

**Executive Summary – Enforcement Matter – Case No. 61632**  
**LION ELASTOMERS ORANGE, LLC**  
**RN100224468**  
**Docket No. 2021-1591-AIR-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

AIR

**Small Business:**

No

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

Lion Elastomers Orange, 5713 Farm-to-Market Road 1006, Orange, Orange 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:** April 28, 2023

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$18,625

**Amount Deferred for Expedited Settlement:** \$3,725

**Total Paid to General Revenue:** \$14,900

**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:** October 4, 2021

**Date(s) of NOE(s):** November 12, 2021

**Executive Summary – Enforcement Matter – Case No. 61632  
LION ELASTOMERS ORANGE, LLC  
RN100224468  
Docket No. 2021-1591-AIR-E**

***Violation Information***

Failed to prevent unauthorized emissions. Specifically, the Respondent released 33,046 pounds of volatile organic compounds as fugitive emissions, during an emissions event (Incident No. 365569) that occurred on August 24, 2021 and lasted one hour and 15 minutes. The emissions event occurred when a valve leading to tank DF-138 was left opened allowing a portion of hexane stream to flow into the tank causing it to overflow and spill into the containment area, resulting in the release to the atmosphere. Since the emissions event was not caused by a sudden unavoidable breakdown of equipment or process beyond the control of the owner or operator, and the emissions event could have been avoided by better design and/or better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), New Source Review Permit No. 292, Special Conditions No. 1, Federal Operating Permit No. O1271, General Terms and Conditions and Special Terms and Conditions No. 11, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

The Order will require the Respondent to:

- a. Within 30 days, implement measures and/or procedures designed to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 365569; and
- b. Within 45 days, submit written certification to demonstrate compliance with a.

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Mackenzie Mehlmann, Enforcement Division, Enforcement Team 2, MC 219, (512) 239-2572; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

**Respondent:** Tony Wisenbaker, Manufacturing Director, LION ELASTOMERS ORANGE, LLC, 5713 Farm-to-Market Road 1006, Orange, Texas 77630-8041

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



# Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

<b>DATES</b>	<b>Assigned</b>	15-Nov-2021	<b>Screening</b>	23-Nov-2021	<b>EPA Due</b>	
	<b>PCW</b>	3-Feb-2023				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	LION ELASTOMERS ORANGE, LLC
<b>Reg. Ent. Ref. No.</b>	RN100224468
<b>Facility/Site Region</b>	10-Beaumont
<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	61632	<b>No. of Violations</b>	1
<b>Docket No.</b>	2021-1591-AIR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Mackenzie Mehlmann
		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$12,500
---	-------------------	----------

<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>		
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.		
<b>Compliance History</b>	49.0% Adjustment <b>Subtotals 2, 3, &amp; 7</b>	\$6,125

Notes: Enhancement for four NOV's with dissimilar violations, one order containing a denial of liability, and one order without a denial of liability. Reduction for two notices of intent to conduct an audit and one disclosure of violations.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
--------------------	----	------------------	-------------------	-----

Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
--	-------------------	-----

<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
Total EB Amounts	\$1,044	*Capped at the Total EB \$ Amount	
Estimated Cost of Compliance	\$10,000		

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$18,625
-----------------------------	-----------------------	----------

<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
---	------	-------------------	-----

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount** \$18,625

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$18,625
-----------------------------------	-------------------------------	----------

<b>DEFERRAL</b>	20.0%	Reduction <b>Adjustment</b>	-\$3,725
-----------------	-------	-----------------------------	----------

Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$14,900
------------------------	----------

**Screening Date** 23-Nov-2021      **Docket No.** 2021-1591-AIR-E  
**Respondent** LION ELASTOMERS ORANGE, LLC  
**Case ID No.** 61632  
**Reg. Ent. Reference No.** RN100224468  
**Media** Air  
**Enf. Coordinator** Mackenzie Mehlmann

**PCW**

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

### 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	4	8%
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	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 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> )	1	-2%
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)** 49%

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

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 49%

#### >> Final Compliance History Adjustment

**Final Adjustment Percentage \*capped at 100%** 49%

**Screening Date** 23-Nov-2021 **Docket No.** 2021-1591-AIR-E **PCW**  
**Respondent** LION ELASTOMERS ORANGE, LLC *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 61632 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN100224468  
**Media** Air  
**Enf. Coordinator** Mackenzie Mehlmann

**Violation Number** 1

**Rule Cite(s)**

30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), New Source Review Permit No. 292, Special Conditions No. 1, Federal Operating Permit No. O1271, General Terms and Conditions and Special Terms and Conditions No. 11, and Tex. Health & Safety Code § 382.085(b)

**Violation Description**

Failed to prevent unauthorized emissions. Specifically, the Respondent released 33,046 pounds of volatile organic compounds as fugitive emissions, during an emissions event (Incident No. 365569) that occurred on August 24, 2021 and lasted one hour and 15 minutes. The emissions event occurred when a valve leading to tank DF-138 was left opened allowing a portion of hexane stream to flow into the tank causing it to overflow and spill into the containment area, resulting in the release to the atmosphere. Since the emissions event was not caused by a sudden unavoidable breakdown of equipment or process beyond the control of the owner or operator, and the emissions event could have been avoided by better design and/or better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 Tex. Admin. Code § 101.222.

**Base Penalty** \$25,000

**>> Environmental, Property and Human Health Matrix**

**OR**

Release	Harm		
	Major	Moderate	Minor
Actual		x	
Potential			

**Percent** 50.0%

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor

**Percent** 0.0%

**Matrix Notes**

Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

**Adjustment** \$12,500

\$12,500

**Violation Events**

Number of Violation Events 1 1 Number of violation days

daily	
weekly	x
monthly	
quarterly	
semiannual	
annual	
single event	

**Violation Base Penalty** \$12,500

One weekly event is recommended.

**Good Faith Efforts to Comply**

0.0% Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

**Reduction** \$0

Extraordinary	
Ordinary	
N/A	x

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

**Violation Subtotal** \$12,500

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$1,044

**Violation Final Penalty Total** \$18,625

**This violation Final Assessed Penalty (adjusted for limits)** \$18,625

# Economic Benefit Worksheet

**Respondent** LION ELASTOMERS ORANGE, LLC  
**Case ID No.** 61632  
**Reg. Ent. Reference No.** RN100224468  
**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
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

### 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)	\$10,000	24-Aug-2021	25-Sep-2023	2.09	\$1,044	n/a	\$1,044

**Notes for DELAYED costs**

Estimated cost to implement measures and/or procedures designed to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 365569. The Date Required is the date the emissions event occurred and the Final Date is the estimated 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**

\$10,000

**TOTAL**

\$1,044

The TCEQ is committed to accessibility.

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



# Compliance History Report

Compliance History Report for CN605689207, RN100224468, Rating Year 2022 which includes Compliance History (CH) components from September 1, 2017, through August 31, 2022.

**Customer, Respondent, or Owner/Operator:** CN605689207, LION ELASTOMERS ORANGE, LLC **Classification:** SATISFACTORY **Rating:** 3.54  
**Regulated Entity:** RN100224468, LION ELASTOMERS ORANGE **Classification:** SATISFACTORY **Rating:** 3.54  
**Complexity Points:** 17 **Repeat Violator:** NO  
**CH Group:** 05 - Chemical Manufacturing  
**Location:** 5713 Farm-to-Market Road 1006, Orange, Orange County, Texas 77630-8041  
**TCEQ Region:** REGION 10 - BEAUMONT

## ID Number(s):

**AIR OPERATING PERMITS ACCOUNT NUMBER OC0010U PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1810014**  
**AIR NEW SOURCE PERMITS PERMIT 292**  
**AIR NEW SOURCE PERMITS ACCOUNT NUMBER OC0010U**  
**AIR NEW SOURCE PERMITS REGISTRATION 109751**  
**AIR NEW SOURCE PERMITS REGISTRATION 169150**  
**AIR NEW SOURCE PERMITS REGISTRATION 164284**  
**AIR NEW SOURCE PERMITS REGISTRATION 151188**

**AIR OPERATING PERMITS PERMIT 1271**  
**AIR NEW SOURCE PERMITS AFS NUM 4836100004**  
**AIR NEW SOURCE PERMITS REGISTRATION 46032**  
**AIR NEW SOURCE PERMITS REGISTRATION 170259**  
**AIR NEW SOURCE PERMITS REGISTRATION 167147**  
**AIR NEW SOURCE PERMITS REGISTRATION 166719**  
**AIR NEW SOURCE PERMITS REGISTRATION 151413**  
**PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 87726**  
**WASTEWATER PERMIT WQ0000454000**

**IHW CORRECTIVE ACTION SOLID WASTE REGISTRATION # (SWR) 30581**  
**WASTEWATER EPA ID TX0002968**

**AIR EMISSIONS INVENTORY ACCOUNT NUMBER OC0010U**  
**INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 30581**  
**TAX RELIEF ID NUMBER 21128**

**POLLUTION PREVENTION PLANNING ID NUMBER P01569**  
**INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXD008073538**  
**TAX RELIEF ID NUMBER 16495**  
**TAX RELIEF ID NUMBER 17248**  
**TAX RELIEF ID NUMBER 21124**

**TAX RELIEF ID NUMBER 17246**  
**TAX RELIEF ID NUMBER 17245**

**Compliance History Period:** September 01, 2017 to August 31, 2022 **Rating Year:** 2022 **Rating Date:** 09/01/2022

**Date Compliance History Report Prepared:** January 20, 2023

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** January 20, 2018 to January 20, 2023

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

**Name:** Mackenzie Mehlmann

**Phone:** (512) 239-2572

## 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

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

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

- 1 Effective Date: 05/19/2020 ADMINORDER 2019-1398-AIR-E (1660 Order-Agreed Order With Denial)  
Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)  
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: General Terms and Conditions OP  
 Special Condition 1 PERMIT  
 Special Condition 12 OP  
 Special Condition 2I OP  
 Description: Failure to prevent the release of unauthorized emissions to the atmosphere.  
 Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)(1)  
 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 Rqmt Prov: General Terms and Conditions OP  
 Special Condition 1 PERMIT  
 Special Condition 12 OP  
 Description: Failure to prevent the release of unauthorized emissions to the atmosphere.

2 Effective Date: 07/07/2022 ADMINORDER 2021-0664-PWS-E (Findings Order-Agreed Order Without Denial)  
 Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.110(b)(5)  
 30 TAC Chapter 290, SubChapter F 290.110(f)(7)  
 5A THSC Chapter 341, SubChapter A 341.0315(c)  
 Description: Non-Acute MRDL 4Q2020 - The system violated the MRDL by exceeding the running annual average of monthly averages for disinfectant residual at the end of the quarter.  
 Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.110(b)(5)  
 30 TAC Chapter 290, SubChapter F 290.110(f)(7)  
 5A THSC Chapter 341, SubChapter A 341.0315(c)  
 Description: Non-Acute MRDL 3Q2020 - The system violated the MRDL by exceeding the running annual average of monthly averages for disinfectant residual at the end of the quarter.  
 Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.110(b)(5)  
 30 TAC Chapter 290, SubChapter F 290.110(f)(7)  
 5A THSC Chapter 341, SubChapter A 341.0315(c)  
 Description: Non-Acute MRDL 2Q2020 - The system violated the MRDL by exceeding the running annual average of monthly averages for disinfectant residual at the end of the quarter.

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

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

Item 1	February 19, 2018	(1486703)
Item 2	March 19, 2018	(1490381)
Item 3	April 20, 2018	(1493617)
Item 4	May 16, 2018	(1500535)
Item 5	June 19, 2018	(1507652)
Item 6	July 19, 2018	(1513969)
Item 7	September 18, 2018	(1527196)
Item 8	October 11, 2018	(1517751)
Item 9	October 19, 2018	(1533554)
Item 10	November 19, 2018	(1541389)
Item 11	December 19, 2018	(1545173)
Item 12	January 09, 2019	(1537800)
Item 13	February 19, 2019	(1559491)
Item 14	March 18, 2019	(1549524)
Item 15	March 20, 2019	(1559492)
Item 16	April 17, 2019	(1571770)
Item 17	May 14, 2019	(1583149)
Item 18	June 19, 2019	(1583150)



Item 19	July 23, 2019	(1579620)
Item 20	July 24, 2019	(1578875)
Item 21	August 16, 2019	(1582573)
Item 22	August 19, 2019	(1599429)
Item 23	September 18, 2019	(1606334)
Item 24	October 18, 2019	(1613180)
Item 25	November 19, 2019	(1618994)
Item 26	November 20, 2019	(1609670)
Item 27	December 16, 2019	(1626346)
Item 28	March 20, 2020	(1647126)
Item 29	June 12, 2020	(1646138)
Item 30	June 29, 2020	(1650423)
Item 31	July 20, 2020	(1673509)
Item 32	September 18, 2020	(1686854)
Item 33	October 20, 2020	(1693200)
Item 34	December 18, 2020	(1712293)
Item 35	January 19, 2021	(1712294)
Item 36	February 01, 2021	(1696749)
Item 37	February 19, 2021	(1725348)
Item 38	April 19, 2021	(1725350)
Item 39	June 18, 2021	(1706503)
Item 40	June 25, 2021	(1736679)
Item 41	October 19, 2021	(1776596)
Item 42	November 18, 2021	(1783566)
Item 43	November 28, 2021	(1772534)
Item 44	January 05, 2022	(1781927)
Item 45	February 11, 2022	(1806260)
Item 46	March 17, 2022	(1813323)
Item 47	April 07, 2022	(1805094)
Item 48	April 20, 2022	(1819896)
Item 49	May 18, 2022	(1828738)
Item 50	May 26, 2022	(1817819)
Item 51	June 20, 2022	(1835024)
Item 52	October 21, 2022	(1841229)
Item 53	November 17, 2022	(1869435)

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

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

- 1 Date: 06/30/2022 (1842232)  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter
  
- 2 Date: 07/31/2022 (1848367)  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter
  
- 3 Date: 08/31/2022 (1856161)  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter
  
- 4 Date: 09/30/2022 (1862520)  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

**F. Environmental audits:**

Notice of Intent Date: 03/02/2018 (1474042)

Disclosure Date: 05/29/2018

Viol. Classification: Major

Citation: 30 TAC Chapter 101, SubChapter A 101.10  
30 TAC Chapter 116, SubChapter B 116.110(a)(1)  
30 TAC Chapter 116, SubChapter B 116.110(a)(2)  
30 TAC Chapter 116, SubChapter B 116.110(a)(3)  
30 TAC Chapter 116, SubChapter B 116.110(a)(4)

Description: Failed to maintain documentation to demonstrate that a two million-gallon capacity above ground storage tank, Tank F-741, was properly authorized. Firestone discovered 95,000 gallons of No. 6 Fuel Oil inside of the tank and has not been reporting breathing losses from the tank in its emissions inventory or otherwise treating the tank as subject to regulatory requirements.

Notice of Intent Date: 10/22/2018 (1526645)

No DOV Associated

**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  
LION ELASTOMERS ORANGE, LLC  
RN100224468

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2021-1591-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 LION ELASTOMERS ORANGE, 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 5713 Farm-to-Market Road 1006 in Orange, Orange 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 \$18,625 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$14,900 of the penalty and \$3,725 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.

## II. ALLEGATIONS

1. During a record review for the Plant conducted on October 4, 2021, an investigator documented that the Respondent failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), New Source Review Permit No. 292, Special Conditions No. 1, Federal Operating Permit No. O1271, General Terms and Conditions and Special Terms and Conditions No. 11, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent released 33,046 pounds of volatile organic compounds as fugitive emissions, during an emissions event (Incident No. 365569) that occurred on August 24, 2021 and lasted one hour and 15 minutes. The emissions event occurred when a valve leading to tank DF-138 was left opened allowing a portion of hexane stream to flow into the tank causing it to overflow and spill into the containment area, resulting in the release to the atmosphere. Since the emissions event was not caused by a sudden unavoidable breakdown of equipment or process beyond the control of the owner or operator, and the emissions event could have been avoided by better design and/or better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 Tex. Admin. Code § 101.222.

## 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: LION ELASTOMERS ORANGE, LLC, Docket No. 2021-1591-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 undertake the following technical requirements at the Plant:
  - a. Within 30 days after the effective date of this Order, implement measures and/or procedures designed to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 365569.
  - b. Within 45 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be signed by the Respondent and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Air Section Manager  
Beaumont Regional Office  
Texas Commission on Environmental Quality  
3870 Eastex Freeway  
Beaumont, Texas 77703-1830

3. All relief not expressly granted in this Order is denied.
4. 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.
5. If the Respondent fails to comply with any of the Ordering Provisions in this 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 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.

6. 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. Extension requests shall be sent to the Enforcement Division at the address listed above.
7. 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.
8. 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.
9. 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

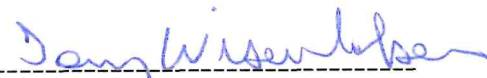
-----  
5/25/2023  
-----  
Date

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 OAG 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 OAG 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

-----  
3/7/23  
-----  
Date

-----  
TONY WEISENBAKER  
-----  
Name (Printed or typed)  
Authorized Representative of  
LION ELASTOMERS ORANGE, LLC

-----  
MANUFACTURING DIRECTOR  
-----  
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.