

TULANE ENVIRONMENTAL LAW CLINIC

August 1, 2007

Reference No. 101-055

Certified Mail-7005 0390 0002 0055 0842

Mr. Bryan Milton, Site Manager
ExxonMobil Chemical Co.
Baton Rouge Chemical Plant
P.O. Box 241
Baton Rouge, LA 70821-0241

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Mr. Stephen L. Johnson, Administrator
U.S. E.P.A. Headquarters
Ariel Rios Building
1200 Pennsylvania Avenue N.W.
Mail Code: 1101A
Washington, D.C. 20460

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Dr. Mike D. McDaniel, Secretary
Louisiana Department of Environmental
Quality
Office of the Secretary
P.O. Box 4301
Baton Rouge, LA 70821-4301

Re: Notice of Violations and Intent to File Citizen Suit Against Exxon Mobil Corporation d/b/a ExxonMobil Chemical Co. Under Section 304 of the Clean Air Act, 42 U.S.C. § 7604, and Under Section 2026 of the Louisiana Environmental Quality Act, La. Rev. Stat. § 30:2026.

Dear Messrs. Milton, Johnson, and Dr. McDaniel:

Louisiana Environmental Action Network (“LEAN”) provides Exxon Mobil Corporation d/b/a ExxonMobil Chemical Company with this notice of violations of sections 304 and 502 of the Clean Air Act, 42 U.S.C. §§ 7604, 7661a(a); sections 30:2055 and 30:2057 of the Louisiana Environmental Quality Act, La. Rev. Stat. §§ 30:2055, 30:2057; Louisiana Emission Control Regulations, La. Admin. Code tit. 33, pt. III, §§ 501.C.4, 507, 905.A, and 927.A; and, Louisiana Written Notification Procedures, La. Admin. Code tit. 33, pt. I, § 3925.B.4.

LEAN intends to file a citizen enforcement suit under section 304 of the Clean Air Act for these violations. Section 304 of the Clean Air Act authorizes:

[A]ny person [to] commence a civil action on his own behalf against any person...who is alleged to have violated (if there is evidence that the alleged violation has been repeated) or to be in violation of (A) an

emission standard or limitation under this chapter or (B) an order issued by the Administrator or a State with respect to such a standard or limitation.

42 U.S.C. § 7604(a)(1).

The Clean Air Act defines “emission standard or limitation” as:

(1) a schedule or timetable of compliance, emission limitation, standard of performance or emission standard...or (4) any other standard, limitation, or schedule established under any permit issued pursuant to subchapter V of this chapter or under any applicable State implementation plan approved by the Administrator, any permit term or condition, and any requirement to obtain a permit as a condition of operations.

42 U.S.C. § 7604(f).

LEAN also intends to file a citizen enforcement suit under the Louisiana Environmental Quality Act to enforce state violations. The Louisiana Environmental Quality Act authorizes “any person having an interest, which is or may be adversely affected, [to] commence a civil action on his own behalf against any person whom he alleges to be in violation of this Subtitle or of the regulations promulgated hereunder.” La. Rev. Stat. § 30:2026A(1).

Person Giving Notice:

Louisiana Environmental Action Network
P.O. Box 66323
Baton Rouge, Louisiana 70896
Phone: (225) 928-1315

LEAN is an incorporated, non-profit community organization that serves as an umbrella organization for environmental and citizen groups. LEAN’s purpose is to preserve and protect Louisiana’s land, air, water, and other natural resources, and to protect the organization’s members—who live, work, and recreate within the state—from threats of pollution, including harmful emissions from chemical plants.

LEAN’s Counsel:

Adam Babich, Director, SBN: 27177
Corinne Van Dalen, Supervising Attorney, SBN: 21175
Tulane Environmental Law Clinic
6329 Freret Street
New Orleans, LA 70118
Phone: (504) 862-8818
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Person Responsible for Alleged Violations:

Exxon Mobil Corporation d/b/a/ ExxonMobil Chemical Company, as owner and operator of the ExxonMobil Baton Rouge Chemical Plant, is responsible for violations of sections 304 and 502 of the Clean Air Act, 42 U.S.C. §§ 7604, 7661a(a); title 30 of the Louisiana Environmental Quality Act, sections 30:2055 and 30:2057; and title 33 of the Louisiana Administrative Code, part I, section 3925.B.4 and part III, sections 501.C.4, 507, 905.A, and 927.A. This notice describes violations that present a nuisance or a danger to the public health or safety of LEAN members, and to the environment in which LEAN members live.

Location of the Violations:

ExxonMobil's has committed these violations at the ExxonMobil Baton Rouge Chemical Plant located at 4999 Scenic Highway, Baton Rouge, Louisiana 70805-3359.

Description of ExxonMobil's Clean Air Act Violations:

A. ExxonMobil's Title V Permit Emission Limit Violations.

Louisiana implements the Clean Air Act Title V program pursuant to its State Implementation Plan (SIP) which the EPA approved pursuant to section 110 of the Clean Air Act and which is codified at 40 C.F.R. § 52.970. Section 502 of the Clean Air Act, 42 U.S.C. § 7661a(a), and the Louisiana Title V permit operating program, La. Admin. Code, tit. 33, pt. III, 507, have at all relevant times made it unlawful for a person to violate Title V permit requirements.

Specifically, section 502 of the Clean Air Act provides “[A]fter the effective date of a permit program approved or promulgated under this subchapter, it shall be unlawful for any person to violate any requirement of a permit issued under [Title V], or to operate...a major source...except in compliance with a permit issued by a permitting authority under [Title V].” 42 U.S.C. § 7661a(a). The corresponding Louisiana regulation provides: “Upon issuance of the permit, the [Title V] source shall be operated in compliance with all terms and conditions of the permit. Noncompliance with any federally applicable term or condition of the permit shall constitute a violation of the Clean Air Act and shall be grounds for enforcement action.” La. Admin. Code, tit. 33, pt. III, 507.

ExxonMobil has repeatedly violated emission limits set for various pollutants in permits issued to it by the LDEQ pursuant to Title V of the Clean Air Act. Each time ExxonMobil releases pollutants in excess of its permit limits, without LDEQ's prior authorization, it violates the Clean Air Act. By way of example and not limitation, LEAN lists ExxonMobil's violations of its permitted emission limits as follows:

Date	Permit No.	Source of Release	Permit Limit	Released Quantities	Duration of Release
8/22/2002	1200-V1	PALA unit, S-70	Phthalic Anyhdride (PAN) = 38.9 lbs/hour; Maleic Anhydride (MAN) = 21.8 lbs/hour; total VOC = 51.9 lbs/hour	Maleic Anhydride (MAN) (3 releases) = 23.1, 24.6 and 30.0 lbs/hour, respectively; total VOC = 53.4 lbs/hour (one excess release)	1 hour per release (3 hours total); the other VOC release occurred during the final hour.
8/27/2002	1200-VI	PALA unit, S-69	PAN = 38.9 lbs/hour; MAN = 21.8 lbs/hour; total VOC = 51.9 lbs/hour	Phthalic anyhdride (PAN) (2 releases): 152.1 and 161.1 lbs per hour; MAN (2 releases) 366.0 lbs and 386.5 lbs per hour ; VOC (2 releases): 583.4 lbs and 631.6 per lbs hours; other VOCs: 83.2 lbs and 84 lbs respectively	1 hour per release (2 hours total)
8/27/2002	1200-V1	PALA unit, S-70	PAN = 38.9 lbs/hour; MAN = 21.8 lbs/hour; total VOC = 51.9 lbs/hour	PAN (2 releases): 152.1 lbs and 161.1 lbs per hour respectively; MAN (2 releases) were 366.0 lbs and 386.5 lbs per hour respectively. Other VOC (2 releases) 83.2 lbs and 84.0 lbs per hour respectively.	2 hours
9/13/2002	2031-VI	OLA-2X, U-91	VOC = 31.96 lbs/hour	total VOC released = 59 lbs/hour	4 minutes
9/28/2002	1200-V1	PALA unit, S-70	Permit limits: PAN=38.9 lbs/hr; MAN=21.8 lbs/hr; Other VOC=47.8 lbs/hr; total VOC=51.9 lbs/hr.	MAN: 123.6 lbs/hour; PAN: 51.3 lbs/hour; total VOC 203.8 lbs/hour	19 minutes

10/2/2002	2031-V2	Maintrain, SD-35 and/or V-97	max hourly VOC = 7.69 lbs/hour	VOCs exceeded by 4 lbs over permitted max hourly limit... would be 11.69 lbs/hour	2 hrs
1/24/2003	2012-V0	Turbine Generator, S-85	NOx = 165.8 lbs/hour	1/28 report states NOx 295.1 lbs hour was emitted. NO2 exceedance = 115.1 lbs/hour; NO exceedance = 12.8 lbs/hour	60 minutes
1/29/2003	1200-V1	PALA unit, S-69	Permit limits: PAN=38.9 lbs/hr; MAN=21.8 lbs/hr; Other VOC=47.8 lbs/hr; total VOC=51.9 lbs/hr.	F-5 maleic anhydride (MAN) = 25 lbs/hour	11 minutes
2/20/2003	1200-V1	PALA unit, S-69	Permit limits: PAN=38.9 lbs/hr; MAN=21.8 lbs/hr; Other VOC=47.8 lbs/hr; total VOC=51.9 lbs/hr.	F-5 maleic anhydride (MAN) = 29.5 lbs/hour	60 minutes
12/1/2003	2012-V0	Turbine Generator, S-85	NOx = 165.8 lbs/hour or 25 ppm	178.5 lb NO2, 280.5 lb NO (total NOx = 459 lbs or 671.7 lbs/hour)	41 minutes
12/23/2003	2031-V1	OLA-2X unit, UT-01	fugitive emission limit: benzene = 1.01 lbs/hour	281 lbs benzene	152 hours
1/29/2006	2012-V0	Turbine Generator, S-85	NOx = 25 ppmv in turbine exhaust	NOx = 224 ppmv; NO = 726 lbs; NO2 = 81 lbs	almost 72 hours
4/18/2006	1200-V2	PALA unit, S-70	max hourly VOC = 242 lbs/hour	total VOC released = 322 lbs/hour (1st hour); 369 lbs/hour (2nd hour)	approximately 2 hours, 6 minutes
8/17/2006	1200-V2	PALA units, S-69 & S-70	12 month rolling average of 95.4 tons VOC	not provided in report or notice	ongoing
2/21/07	2361-V1	EPLA-S	total HRVOC limits: avg = 4.10 lbs/hour; max = 16.2 lbs/hour	Total HRVOC = 114.7lbs.	19 seconds
2/28/07	2361-V1	EPLA-S	total HRVOC limits: avg = 4.10 lbs/hour; max = 16.2 lbs/hour	Propylene = 436lbs.; Propane = 25lbs.; Total HRVOC = 436lbs.	2hours, 50 minutes

B. ExxonMobil Violates Louisiana Regulations, La. Admin. Code tit. 33, pt. III § 927.A. and pt. I § 3925.B.4.

ExxonMobil has violated and continues to violate title 33, part III, section 927 of the Louisiana Administrative Code, which EPA approved as part of Louisiana's SIP.¹ Section 927 provides: "The unauthorized discharge of any air pollutant into the atmosphere *shall be reported in accordance with the provisions of LAC 33:I.Chapter 39, Notification Regulations and Procedures for Unauthorized Discharges.*" La. Admin. Code tit. 33, pt. III § 927 (emphasis added).

For incidents occurring after December 10, 2003, the Chapter 39 notification regulations require that written notification reports of unauthorized discharges include the following:

[D]etails of the circumstances (unauthorized discharge description and root cause) and events leading to any unauthorized discharge... and if the release point is subject to a permit: a. the current permitted limit for the pollutant(s) released; b. the permitted release point/outfall ID; and c. which limits were exceeded (SO₂ limit, mass emission limit, opacity limit, etc.) for air releases.

La. Admin. Code tit. 33, § I.3925.B.4.

ExxonMobil has repeatedly violated these notification requirements. ExxonMobil fails to cite the relevant permit numbers and permit limits for the emission point from which the leak or release occurred. Often, in its reports, ExxonMobil claims that the permit number and pollutant limit is not applicable because LDEQ "does not permit sources for releases due to upset conditions" or that LDEQ "does not permit sources for releases due to equipment failure." While Louisiana air regulations provide an affirmative defense for "any upset, as defined in LAC 33:III.507.J.1,"² La. Admin. Code tit. 33, pt. III, § 501.B.1.d, this affirmative defense does not relieve ExxonMobil of its duty to report the incident in accordance with Chapter 39 – which includes identifying the permitted limit for the pollutant(s) released, the permitted release point; and the emission limits exceeded where the release point is subject to a permit. Indeed, LDEQ regulations require ExxonMobil to advise the agency of occurrences it claims as upsets "without

¹ When the EPA adopts portions of a SIP and notices those portions in the Code of Federal Regulations, those adopted sections become federally enforceable under the Clean Air Act. 42 U.S.C. § 7413; *United States v. Georgia Gulf Corp.*, 386 F.3d 648, 653 (5th Cir. 2004). Therefore, violations of section 927 of Louisiana's air regulations are federally enforceable under the Clean Air Act citizen suit provision as violations of a "standard or limitation."

² An "upset" is a "...situation arising from sudden and reasonably unforeseeable events beyond the control of the owner or operator, including acts of God...[requiring] immediate corrective action to restore normal operation and that causes the source to exceed a technology-based emissions limitation under the permit due to unavoidable increases in emissions attributable to the situation." La. Admin. Code tit. 33, § III.507.J.1.

delay, in accordance with all applicable upset or emergency provisions of Louisiana Air Quality regulations and of LAC 33:I.Chapter 39.” La. Admin. Code tit. 33, pt. III, § 501.B.1.d.³

By failing to properly report its unauthorized discharges, ExxonMobil deprives LEAN members and the public of information concerning its releases and thwarts possible enforcement efforts. By way of example and not of limitation, following is a list of such reporting violations:

<u><i>Discharge Date(s)</i></u>	<u><i>Report Date</i></u> ⁴	<u><i>Deficiency</i></u>
April 10-11, 2004	April 15, 2004	Failed to list permit no. and limits for NO and NO2 from flare system (M-07)
May 3, 2004	May 10, 2004	Failed to list permit no. and limits for pollutants released from flare system (M-07)
June 3, 2004	June 10, 2004	Failed to list permit no. and limits for pollutants released from flare system (M-07)
June 9-10, 2004	June 11, 2004	Failed to list permit no. and limits for pollutants released from flare system (M-07) and propylene compressor system piping
June 13, 2004	June 18, 2004	Failed to list permit no. and limits for pollutant released from C601 ethylene compressor safety valve
Sept. 24, 2004	Sept. 29, 2004	Failed to list the permit number, permitted limit and emission point for IPA Unit Fugitives
Oct. 10, 2004	Oct. 13, 2004	Failed to list permit number and emission

³ See EPA, Memorandum on Policy Regarding Excess Emissions During Malfunctions, Startup, and Shutdown, attach. at n.4 (Sept. 20, 1999) (“The term affirmative defense means, in the context of an enforcement proceeding, a response or defense put forward by a defendant, regarding which the defendant has the burden of proof, and the merits of which are independently and objectively evaluated in a judicial or administrative proceeding.”); La. Admin. Code tit. 33, § III.507.J.2 (“An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based emissions limitations...”).

⁴ “Unauthorized Discharge Notification Report”

		limits for pollutants released
Dec. 22, 2005	Dec. 28, 2005	Failed to list permit no. and limits for pollutants released from flare system (M-07)
Dec. 30, 2005	Jan. 6, 2006	Failed to list emission limits for emission point or total VOC for entire unit
May 16, 2006 – Feb. 19, 2007	Mar. 13, 2007	Failed to list permit no., emission points, and emission limits for pollutants released from tanks 8 and 9 on 21 separate days
July 12, 2006	July 14, 2006	Failed to list emission limits for the pollutants released
July 28, 2006	Aug. 3, 2006	Failed to list permit no. and limits for pollutants released from flare system (M-07)
Oct. 4, 2006	Oct. 10, 2006	Failed to list permitted limit for the pollutant released, i.e. VOC limit for source
Dec. 27-28, 2006	Jan. 4, 2007	Failed to list emission point and permitted limits for pollutants released
Feb. 16, 2007	Feb. 23, 2007	Failed to list permit no. and limit for pollutant released, i.e. fugitive unit limit for propylene
Feb. 21, 2007	Feb. 26, 2007	Failed to list emission limits for pollutant released, i.e. fugitive unit limit for VOC
Feb. 28, 2007	Mar. 5, 2007	Failed to list emission limits for pollutant released, i.e. fugitive unit limit for VOC
Mar. 21, 2007	Mar. 26, 2007	Failed to list permit no. and emission limit for pollutants released, i.e. fugitive unit limit for CO

Description of ExxonMobil’s Louisiana Environmental Quality Act Violations:

- A. ExxonMobil Violates La. Rev. Stat. § 30:2057 and La. Admin. Code tit. 33, pt. III, § 501.C.4 When It Emits Pollutants In Excess of Limits Established Under Its Air Permits Without LDEQ’s Prior Authorization.

Section 30:2057 of the Louisiana Environmental Quality Act prohibits discharges of “contaminants...into the air of this state in violation of regulations of the secretary or the terms of any permit, license, or variance.” La. Rev. Stat. § 30:2057. In addition, title 33, part III, section 501.C.4 of the Louisiana Administrative Code provides that a “source shall be operated in accordance with all terms and conditions of the permit. Noncompliance with any term or condition of the permit shall constitute a violation of this Chapter and shall be grounds for enforcement action.” La. Admin. Code tit. 33, pt. III, § 501.C.4. Therefore, all of ExxonMobil’s Clean Air Act permit violations listed above are also violations of section 30:2057 of the Louisiana Environmental Quality Act and title 33, part III, section 501.C.4 of the Louisiana Administrative Code.

- B. ExxonMobil Violates La. Rev. Stat. § 30:2055 By Emitting Unauthorized Air Pollutants From Its Facility.

Section 30:2055 of the Louisiana Environmental Quality Act provides: “No person shall conduct any activity which results in the discharge of air contaminants without the appropriate permit or license....” La. Rev. Stat. § 30:2055. Therefore, ExxonMobil violates the Louisiana Environmental Quality Act when it discharges pollutants into the air when it has no permit that covers the pollutants from that emission source.

Following is a list of all of ExxonMobil’s unauthorized discharges that violate section 30:2055 of the Louisiana Environmental Quality Act:

Date	Source of Release	Released Quantities	Duration of Release
9/7/2002	RLA-1	Ethylene: 11,200 lbs; total release of flammable gas (11,200 lbs)	5 minutes
6/4/2003	UT-01 / OLA-2X	1,3 butadiene = 66 lbs; benzene = 69 lbs	35 minutes
8/25/2003	not provided	Ethylene = 330 lbs	21 hours and 34 minutes

9/2/2003	Aromatics Unit - East Area Tankfield Pumps	Benzene = 59 lbs; Toluene = 356 lbs; n-hexane = 1,915 lbs; NO = 300 lbs; NO2 = 33 lbs; total other VOCs = 9,439 lbs	1 hr 15 minutes
11/15/2003	Refinery Gas Recovery Unit, M-07	5,336 lbs ethylene	86 hours and 5 minutes
12/6/2003	Maintrain, M-07	1,3 butadiene = 583 lbs; benzene = 146 lbs; SO2 = 13,694 lbs; NO = 8,420 lbs; NO2 = 1,486; ethylene = 17,952 lbs; propylene = 6,261 lbs; butene = 210 lbs	34 hrs and 33 minutes
12/9/2003	Isopropyl Alcohol Unit	244 lbs propylene	20 minutes
1/6/2004	OLA-1X, M-1	320 lbs propylene	360 minutes
1/18/2004	Isopropyl Alcohol Unit	179 lbs propylene	360 minutes
4/10/2004	EPLA-W	Ethylene safety valve release= 13,183 lbs; Ethylene flare release = 6,706 lbs; Propylene = 197 lbs; NO = 2,481 lbs; NO2 = 248 lbs	1st flaring 10.42 hrs, SV release 1 minute, 2nd flaring 12.25 hours
4/20/2004	DILA unit	benzene = 433.17 lbs	2 hrs and 40 minutes
5/3/2004	OLA-2X, M-07 / not reported	benzene = 530.4 lbs; 1,3 butadiene = 501.2 lbs; NO = 2,764 lbs; NO2 = 307 lbs; ethylene = 3,831.5 lbs; propylene = 1,602.8 lbs; butenes = 325.5 lbs (total); isoprene = 121.2 lbs; toluene = 322.6 lbs; SO2 = 4,384 lbs; flammable gas = 1,129 lbs	28.3 hours
5/20/2004	OXO Alcohol unit	2061 total lbs of syngas	8 minutes
6/3/2004	M-07 / not reported	4883 lbs ethylene, 1404 lbs NO, 156 lbs NO2	8.5 hours
6/9/2004	EPLA-W	benzene = 31 lbs; butadiene = 278 lbs	31.5 hours
6/13/2004	RLA-1	215 lbs ethylene	10 seconds

9/24/2004	Isopropyl Alcohol Unit	629 lbs of propylene	35 minutes
10/10/2004	EPLA-W, M-07 / not reported	NO = 134 lbs; NO2 = 15 lbs; 1,3 butadiene = 10 lbs; benzene = 13 lbs; ethylene = 249 lbs	55 minutes
10/13/2004	SBA Crude unit, WBD-07	Butene = 354 lbs; Butane = 439 lbs; C8 Olefin = 39 lbs.	6 hours
10/14/2004	ESCOREZ-5000	Toluene = 50 lbs	9 minutes
3/22/2005	Isopropyl Alcohol Unit	280.15 lbs propane, 117.20 lbs propylene, 4.01 isopropyl ether	350 minutes
5/25/2005	Isopropyl Alcohol Unit	511 lbs propylene	200 minutes
6/22/2005	Isopropyl Alcohol Unit	180 lbs Propylene, `1910 lbs total flammable gas released.	200 minutes
8/10/2005	Aromatics Unit	64 lbs benzene	8 minutes minimum - up to 30 minutes
12/30/2005	OLA-1X	903 lbs ethylene; 1755 lbs propylene; 1300 lbs flammable gas (57 lbs hydrogen, 1243 lbs methane)	2 minutes
1/12/2006	Aromatics Unit	18 lbs of benzene	10 minutes
5/1/2006	C-551 compressor	SO2 = 1983 lbs; NO = 25.4 lbs	6 minutes
5/16/2006	Vapor Recovery System-Tanks 8 and 9	1,3 Butadiene = 19 lbs	not reported
5/20/2006	Vapor Recovery System-Tanks 8 and 9	Benzene = 15.6 lbs; 1,3 Butadiene = 29.9 lbs	not reported
5/21/2006	Vapor Recovery System-Tanks 8 and 9	Benzene = 15.6 lbs; 1,3 Butadiene = 29.9 lbs	not reported
5/22/2006	Water treatment Dryer Vent, V-437	About 1.4 pounds of methane and 0.9 pounds of hexanes were released; the remainder of the gas was nitrogen, oxygen & steam.	46.5 hours

5/23/2006	Vapor Recovery System-Tanks 8 and 9	1,3 Butadiene = 19 lbs	not reported
7/4/2006	Vapor Recovery System-Tanks 8 and 9	1,3 Butadiene = 19 lbs	not reported
7/9/2006	OXO Alcohol unit, C-3	7538 pounds of syngas	26 hours
7/11/2006	ECLA-W, C furnace	Ethylene = 413 lbs; Benzene = 29 lbs; 1,3 butadiene = 24 lbs	19 minutes
7/14/2006	Vapor Recovery System-Tanks 8 and 9	Benzene = 16 lbs; 1,3 Butadiene = 30.7 lbs	not reported
7/17/2006	Vapor Recovery System-Tanks 8 and 9	Benzene = 16 lbs; 1,3 Butadiene = 30.6 lbs	not reported
7/28/2006	EPLA-W	RQs exceeded for Ethylene: 121 lbs released (100 lbs RQ); 65 lbs NO released (10 lbs RQ)	29 minutes
7/28/2006	EPLA-W, M-07	Ethylene-121lbs.; Propylene-4lbs.; 1,3 butadiene-5lbs.; Toluene-2lbs.; Benzene-6lbs.; Other VOC-57lbs.; NO-65lbs.; NO2-7lbs.	29 minutes
7/30/2006	SCLA RO Pump, WB-30A	Butylene = 202lbs.; Total VOC (flammable gas) = 337lbs.	46 minutes
8/4/2006	SCLA Unit	butylene = 120 lbs.; NOx = 48.6 lbs.; HRVOC 119.77 lbs.	3 hours and 58 minutes
8/5/2006	Vapor Recovery System-Tanks 8 and 9	1,3 Butadiene = 17.5 lbs	not reported
9/11/2006	Vapor Recovery System-Tanks 8 and 9	1,3 Butadiene = 19 lbs	not reported
9/14/2006	RLA-1	13,300 lbs VOC / flammable vapors released	13 minutes
9/29/2006	POX unit, GUP-107 & GBP-150	flammable gas (syngas) = 19,140 lbs	14 hours and 22 minutes
10/4/2006	EPLA-S, C-04A	Ethylene-240lbs.	2 hours and 2 minutes
10/5/2006	Aromatics Unit	benzene = 202 lbs.	3 hours and 11 minutes

10/8/2006	Vapor Recovery System-Tanks 8 and 9	Benzene = 14.9 lbs; 1,3 Butadiene = 28.5 lbs	not reported
10/9/2006	Vapor Recovery System-Tanks 8 and 9	Benzene = 12.9 lbs; 1,3 Butadiene = 24.7 lbs	not reported
10/10/2006	Vapor Recovery System-Tanks 8 and 9	Benzene = 14.2 lbs; 1,3 Butadiene = 27.2 lbs	not reported
10/19/2006	Vapor Recovery System-Tanks 8 and 9	Benzene = 14.2 lbs; 1,3 Butadiene = 27.1 lbs	not reported
11/3/2006	Vapor Recovery System-Tanks 8 and 9	1,3 Butadiene = 19 lbs	not reported
11/22/2006	Vapor Recovery System-Tanks 8 and 9	Benzene = 14.7 lbs; 1,3 Butadiene = 28.2 lbs	not reported
11/23/2006	Vapor Recovery System-Tanks 8 and 9	Benzene = 14.8 lbs; 1,3 Butadiene = 28.5 lbs	not reported
12/5/2006	Vapor Recovery System-Tanks 8 and 9	1,3 Butadiene = 19 lbs	not reported
12/9/2006	Vapor Recovery System-Tanks 8 and 9	Benzene = 14.3 lbs; 1,3 Butadiene = 27.3 lbs	not reported
12/23/2006	Vapor Recovery System-Tanks 8 and 9	Benzene = 14.3 lbs; 1,3 Butadiene = 27.4 lbs	not reported
12/27/2006	Vapor Recovery System-Tanks 8 and 9	Benzene = 14.5 lbs; 1,3 Butadiene = 27.8 lbs	not reported
12/27/2006	Maxon Valve	Propylene = 296lbs.; Flammable gas = 18,937lbs.	25 hours and 15 minutes
1/25/2007	Aromatics Unit	Benzene = 230 lbs.; Toluene = 119 lbs.; Total VOC = 397 lbs.	1 hour 29 minutes
1/27/2007	Vapor Recovery System-Tanks 8 and 9	1,3 Butadiene = 10.55 lbs	not reported
2/8/2007	EPLA-W, SC-01	NO = 11.4 lbs.; NO2 = 1.3 lbs; Methane = 41.43 lbs.	1 hour
2/16/2007	Isopropyl Alcohol Unit	Propylene = 479.3 lbs.; sulfuric acid = 1436lbs.; isopropyl alcohol = 892lbs.; propane = 466 lbs.	3 hours 47 minutes
2/19/2007	Vapor Recovery System-Tanks 8 and 9	Benzene = 15.6 lbs; 1,3 Butadiene = 22.0 lbs	not reported
3/27/2007	EPLA-W, SCD-04	Ethylene, 10.8 lbs; Ethane .01 lbs; NO2 3.4 lbs; NO 34.3 lbs	5 hours
4/21/2007	not reported	NO = 51 lbs	1 hour
4/20/2007 through 4/27/2007	ECLA-W furnace "D"	NOx = 88 lbs; NO2 = 79 lbs	6 days, 23 hours, 58 minutes
5/22/2007	halobutyl unit	Methyl Chloride = 102 lbs	5 minutes

C. ExxonMobil Violates La. Admin. Code tit. 33, pt. III, § 905.A By Failing to Diligently Maintain Its Emission Control Equipment.

ExxonMobil has violated and continues to violate title 33 of the Louisiana Administrative Code, part III, section 905.A.⁵ This SIP provision provides: “To aid in controlling the overall levels of air contaminants into the atmosphere, air pollution control facilities should be installed whenever practically, economically, and technologically feasible. When facilities have been installed on a property, *they shall be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the facilities*, even though the ambient air quality standards in affected areas are not exceeded.” La. Admin. Code tit. 33, pt. III § 905 (emphasis added).

Louisiana Administrative Code, part III, section 905.A imposes the duty on ExxonMobil to do everything “practically, economically, and technologically feasible” to prevent or limit releases. ExxonMobil’s pattern of repeated unauthorized discharge violations is evidence that ExxonMobil does not diligently maintain the pollution control facilities at the ExxonMobil Baton Rouge Chemical Plant in proper working order, and therefore is violating Louisiana Administrative Code, part III, section 905.A.

Relief Sought by LEAN:

LEAN may seek declaratory, injunctive relief, and civil penalties of up to \$32,500⁶ per day for each violation of the Clean Air Act. 42 U.S.C. § 7604(a). LEAN may also seek declaratory and injunctive relief and civil penalties of up to \$10,000 for each day of the continued noncompliance under the Louisiana Environmental Quality Act and its regulations. La. Rev. Stat. § 30:2026.A(2).

We believe this notice of violation and intent to sue sufficiently states the grounds for a suit against ExxonMobil under section 304 of the Clean Air Act, 42 U.S.C. § 7604(a)(1) and the Louisiana Environmental Quality Act, La. Rev. Stat. § 30:2026A(1). This notice covers violations since August, 2002. LEAN’s suit, when filed, will also address any violations revealed during the discovery process.

⁵ EPA approved La. Admin. Code tit. 33, pt. III § 905.A EPA as part of Louisiana’s SIP pursuant to § 110 of the Clean Air Act and codified at 40 C.F.R. § 52.970.

⁶ 40 C.F.R. § 19.4 (2006). Table 1: Table of Civil Monetary Penalty Inflation Adjustments: \$27,500 penalty effective between January 30, 1997 and March 15, 2004. \$32,500 penalty effective after March 15, 2004, with new adjustment for 2007.

During the notice period, we would be pleased to discuss this matter further.

Sincerely,



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