

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2009-0182-AIR-E TCEQ ID: RN100216761 CASE NO.: 37122
RESPONDENT NAME: Basell USA Inc.

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"/> IMMEDIATE 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: Basell USA Bayport Plant, 12001 Bay Area Boulevard, Pasadena, Harris County</p> <p>TYPE OF OPERATION: Chemical manufacturing plant</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is one pending enforcement action regarding this facility location, Docket No. 2009-0591-AIR-E.</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 1, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Rebecca Johnson, Enforcement Division, Enforcement Team 5, MC R-14, (361) 825-3420; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Paul F. Molleur, Plant Manager, Basell USA Inc., 12001 Bay Area Boulevard, Pasadena, Texas 77507 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 type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: December 15, 2008</p> <p>Date of NOV/NOE Relating to this Case: January 23, 2009 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>AIR</p> <p>Failure to prevent unauthorized emissions during Incident No. 112149. Specifically, during the August 6, 2008 emissions event 1,254.84 pounds of unauthorized volatile organic compound emissions were released from Flare FL-34 over a period of nine hours when incorrect pump wiring caused the reactor to overpressurize. Since the emissions event could have been avoided through better maintenance practices, the demonstrations in 30 TEX. ADMIN. CODE § 101.222 necessary to present an affirmative defense were not met [Air Permit No. 9423, Special Condition No. 1, 30 TEX. ADMIN. CODE § 116.115(c), and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$2,950</p> <p>Total Deferred: \$0 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$0</p> <p>On January 6, 2009, the Respondent, together with certain other subsidiaries and affiliates of Lyondell Chemical Company, filed with the United States Bankruptcy Court a voluntary petition for relief under chapter 11 of the Bankruptcy Code.</p> <p>(\$2,950 due pending outcome of bankruptcy proceedings)</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, implement measures designed to prevent the recurrence of emissions events due to the same cause as Incident No. 112149; and</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>

Additional ID No(s): HG0323M



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	26-Jan-2009	Screening	4-Feb-2009	EPA Due	20-Oct-2009
	PCW	4-Feb-2009				

RESPONDENT/FACILITY INFORMATION			
Respondent	Basell USA Inc.		
Reg. Ent. Ref. No.	RN100216761		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	37122	No. of Violations	1
Docket No.	2009-0182-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Rebecca Johnson
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 18.0% Enhancement Subtotals 2, 3, & 7 **\$450**

Notes: Penalty enhancement due to four NOVs issued for same or similar violations and four NOVs issued for unrelated violations. Penalty reduction due to four Notices of Intended Audits and three Disclosures of Violations.

Culpability No 0.0% Enhancement Subtotal 4 **\$0**

Notes: The Respondent does not meet the culpability criteria.

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

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

Total EB Amounts \$169
 Approx. Cost of Compliance \$2,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal **\$2,950**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$2,950**

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty **\$2,950**

DEFERRAL 0.0% Reduction Adjustment **\$0**

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

Notes

Deferral not offered since this is a pre-bankruptcy petition case.

PAYABLE PENALTY **\$2,950**

Screening Date 4-Feb-2009

Docket No. 2009-0182-AIR-E

PCW

Respondent Basell USA Inc.

Policy Revision 2 (September 2002)

Case ID No. 37122

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100216761

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

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)	4	20%
	Other written NOVs	4	8%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	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)	4	-4%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	3	-6%

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) 18%

>> 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 four NOVs issued for same or similar violations and four NOVs issued for unrelated violations. Penalty reduction due to four Notices of Intended Audits and three Disclosures of Violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 18%

Screening Date 4-Feb-2009	Docket No. 2009-0182-AIR-E	PCW			
Respondent Basell USA Inc.	<i>Policy Revision 2 (September 2002)</i>				
Case ID No. 37122	<i>PCW Revision October 30, 2008</i>				
Reg. Ent. Reference No. RN100216761					
Media [Statute] Air					
Enf. Coordinator Rebecca Johnson					
Violation Number <input type="text" value="1"/>					
Rule Cite(s)	Air-Permit No. 9423, Special Condition No. 1, 30 Tex. Admin. Code § 116.115(c), and Tex. Health & Safety Code § 382.085(b)				
Violation Description	Failed to prevent unauthorized emissions during Incident No. 112149. Specifically, during the August 6, 2008 emissions event 1,254.84 pounds of unauthorized volatile organic compound emissions were released from Flare FL-34 over a period of nine hours when incorrect pump wiring caused the reactor to overpressurize. Since the emissions event could have been avoided through better maintenance practices, the demonstrations in 30 Tex. Admin. Code § 101.222 necessary to present an affirmative defense were not met.				
Base Penalty		<input type="text" value="\$10,000"/>			
>> Environmental, Property and Human Health Matrix					
OR	Harm				
	Release	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	Percent <input type="text" value="25%"/>	
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>		
>> Programmatic Matrix					
Falsification					
Major			Moderate	Minor	
<input type="text"/>			<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>
Matrix Notes	Human health or the environment have been exposed to an insignificant amount of pollutants that did not exceed protective levels as a result of the violation.				
Adjustment		<input type="text" value="\$7,500"/>			
		<input type="text" value="\$2,500"/>			
Violation Events					
Number of Violation Events		<input type="text" value="1"/>	Number of violation days		
		<input type="text" value="1"/>			
<i>mark only one with an x</i>	daily	<input type="text"/>	Violation Base Penalty <input type="text" value="\$2,500"/>		
	weekly	<input type="text"/>			
	monthly	<input type="text"/>			
	quarterly	<input checked="" type="checkbox"/>			
	semiannual	<input type="text"/>			
	annual	<input type="text"/>			
	single event	<input type="text"/>			
One quarterly event is recommended based on the August 6, 2008 emissions event.					
Good Faith Efforts to Comply		<input type="text" value="0.0%"/>	Reduction		
		<input type="text"/>	<input type="text" value="\$0"/>		
Before NOV		NOV to EDRP/Settlement Offer			
Extraordinary	<input type="text"/>	<input type="text"/>			
Ordinary	<input type="text"/>	<input type="text"/>			
N/A	<input checked="" type="checkbox"/>	<input type="text"/> (mark with x)			
Notes	The Respondent does not meet the good faith criteria for this violation.				
Violation Subtotal		<input type="text" value="\$2,500"/>			
Economic Benefit (EB) for this violation		Statutory Limit Test			
Estimated EB Amount		<input type="text" value="\$169"/>	Violation Final Penalty Total		
		<input type="text" value="\$2,950"/>			
		This violation Final Assessed Penalty (adjusted for limits)			
		<input type="text" value="\$2,950"/>			

Economic Benefit Worksheet

Respondent Basell USA Inc.
Case ID No. 37122
Reg. Ent. Reference No. RN100216761
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)	\$2,000	6-Aug-2008	20-Oct-2009	1.21	\$8	\$161	\$169
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs
 Estimated cost to implement measures designed to ensure that pump wiring is installed correctly. The date required is the date of the emissions event. The final date is the projected date corrective measures will be implemented.

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 **TOTAL**
\$2,000 \$169

Compliance History Report

Customer/Respondent/Owner-Operator: CN600623326 Basell USA Inc. Classification: AVERAGE Rating: 0.34
 Regulated Entity: RN100216761 BASELL USA BAYPORT PLANT Classification: AVERAGE Site Rating: 0.58

ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	HG0323M
	AIR OPERATING PERMITS	PERMIT	1419
	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1011568
	AIR NEW SOURCE PERMITS	PERMIT	9423
	AIR NEW SOURCE PERMITS	PERMIT	15459
	AIR NEW SOURCE PERMITS	PERMIT	19546
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG0323M
	AIR NEW SOURCE PERMITS	REGISTRATION	84208
	AIR NEW SOURCE PERMITS	REGISTRATION	75465
	AIR NEW SOURCE PERMITS	AFS NUM	4820100291
	AIR NEW SOURCE PERMITS	REGISTRATION	72217
	AIR NEW SOURCE PERMITS	REGISTRATION	83485
	AIR NEW SOURCE PERMITS	REGISTRATION	86639
	AIR NEW SOURCE PERMITS	REGISTRATION	84080
	AIR NEW SOURCE PERMITS	REGISTRATION	84081
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD077424885
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	30422
	WATER LICENSING	LICENSE	1011568
	STORMWATER	PERMIT	TXR05K775

Location: 12001 BAY AREA BLVD, PASADENA, TX, 77507

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: January 28, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: January 28, 2004 to January 28, 2009

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

Name: Rebecca Johnson Phone: (361) 825-3420

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 |
| 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.

N/A

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	04/06/2004	(257831)
2	04/07/2004	(253351)
3	04/14/2004	(269134)
4	07/20/2004	(280302)
5	08/27/2004	(262608)
6	08/29/2004	(269577)
7	08/30/2004	(264623)
8	08/30/2004	(269329)
9	08/31/2004	(268065)
10	08/31/2004	(270665)
11	08/31/2004	(272304)
12	08/31/2004	(272788)
13	08/31/2004	(272937)
14	08/31/2004	(274244)
15	08/31/2004	(275608)
16	08/31/2004	(278391)
17	08/31/2004	(290953)
18	10/12/2004	(335659)
19	12/10/2004	(338790)
20	12/10/2004	(338791)
21	12/10/2004	(339353)
22	12/11/2004	(340151)
23	12/11/2004	(340156)
24	12/11/2004	(340231)
25	12/13/2004	(339349)
26	12/14/2004	(338793)
27	12/14/2004	(338796)
28	12/16/2004	(340258)
29	12/16/2004	(340938)
30	12/16/2004	(341412)
31	12/20/2004	(279192)
32	12/20/2004	(338792)
33	12/20/2004	(339356)
34	01/09/2005	(341415)
35	01/24/2005	(336859)
36	01/31/2005	(346538)
37	02/01/2005	(346524)
38	03/03/2005	(346543)
39	03/16/2005	(336464)
40	03/16/2005	(337143)
41	03/16/2005	(337726)
42	03/22/2005	(374149)
43	04/07/2005	(293349)
44	04/22/2005	(377999)
45	04/28/2005	(378308)
46	05/04/2005	(378415)
47	06/13/2005	(372379)
48	07/28/2005	(402049)

49 08/02/2005 (398413)
 50 08/18/2005 (404279)
 51 08/23/2005 (404911)
 52 08/29/2005 (405416)
 53 12/30/2005 (250313)
 54 03/10/2006 (449756)
 55 05/26/2006 (467459)
 56 05/26/2006 (467461)
 57 05/26/2006 (467466)
 58 06/05/2006 (462364)
 59 06/12/2006 (462245)
 60 06/13/2006 (462253)
 61 07/31/2006 (638011)
 62 08/30/2006 (488799)
 63 12/13/2006 (516988)
 64 12/15/2006 (512526)
 65 04/05/2007 (555060)
 66 07/10/2007 (564642)
 67 01/18/2008 (609299)
 68 04/01/2008 (612068)
 69 05/22/2008 (646420)
 70 08/28/2008 (701462)
 71 12/05/2008 (700184)
 72 01/23/2009 (721703)

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

Date: 07/20/2004 (280302)

Self Report? NO

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter F 290.111(b)(1)(A)(ii)

Description: Failure to achieve the turbidity level of the combined filter effluent of 0.3 NTU or less in at least 95% of the samples tested in 8 of the last 12 months.

Date: 08/29/2004 (269577)

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)
 5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failed to submit final report in a timely manner.

Date: 08/30/2004 (269329)

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 5C THC Chapter 382, SubChapter A 382.085(b)
 TCEQ AIR PERMIT #19036, SC #1 PERMIT

Description: Failed to submit final reports in a timely manner.

Date: 12/20/2004 (279192)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter F 101.211(b)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 5C THC Chapter 382, SubChapter A 382.085(b)
 9423 Special Condition 1 PERMIT

Description: Failed to submit final report in a timely manner.

Date: 06/13/2005 (372379)

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.487(c)(2)(vii)

Description: Failed to include the facts to explain the delay of repair.

Date: 12/30/2005 (250313)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)(ii)

Description: Failure to keep records of flare observations.

Self Report? NO Classification: Moderate

Citation: 19036, SC 11H PERMIT
30 TAC Chapter 115, SubChapter D 115.352(2)
30 TAC Chapter 122, SubChapter B 122.143(4)
9423, SC 9H PERMIT
NSR 19546, SC 11H PERMIT
O-01419, SC 10 OP

Description: Failure to repair 3 leaking components within 15 days of detection.

Self Report? NO Classification: Moderate

Citation: 19036, SC 2 PERMIT
19546, SC 2 PERMIT
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 Part 60, Subpart VV 60.482-6
9423, SC 2 PERMIT
O-01419 OP

Description: Failure to install plugs, caps, or second valve on open ended lines in Catalloy unit.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter D 115.352(2)
40 CFR Part 60, Subpart VV 60.482-9

Description: Failure to repair a leaking component during unit shutdown.

Date: 12/15/2006 (512526)

Self Report? NO Classification: Moderate

Citation: 19036, SC 11E PERMIT
19546, SC 10E PERMIT
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 THC Chapter 382, SubChapter D 382.085(b)
9423, SC 9E PERMIT
O-01419, ST&C 10 OP

Description: Failure to cap or plug open ended lines.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter D 115.352(2)
30 TAC Chapter 115, SubChapter H 115.782(b)(2)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THC Chapter 382, SubChapter D 382.085(b)
O-01419, ST&C 1A OP

Description: Failure to conduct a first attempt at repair within 5 days of leak detection.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter D 115.354(2)(C)
30 TAC Chapter 115, SubChapter H 115.781(b)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-7(a)
5C THC Chapter 382, SubChapter D 382.085(b)
FOP O-01419, ST&C 1A OP

Description: Failure to conduct quarterly monitoring on 58 valves.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter H 115.725(a)(1)
5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failure to conduct testing of HRVOC vents to establish maximum emission rates.

Self Report? NO Classification: Moderate

Citation: 19036, SC 5 PERMIT
19546, SC 5A PERMIT
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THC Chapter 382, SubChapter D 382.085(b)

9423, SC 3 PERMIT
O-01419 OP

Description: Failure to maintain minimum required BTU value of gas going to the flares.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 115, SubChapter H 115.782(b)(2)
5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failure to conduct a first attempt at repair within 1 day after leak detection.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 115, SubChapter H 115.781(b)(4)
5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failure to monitor a repaired/replaced component within 30 days after repair.

Date: 12/05/2008 (700184)

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(1)(G)
5C THSC Chapter 382 382.085(b)

Description: Failed to meet the reporting and recordkeeping requirements

F. Environmental audits.

Notice of Intent Date: 07/07/2004 (334669)

Disclosure Date: 07/16/2004

Viol. Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter H 115.782(c)(1)(B)(i)

Description: Exceeded estimated average shutdown and startup emissions for E-line process unit leak rate.

Notice of Intent Date: 08/25/2005 (434080)

Disclosure Date: 12/21/2005

Viol. Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.116(b)

Rqmt Prov: PERMIT Permit 19546

Description: Calculations of potential emissions from the flare (EPN 81) did not take into account possible peaks in flare loading.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.116(c)

Rqmt Prov: PERMIT Permit 19546

Description: The data for flow and VOC for the vent stream to EPN 81 as managed previously may not have adequately documented the total VOC in the vent stream on an hourly basis.

Notice of Intent Date: 12/05/2006 (534262)

Disclosure Date: 07/27/2007

Viol. Classification: Minor

Citation: 30 TAC Chapter 335, SubChapter E 335.112(a)(8)

30 TAC Chapter 335, SubChapter E 335.112(a)(9)

30 TAC Chapter 335, SubChapter C 335.69(a)(1)(A)

30 TAC Chapter 335, SubChapter C 335.69(a)(1)(B)

Description: Failure to maintain records of weekly inventory, inspection of waste transfer, and daily inspection of D885-hazardous waste accumulation vessel.

Viol. Classification: Minor

Citation: 30 TAC Chapter 335, SubChapter C 335.69(e)

Description: Failure to meet satellite accumulations time limit.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter C 335.62

Description: Failed to classify Tank D8707 Process Oil.

Viol. Classification: Minor

Citation: 40 CFR Chapter 273, SubChapter I, PT 273, SubPT C 273.39

Description: Failed to maintain a universal waste inventory system.

Notice of Intent Date: 07/02/2008 (32792)

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
BASELL USA INC.
RN100216761**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2009-0182-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 Basell USA Inc. ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a chemical manufacturing plant at 12001 Bay Area Boulevard 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. 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 January 28, 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. On January 6, 2009, the Respondent, together with certain other subsidiaries and affiliates of Lyondell Chemical Company, filed with the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court") a voluntary petition for relief under chapter 11 of the Bankruptcy Code (the "Code"). In re Lyondell Chemical Company, et al., Case No. 09-10023

(REG) (Chapter 11) (Bankr. S.D.N.Y.) (the "Bankruptcy Case"). The automatic stay imposed by the Code (specifically, 11 U.S.C. § 362 (a)) does not apply to the commencement or continuation of an action or a proceeding by a governmental unit to enforce such governmental unit's police and regulatory power, including the enforcement of a judgment other than a money judgment obtained in such action or proceeding, by virtue of the exception provided in 11 U.S.C. § 362 (b)(4). Accordingly, TCEQ (a governmental unit as defined under 11 U.S.C. § 101(27)) is expressly excepted from the automatic stay in pursuing enforcement of the State's environmental protection laws, and in seeking to liquidate its damages for such violations, including the assessment of Respondent of the administrative penalty in the amount of Two Thousand Nine Hundred Fifty Dollars (\$2,950) as provided in Section I, Paragraph 7 and Section IV, Paragraph 1 below. TCEQ shall not seek to collect such penalty except in accordance with applicable Bankruptcy law. The Respondent agrees to stipulate that, in accordance with this Agreed Order, TCEQ shall have an allowed general unsecured claim in the amount of Two Thousand Nine Hundred Fifty Dollars (\$2,950), which shall be paid in accordance with the terms prescribed in the plan of reorganization approved by the Bankruptcy Court or liquidation.

7. An administrative penalty in the amount of Two Thousand Nine Hundred Fifty Dollars (\$2,950) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations").
8. 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.
9. 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.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have failed to prevent unauthorized emissions during Incident No. 112149, in violation of Air Permit No. 9423, Special Condition No. 1, 30 TEX. ADMIN. CODE § 116.115(c), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on December 15, 2008. Specifically, during the August 6, 2008 emissions event 1,254.84 pounds of unauthorized volatile organic compound emissions were released from Flare FL-34 over a period of nine hours when incorrect pump wiring caused the reactor to overpressurize. Since the emissions event could have been avoided through better maintenance practices, the demonstrations in 30 TEX. ADMIN. CODE § 101.222 necessary to present an affirmative defense were not met.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent be assessed an administrative penalty as set forth in Section I, Paragraph 7 above. The assessment 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. Subject to the provisions of Section I, Paragraph 6 above, which are expressly incorporated herein, TCEQ shall have an allowed general unsecured claim in the Respondent's bankruptcy case.
2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, implement measures designed to prevent the recurrence of emissions events due to the same cause as Incident No. 112149; and
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

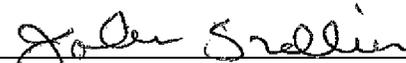
Air Section, Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023

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



For the Executive Director

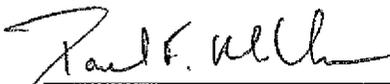
Date 2/8/2010

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 specified terms and conditions.

I also understand that failure to comply with the Ordering Provisions, if any, in this order 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;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

Date Dec 01, 2009

PAUL F. MOLLEUR

Name (Printed or typed)
Authorized Representative of
Basell USA Inc.

Title PLANT MANAGER

Instructions: Send the original, signed Agreed Order to the Financial Administration Division, Revenues Section.

