

Executive Summary – Enforcement Matter – Case No. 64148
Lyondell Chemical Company
RN102523107
Docket No. 2023-0891-AIR-E

Order Type:

Findings Agreed Order

Findings Order Justification:

People or environmental receptors have been exposed to pollutants which exceed levels that are protective.

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

Lyondell Chemical Bayport Choate Plant, 10801 Choate Road, Pasadena, Harris County

Type of Operation:

Chemical manufacturing plant

Other Significant Matters:

Additional Pending Enforcement Actions: Yes, Docket Nos. 2021-0462-AIR-E and 2024-1144-AIR-E

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: October 11, 2024

Comments Received: No

Penalty Information

Total Penalty Assessed: \$79,060

Total Paid to General Revenue: \$39,530

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project (“SEP”) Conditional Offset: \$39,530

Name of SEP: Houston-Galveston Area Council-AERCO (Third-Party Pre-Approved)

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: \$8,000

Applicable Penalty Policy: January 2021

Executive Summary – Enforcement Matter – Case No. 64148
Lyondell Chemical Company
RN102523107
Docket No. 2023-0891-AIR-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: May 17, 2022 through August 15, 2023, June 2, 2022 through September 9, 2022, December 6, 2022 through June 28, 2023, January 4, 2023 through February 2, 2023, January 11, 2023 through April 13, 2023, and March 4, 2023 through April 13, 2023

Date(s) of NOE(s): May 12, 2023, June 7, 2023, August 4, 2023, August 25, 2023, August 31, 2023, and October 25, 2023

Violation Information

1. Failed to prevent unauthorized emissions [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), New Source Review ("NSR") Permit No. 9395, Special Conditions ("SC") No. 1, Federal Operating Permit ("FOP") No. 01421, General Terms and Conditions ("GTC") and Special Terms and Conditions ("STC") No. 23, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

2. Failed to prevent unauthorized emissions [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), NSR Permit No. 9395, SC No. 1, FOP No. 01421, GTC and STC No. 23, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

3. Failed to prevent unauthorized emissions [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), NSR Permit No. 9395, SC No. 1, FOP No. 01421, GTC and STC No. 23, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

4. Failed to prevent unauthorized emissions [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), NSR Permit No. 9395, SC No. 1, FOP No. 01421, GTC and STC No. 23, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

5. Failed to prevent unauthorized emissions [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), NSR Permit No. 9395, SC No. 1, FOP No. 01421, GTC and STC No. 23, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

6. Failed to operate a total highly reactive volatile organic compound ("HRVOC") continuous monitoring system ("CMS") [30 TEX. ADMIN. CODE §§ 115.764(a)(6), 115.769(b), 116.115(c), and 122.143(4), NSR Permit Nos. 137789 and N244, SC No. 13, FOP No. 01421, GTC and STC No. 1.A., and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent implemented the following corrective measures:

Executive Summary – Enforcement Matter – Case No. 64148
Lyondell Chemical Company
RN102523107
Docket No. 2023-0891-AIR-E

- a. By June 16, 2023, installed a continuous on-line monitor capable of providing total HRVOC for Cooling Water Tower 1809;
- b. By August 11, 2023, replaced 10 sections of the Bayport Emergency Flare Plant 1 piping; updated the Bayport High Pressure Emergency Flare Plants 1, 2, and 3 model circuits in the Risk Based Inspection Program to include big and small bore components; and implemented the pressure controller setpoint clamp to not allow a setpoint to be greater than the relief valve setpoint limit in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 390997;
- c. By June 11, 2024, installed a new sock-o-let and seal welded plug, conducted penetrant testing on the four branch connections, conducted vibrational analysis, began using a dynamic piping stress modeling software, and inspected 20 similar welded branch connections in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 378675; and
- d. By July 10, 2024, modified the Bayport Plant 3 Epoxidizer Circulation procedure to specify that Operations should initiate the shutdown procedure once the circulation procedure is complete, expanded the circulation procedure, combined the circulation procedure with the Epoxidizer shutdown procedure to specify shutdown conditions or define conditions to place the Epoxidizer in a stable condition, and included instructions on when to take the temperature control valves out of automatic cascade and into manual in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 391281.

Technical Requirements:

- 1. The Order will require the Respondent to implement and complete a SEP (see SEP Attachment A).
- 2. The Order will also require the Respondent to:
 - a. Within 30 days:
 - i. Implement measures designed to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 380040; and
 - ii. Implement measures designed to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 392482.
 - b. Within 45 days, submit written certification to demonstrate compliance with a.

Executive Summary – Enforcement Matter – Case No. 64148
Lyondell Chemical Company
RN102523107
Docket No. 2023-0891-AIR-E

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

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

SEP Third-Party Administrator: Houston-Galveston Area Council-AERCO, 3555 Timmons Lane, Suite 120, Houston, Texas 77027

Respondent: Amy Caldwell, Site Manager, Lyondell Chemical Company, 10801 Choate Road, Pasadena, Texas 77507-1503

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	15-May-2023	Screening	25-May-2023	EPA Due	
	PCW	14-Aug-2024				

RESPONDENT/FACILITY INFORMATION

Respondent	Lyondell Chemical Company				
Reg. Ent. Ref. No.	RN102523107				
Facility/Site Region	12-Houston	Major/Minor Source	Major		

CASE INFORMATION

Enf./Case ID No.	64148	No. of Violations	6
Docket No.	2023-0891-AIR-E	Order Type	Findings
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Mackenzie Mehlmann
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$76,000
---	-------------------	----------

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	\$12,160
---------------------------	--------------	-------------------	--------------------------------	----------

Notes: Enhancement for one order containing a denial of liability. Reduction for two Notices of Intent to conduct an audit and one Disclosure of Violations.

Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
--------------------	----	-------------	--------------------	-------------------	-----

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$1,100
--	-------------------	----------

Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
-------------------------	-------------	---------------------	-------------------	-----

Total EB Amounts \$7,912
Estimated Cost of Compliance \$121,000
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$87,060
-----------------------------	-----------------------	----------

OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
---	-------------	-------------------	-----

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$87,060
-----------------------------	----------

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$79,060
-----------------------------------	-------------------------------	----------

DEFERRAL	0.0%	Reduction	Adjustment	\$0
-----------------	-------------	------------------	-------------------	-----

Reduces the Final Assessed Penalty by the indicated percentage.

Notes:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$79,060
------------------------	----------

Screening Date	25-May-2023	Docket No.	2023-0891-AIR-E	PCW
Respondent	Lyondell Chemical Company			<i>Policy Revision 5 (January 28, 2021)</i>
Case ID No.	64148			<i>PCW Revision February 11, 2021</i>
Reg. Ent. Reference No.	RN102523107			
Media	Air			
Enf. Coordinator	Mackenzie Mehlmann			

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	0	0%
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>)	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) 16%

>> 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 order containing 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) 16%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 16%

Screening Date 25-May-2023 Respondent Lyondell Chemical Company Case ID No. 64148 Reg. Ent. Reference No. RN102523107 Media Air Enf. Coordinator Mackenzie Mehlmann	Docket No. 2023-0891-AIR-E	PCW <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>
--	-----------------------------------	--

Violation Number	1		
Rule Cite(s)		30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), New Source Review ("NSR") Permit No. 9395, Special Conditions ("SC") No. 1, Federal Operating Permit ("FOP") No. O1421, General Terms and Conditions ("GTC") and Special Terms and Conditions ("STC") No. 23, and Tex. Health & Safety Code § 382.085(b)	
Violation Description		Failed to prevent unauthorized emissions. Specifically, the Respondent released 30,520.02 pounds ("lbs") of volatile organic compounds ("VOC") as fugitive emissions, released 1,462.72 lbs of carbon monoxide ("CO"), 725.09 lbs of nitrogen oxides ("NOx"), and 2,847.98 lbs of VOC from the Emergency Flare Plant 2 Pilot, Emissions Point Number ("EPN") E-B1501B, and released 6.10 lbs of VOC from Tank No. F2340, EPN E-F2340, during an emissions event (Incident No. 378675) that occurred on May 2, 2022 and lasted seven hours and 55 minutes.	

Base Penalty	\$25,000
---------------------	----------

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual	x			Percent 100.0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
					Percent 0.0%

Matrix Notes	Human health or the environment has been exposed to pollutants that exceeded levels that were protective of human health or environmental receptors as a result of this violation.
--------------	--

Adjustment	\$0
-------------------	-----

	\$25,000
--	----------

Violation Events

Number of Violation Events	1		1	Number of violation days
----------------------------	---	--	---	--------------------------

	daily	x		Violation Base Penalty \$25,000
	weekly			
	monthly			
	quarterly			
	semiannual			
	annual			
	single event			

One daily event is recommended.

Good Faith Efforts to Comply

	0.0%	
		Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer		
Extraordinary				
Ordinary				
N/A	x			

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

Violation Subtotal	\$25,000
---------------------------	----------

Economic Benefit (EB) for this violation

Estimated EB Amount	\$2,112	Statutory Limit Test

		Violation Final Penalty Total	\$29,000

This violation Final Assessed Penalty (adjusted for limits)	\$25,000
--	----------

Economic Benefit Worksheet

Respondent Lyondell Chemical Company
Case ID No. 64148
Reg. Ent. Reference No. RN102523107
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)	\$20,000	2-May-2022	11-Jun-2024	2.11	\$2,112	n/a	\$2,112

Notes for DELAYED costs

Estimated cost to install a new sock-o-let and seal welded plug, conduct penetrant testing on the four branch connections, conduct vibrational analysis, begin using a dynamic piping stress modeling software, and inspect 20 similar welded branch connections in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 378675. The Date Required is the date the emissions event occurred and the 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

\$20,000

TOTAL

\$2,112

Screening Date 25-May-2023 Respondent Lyondell Chemical Company Case ID No. 64148 Reg. Ent. Reference No. RN102523107 Media Air Enf. Coordinator Mackenzie Mehlmann	Docket No. 2023-0891-AIR-E	PCW <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>
Violation Number 2		
Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), NSR Permit No. 9395, SC No. 1, FOP No. 01421, GTC and STC No. 23, and Tex. Health & Safety Code § 382.085(b)		
Violation Description Failed to prevent unauthorized emissions. Specifically, the Respondent released 5.18 lbs of acetone, 894.43 lbs of CO, 442.65 lbs of NO _x , 15.36 lbs of particulate matter, and 1,722.21 lbs of VOC from the Emergency Flare Plant 2 Pilot, EPN E-B1501B, and released 1.29 lbs of VOC as fugitive emissions, during an emissions event (Incident No. 380040) that occurred on May 23, 2022 and lasted eight hours.		
Base Penalty		\$25,000

>> Environmental, Property and Human Health Matrix

OR	Harm				
	Release	Major	Moderate	Minor	
	Actual			x	
	Potential				
					Percent 30.0%

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	
					Percent 0.0%

Human health or the environment has been exposed to insignificant amounts of pollutants that did not exceed levels that were protective of human health or environmental receptors as a result of this violation.

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 1		Number of violation days 1														
<table style="width: 100%;"> <tr><td style="width: 30%;">daily</td><td style="border: 1px solid black;"></td></tr> <tr><td>weekly</td><td style="border: 1px solid black;"></td></tr> <tr><td>monthly</td><td style="border: 1px solid black; text-align: center;">x</td></tr> <tr><td>quarterly</td><td style="border: 1px solid black;"></td></tr> <tr><td>semiannual</td><td style="border: 1px solid black;"></td></tr> <tr><td>annual</td><td style="border: 1px solid black;"></td></tr> <tr><td>single event</td><td style="border: 1px solid black;"></td></tr> </table>	daily		weekly		monthly	x	quarterly		semiannual		annual		single event			
daily																
weekly																
monthly	x															
quarterly																
semiannual																
annual																
single event																
Violation Base Penalty		\$7,500														

One monthly event is recommended.

Good Faith Efforts to Comply

0.0%		Reduction \$0
	Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer	
Extraordinary		
Ordinary		
N/A	x	
Notes	The Respondent does not meet the good faith criteria for this violation.	
Violation Subtotal		\$7,500

Economic Benefit (EB) for this violation

Estimated EB Amount	\$1,430	Statutory Limit Test
		Violation Final Penalty Total \$8,700
This violation Final Assessed Penalty (adjusted for limits)		\$8,700

Economic Benefit Worksheet

Respondent Lyondell Chemical Company
Case ID No. 64148
Reg. Ent. Reference No. RN102523107
Media Air
Violation No. 2

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	23-May-2022	1-Apr-2025	2.86	\$1,430	n/a	\$1,430

Notes for DELAYED costs

Estimated cost to implement measures designed to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 380040. 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

\$1,430

Screening Date 25-May-2023 Respondent Lyondell Chemical Company Case ID No. 64148 Reg. Ent. Reference No. RN102523107 Media Air Enf. Coordinator Mackenzie Mehlmann	Docket No. 2023-0891-AIR-E	PCW <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>
--	-----------------------------------	--

Violation Number	3	
Rule Cite(s)		30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), NSR Permit No. 9395, SC No. 1, FOP No. O1421, GTC and STC No. 23, and Tex. Health & Safety Code § 382.085(b)
Violation Description		Failed to prevent unauthorized emissions. Specifically, the Respondent released 1.17 lbs of acetone, 1,084.34 lbs of CO, 543.16 lbs of NOx, and 2,253.65 lbs of VOC from the Emergency Flare Plant 1 Pilot, EPN E-B1501A, and released 0.02 lb of acetone and 56.52 lbs of VOC as fugitive emissions, during an emissions event (Incident No. 390997) that began on November 22, 2022 and lasted two hours and 35 minutes.

Base Penalty	\$25,000
---------------------	----------

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual			x	Percent 30.0%
	Potential				

>> Programmatic Matrix

Matrix Notes		Falsification	Major	Moderate	Minor	
						Percent 0.0%
		Human health or the environment has been exposed to insignificant amounts of pollutants that did not exceed levels that were protective of human health or environmental receptors as a result of this violation.				

Adjustment	\$17,500
-------------------	----------

	\$7,500
--	---------

Violation Events

Number of Violation Events	1		1	Number of violation days
----------------------------	---	--	---	--------------------------

	daily			Violation Base Penalty \$7,500
	weekly			
	monthly	x		
	quarterly			
	semiannual			
	annual			
	single event			

One monthly event is recommended.

Good Faith Efforts to Comply

	10.0%	
		Reduction \$750
	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		x
N/A		
Notes	The Respondent completed the corrective measures by August 11, 2023, after the Notice of Enforcement ("NOE") dated August 4, 2023.	

Violation Subtotal	\$6,750
---------------------------	---------

Economic Benefit (EB) for this violation

Estimated EB Amount	\$1,795
----------------------------	---------

Statutory Limit Test

Violation Final Penalty Total	\$7,950
--------------------------------------	---------

This violation Final Assessed Penalty (adjusted for limits)	\$7,950
--	---------

Economic Benefit Worksheet

Respondent Lyondell Chemical Company
Case ID No. 64148
Reg. Ent. Reference No. RN102523107
Media Air
Violation No. 3

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)	\$50,000	22-Nov-2022	11-Aug-2023	0.72	\$1,795	n/a	\$1,795

Notes for DELAYED costs

Estimated cost to replace 10 sections of the Bayport Emergency Flare Plant 1 piping; update the Bayport High Pressure Emergency Flare Plants 1, 2, and 3 model circuits in the Risk Based Inspection Program to include big and small bore components; and implement the pressure controller setpoint clamp to not allow a setpoint to be greater than the relief valve setpoint limit in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 390997. The Date Required is the date the emissions event occurred and the 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

\$50,000

TOTAL

\$1,795

Screening Date 25-May-2023 Respondent Lyondell Chemical Company Case ID No. 64148 Reg. Ent. Reference No. RN102523107 Media Air Enf. Coordinator Mackenzie Mehlmann	Docket No. 2023-0891-AIR-E Base Penalty \$25,000	PCW <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>
--	---	--

Violation Number	4	
Rule Cite(s)		30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), NSR Permit No. 9395, SC No. 1, FOP No. O1421, GTC and STC No. 23, and Tex. Health & Safety Code § 382.085(b)
Violation Description		Failed to prevent unauthorized emissions. Specifically, the Respondent released 1.12 lbs of acetone, 212.45 lbs of CO, 106.42 lbs of NOx, and 411.76 lbs of VOC from the Emergency Flare Plant 3 Pilot, EPN E-B1501C, during an emissions event (Incident No. 392482) that occurred on December 23, 2022 and lasted two hours and 10 minutes.

Base Penalty

\$25,000

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual			x	Percent 30.0%
Potential					

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
					Percent 0.0%
Matrix Notes	Human health or the environment has been exposed to insignificant amounts of pollutants that did not exceed levels that were protective of human health or environmental receptors as a result of this violation.				

Adjustment

\$17,500

\$7,500

Violation Events

Number of Violation Events	1		1	Number of violation days
----------------------------	---	--	---	--------------------------

	daily			Violation Base Penalty \$7,500
	weekly			
	monthly	x		
	quarterly			
	semiannual			
	annual			
	single event			

One monthly event is recommended.

Good Faith Efforts to Comply

	0.0%	
		Reduction
		\$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer	
Extraordinary			
Ordinary			
N/A	x		
Notes	The Respondent does not meet the good faith criteria for this violation.		

Violation Subtotal

\$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount	\$1,137	Violation Final Penalty Total	\$8,700
This violation Final Assessed Penalty (adjusted for limits)		\$8,700	

Economic Benefit Worksheet

Respondent Lyondell Chemical Company
Case ID No. 64148
Reg. Ent. Reference No. RN102523107
Media Air
Violation No. 4

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	23-Dec-2022	1-Apr-2025	2.27	\$1,137	n/a	\$1,137

Notes for DELAYED costs

Estimated cost to implement measures designed to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 392482. 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

\$1,137

Screening Date 25-May-2023 Respondent Lyondell Chemical Company Case ID No. 64148 Reg. Ent. Reference No. RN102523107 Media Air Enf. Coordinator Mackenzie Mehlmann	Docket No. 2023-0891-AIR-E Base Penalty \$25,000	PCW <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>
--	---	--

Violation Number	5	
Rule Cite(s)		30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), NSR Permit No. 9395, SC No. 1, FOP No. 01421, GTC and STC No. 23, and Tex. Health & Safety Code § 382.085(b)
Violation Description		Failed to prevent unauthorized emissions. Specifically, the Respondent released 204.70 lbs of acetone and 52,631.3 lbs of VOC from the Emergency Flare Plant 3 Pilot, EPN E-B1501C, during an emissions event (Incident No. 391281) that occurred on November 30, 2022 and lasted 14 minutes.

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual	x			Percent 100.0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
					Percent 0.0%

Matrix Notes: Human health or the environment has been exposed to pollutants that exceeded levels that were protective of human health or environmental receptors as a result of this violation.

Adjustment \$0

Violation Events

Number of Violation Events	1	1	Number of violation days
----------------------------	---	---	--------------------------

daily	x	
weekly		
monthly		
quarterly		
semiannual		
annual		
single event		

One daily event is recommended.

Violation Base Penalty \$25,000

Good Faith Efforts to Comply

	0.0%	
		Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	

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

Violation Subtotal \$25,000

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount \$483	Violation Final Penalty Total \$29,000
This violation Final Assessed Penalty (adjusted for limits) \$25,000	

Economic Benefit Worksheet

Respondent Lyondell Chemical Company
Case ID No. 64148
Reg. Ent. Reference No. RN102523107
Media Air
Violation No. 5

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)	\$6,000	30-Nov-2022	10-Jul-2024	1.61	\$483	n/a	\$483

Notes for DELAYED costs

Estimated cost to modify the Bayport Plant 3 Epoxidizer Circulation procedure to specify that Operations should initiate the shutdown procedure once the circulation procedure is complete, expand the circulation procedure, combine the circulation procedure with the Epoxidizer shutdown procedure to specify shutdown conditions or define conditions to place the Epoxidizer in a stable condition, and include instructions on when to take the temperature control valves out of automatic cascade and into manual in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 391281. The Date Required is the date the emissions event occurred and the 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

\$6,000

TOTAL

\$483

Screening Date 25-May-2023 Respondent Lyondell Chemical Company Case ID No. 64148 Reg. Ent. Reference No. RN102523107 Media Air Enf. Coordinator Mackenzie Mehlmann	Docket No. 2023-0891-AIR-E	PCW <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>
--	-----------------------------------	--

Violation Number	6		
Rule Cite(s)	30 Tex. Admin. Code §§ 115.764(a)(6), 115.769(b), 116.115(c), and 122.143(4), NSR Permit Nos. 137789 and N244, SC No. 13, FOP No. O1421, GTC and STC No. 1.A., and Tex. Health & Safety Code § 382.085(b)		
Violation Description	Failed to operate a total highly reactive volatile organic compound ("HRVOC") continuous monitoring system ("CMS"). Specifically, the Respondent started up Cooling Water Tower 1809 on July 10, 2022, took Cooling Water Tower 1809 out of service on September 29, 2022, and re-started Cooling Water Tower 1809 on March 22, 2023, but the Respondent did not operate a total HRVOC CMS for Cooling Water Tower 1809 from September 10, 2022 to September 29, 2022 and from March 22, 2023 to May 25, 2023.		

Base Penalty	\$25,000
---------------------	----------

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual				
	Potential			x	Percent 7.0%

>> Programmatic Matrix

Matrix Notes		Falsification	Major	Moderate	Minor	
						Percent 0.0%

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

Adjustment	\$23,250
-------------------	----------

	\$1,750
--	---------

Violation Events

Number of Violation Events	2	83	Number of violation days
----------------------------	---	----	--------------------------

	daily					
	weekly					
	monthly					
	quarterly	x				
	semiannual					
	annual					
	single event					

Two quarterly events are recommended for the periods of non-compliance from September 10, 2022 to September 29, 2022 and from March 22, 2023 to May 25, 2023.	
--	--

Good Faith Efforts to Comply	10.0%		
	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer	
Extraordinary			
Ordinary		x	
N/A			

	The Respondent completed the corrective measures by June 16, 2023, after the NOE dated May 12, 2023.	
--	---	--

Violation Subtotal	\$3,150
---------------------------	---------

Economic Benefit (EB) for this violation

Estimated EB Amount	\$955	Statutory Limit Test
----------------------------	-------	-----------------------------

Violation Final Penalty Total	\$3,710
--------------------------------------	---------

This violation Final Assessed Penalty (adjusted for limits)	\$3,710
--	---------

Economic Benefit Worksheet

Respondent Lyondell Chemical Company
Case ID No. 64148
Reg. Ent. Reference No. RN102523107
Media Air
Violation No. 6

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)	\$25,000	10-Sep-2022	16-Jun-2023	0.76	\$955	n/a	\$955

Notes for DELAYED costs

Estimated cost to install a continuous on-line monitor capable of providing total HRVOC for Cooling Water Tower 1809. The Date Required is the first date of non-compliance and the 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

\$25,000

TOTAL

\$955

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 CN600344402, RN102523107, Rating Year 2023 which includes Compliance History (CH) components from September 1, 2018, through August 31, 2023.

Customer, Respondent, or Owner/Operator: CN600344402, Lyondell Chemical Company

Classification: SATISFACTORY

Rating: 4.22

Regulated Entity: RN102523107, Lyondell Chemical Bayport Choate Plant

Classification: SATISFACTORY

Rating: 3.59

Complexity Points: 29

Repeat Violator: NO

CH Group: 13 - Pipeline Transportation of Natural Gas, Refined Petroleum, and All Other Products

Location: 10801 Choate Road, Pasadena, Harris County, Texas

TCEQ Region: REGION 12 - HOUSTON

ID Number(s):

AIR OPERATING PERMITS ACCOUNT NUMBER HG05370

AIR QUALITY NON PERMITTED ID NUMBER
LGL102523107

PUBLIC WATER SYSTEM/SUPPLY REGISTRATION
1011527

AIR NEW SOURCE PERMITS REGISTRATION 11035

AIR NEW SOURCE PERMITS PERMIT 18327

AIR NEW SOURCE PERMITS ACCOUNT NUMBER
HG05370

AIR NEW SOURCE PERMITS AFS NUM 4820100477

AIR NEW SOURCE PERMITS REGISTRATION 87890

AIR NEW SOURCE PERMITS REGISTRATION 95547

AIR NEW SOURCE PERMITS REGISTRATION 112544

AIR NEW SOURCE PERMITS EPA PERMIT N244

AIR NEW SOURCE PERMITS REGISTRATION 164645

AIR NEW SOURCE PERMITS REGISTRATION 169629

AIR NEW SOURCE PERMITS REGISTRATION 147097

AIR NEW SOURCE PERMITS REGISTRATION 152730

AIR NEW SOURCE PERMITS REGISTRATION 172780

AIR NEW SOURCE PERMITS REGISTRATION 173699

AIR NEW SOURCE PERMITS REGISTRATION 172429

UNDERGROUND INJECTION CONTROL PERMIT
5X2600218

WASTEWATER EPA ID TX0030228

POLLUTION PREVENTION PLANNING ID NUMBER
P00039

INDUSTRIAL AND HAZARDOUS WASTE EPA ID
TXD058265067

TAX RELIEF ID NUMBER 25862

TAX RELIEF ID NUMBER 25858

TAX RELIEF ID NUMBER 25859

TAX RELIEF ID NUMBER 25860

AIR OPERATING PERMITS PERMIT 1421

AIR QUALITY NON PERMITTED ID NUMBER
R12102523107

AIR NEW SOURCE PERMITS PERMIT 1409

AIR NEW SOURCE PERMITS PERMIT 9395

AIR NEW SOURCE PERMITS PERMIT 20122

AIR NEW SOURCE PERMITS REGISTRATION 75541

AIR NEW SOURCE PERMITS REGISTRATION 78478

AIR NEW SOURCE PERMITS REGISTRATION 87076

AIR NEW SOURCE PERMITS REGISTRATION 112543

AIR NEW SOURCE PERMITS PERMIT 137789

AIR NEW SOURCE PERMITS REGISTRATION 168606

AIR NEW SOURCE PERMITS REGISTRATION 168560

AIR NEW SOURCE PERMITS REGISTRATION 171184

AIR NEW SOURCE PERMITS PERMIT AMOC16

AIR NEW SOURCE PERMITS REGISTRATION 172545

AIR NEW SOURCE PERMITS REGISTRATION 175370

AIR NEW SOURCE PERMITS REGISTRATION 175915

IHW CORRECTIVE ACTION SOLID WASTE
REGISTRATION # (SWR) 30368

WASTEWATER PERMIT WQ0002756000

AIR EMISSIONS INVENTORY ACCOUNT NUMBER
HG05370

INDUSTRIAL AND HAZARDOUS WASTE PERMIT 50275

INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE
REGISTRATION # (SWR) 30368

TAX RELIEF ID NUMBER 25861

TAX RELIEF ID NUMBER 25863

TAX RELIEF ID NUMBER 25865

TAX RELIEF ID NUMBER 25864

Compliance History Period: September 01, 2018 to August 31, 2023

Rating Year: 2023

Rating Date: 09/01/2023

Date Compliance History Report Prepared: May 21, 2024

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: May 21, 2019 to May 21, 2024

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: 11/29/2021 ADMINORDER 2020-1403-AIR-E (1660 Order-Agreed Order With Denial)
- 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)
- Rqmt Prov: GTC and STC No. 22 OP
Special Condition 1 PERMIT
- Description: Failure to prevent unauthorized emissions to the atmosphere during an emissions event that was discovered on January 16, 2018, TCEQ/STEERS Incident No. 276521. (Category A12.i.6)
- 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)
- Rqmt Prov: GTC and STC No. 22 OP
NSR PERMIT 9395, Special Conditions 1 PERMIT
- Description: Failure to prevent unauthorized emissions to the atmosphere during an emissions event that was discovered on March 16, 2018, TCEQ/STEERS Incident No. 280546. [Category A12.i.(6)]

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	June 17, 2019	(1584096)
Item 2	July 17, 2019	(1593582)
Item 3	August 06, 2019	(1582035)
Item 4	August 19, 2019	(1599912)
Item 5	September 18, 2019	(1606813)
Item 6	October 17, 2019	(1613656)
Item 7	October 24, 2019	(1575793)
Item 8	November 15, 2019	(1619470)
Item 9	December 18, 2019	(1626823)
Item 10	January 15, 2020	(1634464)
Item 11	February 18, 2020	(1641080)
Item 12	March 16, 2020	(1647597)
Item 13	April 08, 2020	(1653941)
Item 14	May 07, 2020	(1643836)
Item 15	June 17, 2020	(1667034)
Item 16	July 20, 2020	(1673982)
Item 17	August 19, 2020	(1680761)
Item 18	September 17, 2020	(1687330)
Item 19	October 14, 2020	(1693670)
Item 20	November 28, 2020	(1713702)
Item 21	December 11, 2020	(1713703)
Item 22	January 19, 2021	(1713704)
Item 23	February 18, 2021	(1726766)
Item 24	March 10, 2021	(1726767)
Item 25	March 22, 2021	(1704542)
Item 26	April 13, 2021	(1726768)
Item 27	May 12, 2021	(1740691)
Item 28	June 03, 2021	(1711274)
Item 29	June 14, 2021	(1672361)
Item 30	June 17, 2021	(1747805)
Item 31	July 15, 2021	(1752119)
Item 32	August 05, 2021	(1745172)
Item 33	August 11, 2021	(1757571)

Item 34	September 14, 2021	(1766689)
Item 35	October 18, 2021	(1777246)
Item 36	November 15, 2021	(1771602)
Item 37	December 14, 2021	(1791072)
Item 38	January 17, 2022	(1798858)
Item 39	January 25, 2022	(1782677)
Item 40	February 16, 2022	(1806734)
Item 41	March 10, 2022	(1813798)
Item 42	April 14, 2022	(1820372)
Item 43	May 11, 2022	(1829212)
Item 44	May 17, 2022	(1760555)
Item 45	June 13, 2022	(1835503)
Item 46	July 11, 2022	(1842704)
Item 47	August 31, 2022	(1840864)
Item 48	September 16, 2022	(1856635)
Item 49	October 17, 2022	(1862993)
Item 50	November 08, 2022	(1845865)
Item 51	November 15, 2022	(1869906)
Item 52	December 15, 2022	(1875754)
Item 53	January 18, 2023	(1882574)
Item 54	February 15, 2023	(1890388)
Item 55	March 03, 2023	(1788445)
Item 56	March 07, 2023	(1652708)
Item 57	March 08, 2023	(1898954)
Item 58	April 13, 2023	(1905741)
Item 59	May 09, 2023	(1912918)
Item 60	May 15, 2023	(1841151)
Item 61	June 14, 2023	(1919524)
Item 62	June 15, 2023	(1908922)
Item 63	July 18, 2023	(1926490)
Item 64	August 10, 2023	(1933447)
Item 65	September 19, 2023	(1939588)
Item 66	October 09, 2023	(1946436)
Item 67	November 09, 2023	(1952127)
Item 68	November 16, 2023	(1925397)
Item 69	December 11, 2023	(1961894)
Item 70	January 18, 2024	(1968488)
Item 71	February 14, 2024	(1977547)
Item 72	February 16, 2024	(1961369)
Item 73	March 20, 2024	(1984125)
Item 74	May 15, 2024	(1987170)

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.

N/A

F. Environmental audits:

Notice of Intent Date: 06/30/2022 (1839104)

Disclosure Date: 08/31/2022

Viol. Minor

Citation:

Classification: 30 TAC Chapter 115, SubChapter B 115.112(e)(1)

30 TAC Chapter 116, SubChapter B 116.115(c)

40 CFR Chapter 60, SubChapter C, PT 60, SubPT Kb 60.110b(d)(2)

Rqmt Prov: PERMIT SC 1

Description: F-1920 Isobutylene Bullet is continuously over-pressuring and relieving to the site's continuous flare (E-B 1550). The overpressure causes the unit to exceed the hourly VOC MAERT limit for the continuous flare (E-B 1550) from NSR Permit 137789 and N244.

Viol. Moderate

Classification:

Citation: 30 TAC Chapter 116, SubChapter B 116.116(a)
 Description: Upon review of operating data, the wastewater tanks F- 1685A/B were able to receive wastewater at a higher temperature than what was represented in NSR Permit 137789 and N244 application.
 Viol. Moderate
 Classification:
 Citation: 30 TAC Chapter 116, SubChapter B 116.116(a)
 Description: Upon review of operating data, the cooling tower pump flow rate was higher at actual discharge pressure than what was represented in NSR Permit 137789 and N244 application.
 Viol. Minor
 Classification:
 Citation: 30 TAC Chapter 115, SubChapter H 115.725(d)(2)
 30 TAC Chapter 115, SubChapter H 115.764(a)(6)
 Description: Review of process data revealed trace amounts of Ethylene that has the potential to be present in some process streams. The existing HRVOC analyzers on the Continuous Flare (E-81550) and the Cooling Towers (E-UI801, E-UI802, E-UI803) are not currently calibrated for Ethylene.
 Viol. Minor
 Classification:
 Citation: 30 TAC Chapter 115, SubChapter D 115.352(1)(B)
 30 TAC Chapter 115, SubChapter D 115.352(2)
 30 TAC Chapter 115, SubChapter H 115.781(b)(7)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 Rqmt Prov: PERMIT SC 29 D & F
 Description: Some fugitive components on the Catalyst line in 8PII pipe rack, were found to be not identified in LeakDas database. This resulted in ninety-six (96) fugitive components missing Method 21 monitoring.
 Disclosure Date: 09/29/2022
 Viol. Moderate
 Classification:
 Citation: 30 TAC Chapter 115, SubChapter B 115.112(e)(1)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT Kb 60.110b(d)(2)
 Description: Upon startup, to purge the small amount of unwanted isobutane that is a constituent in the feed and ends up in the intermediate isobutylene, the F-3940 Debutenizer Reflux Drum requires a manual line up to the site's continuous flare (E-B1550). The combustion of this material in the flare contributes to the exceedance of the hourly VOC MAERT limit for the continuous flare (E-B 1550) from NSR Permit 137789 and N244 (Violation #1, disclosed on August 31, 2022).
 Disclosure Date: 05/31/2023
 Viol. Minor
 Classification:
 Citation: 40 CFR Chapter 60, SubChapter C, PT 60, SubPT NNN 60.665(a)
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT RRR 60.705(r)
 Description: Failed to comply with the following reporting requirements for equipment associated with the RTBE Unit: Notification of initial start-up for distillation columns subject to NSPS NNN will be combusted in a flare that meets 60.18 and a process design description was not included with the initial notice of start-up for Reactors for reactor process vent streams routed to a distillation unit subject to NSPS NNN.
 Viol. Minor
 Classification:
 Citation: 40 CFR Chapter 63, SubChapter C, PT 63, SubPT SS 63.999(b)(3)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT SS 63.999(c)
 Description: Failed to meet the reporting requirements for Closed Vent Systems under 40 CFR Part 63, Subpart SS due to improper classification of Group 1 and Group 2 sources in the 40 CFR Part 63, Subpart FFFF NOCS.
 Notice of Intent Date: 02/01/2024 (1974996)
 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
LYONDELL CHEMICAL COMPANY
RN102523107

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

AGREED ORDER DOCKET NO. 2023-0891-AIR-E

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Lyondell Chemical Company (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 presented this Order to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that 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. The duties and responsibilities imposed by this Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a chemical manufacturing plant located at 10801 Choate Road in Pasadena, 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. During a record review for the Plant conducted from May 17, 2022 through August 15, 2023, an investigator documented that the Respondent released 30,520.02 pounds ("lbs") of volatile organic compounds ("VOC") as fugitive emissions, released 1,462.72 lbs of carbon monoxide ("CO"), 725.09 lbs of nitrogen oxides ("NOx"), and 2,847.98 lbs of VOC from the Emergency Flare Plant 2 Pilot, Emissions Point Number ("EPN") E-B1501B, and released 6.10 lbs of VOC from Tank No. F2340, EPN E-F2340, during an emissions event (Incident No. 378675) that occurred on May 2, 2022 and lasted seven hours and 55 minutes.
3. During a record review for the Plant conducted from June 2, 2022 through September 9, 2022, an investigator documented that the Respondent released 5.18 lbs of acetone, 894.43 lbs of CO, 442.65 lbs of NOx, 15.36 lbs of particulate matter, and 1,722.21 lbs of VOC from the Emergency Flare Plant 2 Pilot, EPN E-B1501B, and released 1.29 lbs of VOC

as fugitive emissions, during an emissions event (Incident No. 380040) that occurred on May 23, 2022 and lasted eight hours.

4. During a record review for the Plant conducted from December 6, 2022 through June 28, 2023, an investigator documented that the Respondent released 1.17 lbs of acetone, 1,084.34 lbs of CO, 543.16 lbs of NO_x, and 2,253.65 lbs of VOC from the Emergency Flare Plant 1 Pilot, EPN E-B1501A, and released 0.02 lb of acetone and 56.52 lbs of VOC as fugitive emissions, during an emissions event (Incident No. 390997) that began on November 22, 2022 and lasted two hours and 35 minutes.
5. During a record review for the Plant conducted from January 4, 2023 through February 2, 2023, an investigator documented that the Respondent released 1.12 lbs of acetone, 212.45 lbs of CO, 106.42 lbs of NO_x, and 411.76 lbs of VOC from the Emergency Flare Plant 3 Pilot, EPN E-B1501C, during an emissions event (Incident No. 392482) that occurred on December 23, 2022 and lasted two hours and 10 minutes.
6. During a record review for the Plant conducted from January 11, 2023 through April 13, 2023, an investigator documented that the Respondent released 204.70 lbs of acetone and 52,631.3 lbs of VOC from the Emergency Flare Plant 3 Pilot, EPN E-B1501C, during an emissions event (Incident No. 391281) that occurred on November 30, 2022 and lasted 14 minutes.
7. During a record review for the Plant conducted from March 4, 2023 through April 13, 2023, an investigator documented that the Respondent started up Cooling Water Tower 1809 on July 10, 2022, took Cooling Water Tower 1809 out of service on September 29, 2022, and re-started Cooling Water Tower 1809 on March 22, 2023, but the Respondent did not operate a total highly reactive volatile organic compound ("HRVOC") continuous monitoring system ("CMS") for Cooling Water Tower 1809 from September 10, 2022 to September 29, 2022 and from March 22, 2023 to May 25, 2023.
8. The Executive Director recognizes that the Respondent implemented the following corrective measures at the Plant:
 - a. By June 16, 2023, installed a continuous on-line monitor capable of providing total HRVOC for Cooling Water Tower 1809;
 - b. By August 11, 2023, replaced 10 sections of the Bayport Emergency Flare Plant 1 piping; updated the Bayport High Pressure Emergency Flare Plants 1, 2, and 3 model circuits in the Risk Based Inspection Program to include big and small bore components; and implemented the pressure controller setpoint clamp to not allow a setpoint to be greater than the relief valve setpoint limit in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 390997;
 - c. By June 11, 2024, installed a new sock-o-let and seal welded plug, conducted penetrant testing on the four branch connections, conducted vibrational analysis, began using a dynamic piping stress modeling software, and inspected 20 similar welded branch connections in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 378675; and

- d. By July 10, 2024, modified the Bayport Plant 3 Epoxidizer Circulation procedure to specify that Operations should initiate the shutdown procedure once the circulation procedure is complete, expanded the circulation procedure, combined the circulation procedure with the Epoxidizer shutdown procedure to specify shutdown conditions or define conditions to place the Epoxidizer in a stable condition, and included instructions on when to take the temperature control valves out of automatic cascade and into manual in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 391281.

II. CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, the Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2, the Respondent failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), New Source Review ("NSR") Permit No. 9395, Special Conditions ("SC") No. 1, Federal Operating Permit ("FOP") No. 01421, General Terms and Conditions ("GTC") and Special Terms and Conditions ("STC") No. 23, and TEX. HEALTH & SAFETY CODE § 382.085(b).
3. As evidenced by Finding of Fact No. 3, the Respondent failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), NSR Permit No. 9395, SC No. 1, FOP No. 01421, GTC and STC No. 23, and TEX. HEALTH & SAFETY CODE § 382.085(b).
4. As evidenced by Finding of Fact No. 4, the Respondent failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), NSR Permit No. 9395, SC No. 1, FOP No. 01421, GTC and STC No. 23, and TEX. HEALTH & SAFETY CODE § 382.085(b).
5. As evidenced by Finding of Fact No. 5, the Respondent failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), NSR Permit No. 9395, SC No. 1, FOP No. 01421, GTC and STC No. 23, and TEX. HEALTH & SAFETY CODE § 382.085(b).
6. As evidenced by Finding of Fact No. 6, the Respondent failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), NSR Permit No. 9395, SC No. 1, FOP No. 01421, GTC and STC No. 23, and TEX. HEALTH & SAFETY CODE § 382.085(b).
7. As evidenced by Finding of Fact No. 7, the Respondent failed to operate a total HRVOC CMS, in violation of 30 TEX. ADMIN. CODE §§ 115.764(a)(6), 115.769(b), 116.115(c), and 122.143(4), NSR Permit Nos. 137789 and N244, SC No. 13, FOP No. 01421, GTC and STC No. 1.A., and TEX. HEALTH & SAFETY CODE § 382.085(b).
8. Pursuant to TEX. WATER CODE § 7.051, the TCEQ has the authority to assess an administrative penalty against the Respondent for violations of state statutes within the

TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.

9. An administrative penalty in the amount of \$79,060 is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent paid the \$39,530 penalty. Pursuant to TEX. WATER CODE § 7.067, \$39,530 of the penalty shall be conditionally offset by the Respondent's timely and satisfactory completion of a Supplemental Environmental Project ("SEP") as defined in the attached SEP Agreement ("Attachment A", incorporated herein by reference). The Respondent's obligation to pay the conditionally offset portion of the penalty shall be discharged upon full compliance with all the terms and conditions of this Order, which includes the timely and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director.

III. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Conclusion of Law No. 9 for violations of state statutes and rules of the TCEQ. The payment of this penalty and the Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations that are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Lyondell Chemical Company, Docket No. 2023-0891-AIR-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
12100 Park 35 Circle
Austin, Texas 78753

2. The Respondent shall implement and complete the SEP as set forth in Section II, Conclusion of Law No. 9. The amount of \$39,530 of the assessed penalty is conditionally offset based on the Respondent's implementation and completion of the SEP pursuant to the terms of the SEP Agreement, as defined in Attachment A. Penalty payments for any portion of the SEP deemed by the Executive Director as not complete shall be paid within 30 days after the date the Executive Director demands payment.
3. The Respondent shall undertake the following technical requirements at the Plant:
 - a. Within 30 days after the effective date of this Order:
 - i. Implement measures designed to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 380040; and
 - ii. Implement measures designed to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 392482.

- 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. 3.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
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Street, Suite H
Houston, Texas 77023-1452

4. All relief not expressly granted in this Order is denied.
5. 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.
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. 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 in this Order.

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. 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.
10. 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.
11. 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

10/16/2024

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

09/12/2024

Date

AMY CALDWELL

Name (Printed or typed)
Authorized Representative of
Lyondell Chemical Company

SITE MANAGER

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.

Attachment A
Docket Number: 2023-0891-AIR-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Lyondell Chemical Company
Payable Penalty Amount:	\$79,060
SEP Offset Amount:	\$39,530
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Houston-Galveston Area Council-AERCO
Project Name:	<i>Clean Vehicles Partnership Project</i>
Location of SEP: Angelina, Austin, Brazoria, Chambers, Colorado, Fort Bend, Galveston, Hardin, Harris, Houston, Jasper, Jefferson, Liberty, Matagorda, Montgomery, Nacogdoches, Newton, Orange, Polk, Sabine, San Augustine, San Jacinto, Trinity, Tyler, Walker, Waller, and Wharton Counties	

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 offset is equal to the SEP Offset Amount set forth above and 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-Galveston Area Council-AERCO** for the *Clean Vehicles Partnership Project*. 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 replace old, higher emission buses that do not meet 2010 Environmental Protection Agency ("EPA") emissions standards ("Old Buses") with new, lower emission buses that meet the most recent EPA emissions standards ("New Buses") or to retrofit or convert Old Buses with emissions reducing equipment. The Third-Party Administrator shall allocate the SEP Offset Amount to public entities such as school districts, local governments, and public transit authorities ("SEP Administrators") that apply for replacement, retrofit, or conversion of buses.

The SEP Offset Amount may also be used for retrofit or conversion technology that brings an Old Bus up to current EPA emissions standards. New Buses may be alternative-fueled. The SEP Offset Amount may be used for up to 100% of the replacement, conversion, or retrofit cost. The SEP Offset Amount will be used only for purchase of New Buses or conversion or retrofit equipment and contract labor for installation of equipment. The SEP Offset Amount will not be used for financing such a purchase through a lease-purchase or similar agreement.

Retrofitting means reducing exhaust emissions to current standards by installing devices that are verified or certified by the EPA or the California Air Resources Board as proven retrofit technologies. Converting means replacing an engine system with an alternative fuel engine system to bring the Old Bus within the current EPA emissions standards.

Buses to be replaced, retrofitted, or converted must be in regular use (driven at least five hundred miles per year for at least the past two years) by the SEP Administrator and must not already be scheduled for replacement in the following twenty-four months.

All replaced buses must be fully decommissioned. The Third-Party Administrator shall provide proof of decommissioning to TCEQ for each replaced vehicle by submitting a copy of the TCEQ SEP Vehicle Replacement Disposition Form. The SEP will be done 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 the Respondent has no prior commitment to make this contribution and that it is being contributed to settle this enforcement action. The Respondent shall not profit from this SEP.

b. Environmental Benefit

This SEP will directly benefit air quality by reducing harmful exhaust emissions that contribute to the formation of ozone and may cause or exacerbate many respiratory diseases, including asthma. For example, by replacing a 1989 diesel bus with a 2010 ultra-low emission model, passengers' exposure to nitrogen oxides may be reduced by 98 percent; volatile organic compounds by 93 percent; carbon dioxide by 83 percent; and particulate matter by 99 percent. In addition, by encouraging less bus idling, this SEP contributes to public awareness of air pollution and air quality.

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 check payable to **Houston-Galveston Area Council-AERCO SEP** and shall mail the contribution with a copy of the Agreed Order to:

Houston-Galveston Area Council-AERCO
Emission Reduction Credit Corporation
Attn: Air Quality Program Manager
3555 Timmons Lane, Suite 120
Houston, Texas 77027

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount 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 and/or project, 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. Recognition

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 Attachment A and in the attached 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.