

Executive Summary – Enforcement Matter – Case No. 61322

The LYCRA Company LLC

RN104244942

Docket No. 2021-1273-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

LYCRA La Porte Plant, 12455 Strang Road, La Porte, 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: March 25, 2022

Comments Received: No

Penalty Information

Total Penalty Assessed: \$9,100

Amount Deferred for Expedited Settlement: \$1,820

Total Paid to General Revenue: \$7,280

Total Due to General Revenue: \$0

Payment Plan: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: January 2021

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: July 7, 2021 through August 23, 2021

Date(s) of NOE(s): August 26, 2021

Executive Summary – Enforcement Matter – Case No. 61322
The LYCRA Company LLC
RN104244942
Docket No. 2021-1273-AIR-E

Violation Information

Failed to submit a permit compliance certification ("PCC") within 30 days of any certification period. Specifically, the PCC for the January 1, 2019 through December 31, 2019 certification period was due by January 30, 2020, but was not submitted until August 4, 2021 and the PCC for the January 1, 2020 through December 31, 2020 certification period was due by January 30, 2021, but was not submitted until August 4, 2021 [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.146(2), Federal Operating Permit No. O1891, General Terms and Conditions and Special Terms and Conditions No. 24, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

On August 4, 2021, the Respondent submitted the PCCs for the January 1, 2019 through December 31, 2019 and January 1, 2020 through December 31, 2020 certification periods.

Technical Requirements:

N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Margarita Dennis, Enforcement Division, Enforcement Team 5, MC R-04, (817) 588-5892; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: Nish Vasavada, Global Director of Environmental, Health, & Safety, The LYCRA Company LLC, 12455 Strang Road, La Porte, Texas 77571

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	30-Aug-2021	Screening	8-Sep-2021	EPA Due	
	PCW	26-Jan-2022				

RESPONDENT/FACILITY INFORMATION

Respondent	The LYCRA Company LLC				
Reg. Ent. Ref. No.	RN104244942				
Facility/Site Region	12-Houston	Major/Minor Source	Major		

CASE INFORMATION

Enf./Case ID No.	61322	No. of Violations	1
Docket No.	2021-1273-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Margarita Dennis
		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	\$10,000
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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	16.0%	Adjustment	Subtotals 2, 3, & 7	\$1,600
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Notes

Enhancement for one NOV with dissimilar violations and one order containing a denial of liability. Reduction for two notices of intent to conduct an audit and two disclosures 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	-\$2,500
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$38
Estimated Cost of Compliance	\$500

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$9,100
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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	\$9,100
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$9,100
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DEFERRAL	20.0%	Reduction	Adjustment	-\$1,820
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$7,280
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Screening Date	8-Sep-2021	Docket No.	2021-1273-AIR-E	PCW
Respondent	The LYCRA Company LLC			<i>Policy Revision 5 (January 28, 2021)</i>
Case ID No.	61322			<i>PCW Revision February 11, 2021</i>
Reg. Ent. Reference No.	RN104244942			
Media	Air			
Enf. Coordinator	Margarita Dennis			

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	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>)	0	0%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	2	-2%
	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>)	2	-4%
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) 16%

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with dissimilar violations and one order containing a denial of liability.
Reduction for two notices of intent to conduct an audit and two disclosures of violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 16%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 16%

Screening Date Respondent Case ID No. Reg. Ent. Reference No. Media Enf. Coordinator	8-Sep-2021 The LYCRA Company LLC 61322 RN104244942 Air Margarita Dennis	Docket No. 2021-1273-AIR-E	PCW <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>
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Violation Number	1	
Rule Cite(s)	30 Tex. Admin. Code §§ 122.143(4) and 122.146(2), Federal Operating Permit No. O1891, General Terms and Conditions and Special Terms and Conditions No. 24, and Tex. Health & Safety Code § 382.085(b)	
Violation Description	Failed to submit a permit compliance certification ("PCC") within 30 days of any certification period. Specifically, the PCC for the January 1, 2019 through December 31, 2019 certification period was due by January 30, 2020, but was not submitted until August 4, 2021 and the PCC for the January 1, 2020 through December 31, 2020 certification period was due by January 30, 2021, but was not submitted until August 4, 2021.	

Base Penalty	\$25,000
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>> Environmental, Property and Human Health Matrix

OR		Release	Harm		
		Major	Moderate	Minor	
	Actual				
	Potential				

	Percent
	0.0%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
		x			

Matrix Notes	100% of the rule requirements were not met.
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Adjustment	\$20,000
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	\$5,000
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Violation Events

Number of Violation Events	2		552	Number of violation days
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	daily			
	weekly			
	monthly			
	quarterly			
	semiannual			
	annual			
	single event	x		

Violation Base Penalty	\$10,000
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Two single events are recommended (one event for each PCC).	
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Good Faith Efforts to Comply

25.0%	
Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary	
Ordinary	x
N/A	
Notes	The Respondent achieved compliance on August 4, 2021, prior to the Notice of Enforcement dated August 26, 2021.

Violation Subtotal	\$7,500
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Economic Benefit (EB) for this violation

Estimated EB Amount	\$38
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Statutory Limit Test

Violation Final Penalty Total	\$9,100
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This violation Final Assessed Penalty (adjusted for limits)	\$9,100
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Economic Benefit Worksheet

Respondent The LYCRA Company LLC
Case ID No. 61322
Reg. Ent. Reference No. RN104244942
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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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)	\$500	30-Jan-2020	4-Aug-2021	1.51	\$38	n/a	\$38

Notes for DELAYED costs

Estimated cost to submit the PCCs for the January 1, 2019 through December 31, 2019 and January 1, 2020 through December 31, 2020 certification periods (\$250 per PCC). Date Required is the date the first PCC was due. Final Date is the date of compliance.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$38



Compliance History Report

Compliance History Report for CN605449271, RN104244942, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

Customer, Respondent, or Owner/Operator: CN605449271, The LYCRA Company LLC **Classification:** SATISFACTORY **Rating:** 4.73

Regulated Entity: RN104244942, LYCRA La Porte Plant **Classification:** SATISFACTORY **Rating:** 4.73

Complexity Points: 12 **Repeat Violator:** NO

CH Group: 05 - Chemical Manufacturing

Location: 12455 Strang Road, La Porte, Harris County, Texas 77571-9806

TCEQ Region: REGION 12 - HOUSTON

ID Number(s):

AIR OPERATING PERMITS PERMIT 1891 **AIR OPERATING PERMITS** ACCOUNT NUMBER HGA004D

AIR NEW SOURCE PERMITS AFS NUM 4820101558 **IHW CORRECTIVE ACTION** SOLID WASTE REGISTRATION # (SWR) 87431

AIR EMISSIONS INVENTORY ACCOUNT NUMBER HGA004D **POLLUTION PREVENTION PLANNING** ID NUMBER P06987

Compliance History Period: September 01, 2016 to August 31, 2021 **Rating Year:** 2021 **Rating Date:** 09/01/2021

Date Compliance History Report Prepared: January 26, 2022

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: January 26, 2017 to January 26, 2022

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

Name: Margarita Dennis **Phone:** (817) 588-5892

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? YES
- 3) Who is the current owner/operator? Inv Performance Surfaces, LLC OWNER OPERATOR since 1/1/2003
The Lycra Company LLC OWNER OPERATOR since 12/20/2017
Midwest Steel Co., Inc. OPERATOR since 3/4/2021
- 4) Who was/were the prior owner(s)/operator(s)? DuPont North America Inc., OWNER OPERATOR, 1/1/1800 to 6/11/2019
E. I. du Pont de Nemours and Company, OWNER OPERATOR, 8/3/2002 to 1/1/2019

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

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

- 1 Effective Date: 06/26/2018 ADMINORDER 2017-1145-AIR-E (1660 Order-Agreed Order With Denial)
Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
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: Special Condition 1 PERMIT
Special Terms and Conditions No. 20 OP

Description: Failed to prevent unauthorized emissions. Specifically, the Respondent released 5,517.43 pounds of tetrahydrofuran ("THF") during an emissions event (Incident No. 252196) that occurred on February 10, 2017 and lasted one hour and 14 minutes. The emissions event occurred when the B Hydrogenerator vessel overfilled during startup due

to the level device transmitting false readings because the nitrogen was closed to the instrument on the hydrogenerator, causing the Hydrogenerator Scrubber to overf

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	July 27, 2017	(1429249)
Item 2	August 11, 2017	(1424498)
Item 3	July 16, 2018	(1500153)
Item 4	July 17, 2018	(1498613)
Item 5	August 02, 2018	(1506316)
Item 6	August 13, 2020	(1592208)
Item 7	October 28, 2021	(1473979)

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:	08/25/2021	(1723385)
	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 (SC) 14.C PERMIT Special Terms and Conditions (ST&C) 20 OP	
	Description:	Failure to prevent exceedance of Total Dissolved Solids limit of 1,500 ppmw for THF Cooling Tower [EPN: TF-29] (Category B17)	
	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 (SC) 16.B.(2). PERMIT Special Terms and Conditions (ST&C) 20 OP	
	Description:	Failure to prevent exceedance of Total Dissolved Solids limit of 960 ppmw for PTMEG (North) Cooling Tower [EPN: TR-33] (Category B17)	
	Self Report?	NO	Classification: Moderate
	Citation:	30 TAC Chapter 115, SubChapter H 115.725(d)(2)(A)(i) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THSC Chapter 382 382.085(b) Special Terms and Conditions (ST&C) 1A OP	
	Description:	Failure to perform weekly mid-level HRVOC calibration checks of Step I THF Flare [EPN TF-01] (Category B1)	
	Self Report?	NO	Classification: Moderate
	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) Special Condition (SC) 10.E PERMIT Special Condition (SC) 14.E PERMIT Special Terms and Conditions (ST&C) 20 OP Special Terms and Conditions (ST&Cs) 1A OP	
	Description:	Failure to prevent Open Ended Lines (OELs) in VOC Service [EPN: TF-26] (Category C10)	
	Self Report?	NO	Classification: Moderate
	Citation:	30 TAC Chapter 115, SubChapter H 115.725(l) 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 Terms and Conditions (ST&C) 1A OP	
	Description:	Failure to continuously operate monitoring system at least 95% of operating time from Gas Chromatograph (GC) for the THF Flare [EPN TF-01] (Category B1)	
	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 (SC) 7 PERMIT
 Special Terms and Conditions (ST&C) 20 OP
 Description: Failure to monitor scrubber solution flow rate for BDO Outlet Scrubber [EPN: TF-25] (Category B1)

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 115, SubChapter B 115.114(a)(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)
 Special Condition (SC) 15B PERMIT
 Special Terms and Conditions (ST&C) 1A OP
 Special Terms and Conditions (ST&C) 20 OP

Description: Failure to perform annual tank inspection for C Shipping THF Tank [EPN: TF-17T] (Category B1)

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 (SC) 7 PERMIT
 Special Terms and Conditions (ST&C) 19 OP
 Special Terms and Conditions (ST&C) 20 OP

Description: Failure to record condensate flow rate from Tank Farm Scrubber [EPN: TF-09] (Category C4)

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)(2)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.11(b)(5)
 5C THSC Chapter 382 382.085(b)
 Special Condition (SC) 11B PERMIT
 Special Terms and Conditions (ST&C) 1A OP
 Special Terms and Conditions (ST&C) 20 OP

Description: Failure to maintain pilot flame and temperature for PTMEG Flare [Unit ID: TR-01C; EPN: TR-34] (Category B1)

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 115, SubChapter D 115.354(2)(C)
 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 VV 60.482-7(c)(1)(i)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.168(d)(2)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT PPP 63.1434(a)
 5C THSC Chapter 382 382.085(b)
 Special Condition (SC) 14F PERMIT
 Special Terms and Conditions (ST&C) 1A OP
 Special Terms and Conditions (ST&C) 20 OP

Description: Failure to monitor PTMEG Fugitive [EPN: TR-35] valves for leaks during 2nd Quarter 2020 (Category B1)

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 115, SubChapter H 115.725(I)
 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 Terms and Conditions (ST&C) 1A OP

Description: Failure to continuously operate monitoring system at least 95% of operating time from ultrasonic flow meter for the THF Flare [EPN TF-01] (Category B1)

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
 30 TAC Chapter 122, SubChapter B 122.144(1)
 5C THSC Chapter 382 382.085(b)
 General Terms & Conditions (GT&C) OP

Description: Failure to record net heating value for PTMEG Flare [Unit ID: TR-01C; EPN: TR-34] (Category B18.g.1).

F. Environmental audits:

Notice of Intent Date: 03/08/2017 (1401915)

Disclosure Date: 04/27/2017

Viol. Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter D 115.354(11)

30 TAC Chapter 116, SubChapter B 116.115(c)

30 TAC Chapter 122, SubChapter B 122.143(4)

Rqmt Prov: PERMIT Special Condition 8.E.

OP Special Terms and Conditions No. 1.A.

Description: Failed to include the hydrogenator scrubber water return line in the LDAR program for appropriate monitoring (newly discovered information regarding the composition of the wastewater leaving the scrubber revealed the return line is subject to LDAR requirements).

Viol. Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

30 TAC Chapter 122, SubChapter B 122.143(4)

Rqmt Prov: PERMIT Special Condition No. 1

PERMIT Special Condition No. 6

OP Special Terms and Conditions No. 1.A.

Description: Failed to limit emissions from the new BYD scrubber operation to the Maximum Allowable Emissions Rates referenced in the permit, as determined during a voluntary performance test. In addition, VOC speciation in the permit did not reflect all components identified in the stream during the testing.

Notice of Intent Date: 05/06/2019 (1558233)

Disclosure Date: 07/18/2019

Viol. Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.116(a)(2)

Rqmt Prov: PERMIT SC 13B

Description: Failed to have car seals on the bypass lines for streams that are going to the flare that have bypass lines.

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
THE LYCRA COMPANY LLC
RN104244942**

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

AGREED ORDER DOCKET NO. 2021-1273-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 The LYCRA Company LLC (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a chemical manufacturing plant located at 12455 Strang Road in La Porte, Harris County, Texas (the "Plant"). The Plant consists or consisted of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$9,100 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$7,280 of the penalty and \$1,820 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order. The deferred amount shall be waived only upon full compliance with all the terms and conditions contained in this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms or requirements contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.
5. 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). 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.

6. 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 Order.
7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Executive Director recognizes that on August 4, 2021, the Respondent submitted the permit compliance certifications ("PCCs") for the January 1, 2019 through December 31, 2019 and January 1, 2020 through December 31, 2020 certification periods.

II. ALLEGATIONS

During a record review conducted from July 7, 2021 through August 23, 2021, an investigator documented that the Respondent failed to submit a PCC within 30 days of any certification period, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.146(2), Federal Operating Permit No. 01891, General Terms and Conditions and Special Terms and Conditions No. 24, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the PCC for the January 1, 2019 through December 31, 2019 certification period was due by January 30, 2020, but was not submitted until August 4, 2021 and the PCC for the January 1, 2020 through December 31, 2020 certification period was due by January 30, 2021, but was not submitted until August 4, 2021.

III. DENIALS

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

IV. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this 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. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: The LYCRA Company LLC, Docket No. 2021-1273-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. All relief not expressly granted in this Order is denied.
3. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Plant operations referenced in this Order.
4. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this 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.
5. This 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 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.
6. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this 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 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.
7. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



For the Executive Director

6/27/2022

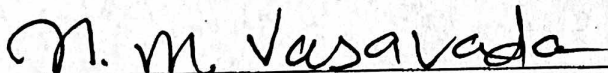
Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, 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

February 14, 2022

Date

Nishith M. Vasavada

Global Director of EHS

Name (Printed or typed)
Authorized Representative of
The LYCRA Company LLC

Title

☐ If mailing address has changed, please check this box and provide the new address below:

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