

Executive Summary – Enforcement Matter – Case No. 48398
LyondellBasell Acetyls, LLC
RN100224450
Docket No. 2014-0374-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

LyondellBasell Acetyls, 1350 Miller Cut Off Road, La Porte, Harris County

Type of Operation:

Synthetic organic 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: July 4, 2014

Comments Received: No

Penalty Information

Total Penalty Assessed: \$95,382

Amount Deferred for Expedited Settlement: \$19,076

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$38,153

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$38,153

Name of SEP: Houston Regional Monitoring Corporation

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002 and September 2011

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: January 22, 2014

Date(s) of NOE(s): February 27, 2014

Executive Summary – Enforcement Matter – Case No. 48398
LyondellBasell Acetyls, LLC
RN100224450
Docket No. 2014-0374-AIR-E

Violation Information

1. Failed to conduct monthly volatile organic compound ("VOC") monitoring. Specifically, monthly monitoring of the Acetic Acid ("AA") cooling tower water for VOC leakage from the heat exchangers was not conducted from June 2009 through December 2012 [30 TEX. ADMIN. CODE §§ 101.20(2), 116.115(c), and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), 40 CODE OF FEDERAL REGULATIONS § 63.104(c), Federal Operating Permit ("FOP") No. O1375, Special Terms and Conditions Nos. 1.A and 20, and New Source Review Permit No. 5040, Special Conditions No. 8].

2. Failed to report all instances of deviations. Specifically, the deviation reports for the April 1, 2009 through September 30, 2009, October 1, 2009 through March 31, 2010, April 1, 2010 through September 30, 2010, October 1, 2010 through March 31, 2011, April 1, 2011 through September 30, 2011, October 1, 2011 through March 31, 2012, and April 1, 2012 through September 30, 2012 reporting periods did not include deviations for failure to conduct monthly monitoring of the AA cooling tower water for VOC leakage from the heat exchangers [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), TEX. HEALTH & SAFETY CODE § 382.085(b), and FOP No. O1375, General Terms and Conditions].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent has implemented the following corrective measures:

- a. On January 1, 2013, began conducting monthly monitoring of the AA cooling tower water for VOC leakage from the heat exchangers; and
- b. On April 25, 2013, reported a deviation for failure to conduct monthly monitoring of the AA cooling tower water for VOC leakage from the heat exchangers from June 2009 through December 2012.

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. 48398
LyondellBasell Acetyls, LLC
RN100224450
Docket No. 2014-0374-AIR-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Amancio R. Gutierrez, Enforcement Division, Enforcement Team 5, MC 149, (512) 239-3921; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

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

Respondent: Timothy Westby, Site Manager, LyondellBasell Acetyls, LLC, 1515 Miller Cut Off Road, La Porte, Texas 77571

Gary Wojnowski, Principal Environmental Engineer, LyondellBasell Acetyls, LLC, 1515 Miller Cut Off Road, La Porte, Texas 77571

Respondent's Attorney: N/A

Attachment A
Docket Number: 2014-0374-AIR-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	LyondellBasell Acetyls, LLC
Penalty Amount:	Seventy-Six Thousand Three Hundred Six Dollars (\$76,306)
SEP Offset Amount:	Thirty-Eight Thousand One Hundred Fifty-Three Dollars (\$38,153)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Houston Regional Monitoring Corporation
Project Name:	<i>Houston Area Air Monitoring Project</i>
Location of SEP:	Harris County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The SEP Offset Amount is set forth above and such offset 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 the **Houston Regional Monitoring Corporation** for the *Houston Area Air Monitoring Project* SEP. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to operate a network of ambient air monitoring stations that continuously measure and record concentrations of ambient air pollutants. This network includes the Houston Regional Monitor (“HRM”) 617 Wallisville Road site, the HRM 615 Lynchburg Ferry site, and the HRM 3 Haden Road site. The Third-Party Administrator shall use the SEP Offset Amount to report data from these three existing sites in the Houston Regional Monitoring Corporation ambient air quality monitoring network in the Houston-Galveston Air Quality Control Region No. 216. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely 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 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 provide TCEQ with near real-time access to high quality, short time resolution volatile organic compound, nitrogen oxide, ozone, and meteorological data sets that can be used to evaluate and track air pollution emission events as they occur, conduct source attribution studies, and to assess potential ambient community exposure to a limited number of hazardous air pollutants. Data from the monitors can be used with data from other monitors to provide critical information that can be used to evaluate the effectiveness of current and proposed emission control strategies aimed at achieving compliance with the 8-hour ozone National Ambient Air Quality Standards. It also provides a key source of information that is essential to furthering our overall understanding of those emission sources that contribute to ambient community exposure to toxic air contaminants. Because the information is available in near real-time, it can be used to provide both agency staff and industry personnel with time critical information to investigate emission events in a timely fashion. Another key benefit is the ability to measure the change in the ambient air concentration of the individual target species and quantify control measure effectiveness. Data from these monitors will be publicly accessible through the TCEQ's website and will be used in evaluating air quality in the area, in ozone forecasts, and ozone warnings. Thus, the public will directly benefit by having access to the data and the forecasting and notification tools which can be used for public awareness.

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 contribution payable to **Houston Regional Monitoring Corporation SEP** and shall mail the contribution with a copy of the Agreed Order to:

LyondellBasell Acetyls, LLC
Agreed Order - Attachment A

Houston Regional Monitoring Corporation
c/o Christopher B. Amandes
Morgan, Lewis, & Bockius, LLP
1000 Louisiana, Suite 4000
Houston, Texas 77002

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 due to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

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 the 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 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	3-Mar-2014	Screening	11-Mar-2014	EPA Due	24-Nov-2014
	PCW	11-Mar-2014				

RESPONDENT/FACILITY INFORMATION	
Respondent	LyondellBasell Acetyls, LLC
Reg. Ent. Ref. No.	RN100224450
Facility/Site Region	12-Houston
Major/Minor Source	Major

CASE INFORMATION		No. of Violations	2
Enf./Case ID No.	48398	Order Type	1660
Docket No.	2014-0374-AIR-E	Government/Non-Profit	No
Media Program(s)	Air	Enf. Coordinator	Amancio R. Gutierrez
Multi-Media		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$27,400
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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	87.0% Enhancement	Subtotals 2, 3, & 7	\$23,838
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Notes: Enhancement for one NOV with same or similar violations, two NOVs with dissimilar violations, three orders containing a denial of liability, and one order without a denial of liability. Reduction for five notices of intent to conduct an audit and one disclosure of 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	-\$6,850
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$4,593
 Approx. Cost of Compliance \$2,200
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$44,388
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OTHER FACTORS AS JUSTICE MAY REQUIRE	10.0%	Adjustment	\$4,419
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement to capture the avoided cost of compliance associated with Violation No. 1.

Final Penalty Amount	\$48,807
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$48,807
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DEFERRAL	20.0% Reduction	Adjustment	-\$9,761
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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	\$39,046
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Screening Date 11-Mar-2014

Docket No. 2014-0374-AIR-E

PCW

Respondent LyondellBasell Acetyls, LLC

Policy Revision 2 (September 2002)

Case ID No. 48398

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100224450

Media [Statute] Air

Enf. Coordinator Amancio R. Gutierrez

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>)	3	60%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
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>)	5	-5%
	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>)	1	-2%

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) 87%

>> **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, two NOVs with dissimilar violations, three orders containing a denial of liability, and one order without a denial of liability. Reduction for five notices of intent to conduct an audit and one disclosure of violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 87%

Screening Date 11-Mar-2014

Docket No. 2014-0374-AIR-E

PCW

Respondent LyondellBasell Acetyls, LLC

Policy Revision 2 (September 2002)

Case ID No. 48398

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100224450

Media [Statute] Air

Enf. Coordinator Amancio R. Gutierrez

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 101.20(2), 116.115(c), and 122.143(4), Tex. Health & Safety Code § 382.085(b), 40 Code of Federal Regulations § 63.104(c), Federal Operating Permit ("FOP") No. O1375, Special Terms and Conditions Nos. 1.A and 20, and New Source Review Permit No. 5040, Special Conditions No. 8

Violation Description

Failed to conduct monthly volatile organic compound ("VOC") monitoring. Specifically, monthly monitoring of the Acetic Acid ("AA") cooling tower water for VOC leakage from the heat exchangers was not conducted from June 2009 through August 2011.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			X

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 27

821 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

mark only one with an x

Violation Base Penalty \$27,000

Twenty-seven single events are recommended for the months that monitoring was not conducted.

Good Faith Efforts to Comply

25.0% Reduction

\$6,750

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

Notes The Respondent completed corrective measures on January 1, 2013, before the February 27, 2014 Notice of Enforcement ("NOE").

Violation Subtotal \$20,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4,419

Violation Final Penalty Total \$48,094

This violation Final Assessed Penalty (adjusted for limits) \$48,094

Economic Benefit Worksheet

Respondent LyondellBasell Acetyls, LLC
Case ID No. 48398
Reg. Ent. Reference No. RN100224450
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
<small>No commas or \$</small>							

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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

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	30-Jun-2009	31-Dec-2012	3.51	\$210	\$4,208	\$4,419
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 for not monitoring the AA cooling tower water for VOC leakage from the heat exchangers (\$100 per month x 12 months/year). The Date Required is the date the first monthly monitoring was due and the Final Date is the date the last monthly monitoring was due.

Approx. Cost of Compliance

\$1,200

TOTAL

\$4,419

Screening Date 11-Mar-2014
 Respondent LyondellBasell Acetyls, LLC
 Case ID No. 48398

Docket No. 2014-0374-AIR-E

PCW

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

Reg. Ent. Reference No. RN100224450

Media [Statute] Air

Enf. Coordinator Amancio R. Gutierrez

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code §§ 122.143(4) and 122.145(2)(A), Tex. Health & Safety Code § 382.085(b), and FOP No. O1375, General Terms and Conditions

Violation Description

Failed to report all instances of deviations. Specifically, the deviation reports for the April 1, 2009 through September 30, 2009, October 1, 2009 through March 31, 2010, April 1, 2010 through September 30, 2010, and October 1, 2010 through March 31, 2011 reporting periods did not include deviations for failure to conduct monthly monitoring of the AA cooling tower water for VOC leakage from the heat exchangers.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes

At least 70% of the rule requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 4

1273 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$400

Four single events are recommended based on the four incomplete deviation reports.

Good Faith Efforts to Comply

25.0% Reduction

\$100

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

Notes

The Respondent completed corrective measures on April 25, 2013, before the February 27, 2014 NOE.

Violation Subtotal \$300

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$174

Violation Final Penalty Total \$713

This violation Final Assessed Penalty (adjusted for limits) \$713

Economic Benefit Worksheet

Respondent LyondellBasell Acetyls, LLC
Case ID No. 48398
Reg. Ent. Reference No. RN100224450
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
<small>No commas or \$</small>							

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)	\$1,000	30-Oct-2009	25-Apr-2013	3.49	\$174	n/a	\$174

Notes for DELAYED costs
 Estimated cost to report the deviation. The Date Required is the date the first deviation report was due and 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				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	\$1,000	TOTAL	\$174
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Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES Assigned PCW Screening EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent
 Reg. Ent. Ref. No.
 Facility/Site Region Major/Minor Source

CASE INFORMATION

Enf./Case ID No. No. of Violations
 Docket No. Order Type
 Media Program(s) Government/Non-Profit
 Multi-Media Enf. Coordinator
 EC's Team
 Admin. Penalty \$ Limit Minimum Maximum

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement Subtotals 2, 3, & 7

Notes

Culpability Enhancement Subtotal 4

Notes

Good Faith Effort to Comply Total Adjustments Subtotal 5

Economic Benefit Enhancement* Subtotal 6

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

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

PAYABLE PENALTY

Screening Date 11-Mar-2014

Docket No. 2014-0374-AIR-E

PCW

Respondent LyondellBasell Acetyls, LLC

Policy Revision 3 (September 2011)

Case ID No. 48398

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100224450

Media [Statute] Air

Enf. Coordinator Amancio R. Gutierrez

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>)	3	60%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
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>)	5	-5%
	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>)	1	-2%

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 or similar violations, two NOVs with dissimilar violations, three orders containing a denial of liability, and one order without a denial of liability. Reduction for five notices of intent to conduct an audit and one disclosure of violations.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100%

Screening Date 11-Mar-2014

Docket No. 2014-0374-AIR-E

PCW

Respondent LyondellBasell Acetyls, LLC

Policy Revision 3 (September 2011)

Case ID No. 48398

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100224450

Media [Statute] Air

Enf. Coordinator Amancio R. Gutierrez

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 101.20(2), 116.115(c), and 122.143(4), Tex. Health & Safety Code § 382.085(b), 40 Code of Federal Regulations § 63.104(c), Federal Operating Permit ("FOP") No. O1375, Special Terms and Conditions Nos. 1.A and 20, and New Source Review Permit No. 5040, Special Conditions No. 8

Violation Description Failed to conduct monthly volatile organic compound ("VOC") monitoring. Specifically, monthly monitoring of the Acetic Acid ("AA") cooling tower water for VOC leakage from the heat exchangers was not conducted from September 2011 through December 2012.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (7.0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (0.0%).

Matrix Notes

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

Adjustment \$23,250

\$1,750

Violation Events

Number of Violation Events 16 Number of violation days 487

Table with columns: Frequency (daily, weekly, monthly, quarterly, semiannual, annual, single event), mark only one with an x.

Violation Base Penalty \$28,000

Sixteen single events are recommended for the months that monitoring was not conducted.

Good Faith Efforts to Comply

25.0% Reduction \$7,000

Table with columns: Extraordinary, Ordinary, N/A, Reduction.

Notes The Respondent completed corrective measures on January 1, 2013, before the February 27, 2014 Notice of Enforcement ("NOE").

Violation Subtotal \$21,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$45,360

This violation Final Assessed Penalty (adjusted for limits) \$45,360

Economic Benefit Worksheet

Respondent LyondellBasell Acetyls, LLC
Case ID No. 48398
Reg. Ent. Reference No. RN100224450
Media Air
Violation No. 1

Percent Interest 5.0
Years of Depreciation 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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Economic Benefit is included in Violation No. 1 of the accompanying PCW.

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

\$0

TOTAL

\$0

Screening Date 11-Mar-2014
 Respondent LyondellBasell Acetyls, LLC
 Case ID No. 48398

Docket No. 2014-0374-AIR-E

PCW

Policy Revision 3 (September 2011)
 PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100224450
 Media [Statute] Air
 Enf. Coordinator Amancio R. Gutierrez
 Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 122.143(4) and 122.145(2)(A), Tex. Health & Safety Code § 382.085(b), and FOP No. O1375, General Terms and Conditions

Violation Description Failed to report all instances of deviations. Specifically, the deviation reports for the April 1, 2011 through September 30, 2011, October 1, 2011 through March 31, 2012, and April 1, 2012 through September 30, 2012 reporting periods did not include deviations for failure to conduct monthly monitoring of the AA cooling tower water for VOC leakage from the heat exchangers.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
			x	1.0%

Matrix Notes At least 70% of the rule requirement was met.

Adjustment \$24,750

\$250

Violation Events

Number of Violation Events 3 Number of violation days 543

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

Violation Base Penalty \$750

Three single events are recommended based on the three incomplete deviation reports.

Good Faith Efforts to Comply

25.0% Reduction Before NOV NOV to EDPRP/Settlement Offer \$187

Extraordinary	
Ordinary	x
N/A	(mark with x)

Notes The Respondent completed corrective measures on April 25, 2013, before the February 27, 2014 NOE.

Violation Subtotal \$563

Economic Benefit (EB) for this violation

Estimated EB Amount \$0

Statutory Limit Test

Violation Final Penalty Total \$1,216

This violation Final Assessed Penalty (adjusted for limits) \$1,216

Economic Benefit Worksheet

Respondent LyondellBasell Acetyls, LLC
Case ID No. 48398
Reg. Ent. Reference No. RN100224450
Media Air
Violation No. 2

Percent Interest 5.0
Years of Depreciation 15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Economic Benefit is included in Violation No. 2 of the accompanying PCW.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$0

TOTAL \$0



Compliance History Report

PUBLISHED Compliance History Report for CN603674862, RN100224450, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

Customer, Respondent, or Owner/Operator:	CN603674862, LyondellBasell Acetyls, LLC	Classification: SATISFACTORY	Rating: 17.01
Regulated Entity:	RN100224450, LYONDELLBASELL ACETYLS	Classification: SATISFACTORY	Rating: 20.60
Complexity Points:	30	Repeat Violator: NO	
CH Group:	05 - Chemical Manufacturing		
Location:	1350 MILLER CUT OFF RD LA PORTE, TX 77571-9816, HARRIS COUNTY		
TCEQ Region:	REGION 12 - HOUSTON		

ID Number(s):

AIR OPERATING PERMITS ACCOUNT NUMBER HX1726J	AIR OPERATING PERMITS PERMIT 1375
WASTEWATER PERMIT WQ0000534000	WASTEWATER EPA ID TX0002836
INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXD058276130	INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 30049
INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXD000789677	INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 31416
AIR NEW SOURCE PERMITS PERMIT 4751	AIR NEW SOURCE PERMITS PERMIT 5040
AIR NEW SOURCE PERMITS ACCOUNT NUMBER HX1726J	AIR NEW SOURCE PERMITS REGISTRATION 76037
AIR NEW SOURCE PERMITS AFS NUM 4820101487	AIR NEW SOURCE PERMITS REGISTRATION 80295
AIR NEW SOURCE PERMITS REGISTRATION 80967	AIR NEW SOURCE PERMITS PERMIT 83843
AIR NEW SOURCE PERMITS REGISTRATION 91436	AIR NEW SOURCE PERMITS REGISTRATION 87551
AIR NEW SOURCE PERMITS REGISTRATION 99622	AIR NEW SOURCE PERMITS REGISTRATION 101179
AIR NEW SOURCE PERMITS REGISTRATION 108786	AIR NEW SOURCE PERMITS REGISTRATION 108772
AIR NEW SOURCE PERMITS REGISTRATION 106453	IHW CORRECTIVE ACTION SOLID WASTE REGISTRATION # (SWR) 30049
IHW CORRECTIVE ACTION PERMIT 50231	AIR EMISSIONS INVENTORY ACCOUNT NUMBER HX1726J
POLLUTION PREVENTION PLANNING ID NUMBER P00556	

Compliance History Period:	September 01, 2008 to August 31, 2013	Rating Year:	2013	Rating Date:	09/01/2013
Date Compliance History Report Prepared:	March 11, 2014				
Agency Decision Requiring Compliance History:	Enforcement				
Component Period Selected:	March 11, 2009 to March 11, 2014				

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

Name: Amancio R. Gutierrez **Phone:** (512) 239-3921

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: 01/28/2010 ADMINORDER 2009-0133-AIR-E (1660 Order-Agreed Order With Denial)
Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
30 TAC Chapter 116, SubChapter B 116.115(c)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT G 63.113(a)(2)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Permit Special Condition 14 PERMIT

Description: Failed to meet the minimum requirement of 98% DRE or the 20 parts per million volumetric dry ("ppmvd") concentration limit for HAP.

2 Effective Date: 08/30/2010 ADMINORDER 2009-2068-AIR-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

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

Rqmt Prov: SPECIAL CONDITION 6 OP

Description: Failed to prevent unauthorized emissions.

3 Effective Date: 07/31/2011 ADMINORDER 2010-2025-AIR-E (Findings Order-Agreed Order Without Denial)

Classification: Moderate

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

Rqmt Prov: TCEQ Permit No. 4571, SC #6 PERMIT

Description: Failed to prevent unauthorized emissions. The event occurred due to a leak at the manway gasket on the Vinyl Acetate Storage Tank (V605).

Classification: Major

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

Rqmt Prov: TCEQ Permit No. 4751, SC #6 PERMIT

Description: Failed to prevent unauthorized emissions. The Respondent failed to submit sufficient information regarding the cause of the oxygen increase.

4 Effective Date: 03/03/2013 ADMINORDER 2012-1526-AIR-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter H 115.722(c)(1)
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)

Rqmt Prov: SC #6 PERMIT

Special Terms and Conditons No. 20 OP

Description: Failed to prevent unauthorized emissions. Specifically, Respondent released 1,680 pounds of ethylene from a C Train Dry Drum Vent in the Vinyl Acetate Monomers Unit during an avoidable emissions event (Incident No. 168621) that began on May 19, 2012 and lasted three minutes. The event was the result of an oxygen analyzer that malfunctioned due to the loss of steam flow to the heat tracing. Since this emissions event could have been avoided through better operational practices, the Respondent

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	March 18, 2009	(750072)
Item 2	April 15, 2009	(750073)
Item 3	May 19, 2009	(768234)
Item 4	June 10, 2009	(768235)
Item 5	August 24, 2009	(804234)
Item 6	November 18, 2009	(804237)
Item 7	December 15, 2009	(804238)
Item 8	January 20, 2010	(804239)
Item 9	February 17, 2010	(804233)
Item 10	February 25, 2010	(804235)
Item 11	March 16, 2010	(830715)
Item 12	March 31, 2010	(794189)

Published Compliance History Report for CN603674862, RN100224450, Rating Year 2013 which includes Compliance History (CH) components from March 11, 2009, through March 11, 2014.

Item 13	April 12, 2010	(830716)
Item 14	May 18, 2010	(830717)
Item 15	June 04, 2010	(799708)
Item 16	June 07, 2010	(824695)
Item 17	June 15, 2010	(846213)
Item 18	July 13, 2010	(860811)
Item 19	September 16, 2010	(873847)
Item 20	November 18, 2010	(887981)
Item 21	December 10, 2010	(880142)
Item 22	December 16, 2010	(896178)
Item 23	February 15, 2011	(909028)
Item 24	March 08, 2011	(878050)
Item 25	March 10, 2011	(878150)
Item 26	March 17, 2011	(902027)
Item 27	April 14, 2011	(907747)
Item 28	April 19, 2011	(924706)
Item 29	May 12, 2011	(915509)
Item 30	May 17, 2011	(937970)
Item 31	July 19, 2011	(952569)
Item 32	August 12, 2011	(965280)
Item 33	September 22, 2011	(956744)
Item 34	September 23, 2011	(950745)
Item 35	October 13, 2011	(971323)
Item 36	November 10, 2011	(968253)
Item 37	November 11, 2011	(977481)
Item 38	January 20, 2012	(990549)
Item 39	February 17, 2012	(997914)
Item 40	February 27, 2012	(980404)
Item 41	March 19, 2012	(1003431)
Item 42	April 13, 2012	(995356)
Item 43	April 18, 2012	(1009997)
Item 44	May 18, 2012	(1016391)
Item 45	June 19, 2012	(1024114)
Item 46	July 18, 2012	(1031509)
Item 47	October 16, 2012	(1060693)
Item 48	November 19, 2012	(1060694)
Item 49	December 19, 2012	(1060695)
Item 50	January 14, 2013	(1050249)
Item 51	January 18, 2013	(1078853)
Item 52	February 08, 2013	(1043865)
Item 53	February 19, 2013	(1078852)
Item 54	March 18, 2013	(1089251)
Item 55	April 08, 2013	(1095645)
Item 56	May 16, 2013	(1106570)
Item 57	June 13, 2013	(1110246)
Item 58	July 16, 2013	(1087513)
Item 59	July 18, 2013	(1117124)
Item 60	July 29, 2013	(1129486)
Item 61	August 19, 2013	(1124884)
Item 62	October 17, 2013	(1135215)
Item 63	November 20, 2013	(1140615)
Item 64	December 19, 2013	(1147072)
Item 65	January 09, 2014	(1153143)

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: 04/17/2013 (1075938) CN603674862
Self Report? NO Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)

Description: 30 TAC Chapter 305, SubChapter F 305.125(4)
 Failed to prevent the unauthorized discharge of wastewater.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 ELMR No. 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)
 MRR No. 7(c) PERMIT
 Description: Failed to provide notification of any effluent violation which deviates from the permitted
 effluent limitation by more than 40%.

2 Date: 11/04/2013 (1123793) CN603674862
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 5C THSC Chapter 382 382.085(b)
 Special Condition 6 PERMIT
 Description: Failure to meet the demonstration criteria for an affirmative defense for unauthorized
 emissions during an emissions event. (Category B Violation)

3 Date: 02/27/2014 (1134598) CN603674862
 Self Report? NO Classification: Minor
 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 #5(B) PERMIT
 Special Term and Condition #19 OP
 Special Term and Condition #20 OP
 Description: Failure to continuously monitor the AAFLARE with a thermocouple. (Category C1)
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.167(a)(1)
 5C THSC Chapter 382 382.085(b)
 SC #1(E) PERMIT
 SC #7(E) PERMIT
 ST&C #1A OP
 ST&C #20 OP
 Description: Failure to seal open-ended lines. (Category C10)
 Self Report? NO Classification: Minor
 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)
 SC# 6(B) PERMIT
 ST&C #20 OP
 Description: Acetic Acid was loaded into a railcar without water flowing to the scrubber. (Category
 C4)
 Self Report? NO Classification: Minor
 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)
 SC #10(B) PERMIT
 ST&C #20 OP
 Description: No acetic acid flow to the first loading vapor scrubber while loading rail cars. (Category
 C4)
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(1)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.11(b)(4)
 5C THSC Chapter 382 382.085(b)
 SC #12(C) PERMIT
 ST&C #1A OP
 ST&C #20 OP
 Description: VAFLARE smoked for greater than 5 minutes. (Category C4)
 Self Report? NO Classification: Minor
 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)

SC #6(A) PERMIT
ST&C #20 OP
Description: Failure to maintain the water flow of 4 gpm to the vent scrubber on the acetic acid storage tanks. (Category C4)

F. Environmental audits:

Notice of Intent Date: 11/04/2009 (792376)
No DOV Associated

Notice of Intent Date: 03/18/2010 (798382)
No DOV Associated

Notice of Intent Date: 05/04/2011 (924264)
No DOV Associated

Notice of Intent Date: 04/09/2012 (1013832)
No DOV Associated

Notice of Intent Date: 04/23/2012 (1013821)
Disclosure Date: 09/27/2012

Viol. Classification: Moderate

Citation: 40 CFR Chapter 262, SubChapter I, PT 262, SubPT A 262.11(b)

Description: Failure to make a determination on whether or not F-listed solvent contaminated materials are a hazardous waste.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: PERMIT WQ0000534000, Operational Requirements 3

Description: Failed to maintain the Acetyls off-spec wastewater pond with a minimum freeboard of two feet.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: PERMIT WQ0000534000, Operational Requirements 1

Description: Failed to perform maintenance at the wastewater treatment plant to ensure proper operation.

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
LYONDELLBASELL ACETYLS,
LLC
RN100224450**

§
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§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2014-0374-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 LyondellBasell Acetyls, LLC ("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 synthetic organic chemical manufacturing plant at 1350 Miller Cut Off Road in La Porte, 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 March 4, 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 Ninety-Five Thousand Three Hundred Eighty-Two Dollars (\$95,382) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Thirty-Eight

Thousand One Hundred Fifty-Three Dollars (\$38,153) of the administrative penalty and Nineteen Thousand Seventy-Six Dollars (\$19,076) 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. Thirty-Eight Thousand One Hundred Fifty-Three Dollars (\$38,153) 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 the Respondent has implemented the following corrective measures at the Plant:
 - a. On January 1, 2013, began conducting monthly monitoring of the Acetic Acid ("AA") cooling tower water for volatile organic compound ("VOC") leakage from the heat exchangers; and
 - b. On April 25, 2013, reported a deviation for failure to conduct monthly monitoring of the AA cooling tower water for VOC leakage from the heat exchangers from June 2009 through December 2012.
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:

1. Failed to conduct monthly VOC monitoring, in violation of 30 TEX. ADMIN. CODE §§ 101.20(2), 116.115(c), and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), 40 CODE OF FEDERAL REGULATIONS § 63.104(c), Federal Operating Permit ("FOP") No. O1375, Special Terms and Conditions Nos. 1.A and 20, and New Source Review Permit No. 5040, Special Conditions No. 8, as documented during an investigation conducted

on January 22, 2014. Specifically, monthly monitoring of the AA cooling tower water for VOC leakage from the heat exchangers was not conducted from June 2009 through December 2012.

2. Failed to report all instances of deviations, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), TEX. HEALTH & SAFETY CODE § 382.085(b), and FOP No. 01375, General Terms and Conditions, as documented during an investigation conducted on January 22, 2014. Specifically, the deviation reports for the April 1, 2009 through September 30, 2009, October 1, 2009 through March 31, 2010, April 1, 2010 through September 30, 2010, October 1, 2010 through March 31, 2011, April 1, 2011 through September 30, 2011, October 1, 2011 through March 31, 2012, and April 1, 2012 through September 30, 2012 reporting periods did not include deviations for failure to conduct monthly monitoring of the AA cooling tower water for VOC leakage from the heat exchangers.

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: LyondellBasell Acetyls, LLC, Docket No. 2014-0374-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, Thirty-Eight Thousand One Hundred Fifty-Three Dollars (\$38,153) of the assessed administrative penalty shall be offset with the condition that the SEP defined in Attachment A, incorporated herein by reference, is implemented by the Respondent. 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

Ramon Acuña
For the Executive Director

9/25/14
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.

Tim West
Signature

6/10/2014
Date

Timothy Westby
Name (Printed or typed)
Authorized Representative of
LyondellBasell Acetyls, LLC

Site 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: 2014-0374-AIR-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	LyondellBasell Acetyls, LLC
Penalty Amount:	Seventy-Six Thousand Three Hundred Six Dollars (\$76,306)
SEP Offset Amount:	Thirty-Eight Thousand One Hundred Fifty-Three Dollars (\$38,153)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Houston Regional Monitoring Corporation
Project Name:	<i>Houston Area Air Monitoring Project</i>
Location of SEP:	Harris County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The SEP Offset Amount is set forth above and such offset 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 the **Houston Regional Monitoring Corporation** for the *Houston Area Air Monitoring Project* SEP. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to operate a network of ambient air monitoring stations that continuously measure and record concentrations of ambient air pollutants. This network includes the Houston Regional Monitor (“HRM”) 617 Wallisville Road site, the HRM 615 Lynchburg Ferry site, and the HRM 3 Haden Road site. The Third-Party Administrator shall use the SEP Offset Amount to report data from these three existing sites in the Houston Regional Monitoring Corporation ambient air quality monitoring network in the Houston-Galveston Air Quality Control Region No. 216. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely 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 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 provide TCEQ with near real-time access to high quality, short time resolution volatile organic compound, nitrogen oxide, ozone, and meteorological data sets that can be used to evaluate and track air pollution emission events as they occur, conduct source attribution studies, and to assess potential ambient community exposure to a limited number of hazardous air pollutants. Data from the monitors can be used with data from other monitors to provide critical information that can be used to evaluate the effectiveness of current and proposed emission control strategies aimed at achieving compliance with the 8-hour ozone National Ambient Air Quality Standards. It also provides a key source of information that is essential to furthering our overall understanding of those emission sources that contribute to ambient community exposure to toxic air contaminants. Because the information is available in near real-time, it can be used to provide both agency staff and industry personnel with time critical information to investigate emission events in a timely fashion. Another key benefit is the ability to measure the change in the ambient air concentration of the individual target species and quantify control measure effectiveness. Data from these monitors will be publicly accessible through the TCEQ's website and will be used in evaluating air quality in the area, in ozone forecasts, and ozone warnings. Thus, the public will directly benefit by having access to the data and the forecasting and notification tools which can be used for public awareness.

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 contribution payable to **Houston Regional Monitoring Corporation SEP** and shall mail the contribution with a copy of the Agreed Order to:

LyondellBasell Acetyls, LLC
Agreed Order - Attachment A

Houston Regional Monitoring Corporation
c/o Christopher B. Amandes
Morgan, Lewis, & Bockius, LLP
1000 Louisiana, Suite 4000
Houston, Texas 77002

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 due to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

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 the 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.