# EXECUTIVE SUMMARY - ENFORCEMENT MATTER

**DOCKET NO.:** 2006-1222-AIR-E **TCEQ ID:** RN100221662 **CASE NO.:** 30712

**RESPONDENT NAME:** Equistar Chemicals, LP

## ORDER TYPE:

| | | | |
|---|---|---|---|
| X 1660 AGREED ORDER | __FINDINGS AGREED ORDER | __AMENDED ORDER | __IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER |
| __SHUTDOWN ORDER | __FINDINGS DEFAULT ORDER | __EMERGENCY ORDER | |

## CASE TYPE:

| | | | |
|---|---|---|---|
| __AGRICULTURE | X AIR | __INDUSTRIAL AND HAZARDOUS WASTE | __MUNICIPAL SOLID WASTE |
| __OCCUPATIONAL CERTIFICATION | __PETROLEUM STORAGE TANKS | __PUBLIC WATER SUPPLY | __RADIOACTIVE WASTE |
| __MULTI-MEDIA (check all that apply) | __SEWAGE SLUDGE | __UNDERGROUND INJECTION CONTROL | __USED OIL |
| __USED OIL FILTER | __WATER QUALITY | | |

**SITE WHERE VIOLATION(S) OCCURRED:** Equistar Corpus Christi Plant, 1501 McKinzie Road, Corpus Christi, Nueces County

**TYPE OF OPERATION:** Chemical manufacturing plant

**SMALL BUSINESS:** ___ Yes __X__ No

**OTHER SIGNIFICANT MATTERS:** There are no complaints. There is one pending enforcement action regarding this facility location, a Court Order, Enforcement Case 6465.

**INTERESTED PARTIES:** No one other than the ED and the Respondent has expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired on January 29, 2007. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney/SEP Coordinator:** Ms. Melissa Keller, Enforcement Division, MC 219, (512) 239-1768

**TCEQ Enforcement Coordinator:** Mr. Bryan Elliott, Enforcement Division, Enforcement Section III, MC 149, (512) 239-6162; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896

**Respondent:** Mr. John Cain, Plant Manager, Equistar Chemicals, LP, 1501 McKinzie Road, Corpus Christi, Texas 78410

**Respondent's Attorney:** Not represented by counsel on this enforcement matter

## VIOLATION SUMMARY CHART:

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|---|---|---|
| **Type of Investigation:** __ Complaint _X_ Routine __ Enforcement Follow-up __ Records Review<br><br>**Date of Complaint Relating to this Case:** None<br><br>**Date of Investigation Relating to this Case:** May 25 and August 25, 2006<br><br>**Dates of NOEs Relating to this Case:** August 1 and October 14, 2006 (NOE)<br><br>**Background Facts:** This was a routine investigation. Three violations were documented.<br><br>**AIR**<br><br>1) Failed to comply with permitted emissions limits. Specifically, an emissions event occurred on September 18, 2005 at Tank F2009A (Emission Point No. 23A) that lasted six hours and thirty minutes, resulting in the release of 65 pounds ("lbs") of benzene. The authorized emissions limit for volatile organic compounds under the permit is 0.14 pounds per hour ("lbs/hr"). Since this emissions event could have been avoided by good operation practices, it failed to meet the demonstrations for affirmative defense as found in 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and 101.20(3), Air Permit No. 4682B/PSD-TX-761M1, General Condition No. 8, and TEX. HEALTH & SAFETY CODE § 382.085(b)].<br><br>2) Failed to comply with permitted emissions limits. Specifically, an emissions event occurred on September 20, 2005 at a 4-inch pipeline in the Olefins Feedstock Storage Area that lasted eight hours and thirty minutes, resulting in the release of 598 lbs of volatile organic compounds. There are no authorized emissions limits for this emissions point. Since this emissions event could have been avoided by good operation practices, it failed to meet the demonstrations for affirmative defense as found in 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and 101.20(3), Air Permit No. 4682B/PSD-TX-761M1, General Condition No. 8, and TEX. HEALTH & SAFETY CODE § 382.085(b)]. | **Total Assessed:** $9,750<br><br>**Total Deferred:** $1,950<br>_X_ Expedited Settlement<br><br>__ Financial Inability to Pay<br><br>**SEP Conditional Offset:** $3,900<br><br>**Total Paid to General Revenue:** $3,900<br><br>**Site Compliance History Classification:** __ High _X_ Avg. __ Poor<br><br>**Person Compliance History Classification:** __ High _X_ Avg. __ Poor<br><br>**Major Source:** _X_ Yes __ No<br><br>**Applicable Penalty Policy:** September 2002 | **Corrective Actions Taken:**<br><br>1) The Executive Director recognizes that Equistar has implemented the following corrective measures at the Plant:<br><br>a. Developed and implemented Inspection Procedure 551.138 IP- "Inspection Safety Plan for Abrasive Blasting" on March 12, 2006;<br><br>b. Welded over weep holes and sand blasted and painted the external surface of Tank F2009A by April 28, 2006; and<br><br>c. Implemented new procedures designed to ensure the integrity of tank welds by August 1, 2006.<br><br>**Ordering Provisions:**<br><br>2) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A). |

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|---|---|---|
| 3) Failed to comply with permitted emissions limits. Specifically, an emissions event occurred on May 1, 2006 at Tank F2009A (Emission Point No. 23A) that lasted for one hour, resulting in the release of 73 lbs of benzene. The authorized emissions limit for volatile organic compounds under the permit is 0.14 lbs/hr. Since this emissions event could have been avoided by good operation practices, it failed to meet the demonstrations for affirmative defense as found in 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and 101.20(3), Air Permit No. 4682B/PSD-TX-761M1, General Condition No. 8, and TEX. HEALTH & SAFETY CODE § 382.085(b)]. | | |

**Attachment A**
**Docket Number: 2006-1222-AIR-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

| | |
|---|---|
| **Respondent:** | **Equistar Chemicals, LP** |
| **Payable Penalty Amount:** | **Seven Thousand Eight Hundred Dollars ($7,800)** |
| **SEP Amount:** | **Three Thousand Nine Hundred Dollars ($3,900)** |
| **Type of SEP:** | **Pre-approved** |
| **Third-Party Recipient:** | **Beautify Corpus Christi Association-Cleanup of Illegal Dump Sites** |
| **Location of SEP:** | **Nueces County** |

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 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 Amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to cleanup unauthorized dump sites, recycle materials when feasible, and properly dispose of all waste. Eligible sites will be limited to those where a responsible party cannot be found or is unable to clean the site and where reasonable efforts have been made to prevent the dumping.

SEP monies will be used for the direct cost of collection and disposal of waste. No SEP monies will be spent on administrative costs.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing the potential of health threats and diseases associated with illegal dump sites.

C. Minimum Expenditure

Respondent shall contribute at least the SEP Amount to the Third-Party Recipient 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 Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Beautify Corpus Christi Association
Daiquiri Richard, Executive Director
545 North Upper Broadway
Corpus Christi, Texas 78746

## 3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

## 4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

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

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

## 5. Publicity

Any public statements concerning this SEP 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. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, 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 identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

TCEQ

# Penalty Calculation Worksheet (PCW)

*Policy Revision 2 (September 2002)* *PCW Revision April 25, 2006*

| DATES | | | | | |
|---|---|---|---|---|---|
| Assigned | 07-Aug-2006 | | | | |
| PCW | 31-Oct-2006 | Screening | 09-Aug-2006 | EPA Due | 28-Apr-2007 |

**RESPONDENT/FACILITY INFORMATION**

| | | | |
|---|---|---|---|
| Respondent | Equistar Chemicals, LP | | |
| Reg. Ent. Ref. No. | RN100221662 | | |
| Facility/Site Region | 14-Corpus Christi | Major/Minor Source | Major Source |

**CASE INFORMATION**

| | | | |
|---|---|---|---|
| Enf./Case ID No. | 30712 | No. of Violations | 3 |
| Docket No. | 2006-1222-AIR-E | Order Type | 1660 |
| Media Program(s) | Air Quality | Enf. Coordinator | Bryan Elliott |
| Multi-Media | | EC's Team | Enforcement Team 5 |
| Admin. Penalty $ Limit Minimum | $0 | Maximum | $10,000 |

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** *Subtotal 1* $7,500

**ADJUSTMENTS (+/-) TO SUBTOTAL 1**

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

**Compliance History** 55% Enhancement *Subtotals 2, 3, & 7* $4,125

Notes: The penalty was enhanced due to two NOVs for same or similar violations, ten NOVs for dissimilar violations, and one Findings Order.

**Culpability** No 0% Enhancement *Subtotal 4* $0

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply** 25% Reduction *Subtotal 5* -$1,875

| | Before NOV | NOV to EDPRP/Settlement Offer |
|---|---|---|
| Extraordinary | | |
| Ordinary | x | |
| N/A | | *(mark with a small x)* |

Notes: The Respondent came into compliance by August 1, 2006.

**Economic Benefit** 0% Enhancement* *Subtotal 6* $0

**Capped at the Total EB $ Amount*

| | |
|---|---|
| Total EB Amounts | $86 |
| Approx. Cost of Compliance | $4,000 |

**SUM OF SUBTOTALS 1-7** Final Subtotal $9,750

**OTHER FACTORS AS JUSTICE MAY REQUIRE** Adjustment $0

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

Notes:

Final Penalty Amount $9,750

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty $9,750

**DEFERRAL** 20% Reduction Adjustment -$1,950

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

Notes: Deferral offered for expedited settlement.

**PAYABLE PENALTY** $7,800

| | | | |
|---|---|---|---|
| **Screening Date** | 09-Aug-2006 | **Docket No.** 2006-1222-AIR-E | **PCW** |
| **Respondent** | Equistar Chemicals, LP | | *Policy Revision 2 (September 2002)* |
| **Case ID No.** | 30712 | | *PCW Revision April 25, 2006* |
| **Reg. Ent. Reference No.** | RN100221662 | | |
| **Media [Statute]** | Air Quality | | |
| **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)* | 2 | 10% |
| | Other written NOVs | 10 | 20% |
| 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 | 1 | 25% |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government *(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* | 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)*** **55%**

>> 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**: The penalty was enhanced due to two NOVs for same or similar violations, ten NOVs for dissimilar violations, and one Findings Order.

***Total Adjustment Percentage (Subtotals 2, 3, & 7)*** **55%**

**Screening Date** 09-Aug-2006 **Docket No.** 2006-1222-AIR-E **PCW**

**Respondent** Equistar Chemicals, LP *Policy Revision 2 (September 2002)*

**Case ID No.** 30712 *PCW Revision April 25, 2006*

**Reg. Ent. Reference No.** RN100221662

**Media [Statute]** Air Quality

**Enf. Coordinator** Bryan Elliott

**Violation Number** 1

**Primary Rule Cite(s)** 30 Tex. Admin. Code §§ 116.115(b)(2)(F) and 101.20(3) and Air Permit No. 4682B/PSD-TX-761M1, General Condition No. 8

**Secondary Rule Cite(s)** Tex. Health and Safety Code § 382.085(b)

**Violation Description** The Respondent failed to comply with permitted emissions limits. Specifically, as documented during an investigation conducted on May 25, 2006, an emissions event occurred on September 18, 2005 at Tank F2009A (Emission Point No. 23A) that lasted six hours and 30 minutes, resulting in the release of 65 lbs of benzene. The authorized emissions limit for volatile organic compounds under the permit is 0.14 pounds per hour ("lbs/hr"). Since this emissions event could have been avoided by good operation practices, it failed to meet the demonstrations for affirmative defense as found in 30 Tex. Admin. Code § 101.222.

**Base Penalty** $10,000

## >> Environmental, Property and Human Health Matrix

| Release | Harm: Major | Moderate | Minor |
|---|---|---|---|
| Actual | | | x |
| Potential | | | |

OR

**Percent** 25%

## >> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---|---|---|---|
| | | | |

**Percent**

Matrix Notes: Human health or the environment was exposed to insignificant amounts of pollutants which did not exceed levels protective of human health or environmental receptors as a result of the violation.

**Adjustment** -$7,500

**Base Penalty Subtotal** $2,500

## Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one use a small x

| | |
|---|---|
| daily | |
| monthly | |
| quarterly | |
| semiannual | |
| annual | |
| single event | x |

**Violation Base Penalty** $2,500

One single event is recommended.

## Economic Benefit (EB) for this violation

**Estimated EB Amount** $61

## Statutory Limit Test

**Violation Final Penalty Total** $3,250

**This violation Final Assessed Penalty (adjusted for limits)** $3,250

# Economic Benefit Worksheet

Respondent: Equistar Chemicals, LP
Case ID No.: 30712
Reg. Ent. Reference No.: RN100221662
Media [Statute]: Air Quality
Violation No.: 1

| Percent Interest | Years of Depreciation |
|---|---|
| 5.0 | 15 |

| Item Description | Item Cost (No commas or $) | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|---|---|---|---|---|---|---|---|
| **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 | | | | 0.0 | $0 | n/a | $0 |
| Remediation/Disposal | | | | 0.0 | $0 | n/a | $0 |
| Permit Costs | | | | 0.0 | $0 | n/a | $0 |
| Other (as needed) | $2,000 | 18-Sep-2005 | 28-Apr-2006 | 0.6 | $61 | n/a | $61 |
| Notes for DELAYED costs | Estimated cost for additional oversight and management practices designed to ensure proper maintenance practices are followed. Date Required is based on the date of the emissions event and Final Date is the date of compliance. | | | | | | |
| **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 | | | | | | | |
| Approx. Cost of Compliance | $2,000 | | | | | TOTAL | $61 |

**PCW**

*Policy Revision 2 (September 2002)*
*PCW Revision April 25, 2006*

| | |
|---|---|
| **Screening Date** | 09-Aug-2006 |
| **Docket No.** | 2006-1222-AIR-E |
| **Respondent** | Equistar Chemicals, LP |
| **Case ID No.** | 30712 |
| **Reg. Ent. Reference No.** | RN100221662 |
| **Media [Statute]** | Air Quality |
| **Enf. Coordinator** | Bryan Elliott |

**Violation Number** 2

**Primary Rule Cite(s)** 30 Tex. Admin. Code §§ 116.115(b)(2)(F) and 101.20(3) and Air Permit No. 4682B/PSD-TX-761M1, General Condition No. 8

**Secondary Rule Cite(s)** Tex. Health and Safety Code § 382.085(b)

**Violation Description** The Respondent failed to comply with permitted emissions limits. Specifically, as documented during an investigation conducted on May 25, 2006, an emissions event occurred on September 20, 2005 at a 4-inch pipeline in the Olefins Feedstock Storage Area that lasted eight hours and 30 minutes, resulting in the release of 598 lbs of volatile organic compounds. There are no authorized emissions limits for this emissions point. Since this emissions event could have been avoided by good operation practices, it failed to meet the demonstrations for affirmative defense as found in 30 Tex. Admin. Code § 101.222.

**Base Penalty** $10,000

## >> Environmental, Property and Human Health Matrix

| Release | Major | Moderate | Minor |
|---|---|---|---|
| Actual | | | x |
| Potential | | | |

OR

**Percent** 25%

## >> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---|---|---|---|
| | | | |

**Percent**

Matrix Notes: Human health or the environment was exposed to insignificant amounts of pollutants which did not exceed levels protective of human health or environmental receptors as a result of the violation.

**Adjustment** -$7,500

**Base Penalty Subtotal** $2,500

## Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one use a small x

| | |
|---|---|
| daily | |
| monthly | |
| quarterly | |
| semiannual | |
| annual | |
| single event | x |

**Violation Base Penalty** $2,500

One single event is recommended.

## Economic Benefit (EB) for this violation

**Estimated EB Amount** $0

## Statutory Limit Test

**Violation Final Penalty Total** $3,250

**This violation Final Assessed Penalty (adjusted for limits)** $3,250

# Economic Benefit Worksheet

Respondent: Equistar Chemicals, LP
Case ID No.: 30712
Reg. Ent. Reference No.: RN100221662
Media [Statute]: Air Quality
Violation No.: 2

| Percent Interest | Years of Depreciation |
|---|---|
| 5.0 | 15 |

| Item Description | Item Cost (No commas or $) | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|---|---|---|---|---|---|---|---|
| **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 | | | | 0.0 | $0 | n/a | $0 |
| 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 | Economic Benefit is included in violation No. 1 | | | | | | |
| **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 | | | | | | | |

Approx. Cost of Compliance: $0

TOTAL: $0

**Screening Date** 09-Aug-2006 **Docket No.** 2006-1222-AIR-E **PCW**

**Respondent** Equistar Chemicals, LP *Policy Revision 2 (September 2002)*

**Case ID No.** 30712 *PCW Revision April 25, 2006*

**Reg. Ent. Reference No.** RN100221662

**Media [Statute]** Air Quality

**Enf. Coordinator** Bryan Elliott

**Violation Number** 3

**Primary Rule Cite(s)** 30 Tex. Admin. Code §§ 116.115(b)(2)(F) and 101.20(3) and Air Permit No. 4682B/PSD-TX-761M1, General Condition No. 8

**Secondary Rule Cite(s)** Tex. Health and Safety Code § 382.085(b)

**Violation Description** The Respondent failed to comply with permitted emissions limits. Specifically, as documented during an investigation conducted on August 25, 2006, an emissions event occurred on May 1, 2006 at Tank F2009A (Emission Point No. 23A) that lasted for one hour, resulting in the release of 73 lbs of benzene. The authorized emissions limit for volatile organic compounds under the permit is 0.14 pounds per hour ("lbs/hr"). Since this emissions event could have been avoided by good operation practices, it failed to meet the demonstrations for affirmative defense as found in 30 Tex. Admin. Code § 101.222.

**Base Penalty** $10,000

## >> Environmental, Property and Human Health Matrix

| Release | Harm: Major | Moderate | Minor |
|---|---|---|---|
| Actual | | | x |
| Potential | | | |

OR

**Percent** 25%

## >> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---|---|---|---|
| | | | |

**Percent**

Matrix Notes: Human health or the environment was exposed to insignificant amounts of pollutants which did not exceed levels protective of human health or environmental receptors as a result of the violation.

**Adjustment** -$7,500

**Base Penalty Subtotal** $2,500

## Violation Events

Number of Violation Events 1 | 1 Number of violation days

mark only one use a small x

| | |
|---|---|
| daily | |
| monthly | |
| quarterly | |
| semiannual | |
| annual | |
| single event | x |

**Violation Base Penalty** $2,500

One single event is recommended.

## Economic Benefit (EB) for this violation

**Estimated EB Amount** $25

## Statutory Limit Test

**Violation Final Penalty Total** $3,250

**This violation Final Assessed Penalty (adjusted for limits)** $3,250

# Economic Benefit Worksheet

Respondent: Equistar Chemicals, LP
Case ID No.: 30712
Reg. Ent. Reference No.: RN100221662
Media [Statute]: Air Quality
Violation No.: 3

| Percent Interest | Years of Depreciation |
|---|---|
| 5.0 | 15 |

| Item Description | Item Cost (No commas or $) | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|---|---|---|---|---|---|---|---|
| **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 | | | | 0.0 | $0 | n/a | $0 |
| Remediation/Disposal | | | | 0.0 | $0 | n/a | $0 |
| Permit Costs | | | | 0.0 | $0 | n/a | $0 |
| Other (as needed) | $2,000 | 01-May-2006 | 01-Aug-2006 | 0.3 | $25 | n/a | $25 |
| Notes for DELAYED costs | Estimated cost for additional oversight and management practices designed to ensure proper maintenance practices are followed. Date Required is based on the date of the emissions event and Final Date is the date of compliance. | | | | | | |
| **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 | | | | | | | |

Approx. Cost of Compliance: $2,000

TOTAL: $25

# Compliance History

| | | | | |
|---|---|---|---|---|
| Customer/Respondent/Owner-Operator: | CN600124705 | Equistar Chemicals, LP | Classification: AVERAGE | Rating: 2.29 |
| Regulated Entity: | RN100221662 | EQUISTAR CORPUS CHRISTI PLANT | Classification: AVERAGE | Site Rating: 3.29 |

| ID Number(s): | | | |
|---|---|---|---|
| | AIR OPERATING PERMITS | ACCOUNT NUMBER | NE0051B |
| | AIR OPERATING PERMITS | PERMIT | 1486 |
| | WASTEWATER | PERMIT | WQ0002075000 |
| | WASTEWATER | PERMIT | TPDES0076996 |
| | WASTEWATER | PERMIT | TX0076996 |
| | AIR NEW SOURCE PERMITS | PERMIT | 4682B |
| | AIR NEW SOURCE PERMITS | PERMIT | 6745B |
| | AIR NEW SOURCE PERMITS | PERMIT | 10664A |
| | AIR NEW SOURCE PERMITS | PERMIT | 18358 |
| | AIR NEW SOURCE PERMITS | PERMIT | 26401 |
| | AIR NEW SOURCE PERMITS | ACCOUNT NUMBER | NE0051B |
| | AIR NEW SOURCE PERMITS | PERMIT | 51781 |
| | AIR NEW SOURCE PERMITS | AFS NUM | 0089 |
| | AIR NEW SOURCE PERMITS | EPA ID | PSDTX761 |
| | AIR NEW SOURCE PERMITS | EPA ID | PSDTX732 |
| | AIR NEW SOURCE PERMITS | REGISTRATION | 78877 |
| | UNDERGROUND INJECTION CONTROL | PERMIT | WDW152 |
| | UNDERGROUND INJECTION CONTROL | PERMIT | WDW153 |
| | INDUSTRIAL AND HAZARDOUS WASTE GENERATION | EPA ID | TXD000836445 |
| | INDUSTRIAL AND HAZARDOUS WASTE GENERATION | SOLID WASTE REGISTRATION # (SWR) | 31685 |
| | INDUSTRIAL AND HAZARDOUS WASTE GENERATION | EPA ID | TXD000836445 |
| | INDUSTRIAL AND HAZARDOUS WASTE GENERATION | EPA ID | TXD000836445 |
| | STORMWATER | PERMIT | TXR05L891 |
| | IHW CORRECTIVE ACTION | SOLID WASTE REGISTRATION # (SWR) | 31685 |

Location: 1501 MCKINZIE RD, CORPUS CHRISTI, TX, 78410 Rating Date: September 01 05 Repeat Violator: NO

TCEQ Region: REGION 14 - CORPUS CHRISTI

Date Compliance History Prepared: August 09, 2006

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: August 09, 2001 to August 09, 2006

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

Name: Bryan Elliott Phone: 239-6162

## 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: 03/14/2004 ADMINORDER 95-0386-AIR-E

Classification: Major

Citation: 30 TAC Chapter 101, SubChapter A 101.4
5C THC Chapter 382, SubChapter A 382.085[G]

Description: Failure to prevent emissions of butadiene and other hydrocarbons from a butadiene flare at such a concentration and duration as to cause a nuisance.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.6(a)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failed to report an upset condition.

Classification: Major

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)[G]
5C THC Chapter 382, SubChapter A 382.0518(a)

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

Description: Unpermitted utilization of the butadiene flare.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.116(a)[G]
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failed to make representations for using a butadiene flare system in TNRCC Permit No. R-6745.

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 | 03/11/2003 | (24643) |
| 2 | 01/17/2003 | (203322) |
| 3 | 02/21/2002 | (203321) |
| 4 | 12/18/2002 | (203318) |
| 5 | 12/18/2001 | (203317) |
| 6 | 02/26/2003 | (25659) |
| 7 | 01/14/2005 | (345350) |
| 8 | 07/20/2005 | (401021) |
| 9 | 12/08/2003 | (255383) |
| 10 | 11/22/2002 | (203314) |
| 11 | 06/28/2004 | (275725) |
| 12 | 08/23/2003 | (149148) |
| 13 | 11/26/2001 | (203313) |
| 14 | 05/29/2003 | (31476) |
| 15 | 04/03/2002 | (247332) |
| 16 | 10/15/2002 | (203310) |
| 17 | 10/19/2001 | (203309) |
| 18 | 02/23/2005 | (350977) |
| 19 | 11/18/2005 | (436148) |
| 20 | 07/15/2004 | (277896) |
| 21 | 09/20/2002 | (203307) |
| 22 | 09/23/2005 | (444969) |
| 23 | 05/12/2006 | (464792) |
| 24 | 09/23/2005 | (444970) |
| 25 | 12/08/2003 | (255391) |
| 26 | 09/19/2001 | (203306) |
| 27 | 08/29/2005 | (406863) |
| 28 | 09/23/2005 | (444971) |
| 29 | 05/21/2006 | (461856) |
| 30 | 06/24/2003 | (203304) |
| 31 | 08/23/2002 | (203303) |
| 32 | 01/06/2004 | (255527) |
| 33 | 08/17/2001 | (203302) |
| 34 | 07/07/2006 | (485712) |
| 35 | 11/14/2005 | (435247) |
| 36 | 07/17/2003 | (203300) |
| 37 | 07/18/2002 | (203299) |
| 38 | 06/24/2003 | (203296) |
| 39 | 08/20/2003 | (149175) |
| 40 | 06/14/2002 | (203295) |
| 41 | 05/21/2006 | (461850) |
| 42 | 05/20/2003 | (203292) |
| 43 | 05/14/2002 | (203291) |
| 44 | 04/22/2003 | (203288) |
| 45 | 10/08/2005 | (433519) |
| 46 | 07/27/2005 | (399203) |
| 47 | 04/22/2002 | (203287) |
| 48 | 12/14/2004 | (359960) |
| 49 | 10/20/2004 | (359961) |
| 50 | 02/14/2006 | (453564) |
| 51 | 07/15/2004 | (274093) |

| | | |
|---|---|---|
| 52 | 03/10/2003 | (23634) |
| 53 | 11/29/2004 | (359962) |
| 54 | 12/09/2004 | (359963) |
| 55 | 03/20/2003 | (203283) |
| 56 | 06/11/2003 | (28890) |
| 57 | 03/21/2002 | (203282) |
| 58 | 12/20/2005 | (449950) |
| 59 | 06/30/2005 | (397650) |
| 60 | 09/23/2004 | (359964) |
| 61 | 02/11/2003 | (247330) |
| 62 | 03/22/2005 | (386284) |
| 63 | 02/17/2003 | (203279) |
| 64 | 03/22/2005 | (386285) |
| 65 | 02/21/2002 | (203278) |
| 66 | 03/26/2004 | (265559) |
| 67 | 07/14/2004 | (274396) |
| 68 | 05/12/2006 | (464782) |
| 69 | 02/14/2006 | (453558) |
| 70 | 08/29/2001 | (109078) |
| 71 | 03/06/2002 | (109079) |
| 72 | 02/14/2006 | (475935) |
| 73 | 02/27/2004 | (262634) |
| 74 | 06/29/2006 | (484695) |
| 75 | 04/17/2002 | (109080) |
| 76 | 01/26/2003 | (22073) |
| 77 | 10/14/2005 | (475936) |
| 78 | 07/09/2002 | (109081) |
| 79 | 02/23/2005 | (350968) |
| 80 | 12/27/2005 | (475937) |
| 81 | 02/23/2004 | (314438) |
| 82 | 02/26/2003 | (25668) |
| 83 | 12/23/2003 | (258139) |
| 84 | 07/15/2004 | (278257) |
| 85 | 12/14/2005 | (438818) |
| 86 | 12/16/2004 | (339654) |
| 87 | 03/19/2004 | (314440) |
| 88 | 03/22/2005 | (372684) |
| 89 | 04/22/2004 | (314441) |
| 90 | 03/22/2005 | (372663) |
| 91 | 05/21/2004 | (314443) |
| 92 | 01/23/2003 | (22010) |
| 93 | 06/21/2004 | (314445) |
| 94 | 07/21/2004 | (314447) |
| 95 | 03/26/2004 | (265555) |
| 96 | 06/21/2004 | (314449) |
| 97 | 04/19/2005 | (424181) |
| 98 | 09/19/2003 | (314451) |
| 99 | 06/20/2005 | (424182) |
| 100 | 01/03/2006 | (497005) |
| 101 | 04/25/2005 | (424183) |
| 102 | 07/21/2004 | (314452) |
| 103 | 06/20/2005 | (424184) |
| 104 | 10/24/2003 | (314454) |
| 105 | 07/27/2005 | (398968) |
| 106 | 11/21/2003 | (314455) |
| 107 | 01/26/2003 | (22080) |
| 108 | 12/15/2003 | (314456) |
| 109 | 01/20/2004 | (314457) |
| 110 | 02/09/2005 | (349203) |
| 111 | 08/01/2006 | (487607) |
| 112 | 03/23/2004 | (266070) |

113 04/24/2003 (27282)

114 01/03/2003 (20565)

115 07/21/2005 (396829)

116 06/05/2006 (466665)

117 02/27/2004 (262638)

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

Date: 04/03/2002 (247332)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 01/06/2004 (255527)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)

Description: Failure to create a complete final record for an excess emissions event within the time allotted by rule.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(G)

Rqmt Prov: PA IA

Description: Failure to obtain regulatory authority or meet the demonstration requirements of § 101.222 for emissions resulting from an emissions event which occurred on October 17, 2003.

Date: 08/31/2001 (203306)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 06/11/2003 (28890)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)(B)

30 TAC Chapter 116, SubChapter B 116.115(b)(2)(G)

Description: Failure to obtain regulatory authority for, or satisfy all criteria[30 Texas Admin. Code § 101.222(b)] to exempt from compliance limitations, the emissions released from the Olefins Unit during an emissions event on February 14, 2003.

Date: 06/30/2003 (203300)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 07/25/2005 (396829)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: OP IA

Description: Failure to comply with self-monitored effluent quality limitations.

Date: 02/11/2003 (247330)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 11/30/2004 (359963)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2004 (314445)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 08/31/2003 (314451)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 01/03/2006 (497005)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 12/31/2003 (314457)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

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** | § | **BEFORE THE** |
| **ENFORCEMENT ACTION** | § | |
| **CONCERNING** | § | **TEXAS COMMISSION ON** |
| **EQUISTAR CHEMICALS, LP** | § | |
| **RN100221662** | § | **ENVIRONMENTAL QUALITY** |

**AGREED ORDER**
**DOCKET NO. 2006-1222-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 and operates a chemical manufacturing plant at 1501 McKinzie Road in Corpus Christi, Nueces 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 notices of the violations alleged in Section II ("Allegations") on or about August 6, 2006 and October 19, 2006.

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 Nine Thousand Seven Hundred Fifty Dollars ($9,750) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Equistar has paid Three Thousand Nine Hundred Dollars ($3,900) of the administrative penalty and One Thousand Nine Hundred Fifty Dollars ($1,950) 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. Three Thousand Nine Hundred Dollars ($3,900) shall be conditionally offset by Equistar's completion of a Supplemental Environmental Project.

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 recognizes that Equistar has implemented the following corrective measures at the Plant:

   a. Developed and implemented Inspection Procedure 551.138 IP- "Inspection Safety Plan for Abrasive Blasting" on March 12, 2006;

   b. Welded over weep holes and sand blasted and painted the external surface of Tank F2009A by April 28, 2006; and

   c. Implemented new procedures designed to ensure the integrity of tank welds by August 1, 2006.

10. 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.

11. 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.

12. 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:

1. Failed to comply with permitted emissions limits, in violation of 30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and 101.20(3), Air Permit No. 4682B/PSD-TX-761M1, General Condition No. 8, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on May 25, 2006. Specifically, an emissions event occurred on September 18, 2005 at Tank F2009A (Emission Point No. 23A) that lasted six hours and thirty minutes, resulting in the release of 65 lbs of benzene. The authorized emissions limit for volatile organic compounds under the permit is 0.14 pounds per hour ("lbs/hr"). Since this emissions event could have been avoided by good operation practices, it failed to meet the demonstrations for affirmative defense as found in 30 TEX. ADMIN. CODE § 101.222.

2. Failed to comply with permitted emissions limits in violation of 30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and 101.20(3), Air Permit No. 4682B/PSD-TX-761M1, General Condition No. 8, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on May 25, 2006. Specifically, an emissions event occurred on September 20, 2005 at a 4-inch pipeline in the Olefins Feedstock Storage Area that lasted eight hours and thirty minutes, resulting in the release of 598 lbs of volatile organic compounds. There are no authorized emissions limits for this emissions point. Since this emissions event could have been avoided by good operation practices, it failed to meet the demonstrations for affirmative defense as found in 30 TEX. ADMIN. CODE § 101.222.

3. Failed to comply with permitted emissions limits, in violation of 30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and 101.20(3), Air Permit No. 4682B/PSD-TX-761M1, General Condition No. 8, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on August 25, 2006. Specifically, an emissions event occurred on May 1, 2006 at Tank F2009A (Emission Point No. 23A) that lasted for one hour, resulting in the release of 73 lbs of benzene. The authorized emissions limit for volatile organic compounds under the permit is 0.14 lbs/hr. Since this emissions event could have been avoided by good operation practices, it failed to meet the demonstrations for affirmative defense as found in 30 TEX. ADMIN. CODE § 101.222.

## III. DENIALS

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

## 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. 2006-1222-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. Equistar shall implement and complete a Supplemental Environmental Project ("SEP") in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Three Thousand Nine Hundred Dollars ($3,900) of the assessed administrative penalty shall be offset with the condition that Equistar implement the SEP defined in Attachment A, incorporated herein by reference. Equistar's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.

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.

# SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

_____ 2/26/07
For the Executive Director 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, if any, 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 my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- 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 against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

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

John M. Cain 10/25/06
Signature Date

JOHN M. CAIN PLANT MANAGER
Name (Printed or typed) Title
Authorized Representative of
Equistar Chemicals, LP

**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.

**Attachment A**
**Docket Number: 2006-1222-AIR-E**

## SUPPLEMENTAL ENVIRONMENTAL PROJECT

| | |
|---|---|
| **Respondent:** | **Equistar Chemicals, LP** |
| **Payable Penalty Amount:** | **Seven Thousand Eight Hundred Dollars ($7,800)** |
| **SEP Amount:** | **Three Thousand Nine Hundred Dollars ($3,900)** |
| **Type of SEP:** | **Pre-approved** |
| **Third-Party Recipient:** | **Beautify Corpus Christi Association-Cleanup of Illegal Dump Sites** |
| **Location of SEP:** | **Nueces County** |

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 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 Amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to cleanup unauthorized dump sites, recycle materials when feasible, and properly dispose of all waste. Eligible sites will be limited to those where a responsible party cannot be found or is unable to clean the site and where reasonable efforts have been made to prevent the dumping.

SEP monies will be used for the direct cost of collection and disposal of waste. No SEP monies will be spent on administrative costs.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing the potential of health threats and diseases associated with illegal dump sites.

C. Minimum Expenditure

Respondent shall contribute at least the SEP Amount to the Third-Party Recipient 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 Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Beautify Corpus Christi Association
Daiquiri Richard, Executive Director
545 North Upper Broadway
Corpus Christi, Texas 78746

## 3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

## 4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

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

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

## 5. Publicity

Any public statements concerning this SEP 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. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, 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 identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.