

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2009-1581-AIR-E **TCEQ ID:** RN100633650 **CASE NO.:** 38458
RESPONDENT NAME: Lyondell Chemical Company

ORDER TYPE:		
<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	
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: Lyondell Chemical Channelview, 2502 Sheldon Road, Channelview, Harris County</p> <p>TYPE OF OPERATION: Chemical plant</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on March 8, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Miriam Hall, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-1044; Ms. Laurie Baves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Don Holloway, Environmental Manager, Lyondell Chemical Company, 2502 Sheldon Road, Channelview, Texas 77530 Mr. Ghazi Shahin, Plant Manager, Lyondell Chemical Company, 2502 Sheldon Road, Channelview, Texas 77530 Respondent's Attorney: Ms. Jennifer Keane, Attorney, Baker Botts L.L.P., 1600 San Jacinto Boulevard, Austin, Texas 78701-4039</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: March 6, 2009</p> <p>Date of NOV/NOE Relating to this Case: August 19, 2009 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>AIR</p> <p>Failure to prevent an excessive emissions event on December 26, 2008. The Respondent failed to prevent the release of 11,585.6 pounds ("lbs") of volatile organic compounds, including 11,563 lbs of propylene oxide ("PO"), and 27 lbs of carbon monoxide on December 26, 2008 during an excessive emissions event lasting four hours and 41 minutes. Specifically, the Respondent failed to prevent the failure of the block valve gasket on the PO feed line in the Allyl Alcohol ("AA") Unit. The gasket was determined to be incompatible with current standards, and a similar incident occurred on August 22, 2007 in the AA Unit. Because this event was an excessive emissions event and could have been avoided by good operation and/or maintenance practices, the Respondent did not meet the affirmative defense in 30 Tex. Admin. Code § 101.222 [30 TEX. ADMIN. CODE § 116.115(c), Permit No. 18103, Special Condition No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$10,000</p> <p>Total Deferred: \$0 <input 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>(\$10,000 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>Findings Orders Justification: This case involves unauthorized emissions which have been deemed excessive.</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that on September 30, 2009, the Respondent submitted a Corrective Action Plan ("CAP").</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Respond completely and adequately, as determined by the Executive Director, to all written requests for information concerning the CAP submitted in connection with the excessive emissions event within 15 days after the date of such requests, or by any other deadline specified in writing;</p> <p>b. Upon Commission approval, implement the CAP in accordance with the approved schedule; and</p> <p>c. Within 15 days upon completion of the CAP implementation, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a. and b.</p>

Additional ID No(s): HG1575W



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ
DATES

Assigned PCW	24-Aug-2009	Screening	28-Sep-2009	EPA Due	
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RESPONDENT/FACILITY INFORMATION

Respondent	Lyondell Chemical Company		
Reg. Ent. Ref. No.	RN100633650		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	38458	No. of Violations	1
Docket No.	2009-1581-AIR-E	Order Type	Findings
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Miriam Hall
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

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

Notes

Culpability Enhancement **Subtotal 4**

Notes

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

Economic Benefit Enhancement* **Subtotal 6**

Total EB Amounts	\$381	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$5,000	

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

OTHER FACTORS AS JUSTICE MAY REQUIRE

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty

DEFERRAL

Reduction

Adjustment

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

Notes

PAYABLE PENALTY

Screening Date 28-Sep-2009

Docket No. 2009-1581-AIR-E

PCW

Respondent Lyondell Chemical Company

Policy Revision 2 (September 2002)

Case ID No. 38458

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100633650

Media [Statute] Air

Enf. Coordinator Miriam Hall

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)	13	65%
	Other written NOVs	16	32%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	3	60%
	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)	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)	1	-2%
<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)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

The penalty was enhanced for 13 same or similar NOVs, 16 other NOVs, and three 1660 orders. The penalty was reduced for 3 NOIs and one DOV.

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

Screening Date 28-Sep-2009

Docket No. 2009-1581-AIR-E

PCW

Respondent Lyondell Chemical Company

Policy Revision 2 (September 2002)

Case ID No. 38458

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100633650

Media [Statute] Air

Enf. Coordinator Miriam Hall

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 116.115(c), Permit No. 18103, Special Condition No. 1, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to prevent the release of 11,585.6 pounds ("lbs") of volatile organic compounds, including 11,563 lbs of propylene oxide ("PO"), and 27 lbs of carbon monoxide on December 26, 2008 during an excessive emissions event lasting four hours and 41 minutes. Specifically, the Respondent failed to prevent the failure of the block valve gasket on the PO feed line in the Allyl Alcohol ("AA") Unit. The gasket was determined to be incompatible with current standards, and a similar incident occurred on August 22, 2007 in the AA Unit. Because this event was an excessive emissions event and could have been avoided by good operation and/or maintenance practices, the Respondent did not meet the affirmative defense in 30 Tex. Admin. Code § 101.222.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	x			100%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Human health or the environment has been exposed to significant emissions which exceed levels that are protective of human health or environmental receptors as a result of this violation. Modeling predicted that off-property concentration of PO, a hazardous air pollutant, exceeded the TCEQ one-hour short term Effects Screening level by 25 times during the first hour of the event.

Adjustment \$0

\$10,000

Violation Events

Number of Violation Events 1 Number of violation days 1

daily	x
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$10,000

One daily event is recommended for the emissions event which occurred on December 26, 2008.

Good Faith Efforts to Comply

0.0% Reduction Before NOV. NOV to EDPRP/Settlement Offer \$0

Extraordinary	
Ordinary	
N/A	x (mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$10,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$361

Violation Final Penalty Total \$25,200

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

Economic Benefit Worksheet

Respondent: Lyondell Chemical Company
Case ID No.: 38458
Reg. Ent. Reference No.: RN100633650
Media: Air
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				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)	\$5,000	26-Dec-2008	6-Jun-2010	1.44	\$361	n/a	\$361

Notes for DELAYED costs

The estimated cost for corrective measures from the date of the violation until the estimated date the actions will be completed.

Avoided Costs

ANNUALIZE [1] avoided costs before entering Item (except for one-time avoided costs)

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$361

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600344402	Lyondell Chemical Company	Classification: AVERAGE	Rating: 2.51
Regulated Entity:	RN100633650	LYONDELL CHEMICAL CHANNELVIEW	Classification: AVERAGE	Site Rating: 2.05
ID Number(s):	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID		TXD083472266
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)		30676
	UNDERGROUND INJECTION CONTROL	PERMIT		WDW162
	UNDERGROUND INJECTION CONTROL	PERMIT		WDW037
	UNDERGROUND INJECTION CONTROL	PERMIT		WDW148
	AIR NEW SOURCE PERMITS	AFS NUM		4820100417
	AIR NEW SOURCE PERMITS	PERMIT		72168
	AIR NEW SOURCE PERMITS	PERMIT		52056
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER		HG1575W
	AIR NEW SOURCE PERMITS	PERMIT		48597
	AIR NEW SOURCE PERMITS	PERMIT		42082
	AIR NEW SOURCE PERMITS	PERMIT		40092
	AIR NEW SOURCE PERMITS	PERMIT		40094
	AIR NEW SOURCE PERMITS	PERMIT		40093
	AIR NEW SOURCE PERMITS	PERMIT		38432
	AIR NEW SOURCE PERMITS	PERMIT		37654
	AIR NEW SOURCE PERMITS	PERMIT		36353
	AIR NEW SOURCE PERMITS	PERMIT		35477
	AIR NEW SOURCE PERMITS	PERMIT		34833
	AIR NEW SOURCE PERMITS	PERMIT		32435
	AIR NEW SOURCE PERMITS	PERMIT		20416
	AIR NEW SOURCE PERMITS	PERMIT		19613
	AIR NEW SOURCE PERMITS	PERMIT		19155
	AIR NEW SOURCE PERMITS	PERMIT		18103
	AIR NEW SOURCE PERMITS	PERMIT		4121
	AIR NEW SOURCE PERMITS	PERMIT		3346
	AIR NEW SOURCE PERMITS	PERMIT		3286C
	AIR NEW SOURCE PERMITS	PERMIT		3286B
	AIR NEW SOURCE PERMITS	PERMIT		3286A
	AIR NEW SOURCE PERMITS	PERMIT		2993
	AIR NEW SOURCE PERMITS	REGISTRATION		76300
	AIR NEW SOURCE PERMITS	REGISTRATION		76126
	AIR NEW SOURCE PERMITS	REGISTRATION		75719
	AIR NEW SOURCE PERMITS	REGISTRATION		70737
	AIR NEW SOURCE PERMITS	REGISTRATION		72243
	AIR NEW SOURCE PERMITS	REGISTRATION		73851
	AIR NEW SOURCE PERMITS	REGISTRATION		74852
	AIR NEW SOURCE PERMITS	REGISTRATION		77293
	AIR NEW SOURCE PERMITS	REGISTRATION		77723
	AIR NEW SOURCE PERMITS	REGISTRATION		77929
	AIR NEW SOURCE PERMITS	REGISTRATION		78760
	AIR NEW SOURCE PERMITS	REGISTRATION		78756
	AIR NEW SOURCE PERMITS	REGISTRATION		79199
	AIR NEW SOURCE PERMITS	REGISTRATION		79706
	AIR NEW SOURCE PERMITS	REGISTRATION		79727
	AIR NEW SOURCE PERMITS	REGISTRATION		79543
	AIR NEW SOURCE PERMITS	REGISTRATION		79945
	AIR NEW SOURCE PERMITS	REGISTRATION		79375
	AIR NEW SOURCE PERMITS	REGISTRATION		79542
	AIR NEW SOURCE PERMITS	REGISTRATION		80386
	AIR NEW SOURCE PERMITS	REGISTRATION		80344
	AIR NEW SOURCE PERMITS	REGISTRATION		80610
	AIR NEW SOURCE PERMITS	REGISTRATION		80995
	AIR NEW SOURCE PERMITS	REGISTRATION		81217
	AIR NEW SOURCE PERMITS	REGISTRATION		81465
	AIR NEW SOURCE PERMITS	REGISTRATION		35412

AIR NEW SOURCE PERMITS	REGISTRATION	81958
AIR NEW SOURCE PERMITS	REGISTRATION	81902
AIR NEW SOURCE PERMITS	REGISTRATION	82122
AIR NEW SOURCE PERMITS	REGISTRATION	87669
AIR NEW SOURCE PERMITS	REGISTRATION	84878
AIR NEW SOURCE PERMITS	REGISTRATION	83451
AIR NEW SOURCE PERMITS	REGISTRATION	84297
AIR NEW SOURCE PERMITS	PERMIT	83817
AIR NEW SOURCE PERMITS	REGISTRATION	84086
AIR NEW SOURCE PERMITS	REGISTRATION	84100
AIR NEW SOURCE PERMITS	REGISTRATION	84090
AIR NEW SOURCE PERMITS	REGISTRATION	84047
AIR NEW SOURCE PERMITS	REGISTRATION	84583
AIR NEW SOURCE PERMITS	REGISTRATION	88286
WASTEWATER	PERMIT	WQ0002927000
WASTEWATER	EPA ID	TPDES0069493
WASTEWATER	PERMIT	TX0069493
WASTEWATER	PERMIT	TX0069493000
AIR OPERATING PERMITS	ACCOUNT NUMBER	HG1575W
AIR OPERATING PERMITS	PERMIT	1387
IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	30676
INDUSTRIAL AND HAZARDOUS WASTE COMPLIANCE PLANS	PERMIT	50288
INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	50288
INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	50288
AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	HG1575W

Location: 2502 SHELDON RD, CHANNELVIEW, TX, 77530

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: September 28, 2009

Agency Decision Requiring Compliance History: Enforcement

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

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

Name: Miriam Hall Phone: (512) 239-1044

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:	08/28/2006	ADMINORDER 2006-0236-AIR-E
Classification:	Moderate	
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 5C THC Chapter 382, SubChapter A 382.085(b)	
Rqmt Prov:	3346, SC #1 PA	
Description:	Failed to prevent unauthorized emissions.	
Classification:	Moderate	
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 5C THC Chapter 382, SubChapter A 382.085(b)	
Rqmt Prov:	2993, SC #1 PA	
Description:	Failed to prevent unauthorized emissions.	

Effective Date: 05/22/2008

ADMINORDER 2007-1546-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: 19613, Special Condition No. 1 PERMIT

Description: Failure to utilize the correct metallurgy and conduct maintenance on the seal flush tubing for Pump P-871A.

Effective Date: 06/19/2008

ADMINORDER 2007-1866-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: 19155, SC No. 11 PERMIT

Description: Failed to install a gasket that met the correct pipe specifications on the outlet piping of Dehydration Furnace F-6104 in the MTBE Unit, resulting in a leak and the unauthorized release of 1,004.80 pounds ("lbs") of isobutylene and 291.70 lbs of tert butanol on June 16, 2007. Since these emissions could have been foreseen and avoided by good operating practices, the demonstrations for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222 were not met

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: 19613, SC No. 1 PERMIT

Description: Failed to prevent the unauthorized release of 51 lbs of benzene on July 3, 2007 at the Propylene Oxide/Styrene Monomer II Unit. Specifically, the Respondent failed to use piping that was compatible with the process liquids in the Tower T-96870 reflux line, resulting in stress corrosion cracking of the pipe and a leak. Since these emissions could have been foreseen and avoided by good design and operating practices, the demonstrations for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222

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	10/25/2004	(358580)
2	11/03/2004	(338119)
3	11/08/2004	(340135)
4	11/11/2004	(291956)
5	11/12/2004	(284836)
6	11/18/2004	(358581)
7	12/16/2004	(340503)
8	12/20/2004	(339912)
9	12/21/2004	(339852)
10	12/27/2004	(276629)
11	12/27/2004	(385438)
12	01/05/2005	(284665)
13	01/10/2005	(255336)
14	01/10/2005	(284800)
15	01/12/2005	(285665)
16	02/14/2005	(291922)
17	02/23/2005	(385436)
18	03/09/2005	(371877)
19	03/09/2005	(371879)
20	03/09/2005	(371880)
21	03/09/2005	(372650)
22	03/22/2005	(385437)
23	03/31/2005	(267631)
24	04/05/2005	(375834)
25	04/08/2005	(346498)
26	04/25/2005	(377584)
27	04/25/2005	(377588)

28	04/25/2005	(423472)
29	05/02/2005	(374510)
30	05/03/2005	(375619)
31	05/18/2005	(376737)
32	05/24/2005	(376735)
33	05/24/2005	(379353)
34	05/24/2005	(379356)
35	05/24/2005	(380532)
36	05/24/2005	(423473)
37	05/25/2005	(379095)
38	06/02/2005	(393710)
39	06/02/2005	(393720)
40	06/14/2005	(350303)
41	06/14/2005	(350385)
42	06/21/2005	(423474)
43	06/21/2005	(423475)
44	07/25/2005	(444278)
45	08/03/2005	(350551)
46	08/10/2005	(401944)
47	08/10/2005	(401952)
48	08/13/2005	(380529)
49	08/23/2005	(444279)
50	08/29/2005	(418370)
51	09/23/2005	(444280)
52	09/23/2005	(444281)
53	10/24/2005	(474769)
54	10/25/2005	(380533)
55	11/22/2005	(474770)
56	11/30/2005	(433627)
57	12/21/2005	(474771)
58	12/28/2005	(497001)
59	02/15/2006	(380530)
60	02/24/2006	(474767)
61	03/06/2006	(452865)
62	03/21/2006	(453942)
63	03/23/2006	(474768)
64	03/24/2006	(453791)
65	03/31/2006	(455536)
66	03/31/2006	(457307)
67	04/20/2006	(462439)
68	04/20/2006	(462445)
69	04/21/2006	(456404)
70	04/24/2006	(502479)
71	05/01/2006	(463965)
72	05/21/2006	(465556)
73	05/21/2006	(465560)
74	05/22/2006	(465810)
75	05/23/2006	(502480)
76	05/26/2006	(467504)
77	05/26/2006	(467510)
78	05/26/2006	(467527)
79	05/26/2006	(467540)
80	05/26/2006	(467550)
81	05/26/2006	(467570)
82	06/21/2006	(502481)
83	07/06/2006	(455578)
84	07/25/2006	(524806)
85	07/28/2006	(481675)
86	08/08/2006	(462744)

87	08/15/2006	(486078)
88	08/15/2006	(488073)
89	08/21/2006	(524807)
90	08/23/2006	(485002)
91	08/23/2006	(485009)
92	08/29/2006	(497530)
93	08/29/2006	(497537)
94	09/25/2006	(549715)
95	10/13/2006	(515848)
96	10/24/2006	(549716)
97	11/13/2006	(518381)
98	11/14/2006	(518836)
99	11/27/2006	(549717)
100	11/29/2006	(345458)
101	12/19/2006	(549718)
102	01/18/2007	(549719)
103	01/19/2007	(553727)
104	01/29/2007	(533297)
105	02/22/2007	(583821)
106	02/26/2007	(533308)
107	02/27/2007	(534697)
108	03/22/2007	(583822)
109	04/05/2007	(593298)
110	04/09/2007	(554505)
111	04/23/2007	(583823)
112	04/25/2007	(555359)
113	04/25/2007	(555365)
114	04/25/2007	(555802)
115	04/25/2007	(555806)
116	05/09/2007	(541602)
117	05/22/2007	(583824)
118	05/23/2007	(556219)
119	06/25/2007	(583825)
120	06/26/2007	(554500)
121	07/06/2007	(542673)
122	07/23/2007	(583826)
123	07/24/2007	(564711)
124	07/24/2007	(564712)
125	08/07/2007	(567748)
126	08/22/2007	(604058)
127	08/31/2007	(574405)
128	09/06/2007	(565822)
129	09/24/2007	(604059)
130	10/08/2007	(594110)
131	10/10/2007	(565505)
132	10/10/2007	(566371)
133	10/15/2007	(595712)
134	10/19/2007	(572117)
135	10/19/2007	(572262)
136	10/23/2007	(622978)
137	11/06/2007	(598858)
138	11/15/2007	(594833)
139	11/15/2007	(595013)
140	11/19/2007	(572056)
141	11/19/2007	(572261)
142	11/19/2007	(594035)
143	11/19/2007	(595022)
144	11/19/2007	(622979)
145	12/27/2007	(622980)

146	01/09/2008	(609855)
147	01/17/2008	(600723)
148	01/23/2008	(674390)
149	02/27/2008	(613653)
150	03/14/2008	(611501)
151	03/14/2008	(618696)
152	03/14/2008	(618717)
153	03/27/2008	(618709)
154	03/27/2008	(618722)
155	03/27/2008	(618731)
156	04/28/2008	(674387)
157	04/28/2008	(674388)
158	04/28/2008	(674389)
159	04/29/2008	(652661)
160	04/29/2008	(653207)
161	05/22/2008	(692737)
162	06/03/2008	(646595)
163	06/04/2008	(543658)
164	06/06/2008	(682326)
165	06/24/2008	(692738)
166	07/22/2008	(713873)
167	07/25/2008	(886971)
168	08/12/2008	(685199)
169	08/12/2008	(685202)
170	08/12/2008	(686065)
171	08/12/2008	(686073)
172	08/25/2008	(713874)
173	09/10/2008	(702199)
174	10/07/2008	(729873)
175	10/09/2008	(699654)
176	10/22/2008	(729874)
177	10/24/2008	(686627)
178	10/29/2008	(686573)
179	11/03/2008	(699652)
180	11/17/2008	(705755)
181	11/17/2008	(705756)
182	12/01/2008	(729875)
183	12/16/2008	(703659)
184	12/22/2008	(729876)
185	01/13/2009	(722614)
186	01/26/2009	(701754)
187	01/26/2009	(701756)
188	01/29/2009	(687940)
189	02/12/2009	(687164)
190	02/23/2009	(753109)
191	03/18/2009	(738031)
192	03/23/2009	(753110)
193	04/06/2009	(735824)
194	04/06/2009	(735831)
195	04/06/2009	(735832)
196	04/06/2009	(738482)
197	04/06/2009	(738485)
198	04/14/2009	(735656)
199	04/22/2009	(770662)
200	04/28/2009	(722170)
201	05/22/2009	(770663)
202	06/04/2009	(743701)
203	06/22/2009	(759503)
204	06/30/2009	(747320)

205 06/30/2009 (747323)
 206 07/22/2009 (702274)
 207 07/22/2009 (749478)
 208 08/04/2009 (763811)
 209 08/04/2009 (763816)
 210 08/06/2009 (759221)
 211 08/18/2009 (703383)
 212 08/20/2009 (736085)
 213 08/28/2009 (759064)
 214 09/02/2009 (759612)

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

Date: 11/30/2004 (385438) CN600344402
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 12/27/2004 (276629) CN600344402
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)
 5C THC Chapter 382, SubChapter A 382.085(b)
 TCEQ Air Permit No. 19613, SC #1 PERMIT
 Description: Exceeded VOC permit limit during an avoidable emissions event.
 Date: 01/05/2005 (284665)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 5C THC Chapter 382, SubChapter A 382.085(b)
 TCEQ Air Permit #2993, SC #1 PERMIT
 Description: Exceeded permit limits during an avoidable emissions event.
 Date: 01/10/2005 (255336)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)
 5C THC Chapter 382, SubChapter A 382.085(b)
 TCEQ Permit No. 4121, SC #1 PERMIT
 Description: Exceeded permit limits during an avoidable emissions event.
 Date: 01/12/2005 (285665) CN600344402
 Self Report? NO Classification: Moderate
 Citation: 19613, SC No. 1 PA
 30 TAC Chapter 116, SubChapter B 116.115(c)
 5C THC Chapter 382, SubChapter A 382.085(b)
 Description: Exceeded permit limits during an avoidable emissions event.
 Date: 01/31/2005 (385436) CN600344402
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 03/09/2005 (371877) CN600344402
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 335, SubChapter F 335.152(a)(7)
 40 CFR Chapter 264, SubChapter I, PT 264, SubPT I 264.174
 Description: Failed to complete inspection logs to document observations noted during weekly
 inspections of containers
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 335, SubChapter E 335.112(a)(3)
 4C THC Chapter 265, SubChapter A 265.052
 Description: Failed to update the emergency coordinator information of the facility's Contingency
 Plan
 Date: 03/09/2005 (371880) CN600344402
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 335, SubChapter H 335.221(a)(14)
 40 CFR Chapter 266, SubChapter I, PT 266, SubPT H 266.103(i)(3)
 Description: Failed to conduct AWFCO system tests
 Date: 09/30/2005 (474769) CN600344402

Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 11/30/2005 (474771) CN600344402

Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 12/28/2005 (497001) CN600344402

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(17)
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE
 Date: 12/31/2005 (444281) CN600344402

Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 03/23/2006 (453791) CN600344402

Self Report? NO Classification: Major
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to maintain compliance with permit limits for total suspended solids (TSS) and
 pH at outfall 001. TSS violations were reported for January 2005, September 2005,
 November 2005 and December 2005. In addition, a pH violation was reported in
 October 2005.
 Date: 03/31/2006 (502479) CN600344402

Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 10/31/2006 (549717) CN600344402

Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 11/14/2006 (518836) CN600344402

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 3346, SC No. 1 PA
 5C THC Chapter 382, SubChapter D 382.085(b)
 Description: Exceeded permit limits during an avoidable emissions event.
 Date: 01/19/2007 (553727) CN600344402

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(17)
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(17)
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE
 Date: 01/29/2007 (533297) CN600344402

Self Report? NO Classification: Moderate
 Citation: 20416, SC No. 1 PA
 30 TAC Chapter 116, SubChapter B 116.115(c)
 5C THC Chapter 382, SubChapter D 382.085(b)
 Description: Exceeded permit limits during an avoidable emissions event.
 Date: 02/23/2007 (533308) CN600344402

Self Report? NO Classification: Moderate
 Citation: 19155, SC No. 11 PA
 30 TAC Chapter 116, SubChapter B 116.115(c)
 5C THC Chapter 382, SubChapter D 382.085(b)
 Description: Exceeded permit limits during an avoidable emissions event.
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)
Description: Failure to submit Initial Notification within 24 hours of discovery.
Date: 02/27/2007 (534697) CN600344402
Self Report? NO **Classification:** Moderate

Citation: 2993, SC No. 1 PA
 30 TAC Chapter 116, SubChapter B 116.115(c)
 5C THC Chapter 382, SubChapter D 382.085(b)
Description: Exceeded permit limits during an avoidable emissions event.
Date: 04/05/2007 (593298) CN600344402
Self Report? NO **Classification:** Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE
Date: 01/09/2008 (809855) CN600344402
Self Report? NO **Classification:** Moderate

Citation: 30 TAC Chapter 117, SubChapter B 117.213(e)(1)(B)(I)
 5C THSC Chapter 382 382.085(b)
Description: RE failed the RATA test on December 12, 2006.
Date: 05/28/2008 (543658) CN600344402
Self Report? NO **Classification:** Moderate

Citation: 30 TAC Chapter 117, SubChapter G 117.8100(a)(1)(A)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.13(d)(1)
 5C THC Chapter 382, SubChapter D 382.085(b)
 OP O-1387, Special Condition 10F OP
Description: Failure to conduct daily audit NOx CEMS auto validation.
Self Report? NO **Classification:** Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT Kb 60.112b(a)(1)(iv)
 5C THSC Chapter 382 382.085(b)
Description: Failure to maintain required equipment on tanks.
Self Report? NO **Classification:** Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT G 63.119(b)(6)
 5C THSC Chapter 382 382.085(b)
 OP O-1387, Special Condition 1A OP
Description: Failure to maintain bolt or fasteners on the float well gauge.
Self Report? NO **Classification:** Moderate

Citation: 30 TAC Chapter 115, SubChapter D 115.352(9)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.165(a)
 5C THC Chapter 382, SubChapter D 382.085(b)
 O-O-1387, Special Condition 1A OP
Description: Failure to monitor 2 PSV's.
Self Report? NO **Classification:** Moderate

Citation: 30 TAC Chapter 115, SubChapter D 115.352(2)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THC Chapter 382, SubChapter D 382.085(b)
 OP O-1387, Special Condition 1A OP
Description: Failure to follow LDAR requirements.
Self Report? NO **Classification:** Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT NNN 60.665(c)(3)
 5C THC Chapter 382, SubChapter D 382.085(b)
 OP, O-1387, Special Condition 1A OP
Description: Failure to maintain required temperature.
Self Report? NO **Classification:** Moderate

Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)
 30 TAC Chapter 115, SubChapter H 115.783(5)
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-6(a)(1)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.167(a)(f)
 OP, O-1387, Special Condition 1A OP
 OP, O-1387, Special Condition 26 OP
 TCEQ Permit No. #2933, SC #15 PERMIT
 TCEQ Permit No. #3446, SC #13E PERMIT

	TCEQ Permit No. 18103, SC #15E PERMIT TCEQ Permit No. 19155, SC #13E PERMIT TCEQ Permit No. 20416, SC# 8E PERMIT TCEQ Permit No. 2993, SC #10E PERMIT TCEQ Permit No.19613, SC #19E PERMIT		
Description:	Failure to plug open ended lines.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THSC Chapter 382 382.085(b) OP, O-1387, Special Conditions 1A & 26 OP		
Description:	Exceeded annual permitted limit during 2005.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 117, SubChapter B 117.340(c)(1) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THC Chapter 382, SubChapter D 382.085(b) OP, O-1387, Special Condition 1A OP		
Description:	Failure to conduct cylinder gas audit.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 40 CFR Chapter 63, SubChapter C, PT 63, SubPT G 63.113(a)(2) 5C THC Chapter 382, SubChapter D 382.085(b) OP, O-1387, Special Conditions 1A and 26 OP TCEQ Permit No. 2993, SC #16 PERMIT		
Description:	Failure to meet 98% DRE requirements.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 122, SubChapter B 122.143(4) 40 CFR Chapter 63, SubChapter C, PT 63, SubPT G 63.152(f)(2) 5C THC Chapter 382, SubChapter D 382.085(b) OP, O-1387, Special Condition 1A OP		
Description:	Periodic failure to maintain continuous records.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 122, SubChapter B 122.143(4) 40 CFR Chapter 60, SubChapter C, PT 60, SubPT NNN 60.665(c) 5C THC Chapter 382, SubChapter D 382.085(b) OP, O-1387, Special Condition 1A OP		
Description:	Failure to maintain continuous records.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 117, SubChapter G 117.8100(a)(1)(A) 30 TAC Chapter 122, SubChapter B 122.143(4) 40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.13(d)(1) 5C THC Chapter 382, SubChapter D 382.085(b) OP, O-1387, Special Condition 1A OP		
Description:	Failure to perform daily auto validations.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 117, SubChapter G 117.8130 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THC Chapter 382, SubChapter D 382.085(b) OP, O-1387, Special Condition 1A OP		
Description:	Failure to monitor ammonia slip.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 40 CFR Chapter 61, SubChapter C, PT 61, SubPT FF 61.354(a)(2) 5C THC Chapter 382, SubChapter D 382.085(b) OP, O-1387, Special Conditions 1A and 26 OP TCEQ Permit No. 19613, SC #16 PERMIT		
Description:	Periodic failure to maintain continuous records.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 117, SubChapter B 117.345(f) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THC Chapter 382, SubChapter D 382.085(b) OP, O-1387, Special Condition 1A OP		
Description:	Failure to maintain continuous records of fuel flow.		
Self Report?	NO	Classification:	Moderate

Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THC Chapter 382, SubChapter D 382.085(b) OP, O-1387, Special Conditions 1A and 26 OP		
Description:	Failure to maintain continuous records of two 15-minute periods.		
Self Report?	NO	Classification:	Moderate
Citation:	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 A 60.18(c)(3)(ii) 5C THC Chapter 382, SubChapter D 382.085(b) OP, O-1387, Special Conditions 1A and 26 OP TCEQ Air Permit No. 19613, SC #6 PERMIT		
Description:	Failure to maintain 300 Btu/scf hourly rolling average.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 122, SubChapter B 122.143(4) 40 CFR Chapter 60, SubChapter C, PT 60, SubPT NNN 60.665(c)(3) 5C THC Chapter 382, SubChapter D 382.085(b) OP, O-1387, Special Condition 1A OP		
Description:	Failure to maintain combustion temperature.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.110(a)(4) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THC Chapter 382, SubChapter D 382.085(b) OP, O-1387, Special Condition 27 OP		
Description:	Failure to obtain emission authorization.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.110(a)(4) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THSC Chapter 382 382.085(b) OP, O-1387, Special Condition 27 OP		
Description:	Failure to obtain emission authorization.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 117, SubChapter G 117.8140(a) 30 TAC Chapter 122, SubChapter B 122.132(e)(3)(A)(ii) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THC Chapter 382, SubChapter D 382.085(b) OP, O-1387, Special Condition 1A OP		
Description:	Failure to test stationary diesel engine.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.110(a)(4) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THC Chapter 382, SubChapter D 382.085(b) OP, O-1387, Special Condition 1A OP		
Description:	Failure to submit PBR within the the required timeframe.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 117, SubChapter B 117.345(b)(2) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THC Chapter 382, SubChapter D 382.085(b) OP, O-1387, Special Condition 1A OP		
Description:	Failure to make fifteen day post notification of the RATA performance test.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THC Chapter 382, SubChapter D 382.085(b) OP, O-1387, Special Conditions 1A and 26 OP TCEQ Air Permit No. 19155, SC #10E PERMIT		
Description:	Failure to paint a tank as required by the NSR permit.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.116(a)(1) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THC Chapter 382, SubChapter D 382.085(b) OP, O-1387, Special Condition 1A OP		
Description:	Exceedances of the fugitive permit allowable.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4)		

Description:	40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(3)(ii) 5C THC Chapter 382, SubChapter D 382.085(b) OP, O-1387, Special Conditions 1A and 26 OP TCEQ Permit No. 18103, SC #3A PERMIT TCEQ Permit No. 19155, SC #6 PERMIT TCEQ Permit No. 20416, SC #4 PERMIT		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 40 CFR Part 60, Subpart A 60.18(c)(4)(i) 5C THC Chapter 382, SubChapter D 382.085(b) OP, O-1387, Special Conditions 1A and 26 OP		
Description:	Failure to maintain required heating values.		
Self Report?	NO	Classification:	Moderate
Citation:	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 A 60.18(c)(3)(ii) 5C THC Chapter 382, SubChapter D 382.085(b) OP, O-1387, Special Conditions 1A and 26 OP TCEQ Permit No. 2993, SC #8 PERMIT TCEQ Permit No. 4124, SC# 2A PERMIT		
Description:	Failure to maintain required heating values.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 40 CFR Chapter 63, SubChapter C, PT 63, SubPT G 63.114(a)(1)(ii) 5C THC Chapter 382, SubChapter D 382.085(b) OP, O-1387, Special Conditions 1A and 26 OP TCEQ Permit No. 2993, SC #15A PERMIT		
Description:	Failure to monitor temperature.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 122, SubChapter B 122.143(4) 40 CFR Chapter 60, SubChapter C, PT 60, SubPT NNN 60.665(c) 5C THC Chapter 382, SubChapter D 382.085(b)		
Description:	Failure to maintain continuous records.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 117, SubChapter B 117.213(a) 30 TAC Chapter 117, SubChapter B 117.219(f) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THC Chapter 382, SubChapter D 382.085(b) OP, O-1387, Special Condition No. 1A OP		
Description:	Periodic failure to maintain continuous records.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 122, SubChapter B 122.143(14) 40 CFR Chapter 61, SubChapter C, PT 61, SubPT FF 61.356(j)(7) 40 CFR Chapter 63, SubChapter C, PT 63, SubPT G 63.152(f)(1) 5C THSC Chapter 382 382.085(b)		
Description:	Failure to maintain continuous records of monitoring for flare pilot flames.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 115, SubChapter H 115.781(b) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THSC Chapter 382 382.085(b) OP, O-1387, Special Condition 1A OP		
Description:	Failure to meet audit criteria.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 115, SubChapter H 115.725(d)(4) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THSC Chapter 382 382.085(b) OP, O-1387, Special Condition 1A OP		
Description:	Failure to collect HRVOC compliance sample.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 122, SubChapter B 122.143(4) 40 CFR Chapter 60, SubChapter C, PT 60, SubPT NNN 60.665(c)(3) 5C THSC Chapter 382 382.085(b) OP, O-1387, Special Condition 1A ORDER		

Description: Failure to maintain continuous records of temperature.
 Date: 11/03/2008 (699652) CN600344402
 Self Report? NO Classification: Moderate
 Citation: 20416, Special Condition No. 1 PERMIT
 30 TAC Chapter 116, SubChapter B 116.115(c)
 5C THSC Chapter 382 382.085(b)

Description: Failure to prevent unauthorized emissions.
 Date: 01/13/2009 (722614) CN600344402
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 5C THSC Chapter 382 382.085(b)
 TCEQ Permit No. 3346, SC #1 PERMIT

Description: Lyondell failed to prevent a seal leak.
 Date: 03/31/2009 (770662) CN600344402
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter
 Date: 04/30/2009 (770663) CN600344402
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter
 Date: 08/18/2009 (703383) CN600344402
 Self Report? NO Classification: Minor
 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)
 Special Condition No. 15(E) PERMIT
 Special Condition No. 28(E) PERMIT
 Special Condition No. 8(E) PERMIT
 Special Terms and Condition No. 1(A) OP

Description: failure to seal open-ended lines containing VOC. (Category C10 violation)
 Self Report? NO Classification: Minor
 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 63, SubChapter C, PT 63, SubPT H 63.167(a)(1)
 5C THSC Chapter 382 382.085(b)
 Special Condition No. 10(E) PERMIT
 Special Condition No. 19(E) PERMIT
 Special Condition No. 28(E) PERMIT
 Special Condition No. 15(E) PERMIT
 Special Terms and Conditions No. 1(A) OP
 Special Terms and Conditions No. 26 OP

Description: failure to seal open ended lines containing VOC and hazardous air pollutants (HAP).
 (Category C10 violation)
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)
 30 TAC Chapter 115, SubChapter H 115.783(5)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.167(a)(1)
 5C THSC Chapter 382 382.085(b)
 Special Condition No. 28(E) PERMIT
 Special Terms and Conditions No. 1(A) OP
 Special Terms and Conditions No. 28 OP

Description: failure to seal open ended lines containing VOC, Highly Reactive VOC (HRVOC) and
 HAP. (Category C10 violation)
 Self Report? NO Classification: Minor
 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)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.167(a)(1)

5C THSC Chapter 382 382.085(b)
Special Condition No. 10 (E) PERMIT
Special Terms and Conditions No. 1(A) OP
Special Terms and Conditions No. 26 OP
Description: failure to seal open ended lines containing VOC and HAP in a SOCM1 facility. (Category C10 violation)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT NNN 60.665(c)
5C THSC Chapter 382 382.085(b)
Special Terms and Condition no. 1(A) OP

Description: failure to maintain continuous records of monitoring parameters for the EB1 (F67800), EB2 Primary (F96800), and MTBE (F6101, F6102, F6103, F610-4, and F6105), Reactor Heaters. (Category C3 violation)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 61, SubChapter C, PT 61, SubPT FF 61.354(a)(2)
5C THSC Chapter 382 382.085(b)
Special Terms and Conditions No. 1(A) OP

Description: failure to maintain continuous monitoring records for EB1 Wastewater Stripper T66825 and EB2 Wastewater Stripper T97942. (Category C3 violation).

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT G 63.152(f)(2)
5C THSC Chapter 382 382.035
Special Condition no. 15 PERMIT
Special Terms and Conditions No. 1(A) OP
Special Terms and Conditions No. 26 OP

Description: failure to maintain continuous monitoring records for POSM1 Catalytic Incinerator F64170. (Category C3 violation)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 61, SubChapter C, PT 61, SubPT FF 61.356(j)(7)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT G 63.152(f)(2)
5C THSC Chapter 382 382.085(b)
Special Terms and Conditions No. 1(A) OP

Description: failure to maintain continuous monitoring records for the POSM2 Process Flare FL68491. (Category C3 violation)

Self Report? NO Classification: Moderate

Citation: 40 CFR Chapter 61, SubChapter C, PT 61, SubPT FF 61.356(j)(7)

Description: failure to maintain continuous monitoring records for the POSM2 Process Flare FL68491. (Category C3 violation)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Condition No. 4(B) PERMIT
Special Terms and Conditions No. 26 OP

Description: failure to continuously monitor the flare pilot flame of the BDO Process Flare FL6105. (Category C3 violation)

Self Report? NO Classification: Minor

Citation: 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 A 60.18(c)(2)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.11(b)(5)
5C THSC Chapter 382 382.085(b)
Special Condition No. 8 PERMIT
Special Terms and Conditions No. 1(A) OP
Special Terms and Conditions No. 26 OP

Description: failure to maintain a continuous pilot flame for Deepwell Flare FL68910. (Category C4 violation)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 117, SubChapter B 117.219(b)(2)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)

Description: Special Terms and Conditions No. 1(A) OP
 failure to provided a notice at least 15 days prior to an annual relative accuracy test audit for Boiler 3.
 (Category C3 violation)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT G 63.119(b)(6)
 5C THSC Chapter 382 382.085(b)

Description: Special Terms and Conditions No. 1(A) OP
 failure to bolt or fasten down the float well gauge on Storage Tank Nos. TK6102, TK60110A, TK60110B, TK60312B, TK60480, TK60481, TK60482, TK60791, TK60810A, TK60810B, TK68632B, and TK60285C. (Category B18 violation)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT Kb 60.112b(a)(1)(iv)
 5C THSC Chapter 382 382.085(b)

Description: Special Terms and Conditions No. 1(A) OP
 failure to bolt or fasten down the float well gauge on Storage Tank Nos. TK57705, TK57710, TK57719A, TK57719B, TK60630, TK6101. (Category B18 violation)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 4F TWC Chapter 60, SubChapter A 60.118(c)(1)
 5C THSC Chapter 382 382.085(b)

Description: Special Condition No. 6 PERMIT
 Special Terms and Conditions No. 1(A) OP
 Special; Terms and Condition No. 26 OP
 failure to prevent unauthorized visual emissions from occurring at POSM2 Process Flare FL68491.
 (Category C4 violation)

Self Report? NO Classification: Moderate

Citation: 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 A 60.18(c)(3)(II)
 5C THSC Chapter 382 382.085(b)

Description: Special Condition No. 6 PERMIT
 Special Terms and Conditions No. 1(A) OP
 Special Terms and Conditions No. 26 OP
 failure to combust VOC gas with a net heating value above the minimum required net heating value of 300 Btu/scf in the POSM2 Flare FL68491. (Category C4 violation)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter H 115.722(d)
 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 A 60.18(c)(3)(ii)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.11(b)(6)(ii)
 5C THSC Chapter 382 382.085(b)

Description: Special Condition No. 13(A) PERMIT
 Special Terms and Conditions no. 1(A) OP
 Special Terms and Conditions No. 26 OP
 failure to combust VOC/HAP gas with a net heating value above the minimum required net heating value of 300 Btu/scf in the POSM2 Process Flare FL68491. (Category C4 violation)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)

Description: Special Condition No. 1 PERMIT
 Special Term and Conditions No. 26 OP
 failure to prevent exceeding the annual VOC permit emission limit for Wastewater Equalization Tank TK60897. (Category B18 violation)

Self Report? NO Classification: Minor

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

40 CFR Chapter 63, SubChapter C, PT 63, SubPT G 63.152(c)(2)(ii)
5C THSC Chapter 382 382.085(b)
Special Terms and Conditions No. 1(A) OP

Description: failure to maintain operating temperature at or greater than the required minimum operating temperature for the catalytic converter. (Category C4 violation)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter D 115.352(2)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.168(f)(2)

Description: failure to perform the first attempt at repairing a leaking component within 5 days of leak discovery. (Category C4 violation)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 61, SubChapter C, PT 61, SubPT FF 61.348(a)(1)(ii)
5C THSC Chapter 382 382.085(b)
Special Terms and Conditions No. 1(A) OP

Description: failure to maintain the 3-hour average temperature to EB1 Wastewater Stripper T66825 in Unit PROSTRIP1 above the required minimum 3-hour average temperature. (Category C4 violation)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 117, SubChapter B 117.340(f)(1)
30 TAC Chapter 117, SubChapter G 117.8100(a)(1)(A)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.13(d)(1)
5C THSC Chapter 382 382.085(b)
Special Terms and Conditions No. 1(A) OP

Description: failure to comply with the daily validation (>10% zero drift) for Boiler3 NOx Analyzer. (Category C1 violation)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 117, SubChapter B 117.345(f)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.13(d)(1)
5C THSC Chapter 382 382.085(b)
Special Terms and Conditions No. 1(A) OP

Description: failure to maintain NOx CEMS daily calibration drift assessment records for Process Heaters F65630 and F66850. (Category B3 violation)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 117, SubChapter G 117.8100(a)(1)(A)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.13(d)(1)
5C THSC Chapter 382 382.085(b)
Special Terms and Conditions No. 1(A) OP

Description: failure to perform Process Heater F66850 NOx and O2 CEMS daily calibration drift assessments. (Category B1 violation)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 117, SubChapter B 117.310(f)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Terms and Conditions No. 1(A) OP

Description: failure to prevent testing the POSM1 firewater pump P60551B during the restricted hours from 6:00 a.m. through noon. (Category C4 violation)

Date: 08/31/2009 (759064) CN600344402

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter F 115.541(a)(1)(B)
5C THSC Chapter 382 382.085(b)

Description: Lyondell-Basell Channelview Chemical Manufacturing Complex (Lyondell) failed to meet the control efficiency for degassing operations.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 106, SubChapter K 106.263(e)(3)
30 TAC Chapter 106, SubChapter V 106.493(2)
30 TAC Chapter 116, SubChapter B 116.110(a)(4)
5C THSC Chapter 382 382.085(b)

Description: Lyondell-Basell Channelview Chemical Manufacturing Complex (Lyondell) failed to meet the minimum temperature and residence time for control devices used during degassing operations.

F. Environmental audits.

Notice of Intent Date: 10/02/2007 (598186)

Disclosure Date: 08/20/2008

Viol. Classification: Moderate

Rqmt Prov: PERMIT O-1387

Description: Failure to comply with emission monitoring for 2006 due to software change over issues.

Viol. Classification: Moderate

Rqmt Prov: PERMIT 18103

PERMIT 19155

PERMIT 19613

PERMIT 20416

PERMIT 2993

PERMIT 3286A

PERMIT 3346

PERMIT O-1387

Description: Failure to comply with LDAR requirements. Specifically, initial monitoring of equipment within the required time frame was not performed for new components added and for monitoring dual mechanical seal pumps, compressors, and agitators. Leaks were classified as Repair Delayed without meeting the repair requirements. Daily calibration records were not maintained. Replacement components were not monitored within time frames.

Notice of Intent Date: 10/03/2008 (706908)

No DOV Associated

Notice of Intent Date: 01/26/2009 (740554)

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
LYONDELL CHEMICAL COMPANY
RN100633650**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2009-1581-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 Lyondell Chemical Company ("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, represented by Jennifer Keane of the law firm of Baker Botts L.L.P. presented this agreement to the Commission.

The Respondent understands that it has 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 plant at 2502 Sheldon Road in Channelview, 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 March 6, 2009, TCEQ staff documented that the Respondent failed to prevent the release of 11,585.6 pounds ("lbs") of volatile organic compounds, including 11,563 lbs of propylene oxide ("PO"), and 27 lbs of carbon monoxide on December 26, 2008 during an excessive emissions event lasting four hours and 41 minutes. Specifically, the Respondent failed to prevent the failure of the block valve gasket on the PO feed line in the Allyl Alcohol ("AA") Unit. The gasket was determined to be incompatible with current standards, and a similar incident occurred on August 22, 2007 in the AA Unit. Because this event was an excessive emissions event and could have been avoided by good operation and/or maintenance practices, the Respondent did not meet the affirmative defense in 30 TEX. ADMIN. CODE § 101.222.
4. The Respondent received notice of the violations on August 24, 2009.
5. The Executive Director recognizes that on September 30, 2009, the Respondent submitted a Corrective Action Plan ("CAP").
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.

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 an excessive emissions event on December 26, 2008, in violation of 30 TEX. ADMIN. CODE § 116.115(c), Permit No. 18103, Special Condition No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b).
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.

III. ORDERING PROVISIONS

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

1. 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.
2. The Respondent shall undertake the following technical requirements:
 - a. Respond completely and adequately, as determined by the Executive Director, to all written requests for information concerning the CAP submitted in connection with the excessive emissions event within 15 days after the date of such requests, or by any other deadline specified in writing;
 - b. Upon Commission approval, implement the CAP in accordance with the approved schedule; and
 - c. Within 15 days upon completion of the CAP implementation, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b. 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 fines 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 77023-1486

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. 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.
7. 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.
8. 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.
9. 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.
10. 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

John Srdin
For the Executive Director

2/17/2010
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Lyondell Chemical Company. I am authorized to agree to the attached Agreed Order on behalf of Lyondell Chemical Company, and do agree to the specified terms and conditions.

I understand that by entering into this Agreed Order, Lyondell Chemical Company 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 the 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 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.

Ghazi Shahin
Signature

12/15/09
Date

Ghazi Shahin
Name (Printed or typed)
Authorized Representative of
Lyondell Chemical Company

Plant Manager
Title

Instructions: Send the original, signed Agreed Order to the Enforcement Division.

