

Executive Summary – Enforcement Matter – Case No. 48926  
LCY Elastomers LP  
RN102325974  
Docket No. 2014-1267-AIR-E

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

AIR

**Small Business:**

No

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

LCY Elastomers, 4803 Decker Drive, Baytown, Harris County

**Type of Operation:**

Styrene, butadiene and isoprene rubber manufacturing plant

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** December 12, 2014

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$29,340

**Amount Deferred for Expedited Settlement:** \$5,868

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

**Total Paid to General Revenue:** \$11,736

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

Payment Plan: N/A

**SEP Conditional Offset:** \$11,736

Name of SEP: Barber's Hill Independent School District (Third-Party Pre-Approved)

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - Satisfactory

**Major Source:** Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** April 2014

**Executive Summary – Enforcement Matter – Case No. 48926**

**LCY Elastomers LP**

**RN102325974**

**Docket No. 2014-1267-AIR-E**

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** April 21, 2014

**Date(s) of NOE(s):** June 19, 2014

***Violation Information***

Failed to continuously monitor volatile organic compounds (“VOC”) emissions from the cooling tower, Emission Point No. VE-9, from November 26, 2011 through July 9, 2013. Specifically, the cooling tower was equipped with a VOC monitoring device; however, the monitoring device was not operating properly to continuously monitor the VOC flow rate from the cooling tower inlet [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), Federal Operating Permit No. O1756, Special Terms and Conditions No. 9, and New Source Review Permit No. 20311, Special Conditions No. 11].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

On July 9, 2013, the Respondent replaced the serial port and communication board in order for the monitoring device to continuously monitor and record the VOC emissions from the cooling tower inlet.

**Technical Requirements:**

The Order will require the Respondent to implement and complete a Supplemental Environmental Project (“SEP”). (See SEP Attachment A)

***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. 48926**  
**LCY Elastomers LP**  
**RN102325974**  
**Docket No. 2014-1267-AIR-E**

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Rajesh Acharya, Enforcement Division,  
Enforcement Team 4, MC 149, (512) 239-0577; Candy Garrett, Enforcement Division,  
MC 219, (512) 239-1456

**TCEQ SEP Coordinator:** Stuart Beckley, SEP Coordinator, Enforcement Division,  
MC 219, (512) 239-3565

**Respondent:** Bowei Lee, Governing Person, LCY Elastomers LP, 4803 Decker Drive,  
Baytown, Texas 77520

Nolan Smith, Site General Manager, LCY Elastomers LP, 4803 Decker Drive, Baytown,  
Texas 77520

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



**Attachment A**  
**Docket Number: 2014-1267-AIR-E**  
**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>LCY Elastomers LP</b>
<b>Penalty Amount:</b>	<b>Twenty-Three Thousand Four Hundred Seventy-Two Dollars (\$23,472)</b>
<b>SEP Offset Amount:</b>	<b>Eleven Thousand Seven Hundred Thirty-Six Dollars (\$11,736)</b>
<b>Type of SEP:</b>	<b>Contribution to a Third-Party Pre-Approved SEP</b>
<b>Third-Party Administrator:</b>	<b>Barber’s Hill Independent School District</b>
<b>Project Name:</b>	<b><i>Alternative Fuel School Bus Replacement</i></b>
<b>Location of SEP:</b>	<b>Chambers County</b>

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to **Barber’s Hill Independent School District** (“Barber’s Hill ISD”) for the *Alternative Fuel School Bus Replacement* program. The contribution will be used in accordance with the SEP Agreement between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount shall be used to reduce carbon monoxide (“CO”), nitrogen oxides (“NO<sub>x</sub>”), particulate matter (“PM”), and volatile organic compounds (“VOCs”) emissions by replacing older school buses with new propane-fueled buses. The Third-Party Administrator shall ensure that each replacement bus purchased has an engine that meets 2010 EPA Standards. The Third-Party Administrator has invested in propane fueling infrastructure to support the operation of new propane-fueled buses. The Third-Party Administrator shall give preference to replacing the oldest, most polluting buses currently in use. Only older buses that are currently in regular use, driven on a regular route on a weekly basis for at least the past two years are eligible for replacement. The SEP Offset Amount will only be used for the purchase of a base model propane-fueled Replacement Bus. The Third-Party Administrator shall own and operate each Replacement Bus for at least five (5) years following the date of purchase. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used for the direct cost of implementing the Project, including but not limited to supplies, materials, and equipment. Any portion of this contribution that is not able to be spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

This SEP will directly benefit air quality by reducing harmful exhaust emissions that contribute to the formation of ozone and may cause or exacerbate a number of respiratory diseases, including asthma. For example, by replacing a 1989 diesel bus with a new 2010 ultra-low emission model, passengers' exposures to NO<sub>x</sub> may be reduced by 98 percent; VOCs by 93 percent; CO by 83 percent; and PM by 99 percent.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Barber's Hill ISD SEP** and shall mail the contribution with a copy of the Agreed Order to:

John Johnson, Consultant  
Carl R. Griffith & Associates, Inc.  
2901 Turtle Creek Drive, Suite 445  
Port Arthur, Texas 77642

**3. Records and Reporting**

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

LCY Elastomers LP  
Agreed Order - Attachment A

Texas Commission on Environmental Quality  
Enforcement Division  
Attention: SEP Coordinator, MC 219  
P.O. Box 13087  
Austin, Texas 78711-3087

#### 4. **Failure to Fully Perform**

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality;" and shall mail it to:

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087

#### 5. **Publicity**

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

#### 6. **Clean Texas Program**

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**7. Other SEPs by TCEQ or Other Agencies**

The SEP Offset Amount identified in this Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

**TCEQ**

<b>DATES</b>	<b>Assigned PCW</b>	23-Jun-2014	<b>Screening</b>	2-Jul-2014	<b>EPA Due</b>	
--------------	---------------------	-------------	------------------	------------	----------------	--

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	LCY Elastomers LP
<b>Reg. Ent. Ref. No.</b>	RN102325974
<b>Facility/Site Region</b>	12-Houston
<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	48926	<b>No. of Violations</b>	1
<b>Docket No.</b>	2014-1267-AIR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Rajesh Acharya
		<b>EC's Team</b>	Enforcement Team 4
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## 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, two NOVs with dissimilar violations, and one order with a denial of liability.

**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    
 Estimated 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: Recommended enhancement to capture the avoided cost of compliance associated with the violation.

**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: Deferral offered for expedited settlement.

**PAYABLE PENALTY**

Screening Date 2-Jul-2014

Docket No. 2014-1267-AIR-E

PCW

Respondent LCY Elastomers LP

Policy Revision 4 (April 2014)

Case ID No. 48926

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102325974

Media [Statute] Air

Enf. Coordinator Rajesh Acharya

**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	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgments 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> )	0	0%
	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)**

>> **Repeat Violator (Subtotal 3)**

**Adjustment Percentage (Subtotal 3)**

>> **Compliance History Person Classification (Subtotal 7)**

**Adjustment Percentage (Subtotal 7)**

>> **Compliance History Summary**

**Compliance History Notes**

Enhancement for one NOV with same/similar violations, two NOVs with dissimilar violations, and one order with a denial of liability.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)**

>> **Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%**

Screening Date 2-Jul-2014

Docket No. 2014-1267-AIR-E

PCW

Respondent LCY Elastomers LP

Policy Revision 4 (April 2014)

Case ID No. 48926

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102325974

Media [Statute] Air

Enf. Coordinator Rajesh Acharya

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), Tex. Health & Safety Code § 382.085(b), Federal Operating Permit No. O1756, Special Terms and Conditions No. 9, and New Source Review Permit No. 20311, Special Conditions No. 11

Violation Description Failed to continuously monitor Volatile Organic Compounds ("VOC") emissions from the cooling tower, Emission Point No. VE-9, from November 26, 2011 through July 9, 2013. Specifically, the cooling tower was equipped with a VOC monitoring device; however, the monitoring device was not operating properly to continuously monitor the VOC flow rate from the cooling tower inlet.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 7

591 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$26,250

Seven quarterly events are recommended from November 26, 2011 to the compliance date of July 9, 2013.

Good Faith Efforts to Comply

25.0%

Reduction \$6,562

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

Notes

The Respondent came into compliance on July 9, 2013, before the Notice of Enforcement dated June 19, 2014.

Violation Subtotal \$19,688

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2,040

Violation Final Penalty Total \$29,341

This violation Final Assessed Penalty (adjusted for limits) \$29,341

# Economic Benefit Worksheet

**Respondent** LCY Elastomers LP  
**Case ID No.** 48926  
**Reg. Ent. Reference No.** RN102325974  
**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	\$5,000	26-Nov-2011	9-Jul-2013	1.62	\$27	\$540	\$567
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)				0.00	\$0	n/a	\$0

#### Notes for DELAYED costs

Estimated cost to replace the serial port and communication board in order for the monitoring device to continuously monitor and record the VOC emissions from the cooling tower inlet. The Date Required is the violation start date. The Final Date is the date of compliance.

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$1,200	26-Nov-2011	9-Jul-2013	1.62	\$97	\$1,943	\$2,040
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

Estimated avoided cost to continuously monitor VOC emissions for the cooling tower (\$100 per month \* 12 months/year). Date Required is the violation start date. Final Date is the compliance date.

Approx. Cost of Compliance

\$6,200

**TOTAL**

\$2,607

The TCEQ is committed to accessibility.  
To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



# TCEQ Compliance History Report

**PUBLISHED** Compliance History Report for CN602579542, RN102325974, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

**Customer, Respondent, or Owner/Operator:** CN602579542, LCY Elastomers LP      **Classification:** SATISFACTORY      **Rating:** 2.28

**Regulated Entity:** RN102325974, LCY ELASTOMERS      **Classification:** SATISFACTORY      **Rating:** 2.28

**Complexity Points:** 21      **Repeat Violator:** NO

**CH Group:** 05 - Chemical Manufacturing

**Location:** 4803 DECKER DR BAYTOWN, TX 77520-1447, HARRIS COUNTY

**TCEQ Region:** REGION 12 - HOUSTON

**ID Number(s):**

**AIR OPERATING PERMITS** ACCOUNT NUMBER HG3757A

**INDUSTRIAL AND HAZARDOUS WASTE** EPA ID  
TXD988067070

**AIR NEW SOURCE PERMITS** PERMIT 20311

**AIR NEW SOURCE PERMITS** ACCOUNT NUMBER HG3757A

**AIR NEW SOURCE PERMITS** REGISTRATION 112539

**WASTEWATER** PERMIT WQ0004772000

**AIR EMISSIONS INVENTORY** ACCOUNT NUMBER  
HG3757A

**AIR OPERATING PERMITS** PERMIT 1756

**INDUSTRIAL AND HAZARDOUS WASTE** SOLID WASTE  
REGISTRATION # (SWR) 23457

**AIR NEW SOURCE PERMITS** PERMIT 42213

**AIR NEW SOURCE PERMITS** AFS NUM 4820101298

**STORMWATER** PERMIT TXR05T536

**WASTEWATER** EPA ID TX0128015

**POLLUTION PREVENTION PLANNING** ID NUMBER  
P01973

**Compliance History Period:** September 01, 2008 to August 31, 2013      **Rating Year:** 2013      **Rating Date:** 09/01/2013

**Date Compliance History Report Prepared:** June 30, 2014

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** June 30, 2009 to June 30, 2014

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**

**Name:** Rajesh Acharya

**Phone:** (512) 239-0577

**Site and Owner/Operator History:**

- 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 for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

**Components (Multimedia) for the Site Are Listed in Sections A - J**

**A. Final Orders, court judgments, and consent decrees:**

1      Effective Date: 11/13/2009      ADMINORDER 2009-0853-IWD-E (1660 Order-Agreed Order With Denial)

Classification: Major

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Effluent Limits PERMIT

Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

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

Item 1	September 04, 2009	(821822)
Item 2	December 11, 2009	(821825)
Item 3	December 28, 2009	(786683)
Item 4	January 13, 2010	(821826)
Item 5	May 14, 2010	(836950)
Item 6	July 22, 2010	(862572)
Item 7	August 16, 2010	(869190)
Item 8	September 16, 2010	(876073)
Item 9	October 07, 2010	(883665)
Item 10	February 09, 2011	(911160)
Item 11	May 20, 2011	(900090)
Item 12	June 20, 2011	(947560)
Item 13	July 14, 2011	(954818)
Item 14	October 18, 2011	(973463)
Item 15	November 08, 2011	(979589)
Item 16	December 19, 2011	(986445)
Item 17	February 29, 2012	(1000164)
Item 18	March 08, 2012	(1005653)
Item 19	May 18, 2012	(1018618)
Item 20	June 27, 2012	(1033676)
Item 21	August 10, 2012	(1040234)
Item 22	August 23, 2012	(1070739)
Item 23	September 04, 2012	(1027623)
Item 24	September 05, 2012	(1027610)
Item 25	September 12, 2012	(1049206)
Item 26	November 13, 2012	(1070740)
Item 27	December 14, 2012	(1070741)
Item 28	February 08, 2013	(1083599)
Item 29	February 25, 2013	(1059286)
Item 30	March 07, 2013	(1091533)
Item 31	May 06, 2013	(1108912)
Item 32	June 14, 2013	(1112469)
Item 33	August 14, 2013	(1127176)
Item 34	September 10, 2013	(1131710)
Item 35	October 07, 2013	(1137458)
Item 36	November 14, 2013	(1142878)
Item 37	November 18, 2013	(1155402)
Item 38	December 11, 2013	(1149292)
Item 39	February 05, 2014	(1162722)
Item 40	March 06, 2014	(1169321)
Item 41	April 09, 2014	(1176520)

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

- |   |  |             |                          |
|---|--|-------------|--------------------------|
| 1 | Date: 06/30/2013 (1119429)   | CN602579542 |                          |
|   | Self Report? YES   |             | Classification: Moderate |
|   | Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)<br>30 TAC Chapter 305, SubChapter F 305.125(1) |             |                          |
|   | Description: Failure to meet the limit for one or more permit parameter                            |             |                          |
| 2 | Date: 12/09/2013 (1134096)   | CN602579542 |                          |
|   | Self Report? NO  |             | Classification: Moderate |
|   | Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  |             |                          |

Effluent Limitations & Monitoring Req #1 PERMIT  
Description: Failed to maintain compliance with the permitted effluent limits.  
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Monitoring & Reporting Requirements # 7C PERMIT  
Description: Failed to provide notification of any effluent violation which deviates from the permitted effluent limitation by more than 40%.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 319, SubChapter A 319.1  
Description: Failed to accurately complete the discharge monitoring reports (DMRs).

3 Date: 06/19/2014 (1152494) CN602579542  
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 1 PERMIT  
Special Terms and Condition 9A OP  
Description: Failure to comply with the maximum emission rate (MAER) of PM and PM10 for the cooling tower (EPN VE-9), and 1,3-butadiene and VOC for the low pressure flare (EPN VE-7) and high pressure flare (EPN VE-12). (Category B13)  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.145(2)(A)  
5C THSC Chapter 382 382.085(b)  
General Terms and Conditions OP  
Description: Failure to report all instances of deviations (Category C3).  
Self Report? NO Classification: Moderate  
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)  
5C THSC Chapter 382 382.085(b)  
Special Condition 9A PERMIT  
Special Terms and Conditions 1A & 9 OP  
Description: Failure to prevent the heating value of the flared waste gas stream from dropping below 300 Btu/scf (Category C4).  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 115, SubChapter H 115.766(a)(2)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
Special Terms and Conditions 1A OP  
Description: Failure to record the HRVOC monitoring concentration data for the cooling tower. Category B3

**F. Environmental audits:**

N/A

**G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
LCY ELASTOMERS LP  
RN102325974**

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

**AGREED ORDER  
DOCKET NO. 2014-1267-AIR-E**

**I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding LCY Elastomers LP ("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 together stipulate that:

1. The Respondent owns and operates a styrene, butadiene, and isoprene rubber manufacturing plant at 4803 Decker Drive in Baytown, Harris County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about June 24, 2014.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Twenty-Nine Thousand Three Hundred Forty Dollars (\$29,340) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Eleven Thousand Seven

Hundred Thirty-Six Dollars (\$11,736) of the administrative penalty and Five Thousand Eight Hundred Sixty-Eight Dollars (\$5,868) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Eleven Thousand Seven Hundred Thirty-Six Dollars (\$11,736) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that on July 9, 2013, the Respondent replaced the serial port and communication board in order for the monitoring device to continuously monitor and record the volatile organic compounds ("VOC") emissions from the cooling tower inlet.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have failed to continuously monitor VOC emissions from the cooling tower, Emission Point No. VE-9, from November 26, 2011 through July 9, 2013, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), Federal Operating Permit No. O1756, Special Terms and Conditions No. 9, and New Source Review Permit No. 20311, Special Conditions No. 11, as documented during an investigation conducted on April 21, 2014. Specifically, the cooling tower was equipped with a VOC monitoring device; however, the monitoring device was not operating properly to continuously monitor the VOC flow rate from the cooling tower inlet.

### III. DENIALS

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

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: LCY Elastomers LP, Docket No. 2014-1267-AIR-E" to:

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

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Eleven Thousand Seven Hundred Thirty-Six Dollars (\$11,736) of the assessed administrative penalty shall be offset with the condition that the Respondent implements the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in 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.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

2/18/15  
\_\_\_\_\_  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

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

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

  
\_\_\_\_\_  
Signature

November 10, 2014  
\_\_\_\_\_  
Date

Nolan Smith  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
LCY Elastomers LP

Site General Manager  
\_\_\_\_\_  
Title

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



**Attachment A**  
**Docket Number: 2014-1267-AIR-E**  
**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>LCY Elastomers LP</b>
<b>Penalty Amount:</b>	<b>Twenty-Three Thousand Four Hundred Seventy-Two Dollars (\$23,472)</b>
<b>SEP Offset Amount:</b>	<b>Eleven Thousand Seven Hundred Thirty-Six Dollars (\$11,736)</b>
<b>Type of SEP:</b>	<b>Contribution to a Third-Party Pre-Approved SEP</b>
<b>Third-Party Administrator:</b>	<b>Barber’s Hill Independent School District</b>
<b>Project Name:</b>	<b><i>Alternative Fuel School Bus Replacement</i></b>
<b>Location of SEP:</b>	<b>Chambers County</b>

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to **Barber’s Hill Independent School District** (“Barber’s Hill ISD”) for the *Alternative Fuel School Bus Replacement* program. The contribution will be used in accordance with the SEP Agreement between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount shall be used to reduce carbon monoxide (“CO”), nitrogen oxides (“NO<sub>x</sub>”), particulate matter (“PM”), and volatile organic compounds (“VOCs”) emissions by replacing older school buses with new propane-fueled buses. The Third-Party Administrator shall ensure that each replacement bus purchased has an engine that meets 2010 EPA Standards. The Third-Party Administrator has invested in propane fueling infrastructure to support the operation of new propane-fueled buses. The Third-Party Administrator shall give preference to replacing the oldest, most polluting buses currently in use. Only older buses that are currently in regular use, driven on a regular route on a weekly basis for at least the past two years are eligible for replacement. The SEP Offset Amount will only be used for the purchase of a base model propane-fueled Replacement Bus. The Third-Party Administrator shall own and operate each Replacement Bus for at least five (5) years following the date of purchase. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used for the direct cost of implementing the Project, including but not limited to supplies, materials, and equipment. Any portion of this contribution that is not able to be spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

This SEP will directly benefit air quality by reducing harmful exhaust emissions that contribute to the formation of ozone and may cause or exacerbate a number of respiratory diseases, including asthma. For example, by replacing a 1989 diesel bus with a new 2010 ultra-low emission model, passengers' exposures to NO<sub>x</sub> may be reduced by 98 percent; VOCs by 93 percent; CO by 83 percent; and PM by 99 percent.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Barber's Hill ISD SEP** and shall mail the contribution with a copy of the Agreed Order to:

John Johnson, Consultant  
Carl R. Griffith & Associates, Inc.  
2901 Turtle Creek Drive, Suite 445  
Port Arthur, Texas 77642

**3. Records and Reporting**

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

LCY Elastomers LP  
Agreed Order - Attachment A

Texas Commission on Environmental Quality  
Enforcement Division  
Attention: SEP Coordinator, MC 219  
P.O. Box 13087  
Austin, Texas 78711-3087

#### 4. Failure to Fully Perform

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality;" and shall mail it to:

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087

#### 5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ.** Such statements include advertising, public relations, and press releases.

#### 6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

LCY Elastomers LP  
Agreed Order - Attachment A

**7. Other SEPs by TCEQ or Other Agencies**

The SEP Offset Amount identified in this Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.