

Executive Summary – Enforcement Matter – Case No. 50079

LCY ELASTOMERS LP

RN102325974

Docket No. 2015-0243-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:

Chemical 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: June 12, 2015

Comments Received: No

Penalty Information

Total Penalty Assessed: \$31,500

Amount Deferred for Expedited Settlement: \$6,300

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$25,200

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project ("SEP") Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

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LCY ELASTOMERS LP
RN102325974
Docket No. 2015-0243-AIR-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: December 5, 2014 through December 9, 2014

Date(s) of NOE(s): December 29, 2014

Violation Information

1. Failed to comply with the annual allowable particulate matter ("PM") and PM equal to or less than 10 microns in diameter/PM equal to or less than 2.5 microns in diameter ("PM10/PM2.5") emissions rates for the Cooling Tower, Emission Point Number ("EPN") VE-9. Specifically, the Respondent exceeded the annual allowable PM emissions rate of 0.61 ton per year ("tpy") and the annual allowable PM10/PM2.5 emissions rate of 0.45 tpy, based on a 12-month rolling period, for the 12-month period from January 2012 through December 2012, resulting in the unauthorized release of approximately 120 pounds ("lbs") of PM and 100 lbs of PM10/PM2.5 [30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and (c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), Federal Operating Permit ("FOP") No. O1756, Special Terms and Conditions ("STC") No. 11, and New Source Review ("NSR") Permit No. 20311, Special Conditions ("SC") No. 1].

2. Failed to comply with the annual allowable volatile organic compounds ("VOC") and 1,3-butadiene emissions rates for the Low Pressure Flare and High Pressure Flare, EPNs VE-7 and VE-12, respectively. Specifically, the Respondent exceeded the annual allowable VOC emissions rate of 3.53 tpy and the annual allowable 1,3-butadiene emissions rate of 0.77 tpy, based on a 12-month rolling period, for the 12-month period from January 2012 through December 2012, resulting in the unauthorized release of approximately 1,600 lbs of VOC and 1,740 lbs of 1,3-butadiene [30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and (c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), FOP No. O1756, STC No. 11, and NSR Permit No. 20311, SC No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

a. Within 30 days:

i. Implement measures and/or procedures to ensure compliance with the annual allowable PM and PM10/PM2.5 emissions rates for EPN VE-9; and

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RN102325974
Docket No. 2015-0243-AIR-E

- ii. Implement measures and/or procedures to ensure compliance with the annual allowable VOC and 1,3-butadiene emissions rates for EPNs VE-7 and VE-12; or
 - iii. Submit an administratively complete permit amendment application for NSR Permit No. 20311 to increase the emissions rates for EPNs VE-9, VE-7, and VE-12.
- b. If a permit amendment application is submitted, respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the application within 30 days after the date of such requests, or by any other deadline specified in writing;
- c. Within 45 days, submit written certification demonstrating compliance with a.i., a.ii., and/or a.iii.
- d. If a permit amendment application is submitted, then within 180 days, submit written certification to demonstrate that either the amendment to NSR Permit No. 20311 has been obtained or that operation has ceased until such time that appropriate authorization is obtained.

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

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Jessica Schildwachter, Enforcement Division, Enforcement Team 5, MC 149, (512) 239-2617; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456
TCEQ SEP Coordinator: N/A
Respondent: Nolan Smith, Site General Manager, LCY ELASTOMERS LP, 4803 Decker Drive, Baytown, Texas 77520
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

TCEQ

DATES	Assigned	10-Feb-2015	Screening	10-Feb-2015	EPA Due	
	PCW	16-Mar-2015				

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

CASE INFORMATION			
Enf./Case ID No.	50079	No. of Violations	2
Docket No.	2015-0243-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Jessica Schildwachter
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$30,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1
 Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	5.0% Enhancement	Subtotals 2, 3, & 7	\$1,500
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Notes: Enhancement for one NOV with same or similar violations.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$2,000
 Estimated Cost of Compliance: \$10,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$31,500
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$31,500
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$31,500
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DEFERRAL	20.0% Reduction	Adjustment	-\$6,300
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$25,200
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Screening Date 10-Feb-2015

Docket No. 2015-0243-AIR-E

PCW

Respondent LCY ELASTOMERS LP

Policy Revision 4 (April 2014)

Case ID No. 50079

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102325974

Media [Statute] Air

Enf. Coordinator Jessica Schildwachter

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	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<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) 5%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with same or similar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 5%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 5%

Screening Date 10-Feb-2015

Docket No. 2015-0243-AIR-E

PCW

Respondent LCY ELASTOMERS LP

Policy Revision 4 (April 2014)

Case ID No. 50079

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102325974

Media [Statute] Air

Enf. Coordinator Jessica Schildwachter

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 116.115(b)(2)(F) and (c) and 122.143(4), Tex. Health & Safety Code § 382.085(b), Federal Operating Permit ("FOP") No. O1756, Special Terms and Conditions ("STC") No. 11, and New Source Review ("NSR") Permit No. 20311, Special Conditions ("SC") No. 1

Violation Description

Failed to comply with the annual allowable particulate matter ("PM") and PM equal to or less than 10 microns in diameter/PM equal to or less than 2.5 microns in diameter ("PM10/PM2.5") emissions rates for the Cooling Tower, Emission Point Number ("EPN") VE-9. Specifically, the Respondent exceeded the annual allowable PM emissions rate of 0.61 ton per year ("tpy") and the annual allowable PM10/PM2.5 emissions rate of 0.45 tpy, based on a 12-month rolling period, for the 12-month period from January 2012 through December 2012, resulting in the unauthorized release of approximately 120 pounds ("lbs") of PM and 100 lbs of PM10/PM2.5.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do 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 4

365 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$15,000

Four quarterly events are recommended for the period of non-compliance that occurred from January 1, 2012 through December 31, 2012.

Good Faith Efforts to Comply

0.0%

Reduction \$0

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

Notes

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

Violation Subtotal \$15,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,000

Violation Final Penalty Total \$15,750

This violation Final Assessed Penalty (adjusted for limits) \$15,750

Economic Benefit Worksheet

Respondent LCY ELASTOMERS LP
Case ID No. 50079
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				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	1-Jan-2012	31-Dec-2015	4.00	\$1,000	n/a	\$1,000

Notes for DELAYED costs

Estimated cost to implement measures and/or procedures to ensure compliance with the allowable annual PM and PM10/PM2.5 emissions rates for EPN VE-9 or to obtain a permit amendment for NSR Permit No. 20311 to increase the emissions rates for EPN VE-9. The Date Required is the first date of non-compliance and 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

\$5,000

TOTAL

\$1,000

Screening Date 10-Feb-2015

Docket No. 2015-0243-AIR-E

PCW

Respondent LCY ELASTOMERS LP

Policy Revision 4 (April 2014)

Case ID No. 50079

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102325974

Media [Statute] Air

Enf. Coordinator Jessica Schildwachter

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(b)(2)(F) and (c) and 122.143(4), Tex. Health & Safety Code § 382.085(b), FOP No. O1756, STC No. 11, and NSR Permit No. 20311, SC No. 1

Violation Description Failed to comply with the annual allowable volatile organic compounds ("VOC") and 1,3-butadiene emissions rates for the Low Pressure Flare and High Pressure Flare, EPNs VE-7 and VE-12, respectively. Specifically, the Respondent exceeded the annual allowable VOC emissions rate of 3.53 tpy and the annual allowable 1,3-butadiene emissions rate of 0.77 tpy, based on a 12-month rolling period, for the 12-month period from January 2012 through December 2012, resulting in the unauthorized release of approximately 1,600 lbs of VOC and 1,740 lbs of 1,3-butadiene.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	15.0%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
				0.0%

Matrix Notes Human health or the environment has been exposed to insignificant amounts of pollutants which do 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 4 Number of violation days 365

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$15,000

Four quarterly events are recommended for the period of non-compliance that occurred from January 1, 2012 through December 31, 2012.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

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

Violation Subtotal \$15,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,000

Violation Final Penalty Total \$15,750

This violation Final Assessed Penalty (adjusted for limits) \$15,750

Economic Benefit Worksheet

Respondent LCY ELASTOMERS LP
Case ID No. 50079
Reg. Ent. Reference No. RN102325974
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
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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)	\$5,000	1-Jan-2012	31-Dec-2015	4.00	\$1,000	n/a	\$1,000

Notes for DELAYED costs

Estimated cost to implement measures and/or procedures to ensure compliance with the allowable annual VOC and 1,3-butadiene emissions rates for EPNs VE-7 and VE-12 or to obtain a permit amendment for NSR Permit No. 20311 to increase the emissions rates for EPNs VE-7 and VE-12. The Date Required is the first date of non-compliance and 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	\$5,000	TOTAL	\$1,000
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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 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator: CN602579542, LCY ELASTOMERS LP **Classification:** SATISFACTORY **Rating:** 1.56

Regulated Entity: RN102325974, LCY ELASTOMERS **Classification:** SATISFACTORY **Rating:** 1.56

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, 2009 to August 31, 2014 **Rating Year:** 2014 **Rating Date:** 09/01/2014

Date Compliance History Report Prepared: March 09, 2015

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: March 09, 2010 to March 09, 2015

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

Name: Jessica Schildwachter

Phone: (512) 239-2617

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:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	May 14, 2010	(836950)
Item 2	July 22, 2010	(862572)
Item 3	August 16, 2010	(869190)
Item 4	September 16, 2010	(876073)
Item 5	October 07, 2010	(883665)
Item 6	February 09, 2011	(911160)
Item 7	May 20, 2011	(900090)
Item 8	June 20, 2011	(947560)
Item 9	July 14, 2011	(954818)
Item 10	October 18, 2011	(973463)
Item 11	November 08, 2011	(979589)
Item 12	December 19, 2011	(986445)
Item 13	February 29, 2012	(1000164)
Item 14	March 08, 2012	(1005653)
Item 15	May 18, 2012	(1018618)
Item 16	June 27, 2012	(1033676)
Item 17	August 10, 2012	(1040234)
Item 18	August 23, 2012	(1070739)
Item 19	September 04, 2012	(1027623)
Item 20	September 05, 2012	(1027610)
Item 21	September 12, 2012	(1049206)
Item 22	November 13, 2012	(1070740)
Item 23	December 14, 2012	(1070741)
Item 24	February 08, 2013	(1083599)
Item 25	February 25, 2013	(1059286)
Item 26	March 07, 2013	(1091533)
Item 27	May 06, 2013	(1108912)
Item 28	June 14, 2013	(1112469)
Item 29	August 14, 2013	(1127176)
Item 30	September 10, 2013	(1131710)
Item 31	October 07, 2013	(1137458)
Item 32	November 14, 2013	(1142878)
Item 33	November 18, 2013	(1155402)
Item 34	December 11, 2013	(1149292)
Item 35	February 05, 2014	(1162722)
Item 36	March 06, 2014	(1169321)
Item 37	April 09, 2014	(1176520)
Item 38	May 19, 2014	(1182768)
Item 39	June 16, 2014	(1189634)
Item 40	July 18, 2014	(1201692)
Item 41	August 19, 2014	(1201693)
Item 42	September 07, 2014	(1207937)
Item 43	October 17, 2014	(1214341)
Item 44	November 14, 2014	(1220567)
Item 45	December 15, 2014	(1226406)

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:	06/19/2014 (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 A4)	
	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)

Description: General Terms and Conditions OP
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. 2015-0243-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 chemical manufacturing plant located 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 January 3, 2015.
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 Thirty-One Thousand Five Hundred Dollars (\$31,500) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Twenty-Five Thousand Two Hundred Dollars (\$25,200) of the administrative penalty and Six Thousand Three

Hundred Dollars (\$6,300) 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.

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 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.
10. 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.
11. 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:

1. Failed to comply with the annual allowable particulate matter ("PM") and PM equal to or less than 10 microns in diameter/PM equal to or less than 2.5 microns in diameter ("PM10/PM2.5") emissions rates for the Cooling Tower, Emission Point Number ("EPN") VE-9, in violation of 30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and (c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), Federal Operating Permit ("FOP") No. O1756, Special Terms and Conditions ("STC") No. 11, and New Source Review ("NSR") Permit No. 20311, Special Conditions ("SC") No. 1, as documented during a record review conducted from December 5, 2014 through December 9, 2014. Specifically, the Respondent exceeded the annual allowable PM emissions rate of 0.61 ton per year ("tpy") and the annual allowable PM10/PM2.5 emissions rate of 0.45 tpy, based on a 12-month rolling period, for the 12-month period from January 2012 through December 2012, resulting in the unauthorized release of approximately 120 pounds ("lbs") of PM and 100 lbs of PM10/PM2.5.
2. Failed to comply with the annual allowable volatile organic compounds ("VOC") and 1,3-butadiene emissions rates for the Low Pressure Flare and High Pressure Flare, EPNs VE-7 and VE-12, respectively, in violation of 30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and (c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), FOP No. O1756, STC No. 11,

and NSR Permit No. 20311, SC No. 1, as documented during a record review conducted from December 5, 2014 through December 9, 2014. Specifically, the Respondent exceeded the annual allowable VOC emissions rate of 3.53 tpy and the annual allowable 1,3-butadiene emissions rate of 0.77 tpy, based on a 12-month rolling period, for the 12-month period from January 2012 through December 2012, resulting in the unauthorized release of approximately 1,600 lbs of VOC and 1,740 lbs of 1,3-butadiene.

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. 2015-0243-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. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order:
 - i. Implement measures and/or procedures to ensure compliance with the annual allowable PM and PM₁₀/PM_{2.5} emissions rates for EPN VE-9; and
 - ii. Implement measures and/or procedures to ensure compliance with the annual allowable VOC and 1,3-butadiene emissions rates for EPNs VE-7 and VE-12; or
 - iii. Submit an administratively complete permit amendment application for NSR Permit No. 20311 to increase the emissions rates for EPNs VE-9, VE-7, and VE-12, in accordance with 30 TEX. ADMIN. CODE § 116.111, to:

Air Permits Division, MC 163
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- b. If a permit amendment application is submitted, respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the application within 30 days after the date of such requests, or by any other deadline specified in writing;
- c. Within 45 days after the effective date of this Agreed Order, submit written certification demonstrating compliance with Ordering Provision Nos. 2.a.i., 2.a.ii., and/or 2.a.iii., as described in Ordering Provision No. 2.e.;
- d. If a permit amendment application is submitted, then within 180 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.e. to demonstrate that either the amendment to NSR Permit No. 20311 has been obtained or that operation has ceased until such time that appropriate authorization is obtained; and
- e. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation including photographs, receipts, and/or other records and 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. 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

9/11/15
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

May 13, 2015
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.