

**SOAH DOCKET NO. 582-13-5326
TCEQ DOCKET NO. 2012-1799-AIR-E**

EXECUTIVE DIRECTOR OF THE	§	BEFORE THE
TEXAS COMMISSION ON	§	
ENVIRONMENTAL QUALITY,	§	
Petitioner	§	
v.	§	STATE OFFICE OF
	§	
CITGO REFINING AND CHEMICALS	§	
COMPANY L.P.,	§	
Respondent	§	ADMINISTRATIVE HEARINGS

THE EXECUTIVE DIRECTOR'S EXCEPTIONS TO THE PROPOSED ORDER

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE REBECCA SMITH (ALJ) AND COMMISSIONERS:

The Executive Director (ED), after reviewing the ALJ's Proposal for Decision (PFD) and proposed order (Proposed Order), respectfully files these exceptions for the ALJ's reconsideration and then the Commissioners' consideration.

The ED agrees with the ALJ's determination that the alleged violations occurred, an appropriate penalty is \$9,775 and as to the corrective action. In this document, the ED submits a few minor exceptions to the ALJ's Proposed Order.

I. The ED's exceptions to specific provisions in the ALJ's Proposed Order

The ED submits the following exceptions to the language in the Proposed Order.

A. Finding of Fact No. 7(a)

The ED respectfully recommends that Finding of Fact No. 7(a) be revised as follows (to add the underlined additional citation):

Respondent violated Texas Health & Safety Code § 382.085(b); 30 Texas Administrative Code §§ 101.201(a)(1)(B), 116.115(c) and 122.143(4); Special Terms and Conditions No. 31 of the Federal Permit; and Special Condition No. 4 of the Permit by failing to prevent unauthorized emissions; and

This additional citation is contained in the ED's allegations in the preliminary report and petition, the ED's Initial Closing Briefing, and the ALJ's Proposal for Decision.¹

B. Conclusion of Law No. 10

For the reasons enumerated above in section I.A, the ED respectfully recommends that Conclusion of Law No. 10 be revised as follows (to add the underlined additional citation):

Respondent violated Texas Health & Safety Code § 382.085(b); 30 Texas Administrative Code §§ 116.115(c) and 122.143(4); Special Terms and Conditions No. 31 of the Federal Permit; and Special Condition No. 4 of the Permit by failing to prevent unauthorized emissions.

C. Ordering Provision No. 1

For the reasons enumerated above in section I.A, the ED respectfully recommends that Ordering Provision No. 1 be revised as follows (to add the underlined additional citation):

Within 30 days after the effective date of this Commission Order, Respondent shall pay an administrative penalty in the amount of \$9,975 for its violations of Texas Health & Safety Code § 382.085(b), 30 Texas Administrative Code §§ 101.201(a)(1)(B), 116.115(c) and 122.143(4), Special Terms and Conditions Nos. 2.F and 31 of FOP No. O1423, and Special Condition No. 4 of NSR Permit No. 5418A considered in this case.

D. Ordering Provision No. 6

The ED respectfully recommends that Ordering Provision No. 6 be revised as follows to update the order to reflect the current Air Section Manager of the TCEQ Corpus Christi Regional Office:

~~Rosario Torres~~Kelly Ruble, Air Section Manager
Texas Commission on Environmental Quality
Corpus Christi Regional Office
6300 Ocean Drive, Suite 1200
Corpus Christi, Texas 76118-6951

II. Conclusion and Prayer

For these reasons, the ED respectfully requests the ALJ recommend and the Commission adopt the ED's exceptions.

¹ ED-A at 2, para. 6.a., the ED's Initial Closing Briefing at 6, and the ALJ's Proposal for Decision at 5-6.

Respectfully submitted,

Texas Commission on Environmental Quality

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CERTIFICATE OF SERVICE

I hereby certify that on November 18, 2014, the foregoing original document and seven (7) copies were filed with the Chief Clerk, Texas Commission on Environmental Quality, Austin, Texas; the document was electronically filed with the Chief Clerk as well.

I further certify that on this day the foregoing document was served as indicated:

The Honorable Administrative Law Judge Rebecca Smith
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