

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-0582-AIR-E **TCEQ ID:** RN103773206 **CASE NO.:** 33194

RESPONDENT NAME: Equistar Chemicals, LP

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Bayport Polyethylene Plant, 5761 Underwood Drive, Pasadena, Harris County</p> <p>TYPE OF OPERATION: Chemical manufacturing</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is one additional pending enforcement actions regarding this facility location, Docket No. 2007-1471-AIR-E.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on October 8, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Bryan Elliott, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-6162; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468 Respondent: Mr. Gerald Crawford, Environmental Engineer, Equistar Chemicals, LP, 5761 Underwood Drive, Pasadena, Texas 77507 Mr. Joseph F. Marschhauser, Plant Manager, Equistar Chemicals, LP, 5761 Underwood Drive, Pasadena, Texas 77507 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: February 8, 2007</p> <p>Date of NOV/NOE Relating to this Case: March 1, 2007 (NOE)</p> <p>Background Facts: This was a routine record review. One violation was documented</p> <p>AIR</p> <p>Failed to maintain an emission rate below the allowable emission limits. Specifically, on December 14, 2006, over a period of one hour and fifty minutes, Reactor Stack (EPN: Reactor Blk 69) emitted unauthorized emissions of approximately 1,048 pounds ("lbs") of ethylene and 213 lbs of particulate matter. The permit limits are zero for the Reactor Stack. Since these emissions could have been foreseen and avoided by good design, operation and maintenance practices, the emissions do not meet the affirmative defense criteria specified in 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN. CODE § 116.115(c), New Source Review Permit No. 4157A, Special Condition 1, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$7,000</p> <p>Total Deferred: \$1,400 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$5,600</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, implement improvements to design, operation, or maintenance procedures, in order to address the emissions event that occurred on December 14, 2006 and to prevent the recurrence of same or similar incidents; and</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>

Additional ID No(s): Air NSR Permit Nos.: 4157A, 53406, 1608, and AFS No. 4820101559



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision March 19, 2007

TCEQ
DATES

Assigned PCW	5-Mar-2007	Screening	11-Apr-2007	EPA Due	26-Nov-2007
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RESPONDENT/FACILITY INFORMATION

Respondent	Equistar Chemicals, LP		
Reg. Ent. Ref. No.	RN103773206		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	33194	No. of Violations	1
Docket No.	2007-0582-AIR-E	Order Type	1660
Media Program(s)	Air	Enf. Coordinator	Bryan Elliott
Multi-Media		EC's Team	EnforcementTeam 4
Admin. Penalty \$	Limit Minimum \$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 180% Enhancement Subtotals 2, 3, & 7

Notes: Compliance History was enhanced by twenty-one similar NOVs and three Findings Orders.

Culpability No 0% Enhancement Subtotal 4

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction Subtotal 5

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

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

0% Enhancement* Subtotal 6
*Capped at the Total EB \$ Amount

Total EB Amounts	\$88
Approx. Cost of Compliance	\$2,000

SUM OF SUBTOTALS 1-7

Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE

Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty

DEFERRAL

20% Reduction Adjustment

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

Screening Date 11-Apr-2007

Docket No. 2007-0582-AIR-E

PCW

Respondent Equistar Chemicals, LP

Policy Revision 2 (September 2002)

Case ID No. 33194

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN103773206

Media [Statute] Air

Enf. Coordinator Bryan Elliott

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	21	105%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	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	3	75%
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 (number of judgements or consent decrees meeting criteria)	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 (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	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 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 180%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Compliance History was enhanced by twenty-one similar NOVs and three Findings Orders.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 180%

Screening Date 11-Apr-2007

Docket No. 2007-0582-AIR-E

PCW

Respondent Equistar Chemicals, LP

Policy Revision 2 (September 2002)

Case ID No. 33194

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN103773206

Media [Statute] Air

Enf. Coordinator Bryan Elliott

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 116.115(c), New Source Review Permit No. 4157A, Special Condition 1, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to maintain an emission rate below the allowable emission limits. Specifically, on December 14, 2006, over a period of one hour and fifty minutes, Reactor Stack (EPN: Reactor Blk 69) emitted unauthorized emissions of approximately 1,048 pounds ("lbs") of ethylene and 213 lbs of particulate matter. The Reactor Stack is not a permitted emissions source. Since these emissions could have been foreseen and avoided by good design, operation and maintenance practices, the emissions do not meet the affirmative defense criteria specified in 30 Tex. Admin. Code § 101.222, as documented in an investigation conducted on February 8, 2007.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="text" value="X"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which did not exceed levels that are protective of human health or environmental receptors.

Adjustment

Violation Events

Number of Violation Events

Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input checked="" type="text" value="X"/>

Violation Base Penalty

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Equistar Chemicals, LP
Case ID No. 33194
Reg. Ent. Reference No. RN103773206
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling	\$2,000	14-Dec-2006	1-Nov-2007	0.9	\$88	n/a	\$88
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs
 Estimated cost is for implementing training procedures to address the causes that led to the emission event. The Date Required is the date of the emission event, and the Final Date is the date the respondent is expected to have completed corrective actions.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs
 (This section is currently blank)

Approx. Cost of Compliance	\$2,000	TOTAL	\$88
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Compliance History

Customer/Respondent/Owner-Operator: CN600124705 Equistar Chemicals. LP Classification: AVERAGE Rating: 2.55
Regulated Entity: RN103773206 BAYPORT POLYETHYLENE PLANT Classification: AVERAGE Site Rating: 11.36
ID Number(s): AIR NEW SOURCE PERMITS PERMIT 4157A
AIR NEW SOURCE PERMITS PERMIT 53406
AIR NEW SOURCE PERMITS AFS NUM 4820101559
AIR OPERATING PERMITS PERMIT 1608
Location: 5761 UNDERWOOD RD, PASADENA, TX, 77507 Rating Date: 9/1/2006 Repeat Violator: YES
TCEQ Region: REGION 12 - HOUSTON
Date Compliance History Prepared: April 19, 2007
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: April 11, 2002 to April 11, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Jason Kemp Phone: (512) 239-5610

Site Compliance History Components

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 of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 08/07/2005 ADMINORDER 2004-1624-AIR-E
Classification: Moderate

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

Rqmt Prov: Special Condition 1 PERMIT
Description: Exceeded VOC permit limit of 9.1 pounds of ethylene by releasing 2,145 pounds on January 5, 2004 during a 1 hour event.

Effective Date: 12/22/2006 ADMINORDER 2006-0713-AIR-E

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.211(c)
5C THC Chapter 382, SubChapter D 382.085(b)

Description: Equistar failed to submit a final record no later than two weeks after the end of the scheduled start-up activity that began on February 3, 2006 and ended on February 6, 2006.

Classification: Moderate

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

Rqmt Prov: #4157A, Special Condition #1 PA
Description: Equistar failed to prevent unauthorized emissions during a scheduled start-up activity that began on February 3, 2006.

Effective Date: 02/18/2007 ADMINORDER 2006-0340-AIR-E

Classification: Moderate

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

Rqmt Prov: 4157A Special Condition 1 PERMIT
Description: Equistar failed to prevent unauthorized emissions during a March 21, 2004 emissions event.

Classification: Moderate

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

5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: 4157A Special Condition 1 PERMIT

Description: Equistar failed to prevent unauthorized emissions during an April 15, 2004 emissions event.

Classification: Moderate

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

Rqmt Prov: 4157A Special Condition 1 PERMIT

Description: Equistar failed to prevent unauthorized emissions during a January 31, 2003 emissions event.

Classification: Moderate

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

Rqmt Prov: 4157A Special Condition 1 PERMIT

Description: Equistar failed to prevent unauthorized emissions during a February 9, 2003 emissions event.

Classification: Moderate

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

Rqmt Prov: 4157A Special Condition 1 PERMIT

Description: Equistar failed to prevent unauthorized emissions during a May 29, 2004 emissions event.

Classification: Moderate

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

Rqmt Prov: 4157A Special Condition 1 PERMIT

Description: Equistar failed to prevent unauthorized emissions during a March 7, 2003 emissions event.

Classification: Minor

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

Rqmt Prov: 4157A, Special Condition 7E PERMIT

Description: Equistar failed to equip each open-ended line with a cap, blind flange, plug, or a second valve.

Classification: Moderate

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

Rqmt Prov: 4157A, Special Condition 1 PERMIT

Description: Equistar failed to prevent unauthorized emissions during a January 7, 2005 emissions event.

Classification: Moderate

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

Rqmt Prov: NSR Permit 4157A, SC #1 PA

Description: Equistar failed to prevent unauthorized emissions during a October 5, 2005 emissions event.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

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

1	01/08/2003	(16483)
2	02/26/2003	(20515)
3	03/20/2003	(22467)
4	04/13/2003	(24708)
5	06/13/2003	(31357)
6	09/26/2003	(249736)

7	03/30/2004	(250989)
8	04/23/2004	(257840)
9	06/08/2004	(256764)
10	06/10/2004	(255137)
11	06/16/2004	(255277)
12	06/17/2004	(257305)
13	06/18/2004	(256743)
14	06/30/2004	(272977)
15	08/24/2004	(260704)
16	08/24/2004	(260517)
17	08/25/2004	(261170)
18	08/27/2004	(263292)
19	08/29/2004	(270325)
20	08/30/2004	(261306)
21	08/30/2004	(264168)
22	08/31/2004	(272978)
23	11/26/2004	(273433)
24	11/28/2004	(273355)
25	11/28/2004	(273793)
26	11/28/2004	(273400)
27	12/08/2004	(336068)
28	12/08/2004	(336001)
29	12/16/2004	(283230)
30	12/16/2004	(281310)
31	12/20/2004	(337490)
32	12/21/2004	(278204)
33	12/21/2004	(278092)
34	12/21/2004	(278103)
35	12/22/2004	(281233)
36	12/28/2004	(281585)
37	01/25/2005	(337160)
38	06/03/2005	(392458)
39	06/13/2005	(394997)
40	09/29/2005	(432478)
41	12/06/2005	(375583)
42	03/10/2006	(453222)
43	03/10/2006	(455793)
44	03/10/2006	(455854)
45	03/16/2006	(459394)
46	03/28/2006	(456805)
47	04/07/2006	(461552)
48	04/27/2006	(463608)
49	04/28/2006	(456202)
50	05/15/2006	(462211)
51	05/15/2006	(463601)
52	05/15/2006	(462219)
53	05/22/2006	(462223)
54	05/26/2006	(467389)
55	08/17/2006	(467196)
56	11/13/2006	(518169)
57	01/19/2007	(536438)
58	01/26/2007	(536555)
59	02/14/2007	(539445)
60	03/01/2007	(540377)
61	03/22/2007	(553759)

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

Date:	01/09/2003	(16483)		
Self Report?	NO		Classification:	Moderate
Citation:	30 TAC Chapter 101, SubChapter F 101.222(b)(3) 30 TAC Chapter 116, SubChapter B 116.115(c)			
Description:	Failure to control emissions.			
Date:	03/21/2003	(22467)		
Self Report?	NO		Classification:	Moderate
Citation:	30 TAC Chapter 101, SubChapter F 101.222(b)(3) 5C THC Chapter 382, SubChapter A 382.085(b)			
Description:	Failure to prevent unauthorized emissions during an emissions event.			

Date: 03/30/2004 (250989)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 5C THC Chapter 382, SubChapter A 382.085(b)
 Rqmt Prov: PERMIT 4157A
 Description: Exceeded VOC permit limit during an emissions event.
 Date: 04/23/2004 (257840)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 5C THC Chapter 382, SubChapter A 382.085(b)
 Rqmt Prov: PERMIT TCEQ Air Permit #4157A, SC #1
 Description: Exceeded VOC permit limit during an emissions event.
 Date: 06/08/2004 (256764)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 5C THC Chapter 382, SubChapter A 382.085(b)
 Rqmt Prov: PERMIT 4157A Special Condition 1
 Description: Exceeded VOC permit limit during an avoidable emissions event.
 Date: 06/10/2004 (255137)
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 5C THC Chapter 382, SubChapter A 382.085(b)
 Rqmt Prov: PERMIT 4157A
 Description: Failure to notify the commissions of a reportable emissions event in a timely manner
 which resulted in unauthorized emissions.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 5C THC Chapter 382, SubChapter A 382.085(b)
 Rqmt Prov: PERMIT TCEQ Air Permit #4157A SC #1
 Description: Failure to notify the commission of a reportable emissions event in a timely manner
 which resulted in unauthorized emissions.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 5C THC Chapter 382, SubChapter A 382.085(b)
 Rqmt Prov: PERMIT TCEQ Air Permit #4157A, SC #1
 Description: Failure to notify the commission of a reportable emissions event in a timely manner
 which resulted in unauthorized emissions.
 Date: 06/16/2004 (255277)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 101, SubChapter F 101.211(a)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 5C THC Chapter 382, SubChapter A 382.085(b)
 Rqmt Prov: PERMIT 4157A
 Description: Failed to notify the Commission of a reportable emissions event which resulted in
 unauthorized emissions.
 Date: 06/17/2004 (257305)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 5C THC Chapter 382, SubChapter A 382.085(b)
 Rqmt Prov: PERMIT 4157A
 Description: Exceeded VOC permit limit during an avoidable emissions event.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)
 Description: Failure to submit an emissions event notification in a timely manner.
 Date: 06/18/2004 (256743)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 5C THC Chapter 382, SubChapter A 382.085(b)
 Rqmt Prov: PERMIT 4157A Special Condition 1
 Description: Exceeded VOC permit limit during an avoidable emissions event.
 Date: 08/24/2004 (260704)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 5C THC Chapter 382, SubChapter A 382.085(b)
 Rqmt Prov: PERMIT TCEQ Air Permit No. 4157A, SC #1
 Description: Exceeded VOC permit limit during an avoidable emissions event.

Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)		
Description:	Failure to submit an initial emissions event notification within 24 hours of discovery.		
Date:	08/24/2004 (260517)		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 5C THC Chapter 382, SubChapter A 382.085(b)		
Rqmt Prov:	PERMIT 4157A Special Condition 1		
Description:	Exceeded VOC permit limit during an avoidable emissions event.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 101, SubChapter F 101.201(g)		
Description:	Failure to submit an electronic final notification emissions event notification.		
Date:	08/25/2004 (261170)		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 5C THC Chapter 382, SubChapter A 382.085(b)		
Rqmt Prov:	PERMIT 4157A Special Condition 1		
Description:	Exceeded VOC permit limit during an avoidable emissions event.		
Date:	08/27/2004 (263292)		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 5C THC Chapter 382, SubChapter A 382.085(b)		
Rqmt Prov:	PERMIT 4157A Special Condition 1		
Description:	Exceeded VOC permit limit during an avoidable emissions event.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 101, SubChapter F 101.201(a)(1)(A)		
Description:	Failure to submit an initial emissions event notification within 24 hours of discovery.		
Date:	08/29/2004 (270325)		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 5C THC Chapter 382, SubChapter A 382.085(b)		
Rqmt Prov:	PERMIT 4157A Special Condition 1		
Description:	Exceeded VOC permit limit.		
Date:	08/30/2004 (261306)		
Self Report?	NO	Classification:	Major
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 5C THC Chapter 382, SubChapter A 382.085(b)		
Rqmt Prov:	PERMIT 4157A Special Condition 1		
Description:	Exceeded VOC permit limit.		
Date:	10/04/2004 (336567)		
Self Report?	NO	Classification:	Major
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 5C THC Chapter 382, SubChapter A 382.085(b)		
Rqmt Prov:	PERMIT 4157A Special Condition 1		
Description:	Exceeded VOC permit limit.		
Self Report?	NO	Classification:	Major
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 5C THC Chapter 382, SubChapter A 382.085(b)		
Rqmt Prov:	PERMIT 4157A Special Condition 1		
Description:	Exceeded VOC permit limit.		
Date:	12/16/2004 (281310)		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 5C THC Chapter 382, SubChapter A 382.085(b)		
Rqmt Prov:	PERMIT 4157A Special Condition 1		
Description:	Failure to prevent the premature shutdown of the Polyethylene Unit which resulted in unauthorized emissions.		
Date:	12/21/2004 (278204)		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 5C THC Chapter 382, SubChapter A 382.085(b)		
Rqmt Prov:	PERMIT 4157A: Special Condition 1		
Description:	Failure to prevent the accumulation of water in the junction box of the High Pressure Let Down Valve which resulted in unauthorized emissions.		
Date:	12/21/2004 (278103)		
Self Report?	NO	Classification:	Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)
Rqmt Prov: PERMIT 4157A Special Condition 1
Description: Failure to prevent leaks in the lubricator tubing for the high pressure compressor system which resulted in unauthorized emissions.
Date: 12/21/2004 (278092)
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)
Rqmt Prov: PERMIT 4157A Special Condition 1
Description: Failure to prevent cracks in lubricator tubing on high pressure compressor system which resulted in unauthorized emissions.
Date: 12/21/2004 (337490)
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)
Rqmt Prov: PERMIT 4157A Special Condition 1
Description: Exceeded VOC limits.

F. Environmental audits.

N/A

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
EQUISTAR CHEMICALS, LP
RN103773206**

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

AGREED ORDER DOCKET NO. 2007-0582-AIR-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Equistar Chemicals, LP ("Equistar") 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 Equistar appear before the Commission and together stipulate that:

1. Equistar owns a chemical manufacturing plant at 5761 Underwood Drive in Pasadena, Harris County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and Equistar agree that the Commission has jurisdiction to enter this Agreed Order, and that Equistar is subject to the Commission's jurisdiction.
4. Equistar received notice of the violations alleged in Section II ("Allegations") on or about March 6, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Equistar of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Seven Thousand Dollars (\$7,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Equistar has paid Five Thousand Six Hundred Dollars (\$5,600) of the administrative penalty and One

Thousand Four Hundred Dollars (\$1,400) is deferred contingent upon Equistar's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Equistar fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Equistar to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Equistar have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. 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 Equistar has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, Equistar is alleged to have failed to maintain an emission rate below the allowable emission limits, in violation of 30 TEX. ADMIN. CODE § 116.115(c), New Source Review Permit No. 4157A, Special Condition 1, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on February 8, 2007. Specifically, on December 14, 2006, over a period of one hour and fifty minutes, Reactor Stack (EPN: Reactor Blk 69) emitted unauthorized emissions of approximately 1,048 pounds ("lbs") of ethylene and 213 lbs of particulate matter. The permit limits are zero for the Reactor Stack. Since these emissions could have been foreseen and avoided by good design, operation and maintenance practices, the emissions do not meet the affirmative defense criteria specified in 30 TEX. ADMIN. CODE § 101.222.

III. DENIALS

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

10/10/10

The first part of the report deals with the general situation of the company and the results of the audit. It is found that the company has a sound financial position and that the accounts are properly maintained. The auditor has also noted that the company has a good reputation in the market and that its products are of high quality.

The second part of the report deals with the specific areas of the audit. It is found that the company's internal controls are generally sound, but there are some weaknesses in the area of inventory management. The auditor has recommended that the company should improve its inventory control system to reduce the risk of stock theft and loss.

The third part of the report deals with the company's financial statements. It is found that the company's financial statements are prepared in accordance with the relevant accounting standards and that they give a true and fair view of the company's financial position.

The fourth part of the report deals with the company's compliance with the law. It is found that the company is generally compliant with the relevant laws and regulations, but there are some areas where the company is not fully compliant. The auditor has recommended that the company should take steps to improve its compliance with the law.

The fifth part of the report deals with the company's risk management. It is found that the company has a sound risk management system in place, but there are some areas where the company's risk management is not fully effective. The auditor has recommended that the company should improve its risk management system to reduce the risk of financial loss.

The sixth part of the report deals with the company's environmental and social performance. It is found that the company has a good environmental and social performance, but there are some areas where the company's performance is not fully satisfactory. The auditor has recommended that the company should take steps to improve its environmental and social performance.

CONCLUSION

In conclusion, the auditor has found that the company has a sound financial position and that its accounts are properly maintained. The company's internal controls are generally sound, but there are some weaknesses in the area of inventory management. The company's financial statements are prepared in accordance with the relevant accounting standards and give a true and fair view of the company's financial position. The company is generally compliant with the relevant laws and regulations, but there are some areas where the company is not fully compliant. The company has a sound risk management system in place, but there are some areas where the company's risk management is not fully effective. The company has a good environmental and social performance, but there are some areas where the company's performance is not fully satisfactory.

SIGNATURE

For the Auditor: [Signature]

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Equistar pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Equistar's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Equistar Chemicals, LP, Docket No. 2007-0582-AIR-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that Equistar shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, implement improvements to design, operation, or maintenance procedures, in order to address the emissions event that occurred on December 14, 2006 and to prevent the recurrence of same or similar incidents; and
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and 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 fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
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 Avenue, Suite H
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon Equistar. Equistar is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If Equistar fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Equistar's failure to comply is not a violation of this Agreed Order. Equistar shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Equistar shall notify the Executive Director within seven days after Equistar becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Equistar shall be made in writing to the Executive Director. Extensions are not effective until Equistar receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Equistar in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Equistar, or three days after the date on which the Commission mails notice of the Order to Equistar, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Equistar Chemicals, LP
DOCKET NO. 2007-0582-AIR-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Srdelin
For the Executive Director

10/9/07
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Joseph F. Marschhausen
Signature

7-13-2007
Date

JOSEPH F. MARSCHAUSEN
Name (Printed or typed)
Authorized Representative of
Equistar Chemicals, LP

PLANT MANAGER
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

