<b>\$0</b>
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

No deferral is recommended for Findings Orders.

<b>PAYABLE PENALTY</b>	<b>\$10,000</b>
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Screening Date 4-Jun-2010

Docket No. 2010-0922-AIR-E

PCW

Respondent American Acryl L.P.

Policy Revision 2 (September 2002)

Case ID No. 39819

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101379287

Media [Statute] Air

Enf. Coordinator Raymond Marlow

### 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	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	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 (number of judgments 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)	3	-3%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	2	-4%
<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) 15%

>> 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

Penalty enhancement due to one NOV for dissimilar violations and one agreed order containing a denial of liability. Penalty reduction due to three letters of intended audits and two disclosures of violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 15%

Screening Date 4-Jun-2010

Docket No. 2010-0922-AIR-E

PCW

Respondent American Acryl L.P.

Policy Revision 2 (September 2002)

Case ID No. 39819

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101379287

Media [Statute] Air

Enf. Coordinator Raymond Marlow

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 116.115(b)(2)(F); Tex. Health & Safety Code § 382.085(b), and Air Permit No. 37978/N009, Maximum Allowable Emission Rates

Violation Description

Failed to prevent unauthorized emissions. Specifically, unauthorized emissions of 17,180 pounds ("lbs") of carbon monoxide, 2,040 lbs of toluene (a hazardous air pollutant), 34 lbs of nitrogen oxides and 24,500 lbs of particulate matter were released from storage tank TK-1124, due to the accumulation of oxygen in the storage tank that was in excess of the lower explosive limit for toluene that resulted in an explosion and fire (Incident No. 133091) that began on December 9, 2009, and lasted for one hour and 15 minutes. Since this event could have been avoided by better plant design, the demonstrations for an affirmative defense in 30 Tex. Admin. Code § 101.222 were not met.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	x			100%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
				0%

Matrix Notes

Human health or the environment in the Houston-Galveston-Brazoria non-attainment area has been exposed to significant amounts of contaminants that exceeded protective levels as a result of the violation.

Adjustment \$0

\$10,000

Violation Events

Number of Violation Events 1

Number of violation days 1

mark only one with an x

daily	x
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$10,000

One daily event is recommended.

Good Faith Efforts to Comply

10.0% Reduction

\$1,000

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

Notes

Compliance was achieved on June 30, 2010 after the March 29, 2010 NOE.

Violation Subtotal \$9,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$78

Violation Final Penalty Total \$10,500

This violation Final Assessed Penalty (adjusted for limits) \$10,000

## Economic Benefit Worksheet

**Respondent:** American Acryl L.P.  
**Case ID No.:** 39819  
**Reg. Ent. Reference No.:** RN101379287  
**Media:** Air  
**Violation No.:** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>(No commas or \$)</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$2,000	9-Dec-2009	30-Jun-2010	0.56	\$4	\$74	\$78
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to construct changes in order to prevent a recurrence of a same or similar event. The date required is the date of the release and the final date is the date corrective actions were completed.

### 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

\$2,000

**TOTAL**

\$78

# Compliance History Report

Customer/Respondent/Owner-Operator: CN600731756 American Acryl L.P. Classification: AVERAGE Rating: 1.42  
Regulated Entity: RN101379287 AMERICAN ACRYL PASADENA Classification: AVERAGE Site Rating: 1.42

ID Number(s):	AIR NEW SOURCE PERMITS	AFS NUM	4820101563
	AIR NEW SOURCE PERMITS	REGISTRATION	92301
	AIR NEW SOURCE PERMITS	PERMIT	91276
	AIR NEW SOURCE PERMITS	PERMIT	37979
	AIR NEW SOURCE PERMITS	PERMIT	37978
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HX1772C
	AIR NEW SOURCE PERMITS	REGISTRATION	70730
	AIR NEW SOURCE PERMITS	PERMIT	N009
	AIR NEW SOURCE PERMITS	REGISTRATION	80282
	AIR NEW SOURCE PERMITS	REGISTRATION	83042
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXR000033787
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	50381
	INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	50381
	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1013158
	STORMWATER	PERMIT	TXR05T912
	AIR OPERATING PERMITS	ACCOUNT NUMBER	HX1772C
	AIR OPERATING PERMITS	PERMIT	2655
	AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	HX1772C

Location: 4923 BAYPORT RD, PASADENA, TX, 77507

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: June 03, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: May 17, 2005 to May 17, 2010

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

Name: Raymond Marlow, P.G. Phone: 409-899-8785

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2009 Repeat Violator: NO

## 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: 03/23/2009

ADMINORDER 2008-1563-AIR-E

Classification: Moderate

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

30 TAC Chapter 122, SubChapter B 122.146(1)

5C THSC Chapter 382 382.085(b)

Rqmt Prov: General terms and conditions OP

Description: Failure to submit PCC. Specifically, the ACC form for the period of August 21, 2006 through August 20, 2007 was not submitted by the due date of September 19, 2007.

Classification: Moderate

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

30 TAC Chapter 122, SubChapter B 122.145(2)(C)

5C THSC Chapter 382 382.085(b)

Rqmt Prov: General terms and conditions OP

Description: Failure to submit the deviation report within the required 30 day time frame. Specifically, the deviation report was due by September 19, 2007, but was not postmarked until September 22, 2007.

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	06/27/2005	(397884)
2	07/26/2005	(398795)
3	07/27/2005	(401546)
4	07/27/2005	(402037)
5	07/28/2005	(398796)
6	07/28/2005	(402404)
7	08/08/2005	(404069)
8	08/10/2005	(404021)
9	08/12/2005	(404817)
10	08/16/2005	(405294)
11	08/18/2005	(405761)
12	08/18/2005	(406041)
13	08/29/2005	(418330)
14	08/29/2005	(418401)
15	09/06/2005	(418727)
16	09/01/2006	(509482)
17	09/01/2006	(509496)
18	12/21/2006	(518144)
19	10/17/2007	(567484)
20	10/25/2007	(573618)
21	11/21/2007	(600083)
22	12/20/2007	(600081)
23	02/08/2008	(611565)
24	08/29/2008	(686723)
25	06/18/2009	(759186)
26	07/16/2009	(747705)
27	01/08/2010	(721169)
28	02/03/2010	(784954)
29	03/29/2010	(788180)
30	03/31/2010	(792334)

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

**Date: 01/08/2010 (721169)**  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)  
 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-6(a)(1)  
 5C THSC Chapter 382 382.085(b)  
 Special Condition 11E PERMIT  
 Special Terms and Condition 14 OP  
 Special Terms and Condition 1A OP  
 Description: Failure to seal open ended lines containing volatile organic compounds. (Category C10 violation)

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 101, SubChapter H 101.400(a)  
 5C THSC Chapter 382 382.085(b)  
 Description: Failure to submit HRVOC Emissions Cap and Trade Annual Compliance Report (ECT-1H) within 30 days of the end of the reporting period. (Category B3)

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 117, SubChapter B 117.345(d)  
 5C THSC Chapter 382 382.085(b)  
 Special Terms and Conditions 7C OP  
 Description: Failure to submit ESAD/CEMS semi annual report on time. (Category B3)

## F. Environmental audits.

**Notice of Intent Date: 05/16/2005**

**Disclosure Date: 11/11/2005**

Viol. Classification: Major

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)

Description: An independent review identified approximately 2,450 additional piping components with an estimated VOC potential to emit of less than 5 ton/yr for each unit, which are not authorized.

Viol. Classification: Moderate

Citation: 40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.486(e)(1)  
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.486(e)(3)

Description: Additional subject components in VOC service were identified. In addition, removal or replacement of fugitive piping components was not consistently identified by the plant's management of change procedures.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter D 115.352(7)  
 30 TAC Chapter 115, SubChapter D 115.354(1)(B)  
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-7(h)

Description: Approximately 115 of the additional VOC service components in the AA and OSBL units were identified as Difficult to Monitor components. These components were not identified or monitored annually.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter D 115.356(3)(C)  
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.486(j)

Rqmt Prov: PERMIT Permit 37978 SP 9.A.  
 PERMIT Permit 37979 SP 8.A.

Description: Approximately 720 components in natural gas or refrigerant service in the OSBL unit, which contain less than 10% VOC by weight, were not documented as exempt in the plant's LDAR database or another log.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter D 115.354(11)

Description: Approximately 300 additional flanges in light liquid service were identified in the AA and OSBL units. These components were not instrument monitored within the initial 30 day period. In addition, these components were not monitored in accordance with the routine monitoring frequencies

Viol. Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter D 115.354(2)(D)  
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-7(a)

40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-7(c)

Description: Approximately 320 additional accessible valves in light liquid service were identified in the OSBL unit. These components were not routinely monitored quarterly in accordance with TCEQ requirements or initially monitored monthly.

Viol. Classification: Moderate  
Citation: 30 TAC Chapter 115, SubChapter D 115.354(2)(D)

Description: Five additional pressure relief valves in gas/vapor service were identified in the AA and OSBL units. These components were not monitored quarterly.

Viol. Classification: Minor  
Citation: 30 TAC Chapter 115, SubChapter D 115.354(3)

Rqmt Prov: PERMIT Permit 37978 SP 9.E.  
PERMIT Permit 37979 SP 8.E.

Description: Although it is only necessary to maintain records of physical inspections when a leak is detected, the plant could not locate records of seven weekly AVO inspection periods in the AA Purification Area and AA Oxidation Area, among the other AVO records it maintains.

Viol. Classification: Moderate  
Citation: 40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.487(c)

Description: Based on NSPS Subpart VV periodic reports reviewed, changes to subject equipment totals for valves and pumps do not reflect the additional components identified.

Viol. Classification: Moderate  
Citation: 30 TAC Chapter 115, SubChapter D 115.357(2)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-1(d)

Rqmt Prov: PERMIT Permit 37978 SP 9.A.  
PERMIT Permit 37979 SP 8.A.

Description: Approximately 1,950 vacuum service components were identified in the AA process unit. These components were not previously documented as exempt from LDAR requirements because they are in vacuum service.

**Notice of Intent Date: 02/22/2006**

**Disclosure Date: 04/25/2006**

Viol. Classification: Minor  
Citation: 30 TAC Chapter 117, SubChapter B 117.219(d)(5)

Description: Failure to maintain CEMS Summary Reports for thermal oxidizer and boiler.

Viol. Classification: Moderate  
Citation: 30 TAC Chapter 117, SubChapter B 117.219(d)(5)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.7(c)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.7(d)

Description: Failure to submit CEMS Detailed Excess Emission and Downtime report.

Viol. Classification: Minor  
Citation: 40 CFR Chapter 60, SubChapter C, PT 60, SubPT Db 60.49b(g)(10)

Description: Failure to maintain copies of the quarterly accuracy assessments and dates of the assessments for the reporting period of May to December 2005 were not included in the NSPS Subpart Db semi-annual report.

**Notice of Intent Date: 01/17/2008**

No DOV Associated

**Notice of Intent Date: 04/12/2010**

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  
AMERICAN ACRYL L.P.  
RN101379287**

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

## **AGREED ORDER DOCKET NO. 2010-0922-AIR-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding American Acryl L.P. ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that they have certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

### **I. FINDINGS OF FACT**

1. The Respondent owns and operates a chemical manufacturing plant at 4923 Bayport Road in Pasadena, Harris County, Texas (the "Plant").

2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. During an investigation on December 10, 2009, TCEQ staff documented the following unauthorized emissions from storage tank TK-1124 due to the accumulation of oxygen in the storage tank that was in excess of the lower explosive limit for toluene that resulted in an explosion and fire (Incident No. 133091) that began on December 9, 2009, and lasted for one hour and 15 minutes: 17,160 pounds ("lbs") of carbon monoxide, 2,040 lbs of toluene (a hazardous air pollutant), 34 lbs of nitrogen oxide and 24,500 lbs of particulate matter.
4. The Respondent received notice of the violations on March 30, 2010.
5. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:
  - a. Completed design changes that prevent and mitigate oxygen accumulation in Tank TK-1124 on June 30, 2010; and
  - b. Conducted training on June 18, 2010 for personnel responsible for operating the Plant regarding the proper operation after the design changes, and the proper action to take in response to the activation of alarms associated with the design changes.

## II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to prevent unauthorized emissions during a December 9, 2009 emissions event (Incident No. 133091), in violation of 30 TEX. ADMIN. CODE § 116.115(b)(2)(F), TEX. HEALTH & SAFETY CODE § 382.085(b), and Air Permit No. 37978/N009, Maximum Allowable Emission Rates. Since this event could have been avoided by better Plant design, the demonstrations for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222 were not met.
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Ten Thousand Dollars (\$10,000) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid the Ten Thousand Dollar (\$10,000) administrative penalty.

### III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Ten Thousand Dollars (\$10,000) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: American Acryl L.P., Docket No. 2010-0922-AIR-E" to:

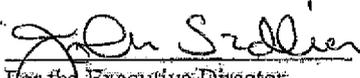
Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. The 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 Order.
3. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
4. 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.
5. 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.
6. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
7. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

  
For the Executive Director

10/14/2010  
Date

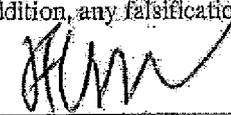
I, the undersigned, have read and understand the attached Agreed Order in the matter of American Acryl L.P. I am authorized to agree to the attached Agreed Order on behalf of American Acryl L.P., and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, American Acryl L.P. waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of this Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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

10/6/2010  
Date

Joe Goins  
Name (Printed or typed)  
Authorized Representative of  
American Acryl L.P.

General Manager  
Title

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