

**Executive Summary – Enforcement Matter – Case No. 43077**  
**Shell Pipeline Company LP**  
**RN102027174**  
**Docket No. 2011-2227-AIR-E**

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

People or environmental receptors have been exposed to pollutants which exceed levels that are protective.

**Media:**

AIR

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

Shell Pipeline Company Port Arthur Products Station, 5300 Old West Port Arthur Road, Port Arthur, Jefferson County

**Type of Operation:**

Petroleum storage and transfer facility

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** June 22, 2012

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$30,156

**Amount Deferred for Expedited Settlement:** \$0

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$30,156

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Average

Site/RN - Average

**Major Source:** Yes

**Statutory Limit Adjustment:** \$63,600

**Applicable Penalty Policy:** September 2002

**Executive Summary – Enforcement Matter – Case No. 43077**  
**Shell Pipeline Company LP**  
**RN102027174**  
**Docket No. 2011-2227-AIR-E**

***Investigation Information***

**Complaint Date(s):** N/A  
**Complaint Information:** N/A  
**Date(s) of Investigation:** August 22, 2011  
**Date(s) of NOE(s):** October 28, 2011

***Violation Information***

1. Failed to submit the initial notification for Incident No. 157001 within 24 hours of discovery [30 TEX. ADMIN. CODE §§ 101.201(a)(1)(B) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), and Federal Operating Permit (“FOP”) No. O2733, General Terms and Conditions (“GTC”).
2. Failed to prevent unauthorized emissions. Since the emissions event could have been prevented through better maintenance practices and was reported late, Respondent is precluded from asserting the affirmative defense under 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN. CODE §§ 106.6(b), 116.715(a) and (c)(7), and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), FOP No. O2733, GTC, Flexible Permit No. 56342, Special Conditions No. 1, and Permit by Rule Registration No. 56343].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

The Order will require Respondent to:

- a. Within 30 days:
  - i. Implement measures and procedures to ensure against recurrence of emissions events due to same or similar causes as Incident No. 157001; and
  - ii. Implement procedures to ensure that emissions event notifications are submitted in a timely manner.
- b. Within 45 days, submit written certification demonstrating compliance.

***Litigation Information***

**Date Petition(s) Filed:** N/A  
**Date Answer(s) Filed:** N/A  
**SOAH Referral Date:** N/A  
**Hearing Date(s):** N/A  
**Settlement Date:** N/A

**Executive Summary – Enforcement Matter – Case No. 43077**  
**Shell Pipeline Company LP**  
**RN102027174**  
**Docket No. 2011-2227-AIR-E**

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Audra Benoit, Enforcement Division,  
Enforcement Team 5, MC R-10, (409) 899-8799; Debra Barber, Enforcement Division,  
MC 219, (512) 239-0412

**TCEQ SEP Coordinator:** N/A

**Respondent:** Greg Smith, President, Shell Pipeline Company LP, P.O. Box 2648,  
Houston, Texas 77252

Wylie Slice, Plant Manager, Shell Pipeline Company LP, P.O. Box 2648, Houston, Texas  
77252

**Respondent's Attorney:** N/A





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	31-Oct-2011	<b>Screening</b>	5-Dec-2011	<b>EPA Due</b>	6-Jun-2012
	<b>PCW</b>	13-Jan-2012				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Shell Pipeline Company LP				
<b>Reg. Ent. Ref. No.</b>	RN102027174				
<b>Facility/Site Region</b>	10-Beaumont	<b>Major/Minor Source</b>	Major		

## CASE INFORMATION

<b>Enf./Case ID No.</b>	43077	<b>No. of Violations</b>	2
<b>Docket No.</b>	2011-2227-AIR-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Audra Benoit
		<b>EC's Team</b>	Enforcement Team 5
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$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: Enhancement for one NOV with same/similar violations, six NOVs with dissimilar violations, and two orders with a denial of liability. Reduction for one notice of intended audit.

**Culpability**   Enhancement **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

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

**Economic Benefit**  Enhancement\* **Subtotal 6**

Total EB Amounts   
 Approx. Cost of Compliance   
 \*Capped at the Total EB \$ Amount

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

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  **Adjustment**

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

No deferral is recommended for Findings Orders.

**PAYABLE PENALTY**

Screening Date 5-Dec-2011

Docket No. 2011-2227-AIR-E

PCW

Respondent Shell Pipeline Company LP

Policy Revision 2 (September 2002)

Case ID No. 43077

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102027174

Media [Statute] Air

Enf. Coordinator Audra Benoit

### Compliance History Worksheet

#### >> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	1	5%
	Other written NOVs	6	12%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	1	-1%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%

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)** 56%

#### >> 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**

Enhancement for one NOV with same/similar violations, six NOVs with dissimilar violations, and two orders with a denial of liability. Reduction for one notice of intended audit.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 56%

**Screening Date** 5-Dec-2011  
**Respondent** Shell Pipeline Company LP  
**Case ID No.** 43077  
**Reg. Ent. Reference No.** RN102027174  
**Media [Statute]** Air  
**Enf. Coordinator** Audra Benoit

**Docket No.** 2011-2227-AIR-E

**PCW**

Policy Revision 2 (September 2002)  
 PCW Revision October 30, 2008

**Violation Number**

**Rule Cite(s)** 30 Tex. Admin. Code §§ 101.201(a)(1)(B) and 122.143(4), Tex. Health & Safety Code § 382.085(b), and Federal Operating Permit ("FOP") No. O2733, General Terms and Conditions ("GTC")

**Violation Description** Failed to submit the initial notification for Incident No. 157001 within 24 hours of discovery. Specifically, the emissions event was discovered on July 16, 2011 at 11:45 a.m., but the initial notification was not submitted until July 20, 2011 at 12:05 p.m.

**Base Penalty**

>> **Environmental, Property and Human Health Matrix**

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text" value="1%"/>

**Matrix Notes**

At least 70% of the rule requirement was met.

**Adjustment**

**Violation Events**

Number of Violation Events  Number of violation days

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

**Violation Base Penalty**

One single event is recommended.

**Good Faith Efforts to Comply**

Reduction

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

**Notes**

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

**Violation Subtotal**

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount**

**Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent** Shell Pipeline Company LP  
**Case ID No.** 43077  
**Req. Ent. Reference No.** RN102027174  
**Media** Air  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	17-Jul-2011	16-Jul-2012	1.00	\$75	n/a	\$75

**Notes for DELAYED costs**

Estimated costs to implement procedures to ensure timely submittal of reports. The date required is the date the emissions event report was due. The final date is the expected date of compliance.

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

<b>Approx. Cost of Compliance</b>	\$1,500	<b>TOTAL</b>	\$75
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Screening Date 5-Dec-2011

Docket No. 2011-2227-AIR-E

PCW

Respondent Shell Pipeline Company LP

Policy Revision 2 (September 2002)

Case ID No. 43077

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102027174

Media [Statute] Air

Enf. Coordinator Audra Benoit

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 106.6 (b), 116.715(a) and (c)(7), and 122.143(4), Tex. Health & Safety Code § 382.085(b), FOP No. O2733, GTC, Flexible Permit No. 56342, Special Conditions No. 1, and Permit by Rule Registration No. 56343

Violation Description

Failed to prevent unauthorized emissions. Specifically, 16,694 pounds ("lbs") of volatile organic compounds ("VOCs") were released from Tank No. 1382 and 14,027 lbs of VOCs were released from Tank No. 1454 during a preventable emissions event (Incident No. 157001) that began on July 16, 2011 and lasted a total of 55 hours. The event occurred when heavy rainfall caused the roof support brackets to break on both tanks, which caused the roofs to tilt and allowed product to accumulate on the tops of the roofs. Since the emissions event was not properly reported and could have been prevented through better maintenance procedures, the Respondent is precluded from asserting an affirmative defense under 30 Tex. Admin. Code § 101.222.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	x			100%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0%

Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$0

\$10,000

Violation Events

Number of Violation Events 6 3 Number of violation days

mark only one with an x	daily	x
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$60,000

Six daily events are recommended, three for each tank.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$60,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$115

Violation Final Penalty Total \$93,600

This violation Final Assessed Penalty (adjusted for limits) \$30,000

## Economic Benefit Worksheet

**Respondent** Shell Pipeline Company LP  
**Case ID No.** 43077  
**Req. Ent. Reference No.** RN102027174  
**Media** Air  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

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)	\$2,500	16-Jul-2011	16-Jun-2012	0.92	\$115	n/a	\$115

#### Notes for DELAYED costs

Estimated costs to implement procedures to prevent recurrence of emission events due to same or similar causes as Incident No. 157001. The date required is the initial date of the emissions event. The final date is the estimated date of compliance.

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

#### Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,500

**TOTAL**

\$115

## Compliance History

Customer/Respondent/Owner-Operator: CN600123996 Shell Pipeline Company LP Classification: AVERAGE Rating: 2.84

Regulated Entity: RN102027174 SHELL PIPELINE CO PORT ARTHUR PRODUCTS STATION Classification: AVERAGE Site Rating: 2.93

ID Number(s):

AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	JE0100M
AIR NEW SOURCE PERMITS	AFS NUM	4824500048
AIR NEW SOURCE PERMITS	PERMIT	56342
AIR NEW SOURCE PERMITS	REGISTRATION	56343
AIR OPERATING PERMITS	ACCOUNT NUMBER	JE0100M
AIR OPERATING PERMITS	PERMIT	2733
WASTEWATER	PERMIT	WQ0003530000
WASTEWATER	EPA ID	TX0111686
AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	JE0100M

Location: 5300 OLD W PORT ARTHUR ROAD, PORT ARTHUR, TX, 77460

TCEQ Region: REGION 10 - BEAUMONT

Date Compliance History Prepared: December 06, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: December 06, 2006 to December 06, 2011

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

Name: Audra Benoit Phone: (409) 899-8799

### 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: 9/1/2011 Repeat Violator: NO

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

Effective Date: 11/19/2007 ADMINORDER 2007-0369-AIR-E

Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: O-02733, General Terms and Conditions OP  
O-02733, Special Condition 3(A)(iv)(1) OP

Description: Failure to conduct quarterly observations of the Internal Combustion Units.

Classification: Moderate

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

5C THC Chapter 382, SubChapter D 382.085(b)  
Rqmt Prov: O-02733, General Terms and Conditions OP  
Description: Failure to report a deviation and submit a Semi-Annual Deviation Report for Permit O-02733, for the time period of September 7, 2005, through March 7, 2006. EIC A(12)(i)(7)  
Classification: Moderate  
Citation: 30 TAC Chapter 122, SubChapter B 122.146(1)  
30 TAC Chapter 122, SubChapter B 122.146(5)(C)(v)  
30 TAC Chapter 122, SubChapter B 122.146(5)(D)  
5C THC Chapter 382, SubChapter D 382.085(b)  
Description: Failure to accurately certify compliance in Annual Compliance Certification (ACC).

Effective Date: 02/08/2009 ADMINORDER 2008-1111-AIR-E  
Classification: Major  
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)

30 TAC Chapter 122, SubChapter B 122.145(2)(B)  
5C THSC Chapter 382 382.085(b)  
Rqmt Prov: O-2733, GENERAL TERMS AND CONDITIONS OP  
O-2733, SC 1A OP  
Description: Failure to submit a deviation report for the six-month period of September 7, 2006 to March 6, 2007, when two deviations occurred, as reported on October 4, 2007 in the semi-annual report for the period of March 2007 to September 6, 2007.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	02/28/2007	(539600)
2	02/12/2007	(588303)
3	03/14/2007	(588304)
4	04/09/2007	(588305)
5	05/04/2007	(588306)
6	06/13/2007	(588307)
7	12/18/2006	(588310)
8	01/11/2007	(588311)
9	07/09/2007	(605397)
10	08/09/2007	(605398)
11	09/18/2007	(605399)
12	10/31/2007	(629510)
13	12/03/2007	(629511)
14	12/03/2007	(629512)

15 01/14/2008 (629513)  
16 06/13/2008 (657294)  
17 02/07/2008 (676737)  
18 04/02/2008 (676738)  
19 04/02/2008 (676739)  
20 06/10/2008 (680638)  
21 06/16/2008 (695298)  
22 06/16/2008 (695299)  
23 07/09/2008 (695300)  
24 08/07/2008 (716824)  
25 09/09/2008 (716825)  
26 10/08/2008 (716826)  
27 11/05/2008 (716827)  
28 12/03/2008 (732250)  
29 01/06/2009 (732251)  
30 04/07/2009 (736279)  
31 04/02/2009 (741306)  
32 02/10/2009 (755573)  
33 03/04/2009 (755574)  
34 04/09/2009 (755575)  
35 05/14/2009 (772622)  
36 06/08/2009 (772623)  
37 10/26/2009 (777736)  
  
38 11/18/2009 (780029)  
39 12/16/2009 (784715)  
40 02/01/2010 (788474)  
41 02/03/2010 (817945)  
42 07/30/2009 (817946)  
43 08/12/2009 (817947)  
44 09/08/2009 (817948)

45 10/13/2009 (817949)  
 46 11/12/2009 (817950)  
 47 12/07/2009 (817951)  
 48 02/03/2010 (817952)  
 49 03/17/2010 (835527)  
 50 04/19/2010 (835528)  
 51 05/13/2010 (835529)  
 52 06/02/2010 (847696)  
 53 07/19/2010 (862097)  
 54 08/09/2010 (868687)  
 55 09/03/2010 (875576)  
 56 12/07/2010 (879918)  
 57 10/07/2010 (883120)  
 58 11/04/2010 (889534)  
 59 01/11/2011 (903801)  
 60 02/02/2011 (910691)  
 61 03/17/2011 (917939)  
 62 04/12/2011 (929854)  
 63 07/05/2011 (936690)  
 64 05/17/2011 (939648)  
 65 06/15/2011 (947057)  
 66 10/28/2011 (949633)  
 67 07/05/2011 (954322)  
 68 08/17/2011 (960900)  
 69 09/19/2011 (966996)

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

Date:	09/30/2007 (629510)	CN600123996
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:	06/10/2008 (680638)	CN600123996
Self Report?	NO	Classification: Moderate
Citation:	MRR PERMIT	
Description:	Failure to submit required 5-day written report when exceeding permit parameter	

greater than 40%.

Date: 04/07/2009 (736279) CN600123996  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 115, SubChapter B 115.112(a)(2)(B)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
O-02733, General Terms and Conditions OP  
O-02733, Special Condition 1A OP  
Description: Failure to maintain automatic bleeder vents (vacuum breaker vents) in the closed position as required.

Date: 11/23/2009 (780029) CN600123996  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.145(2)(C)  
5C THSC Chapter 382 382.085(b)  
GENERAL TERMS AND CONDITIONS OP  
Description: Failure to submit a deviation report in a timely manner.

Date: 01/31/2011 (910691) CN600123996  
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: 02/28/2011 (917939) CN600123996  
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: 08/31/2011 (966996) CN600123996  
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

F. Environmental audits.

Notice of Intent Date: 06/04/2007 (565637)

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  
SHELL PIPELINE COMPANY LP  
RN102027174

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2011-2227-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 Shell Pipeline Company LP ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

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

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

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

I. FINDINGS OF FACT

1. The Respondent owns and operates a petroleum storage and transfer facility at 5300 Old West Port Arthur Road in Port Arthur, Jefferson County, Texas (the "Facility").

2. The Facility consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. During an investigation on August 22, 2011, TCEQ staff documented that the initial notification for Incident No. 157001 was due by 11:45 a.m. on July 17, 2011, but was not submitted until July 20, 2011 at 12:05 p.m.
4. During an investigation on August 22, 2011, TCEQ staff documented the release of 16,694 pounds ("lbs") of volatile organic compounds ("VOCs") from Tank No. 1382 and 14,027 lbs of VOCs from Tank No. 1454 during a preventable emissions event (Incident No. 157001) that began on July 16, 2011 and lasted a total of 55 hours. The event occurred when heavy rainfall caused the roof support brackets to break on both tanks, which caused the roofs to tilt and allowed product to accumulate on the tops of the roofs. The TCEQ has determined that this event could have been prevented through better maintenance practices.
5. The Respondent received notice of the violations on November 3, 2011.

## 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 submit the initial notification for Incident No. 157001 within 24 hours of discovery, in violation of 30 TEX. ADMIN. CODE §§ 101.201(a)(1)(B) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), and Federal Operating Permit ("FOP") No. O2733, General Terms and Conditions ("GTC").
3. As evidenced by Findings of Fact No. 4, the Respondent failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE §§ 106.6(b), 116.715(a) and (c)(7), and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), FOP No. O2733, GTC, Flexible Permit No. 56342, Special Conditions No. 1, and Permit by Rule Registration No. 56343. Since the emissions event could have been prevented through better maintenance practices and was reported late, the Respondent is precluded from asserting the affirmative defense under 30 TEX. ADMIN. CODE § 101.222.
4. 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.
5. An administrative penalty in the amount of Thirty Thousand One Hundred Fifty-Six Dollars (\$30,156) is justified by the facts recited in this Agreed Order, and considered in

light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid the Thirty Thousand One Hundred Fifty-Six Dollar (\$30,156) administrative penalty.

### III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of Thirty Thousand One Hundred Fifty-Six Dollars (\$30,156) as set forth in Section II, Paragraph 5 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Shell Pipeline Company LP, Docket No. 2011-2227-AIR-E" to:

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

2. The Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order:
    - i. Implement measures and procedures to ensure against recurrence of emissions events due to same or similar causes as Incident No. 157001; and
    - ii. Implement procedures to ensure that emissions event notifications are submitted in a timely manner.
  - 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 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  
Beaumont Regional Office  
Texas Commission on Environmental Quality  
3870 Eastex Freeway  
Beaumont, Texas 77703-1892

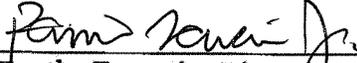
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any 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 separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
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

  
For the Executive Director

7/6/12  
Date

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

I understand that by entering into this Agreed Order, Shell Pipeline Company LP 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 and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

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

  
Signature

4/9/12  
Date

GREG SMITH  
Name (Printed or typed)  
Authorized Representative of  
Shell Pipeline Company LP

PRESIDENT  
Title

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