

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2009-1227-AIR-E TCEQ ID: RN101975746 CASE NO.: 38071
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: Magpetco Terminal, located on First Street about 100 yards north of Magnolia Avenue, Port Neches, Jefferson County</p> <p>TYPE OF OPERATION: Bulk petroleum storage facility</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 February 1, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732 TCEQ Enforcement Coordinator: Mr. Raymond Marlow, P.G., Enforcement Division, Enforcement Team 5, MC R-10, (409)899-8785; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Bill Stewart, Environmental Team Leader, ExxonMobil Oil Corporation, P.O. Box 3311, Beaumont, Texas 77704 Mr. Daniel Risso, Beaumont Refinery Plant Manager, ExxonMobil Oil Corporation, P.O. Box 3311, Beaumont, Texas 77704 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: May 27, 2009</p> <p>Date of NOV/NOE Relating to this Case: July 24, 2009 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>AIR</p> <p>Failure to submit an Annual Compliance Certification ("ACC") and Semi-Annual Deviation Report ("SDR") in a timely and accurate manner. Specifically, the ACC and the SDR reports for the period ending November 24, 2008, were due December 24, 2008 but were not submitted until March 23, 2009 [30 TEX. ADMIN. CODE §§ 122.143(4), 122.145(2)(C) and 122.146(2), TEX. HEALTH & SAFETY CODE 382.085(b), Federal Operating Permit O-02754, General Terms and Conditions].</p>	<p>Total Assessed: \$5,000</p> <p>Total Deferred: \$1,000 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$2,000</p> <p>Total Paid to General Revenue: \$2,000</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 submitted an accurate ACC and SDR on March 23, 2009.</p> <p>Ordering Provisions:</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): JE0066K

Attachment A
Docket Number: 2009-1227-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	ExxonMobil Oil Corporation
Payable Penalty Amount:	Four Thousand Dollars (\$4,000)
SEP Amount:	Two Thousand Dollars (\$2,000)
Type of SEP:	Pre-approved
Third-Party Recipient:	Southeast Texas Regional Planning Commission -Southeast Texas Regional Air Monitoring Network Ambient Air Monitoring Station
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 the SEP Amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to install, operate, and maintain a stationary ambient air monitoring station in the vicinity of Memorial High School Ninth Grade Campus. The station will employ canister sampling, a hydrocarbon analyzer, and/or a chromatograph. Ancillary equipment will include a sample conditioning system, a ten meter meteorological tower, a climate controlled equipment shelter, a remote communications system, and have electronic data logging capabilities. The station will continuously sample and analyze the ambient air for a wide range of hydrocarbon species in accordance with Environmental Protection Agency's recommended "TO-14" list. SEP monies will be used for the cost of purchasing, installing, operating, and maintaining the air monitoring station along with its ancillary equipment.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by offering continuous assessment of ambient air quality in a sensitive area of Port Arthur that is not currently covered by existing ambient air monitoring stations. Monitoring this area of the community will help the TCEQ and local government better respond to citizen's questions about public health as it related to air quality and will enable TCEQ to identify emission sources.

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:

South East Texas Regional Planning Commission
2210 Eastex Freeway
Beaumont, TX 77703

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.

ExxonMobil Oil Corporation
Agreed Order - Attachment A

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

Texas Commission on Environmental Quality
Financial Administration Division, Revenues
Attention: Cashier, MC 214
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.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	29-Jul-2009	Screening	31-Jul-2009	EPA Due	27-Apr-2010
	PCW	21-Sep-2009				

RESPONDENT/FACILITY INFORMATION			
Respondent	ExxonMobil Oil Corporation		
Reg. Ent. Ref. No.	RN101975746		
Facility/Site Region	10-Beaumont	Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	38071	No. of Violations	1
Docket No.	2009-1227-AIR-E	Order Type	1860
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Raymond Marlow, P.G.
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	<i>Subtotal 1</i>	\$5,000
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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	25.0% Enhancement	<i>Subtotals 2, 3, & 7</i>	\$1,250
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Notes: Penalty enhancement due to one NOV with a same or similar violation and one Agreed Order with denial of liability.

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

Good Faith Effort to Comply Total Adjustments	<i>Subtotal 5</i>	\$1,250
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Economic Benefit	0.0% Enhancement*	<i>Subtotal 6</i>	\$0
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Total EB Amounts: \$875
 Approx. Cost of Compliance: \$15,500
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	<i>Final Subtotal</i>	\$5,000
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	<i>Adjustment</i>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<i>Final Penalty Amount</i>	\$5,000
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STATUTORY LIMIT ADJUSTMENT	<i>Final Assessed Penalty</i>	\$5,000
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DEFERRAL	20.0% Reduction	<i>Adjustment</i>	-\$1,000
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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	\$4,000
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Screening Date: 31-Jul-2009

Docket No.: 2009-1227-AIR-E

PCW

Respondent: ExxonMobil Oil Corporation

Policy Revision 2 (September 2002)

Case ID No.: 38071

PCW Revision October 30, 2008

Reg. Ent. Reference No.: RN101975746

Media [Statute]: Air

Enf. Coordinator: Raymond Marlow, P.G.

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)	1	5%
	Other written NOVs	0	0%
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 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)	0	0%
	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%

Please Enter Yes or No

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

Adjustment Percentage (Subtotal 2) 25%

>> **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 with a same or similar violation and one Agreed Order with denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 25%

Screening Date: 31-Jul-2009 **Docket No.:** 2009-1227-AIR-E **PCW**
Respondent: ExxonMobil Oil Corporation *Policy Revision 2 (September 2002)*
Case ID No.: 38071 *PCW Revision October 30, 2008*
Reg. Ent. Reference No.: RN101975746
Media [Statute]: Air
Enf. Coordinator: Raymond Marlow, P.G.

Violation Number: 1
Rule Cite(s): 30 Tex. Admin. Code §§ 122.143(4), 122.145(2)(C) and 122.146(2), Tex. Health & Safety Code 382.085(b), Federal Operating Permit O-02754, General Terms and Conditions
Violation Description: Failed to submit an Annual Compliance Certification ("ACC") and Semi-Annual Deviation Report ("SDR") in a timely and accurate manner. Specifically, the ACC and the SDR reports for the period ending November 24, 2008, were due December 24, 2008 but were not received until March 23, 2009.
Base Penalty: \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
	X			25%

Matrix Notes: 100% of the rule requirement was not met.
Adjustment: \$7,500

\$2,500

Violation Events

Number of Violation Events: 2 **Number of violation days:** 89
mark only one with an x
 daily:
 weekly:
 monthly:
 quarterly:
 semiannual:
 annual:
 single event:
Violation Base Penalty: \$5,000

Two single events are recommended for the late reports and missing deviation during the annual compliance certification period.

Good Faith Efforts to Comply 25.0% Reduction \$1,250

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

Notes: The ACC and SDR were submitted March 23, 2009, prior to the July 24, 2009 NOE.
Violation Subtotal: \$3,750

Economic Benefit (EB) for this violation **Statutory Limit Test**
Estimated EB Amount: \$0 **Violation Final Penalty Total:** \$5,000
This violation Final Assessed Penalty (adjusted for limits): \$5,000

Economic Benefit Worksheet

Respondent: ExxonMobil Oil Corporation
Case ID No.: 38071
Reg. Ent. Reference No.: RN101975746
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	23-Dec-2008	23-Mar-2009	0.25	\$6	n/a	\$6

Notes for DELAYED costs

Estimated cost of timely and accurately submitting the ACC and SDR report. The date required is the due date of the report. The final date is the 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

\$6

Compliance History Report

Customer/Respondent/Owner-Operator: CN600920748 ExxonMobil Oil Corporation Classification: AVERAGE Rating: 3.75
Regulated Entity: RN101975746 MAGPETCO TERMINAL Classification: AVERAGE Site Rating: 19.00

ID Number(s): AIR NEW SOURCE PERMITS PERMIT 49133
AIR NEW SOURCE PERMITS ACCOUNT NUMBER JE0066K
AIR NEW SOURCE PERMITS AFS NUM 4824500024
INDUSTRIAL AND HAZARDOUS WASTE ID NUMBER F1893
GENERATION
INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXR000069369
GENERATION

Location: On First Street about 100 yards north of Magnolia Avenue, Port Neches, (Jefferson County) Texas

TCEQ Region: REGION 10 - BEAUMONT

Date Compliance History Prepared: July 31, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: July 31, 2004 to July 31, 2009

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? Yes
3. If Yes, who is the current owner/operator? ExxonMobil Oil Corporation
4. If Yes, who was/were the prior owner(s)/operator(s)? Exxon Mobil Corporation
5. When did the change(s) in owner or operator occur? 06/10/2005
6. Rating Date: 9/1/2008 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: 04/26/2007

ADMINORDER 2006-0797-MLM-E

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(A)
30 TAC Chapter 122, SubChapter B 122.145(2)(B)
30 TAC Chapter 122, SubChapter B 122.146(2)
30 TAC Chapter 122, SubChapter B 122.146(5)(C)

RqmtProv: O-02754 OP

Description: Failed to submit a timely and accurate annual compliance certification and associated deviation reports. (Cat A.12.i.7 and B.3.)

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

30 TAC Chapter 122, SubChapter B 122.143(4)

Rqmt Prov: General Cond. & Special Cond. No. 6 OP

Special Conditions 3.E. PERMIT

Description: Failed to maintain the exterior tank color of uninsulated tanks exposed to the sun white or aluminum.

Classification: Minor

Citation: 30 TAC Chapter 335, SubChapter A 335.4

Description: Failed to prevent unauthorized discharges.

Classification: Minor

Citation: 30 TAC Chapter 335, SubChapter C 335.62

40 CFR Chapter 262, SubChapter I, PT 262, SubPT A 262.11

Description: Failed to complete a hazardous waste determination and classify industrial solid waste.

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter A 335.6(c)

Description: Failed to notify of industrial solid waste activities including waste generated and waste management units.

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	08/11/2004	(280381)
2	05/26/2006	(464967)
3	05/26/2006	(465959)
4	06/23/2007	(381247)
5	06/27/2007	(558158)
6	11/12/2007	(597497)
7	12/02/2007	(599232)
8	04/25/2008	(654001)
9	07/10/2008	(683354)
10	07/24/2009	(759427)
11	07/31/2009	(761624)

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

Date: 06/28/2007 (558158)

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 D 382.085(b)
FOP O-02754, General Terms & Conditions OP

Description: Failure to report deviations on two Semiannual deviation reports (SDR) for the period of March 1, 2006, through February 28, 2007.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.146(5)(D)
5C THC Chapter 382, SubChapter D 382.085(b)
O-02754, General Terms & Conditions OP

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

F. Environmental audits.

N/A

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
RN101975746

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-1227-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 bulk petroleum storage facility on First Street about 100 yards north of Magnolia Avenue, Port Neches, Jefferson County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about July 29, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Five Thousand Dollars (\$5,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Thousand Dollars (\$2,000) of the administrative penalty and One Thousand Dollars (\$1,000) 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. Two Thousand Dollars (\$2,000) 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 submitted an accurate Annual Compliance Certification ("ACC") and Semi-Annual Deviation Report ("SDR") on March 23, 2009.
 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 submit an ACC and SDR in a timely and accurate manner, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4), 122.145(2)(C) and 122.146(2), TEX. HEALTH & SAFETY CODE 382.085(b), Federal Operating Permit O-02754, General Terms and Conditions, as documented during an investigation conducted on May 27, 2009. Specifically, the ACC and the SDR reports for the period ending November 24, 2008, were due December 24, 2008 but were not submitted until March 23, 2009.

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. 2009-1227-AIR-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Two Thousand Dollars (\$2,000) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted

by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.

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

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Sroog
For the Executive Director

Date 1/19/2010

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.

Daniel Risso
Signature

Date 11-20-09

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

Bmt Ref Plant Mgr
Title

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

Attachment A

Docket Number: 2009-1227-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: ExxonMobil Oil Corporation
Payable Penalty Amount: Four Thousand Dollars (\$4,000)
SEP Amount: Two Thousand Dollars (\$2,000)
Type of SEP: Pre-approved
Third-Party Recipient: Southeast Texas Regional Planning Commission -Southeast Texas Regional Air Monitoring Network Ambient Air Monitoring Station
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.

I. Project Description

A. Project

The Respondent shall contribute the SEP Amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to install, operate, and maintain a stationary ambient air monitoring station in the vicinity of Memorial High School Ninth Grade Campus. The station will employ canister sampling, a hydrocarbon analyzer, and/or a chromatograph. Ancillary equipment will include a sample conditioning system, a ten meter meteorological tower, a climate controlled equipment shelter, a remote communications system, and have electronic data logging capabilities. The station will continuously sample and analyze the ambient air for a wide range of hydrocarbon species in accordance with Environmental Protection Agency's recommended "TO-14" list. SEP monies will be used for the cost of purchasing, installing, operating, and maintaining the air monitoring station along with its ancillary equipment.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by offering continuous assessment of ambient air quality in a sensitive area of Port Arthur that is not currently covered by existing ambient air monitoring stations. Monitoring this area of the community will help the TCEQ and local government better respond to citizen's questions about public health as it related to air quality and will enable TCEQ to identify emission sources.

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:

South East Texas Regional Planning Commission
2210 Eastex Freeway
Beaumont, TX 77703

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.

ExxonMobil Oil Corporation
Agreed Order - Attachment A

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

Texas Commission on Environmental Quality
Financial Administration Division, Revenues
Attention: Cashier, MC 214
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.

