

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2004-1389-AIR-E TCEQ ID NOS.: BL0029V AND RN100210129 CASE ID NO.: 19435
RESPONDENT NAME: GULF CHEMICAL & METALLURGICAL CORPORATION

ORDER TYPE:

| | | | |
|---|---|--|--|
| <input checked="" type="checkbox"/> 1660 AGREED ORDER | <input type="checkbox"/> FINDINGS AGREED ORDER | <input type="checkbox"/> AMENDED ORDER | <input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER |
| <input type="checkbox"/> SHUTDOWN ORDER | <input type="checkbox"/> FINDINGS DEFAULT ORDER | <input type="checkbox"/> EMERGENCY ORDER | |

CASE TYPE:

| | | | |
|---|--|---|--|
| <input type="checkbox"/> AGRICULTURE | <input checked="" type="checkbox"/> AIR | <input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE | <input type="checkbox"/> MUNICIPAL SOLID WASTE |
| <input type="checkbox"/> OCCUPATIONAL CERTIFICATION | <input type="checkbox"/> PETROLEUM STORAGE TANKS | <input type="checkbox"/> PUBLIC WATER SUPPLY | <input type="checkbox"/> RADIOACTIVE WASTE |
| <input type="checkbox"/> MULTI-MEDIA (check all that apply) | <input type="checkbox"/> SEWAGE SLUDGE | <input type="checkbox"/> UNDERGROUND INJECTION CONTROL | <input type="checkbox"/> USED OIL |
| <input type="checkbox"/> USED OIL FILTER | <input type="checkbox"/> WATER QUALITY | | |

SITE WHERE VIOLATION(S) OCCURRED: 302 Midway Road, Freeport, Brazoria County

TYPE OF OPERATION: Chemicals and metal manufacturing facility

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: There are two pending enforcement actions regarding this facility location.

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 October 23, 2006. A comment was received on October 23, 2006. The comment and TCEQ's response to the comment are enclosed with these Agenda back-up documents.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Mr. Alfred Oloko, Litigation Division, MC R-12, (713) 422-8918; Ms. Jennifer Cook, Litigation Division, MC 175 (512) 239-1873

TCEQ SEP Coordinator: Ms. Sharon Blue, Litigation Division, MC 175, (512) 239-2223

TCEQ Enforcement Coordinator: Mr. Terry Murphy, Enforcement Division, MC 169, Section III, (512) 239-5025

TCEQ Regional Contact: Ms. Linda Vasse, Houston Regional Office, MC R-12, (713) 767-3637

Respondent: Mr. William G. Deering, Registered Agent, Gulf Chemical & Metallurgical Corporation, 302 Midway Road, P.O. Box 2290, Freeport, Texas 77542

Respondent's Attorney: Mr. D. Alan Lindsey, II, Squire, Sanders & Dempsey L.L.P., 6250 Chase Tower, 600 Travis Street, Houston, Texas 77002-3000

RESPONDENT'S NAME: GULF CHEMICAL & METALLURGICAL CORPORATION
DOCKET NO.: 2004-1389-AIR-E

VIOLATION SUMMARY CHART:

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|---|---|--|
| <p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" 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(s) of Investigation(s) Relating to this Case: June 29, 2004; July 8, 2004; and September 14, 2004.</p> <p>Date (of NOV(s)/NOE(s) Relating to this Case: August 13, 2004 (NOE)</p> <p>Background Facts: The EDPRP in this case was filed on February 7, 2005. On February 16, 2005, the Respondent's attorney filed a motion for extension of time to file an Answer to the Petition. On March 35, 2005, the Respondent filed an Answer to the Petition. The ED filed a request for the case to be referred to SOAH on May 13, 2005. The preliminary hearing in the case convened on December 1, 2005. The parties reached a settlement on May 24, 2006 and the ED received a signed Agreed Order and a check for payment of part of the penalty amount on May 30, 2006. The matter was remanded from SOAH on May 31, 2006.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>AIR:</p> <p>1) Conducted surface coating and dry abrasive cleaning activities at the Plant without authorization for the resultant emissions, as documented on June 29, 2004 [30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b)].</p> <p>2) Operated the following emission points and failing to include them in Title V Permit No. O-01337, issued on March 8, 2001: Pond # 2, Pond # 3, Feed Pad Area, Containment Building 1, Containment Building 2, Cooling Tower # 68-14A, Cooling Tower # 68-14B, Cooling Tower # 68-34A, and Cooling Tower # 68-34B, as documented on June 29, 2004, and September 14, 2004 [30 TEX. ADMIN. CODE §§ 122.121 and 122.142(b)(2) and TEX. HEALTH & SAFETY CODE §§ 382.085(b) and 382.054].</p> <p>3) Failed to operate within the representations of NSR Air Permit No. 1157C. Specifically, GCMC no longer uses sulfur dioxide, a compound represented in the permit, in the process of the recovery of molybdenic trioxide. There has been a change from the use of this compound to another compound not represented in the permit, as documented on June 29, 2004, and July 8, 2004 [30 TEX. ADMIN. CODE § 116.116(a)(1); TCEQ NSR Air Permit No. 1157C, General Condition No. 1; and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> | <p>Initial Calculated Penalty: \$131,667</p> <p>Total Assessed: \$118,500</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Settlement</p> <p><input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$59,250</p> <p>Total Paid/Due to General Revenue: \$59,250 The Respondent has paid \$59,250 of the administrative penalty. The remaining amount of \$59,250 is offset by an Supplemental Environmental Project (SEP).</p> <p>Site Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Avg. <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Avg. <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>Explanation for Reduction in Initial Calculated Penalty Amount:</p> <p>The penalty was reduced by 10% due to risk of litigation.</p> | <p>Corrective Action(s) Taken</p> <p>The Respondent has taken the following corrective actions:</p> <p>1) On November 5, 2004 the TCEQ Air Permits Division acknowledged GCMC's claim to operate the electric arc furnace scrubber at a minimum pH of 8 under the conditions of Permit by Rule Registration No. 73793; and</p> <p>2) GCMC amended and renewed its NSR Air Permit No. 1157C on July 11, 2005.</p> <p>Ordering Provision(s)</p> <p>1) Within 10 days:</p> <p>a) Has either obtained authorization for the emissions from the surface coating and dry abrasive cleaning activities at the Plant or has ceased those operations until such time that appropriate authorization is obtained, as required by 30 TEX. ADMIN. CODE § 116.110(a) or (b).</p> <p>b) Has either obtained authorization for the emissions from the following emission points at the Plant or has ceased those operations until such time that appropriate authorization is obtained, as required by 30 TEX. ADMIN. CODE § 116.110(a): fugitive emissions from Areas 2, 3, 4, 5, 6, 7, and 12, Feed Pad Area, Ponds 2 and 3, Tailings Area, Cooling Towers 21-20, 13-36, 68-34A, 68-34-B, 68-14A, 68-14B, 16-8 (organic slope), 24-23 (AM storage), 39-01A, and OWS-3 TANK.</p> <p>c) Has either obtained authorization for the emissions of the following compounds or has ceased operations until such time that appropriate authorization is obtained, as required by 30 TEX. ADMIN. CODE § 116.110(a): sodium carbonate from EPN 7-21-BH, particulate matter from EPN 003 (7-25A, 7-25B), sodium carbonate from EPN 26-02, particulate matter from EPN F-10-09 (Pond # 1), and hydrogen chloride, volatile organic compound, and ammonia fugitives from F-AREA 9.</p> |

RESPONDENT'S NAME: GULF CHEMICAL & METALLURGICAL CORPORATION
DOCKET NO.: 2004-1389-AIR-E

VIOLATION SUMMARY CHART:

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|---|------------------------|--|
| <p>4) Failed to operate within the permit limits for EPN 006 and EPN 007. Specifically, TCEQ NSR Air Permit No. 1157C authorizes 0.63 tons per year (tpy) of carbon monoxide (CO) from EPN 006 and less than 0.01 tpy of hydrochloric acid (HCl) from EPN 007. GCMC reported CO emissions of 0.9628 tpy, 0.7401 tpy, and 0.8511 tpy, for the years 2003, 2002, and 2001, respectively, from EPN006; and HCl emissions of 0.2536 tpy, 0.1375 tpy, and 0.4350 tpy, for the years 2003, 2002, and 2001, respectively, from EPN 007, as documented on June 29, 2004, and July 8, 2004 [30 TEX. ADMIN. CODE § 116.115(b)(2); TCEQ NSR Air Permit No. 1157C, General Condition No. 8; and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>5) Failed to submit, in the compliance certifications dated March 14, 2003, and March 4, 2004, the deviations for 12 violations that occurred during the annual compliance certification periods of March 7, 2003, to March 2, 2004, and of March 8, 2002, to March 7, 2003, as documented on June 29, 2004, and July 8, 2004 [30 TEX. ADMIN. CODE § 122.146(5)(C) and (D), and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>6) Allowed the unauthorized emissions from fugitive emissions from Areas 2,3, 4, 5, 6, 7, and 12; and EPNs Feed Pad Area, Ponds 2 and 3, Tailings Area, Cooling Towers 21-20, 68-34A, 68-34B, 13-36, 68-14A, and 68-14B, 16-8 (organic slope), 24-23 (AM Storage), and 39-01A, and OWS-3 TANK as documented on June 29, 2004, and July 8, 2004 [30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b)].</p> <p>7) Allowed unauthorized emissions. GCMC reported emissions from EPNs that were authorized for some, but not all compounds, with the following reported compounds having had no emissions authorized: sodium carbonate (Na₂CO₃) from EPN 7-21-BH of 0.043 tpy, 0.004 tpy, and 0.003 tpy for 2003, 2002, and 2001, respectively; particulate matter (PM) from EPN 003 (7-25A, 7-25B) of 0.6 tpy, 0.6 tpy, and 0.4 tpy for 2003, 2002, and 2001, respectively; Na₂CO₃ from EPN 26-02 of 0.004 tpy, 0.004 tpy, 0.002 tpy for 2003, 2002, and 2001, respectively; PM from EPN F-10-09 (Pond # 1) of 0.04 tpy for 2003, 2002, and 2001; fugitive hydrogen chloride, volatile organic compounds, and ammonia from F-AREA 9 of 0.04 tpy, 0.05 tpy, and 9.62 tpy respectively, for 2003, 0.088 tpy, 0.05 tpy, and 13.65 tpy respectively, for 2002, and 0.95 tpy, 0.05 tpy, and 47.82 tpy respectively, for 2001, as documented on June 29, 2004, and July 8, 2004 [30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b)].</p> | | <p>d) Has corrected the representations of TCEQ NSR Air Permit No. 1157C regarding the change in compounds used in the recovery of molybdenic trioxide.</p> <p>e) Has corrected the representations of TCEQ NSR Air Permit No. 1157C regarding the change in vent streams from the molybdenum kiln, Unit 15-01, Unit 15-06, and scrubber 15-04 to the ammonia scrubber, EPN 006, and the re-routing of Tanks 14-2A, 14-2B, 14-2C, 14-2D, and 14-3 from EPN 006 to EPN 008.</p> <p>f) Is operating EPN 006 and EPN 007 within the permitted limits of TCEQ NSR AIR Permit No.1157C for carbon monoxide and hydrochloric acid.</p> <p>g) Has either obtained authorization for the installation of low NOx burners in Roaster # 3 and Roaster # 4, as required by 30 TEX. ADMIN. CODE §§ 116.116(b)(1)(A) or 116.601(a)(1), or has ceased operations until such time that appropriate authorization is obtained.</p> <p>2) Within 30 days, submit corrected compliance certifications for the periods March 8, 2002 to March 7, 2003 and March 7, 2003 to March 2, 2004</p> <p>3) Within 60 days, submit corrected Emission Inventory Questionnaires for the year 2003</p> <p>4) Within 75 days, submit written certification of compliance with Ordering Provisions 1.c. and 1.d.</p> |

VIOLATION SUMMARY CHART:

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|---|------------------------|-----------------------------------|
| <p>8) Failed to submit accurate emissions information in the Emission Inventory Questionnaires for the year 2003. Specifically, GCMC did not report emissions from the following sources: fugitives from Pond # 2, Pond # 3, EPN CB1, and EPN CB2, as documented on June 29, 2004, and July 8, 2004 [30 TEX. ADMIN. CODE § 101.10(b)(2) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>9) Failed to operate as represented in the permits. Specifically, GCMC carried out the following unrepresented activities: the ammonia scrubber, EPN 006, was changed to receive vent streams from the molybdenum kiln, Unit 15-01, Unit 15-06, and scrubber 15-04; and Tanks 14-2A, 14-2B, 14-2C, 14-2D, 14-3 were routed from EPN 006 to EPN 008, as documented on June 29, 2004, July 8, 2004, and September 14, 2004 [30 TEX. ADMIN. CODE §§ 116.116(a)(1) and 116.115(b)(1); TCEQ NSR Air Permit No. 1157C, General Condition No. 1; and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>10) Installed low NOx burners in Roaster # 3 and Roaster # 4 without authorization. Specifically, GCMC's representatives stated that the low NOx burners were installed between 1987 and 2001, and that GCMC had authorization to do so under 30 TEX. ADMIN. CODE § 106.261 (Permit by Rule). However GCMC was required to authorize the installations by either a permit amendment or by a standard permit. This violation was documented on June 29, 2004, and September 14, 2004 [30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b)].</p> <p>11) Failed to operate the scrubber for the electric arc furnace at the proper pH. Specifically, the permit requires that all scrubber solutions be maintained at a pH higher than 10, but the scrubber was being maintained at a pH of 8.8 as documented on June 29, 2004 [30 TEX. ADMIN. CODE § 116.115(c); TCEQ NSR Air Permit No. 19793, Special Condition No. 5; and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>12) Failed to operate the ammonia scrubber, EPN 006, at the proper pH. GCMC's records documented that the pH in the ammonia scrubber exceeded the required maximum of 4.5 (exceedances ranged from 4.74 to 12.74) on 20 different days during January, 2003, as documented on June 29, 2004 [30 TEX. ADMIN. CODE § 116.115(c); TCEQ NSR Air Permit No. 1157C, Special Condition No. 2; and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> | | |



October 23, 2006

Mr. Alfred Oloko
MC 175
Texas Commission on Environmental Quality
PO Box 13087
Austin, TX 78711-3087
FAX (512) 239-3434

Re: Comments on Agreed Order in Docket No. 2004-1389-AIR-E
Gulf Chemical & Metallurgical Corp., BL 0029V, RN100210129

Dear Mr. Oloko:

TCEQ staff has negotiated the above referenced agreed order with Gulf Chemical & Metallurgical Corporation covering at least 21 violations documented from June 29 through September 14, 2004. The agreed order, in summary, provides for:

- assessment of an administrative penalty of \$118,500;
- implementation of a supplemental environmental project (SEP), which offsets half the penalty through the purchase of two hybrid police cars for the City of Freeport; and
- certification by Gulf Chemical of its compliance with existing statutory and permit requirements going forward.

The Galveston Houston Association for Smog Prevention (GHASP), Citizens for Clean Air/Water in Brazoria County, and Mothers for Clean Air, strongly encourage the Commission to reject this settlement as grossly inadequate. This paltry sum fails to penalize Gulf Chemical for its numerous, serious infractions. The miniscule fine, combined with the long delay in ensuring compliance, fails to deter future noncompliance by Gulf Chemical and others. The absence of additional controls in subsequent permit actions fails to protect the health of the surrounding community. The opaqueness of the enforcement process fails to give the public the information and resources necessary to hold the Commission accountable for holding the polluter accountable.

First, the total penalty of \$118,500 for the 21 violations averages to less than \$5643 per violation. This is nothing more than a slap on the wrist for the decades of plant mismanagement clearly documented in the investigation report. Most of the cited violations are for unauthorized emissions in blatant disregard for permit conditions. But a significant percentage is for conducting activities for decades without any authorization whatsoever. On October 13, 2006, GHASP requested a copy of the penalty calculation worksheet used by TCEQ staff to consider all the aggravating and mitigating circumstances, but has not yet received such documentation.

3100 Richmond, Suite 309 • Houston, TX 77098-3015 • 713-528-3779 • healy@ghasp.org

GHASP Comments
October 23, 2006

Second, the inadequacy of the penalty simply serves to reward, not penalize, Gulf Chemical for its long-standing violations of federal and state law, and permit requirements. It does nothing to deter Gulf Chemical or others from continuing the practice of delay, obfuscation and more delay, which has proven so successful in avoiding for decades the economic consequences of their polluting activities. It is so much cheaper to ask for forgiveness than permission.

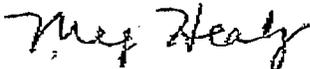
Third, nothing in the agreed order suggests that the company is required to implement any stricter controls than may have been required at the time of original construction. Given the company's history of hiding the character and quantity of its emissions, we have no confidence that those controls will be sufficient to meet federal performance and technology standards as they existed at the time of construction, much less today's requirements. While the substitution of new hybrid police cars for the highest emitters in the local police fleet is desirable, this does nothing to mitigate the adverse impacts of the facility on the City of Freeport's economy, environment and public health. Some 200 area residents have submitted a petition, along with documentation of substantial adverse impacts on their health and businesses from Gulf Chemical's operations, pleading with state officials to clean up Gulf Chemical. Clearly, the controls on this facility are not sufficient.

Finally, it is all but impossible for the public to fully participate in these enforcement proceedings. In fact, the agreed order waives "[a]ny notice and procedures which might otherwise be authorized or required...." In addition, the notice does not include the text of the agreed order, much less a reference to the SEP, or to the specific investigation and permit documentation relevant to this order. We requested a copy of the agreed order on Friday, October 13, but did not receive it until Wednesday, October 19. Even now, we have yet to receive a copy of the final SEP agreement. Also, as mentioned before, we have yet to see a penalty calculation worksheet.

These comments are based on the best information we could gather and review in the time allotted. As such, we may not have addressed any mitigating circumstances. For example, we have not had an opportunity to review the application and final conditions of Gulf Chemical's July 11, 2005 permit amendment. However, our experience with other corrective amendments, and certainly renewals, is that the Commission rarely, if ever, imposes new conditions that significantly improve the status quo. And the Commission's enforcement experience with Gulf Chemical is that diluted fines result in continued noncompliance.

Accordingly, we respectfully request that the Commission reject this agreed order and insist that the staff negotiate a more effective settlement, including a stiffer penalty and stricter permit conditions. In addition, this facility should be closely watched by investigation, enforcement and permitting staff until the company demonstrates that it is able and willing to operate fully within the law, and in a manner that protects the public health. And in the event staff finds additional violations, the company must be held strictly accountable.

Respectfully submitted,



Meg Healy
Research Director
GHASP

/s/ Melanie Oldham
Citizens for Clean Air/Water
in Brazoria County

/s/ Jane Laping
Executive Director
Mothers for Clean Air

Kathleen Hartnett White, *Chairman*
Larry R. Soward, *Commissioner*
H. S. Buddy Garcia, *Commissioner*
Glen Shankle, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

July 13, 2007

Ms. Meg Healy, Research Director
Galveston Houston Association for Smog Prevention
3100 Richmond, Suite 309
Houston, Texas 77098-3015

Re: Comments on Agreed Order in Docket No. 2004-1389-AJR-E
Gulf Chemical and Metallurgical Corporation

Dear Ms. Healy:

I received your letter of October 23, 2006, on the above subject matter. I thank you for taking interest in the work that we do at the Texas Commission on Environmental Quality (TCEQ) and for your commitment to helping to protect the environment. I will like to respond to some of the issues you raised in your letter. This response is coming this late because the TCEQ and Gulf Chemical and Metallurgical Corporation (GCMC) only recently reached agreement on an acceptable Supplemental Environment Project (SEP).

We are pursuing twelve violations against GCMC in the referenced docket number, not twenty-one as you stated in your letter. The investigators documented twenty-one violations following the initial investigation. However, the Enforcement Division reduced the total to fourteen violations during the enforcement screening process. Some of the violations in the investigation report were combined while others were dropped. For example, violations #3 and #4 in the investigation report were combined and became violation #1 in the Penalty Calculation Worksheet ("PCW"), violations #8 and #9 became violation #5 in the PCW, and violations #14 and #15 became violation #10 in the PCW. Reasons for dropping violations usually include, but are not limited to, a finding that the documented violation is invalid or information that may not have been available at the time of the investigation, resolves the violation. Two additional violations were resolved following meetings held between GCMC and TCEQ staff. Violation #2 in the PCW was dropped because it was based on a non-reportable emission event allegedly observed by TCEQ officials but which GCMC was unaware of. Finally, violation #12 in the PCW was resolved following submittal of information showing that GCMC did not exceed the production limits for the Electric Arc Furnace.

The penalty amount of one hundred eighteen thousand five hundred dollars (\$118,500.00) is justified and consistent with our Penalty Policy. Penalties are not imposed arbitrarily. The TCEQ follows the matrices laid out in the Penalty Policy in order to ensure that the regulated community is treated fairly, equally, and consistently. At the time the Executive Director's Preliminary Report and Petition

was filed, the proposed penalty amount was one hundred seventy thousand eight hundred forty dollars (\$170,840). That amount was for fourteen violations and included a twenty-five percent enhancement for culpability. The culpability enhancement was removed because it was based on a letter dated August 26, 1994. Under our Penalty Policy, we can only examine a five-year history, that is, the five year period preceding the date of initiating an enforcement action. The August 26, 1994 letter clearly fell outside the five year period. Consequently, the PCW was revised and the penalty amount became one hundred thirty-one thousand six hundred sixty-seven dollars (\$131,667.00). We then granted a 10 per cent reduction for risk of litigation because there is no guarantee that we will win on all the violations.

The proposed technical requirements address the violations that are the subject of this enforcement action. This enforcement action is limited to the violations documented on the days of the investigations in issue in this case. If, in the future, the TCEQ becomes aware of other violations, those violations will be the subject of other enforcement actions.

Finally, I wish to state that I returned all calls and promptly provided the documents requested. I am not aware of a demand for the Agreed Order on October 13, 2006. I received a call from Ms. Ako Eluma on October 19, 2006, requesting the Agreed Order and I faxed the Agreed Order on the same date. I also recall that I promptly faxed a copy of the PCW to Ms. Eluma, as requested. For your convenience, I have enclosed a copy of the Agreed Order (including the SEP attachment) and a copy of the PCW. I have also enclosed copies of the confirmations of the faxes to Ms. Eluma.

I hope this letter addresses the issues you raised in your letter. In the event that you have any other questions or concerns, I can be reached at (713) 422-8918.

Yours truly,



Alfred A. Oloko
Attorney

Encls.

Attachment A
Docket Number: 2004-1389-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Gulf Chemical and Metallurgical Corporation

Penalty Amount: One Hundred Eighteen Thousand Five Hundred Dollars (\$118,500)

SEP Amount: Fifty-Nine Thousand Two Hundred Fifty Dollars (\$59,250)

Type of SEP: Pre-approved

Third-Party Recipient: Houston Galveston AERCO – Clean Cities/Clean Vehicles Program

Location of SEP: Brazoria 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 **Houston-Galveston Area Emission Reduction Credit Organization** (AERCO) Clean Cities/Clean Vehicles Program will perform a SEP in Brazoria County pursuant to the agreement between AERCO and the TCEQ. SEP monies will be used to aid local school districts and area transit agencies in reaching local match requirements mandated by the Federal Highway Administration’s (“FHWA”) Congestion Mitigation/Air Quality funding program. SEP funds will be disbursed to school districts and transit agencies in need of funding assistance in the Houston-Galveston non-attainment area. SEP funds will be used for the costs of replacing older diesel buses with alternative fueled or clean fuel diesel buses.

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 retiring high-emission buses from service, purchasing newer, clean fuel technology buses, and replacing newer buses with fuel treatment technology that reduces particulate emissions and hydrocarbons.

C. Minimum Expenditure

The 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:

Houston-Galveston Area Council
Houston-Galveston AERCO
P.O. Box 22777
Houston, TX 77227-2777

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:

Litigation Division
Attention: SEP Coordinator, MC 175
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.

In the event of incomplete performance, 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.



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision May 19, 2005

| | | | | | | |
|--------------|----------|-------------|-----------|-------------|---------|-------------|
| DATES | Assigned | 16-Aug-2004 | Screening | 09-Sep-2004 | EPA Due | 10-May-2005 |
| | PCW | 19-May-2006 | | | | |

| | |
|--|---|
| RESPONDENT/FACILITY INFORMATION | |
| Respondent | Gulf Chemical & Metallurgical Corporation |
| Reg. Ent. Ref. No. | RN100210129 |
| Facility/Site Region | 12-Houston |
| Major/Minor Source | Major Source |

| | | | |
|---------------------------------|-----------------|-------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 19435 | No. of Violations | 12 |
| Docket No. | 2004-1389-AIR-E | Order Type | 1660 |
| Media Program(s) | Air Quality | Enf. Coordinator | Terry Murphy |
| 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 | \$113,600 |
|---|-------------------|------------------|

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

| | | | |
|---------------------------|-----------------|--------------------------------|-----------------|
| Compliance History | 23% Enhancement | Subtotals 2, 3, & 7 | \$26,128 |
|---------------------------|-----------------|--------------------------------|-----------------|

| | |
|-------|--|
| Notes | The Respondent self-reported nine effluent violations and received one NOV for the same or similar violations. |
|-------|--|

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

| | |
|-------|--|
| Notes | The Respondent does not meet the culpability criteria. |
|-------|--|

| | | | |
|------------------------------------|--------------|-------------------|------------|
| Good Faith Effort to Comply | 0% Reduction | Subtotal 5 | \$0 |
|------------------------------------|--------------|-------------------|------------|

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

| | |
|-------|--|
| Notes | Respondent has not yet returned to compliance. |
|-------|--|

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

| | |
|----------------------------|----------|
| Total EB Amounts | \$3,021 |
| Approx. Cost of Compliance | \$10,700 |

*Capped at the Total EB \$ Amount

| | | |
|-----------------------------|-----------------------|------------------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$139,728 |
|-----------------------------|-----------------------|------------------|

| | | | |
|---|--------------|-------------------|-----------------|
| OTHER FACTORS AS JUSTICE MAY REQUIRE | 6% Reduction | Adjustment | -\$8,061 |
|---|--------------|-------------------|-----------------|

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

| | |
|-------|---|
| Notes | Recommended reduction in penalty so that the penalty for Violation 4 does not overly impact the penalty amount. |
|-------|---|

| | |
|-----------------------------|------------------|
| Final Penalty Amount | \$131,667 |
|-----------------------------|------------------|

| | | |
|-----------------------------------|-------------------------------|------------------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$131,667 |
|-----------------------------------|-------------------------------|------------------|

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

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

| | |
|-------|--|
| Notes | No deferral, since settlement was not expedited. |
|-------|--|

| | |
|------------------------|------------------|
| PAYABLE PENALTY | \$131,667 |
|------------------------|------------------|

Screening Date 09-Sep-2004

Docket No. 2004-1389-AIR-E

PCW

Respondent Gulf Chemical & Metallurgical Corporation

Policy Revision 2 (September 2002)

Case ID No. 19435

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN100210129

Media [Statute] Air Quality

Enf. Coordinator Terry Murphy

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 (<i>number of NOVs meeting criteria</i>) | 1 | 5% |
| | Other written NOVs | 9 | 18% |
| Orders | Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>) | 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 | 0 | 0% |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>) | 0 | 0% |
| | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government | 0 | 0% |
| Convictions | Any criminal convictions of this state or the federal government (<i>number of counts</i>) | 0 | 0% |
| Emissions | Chronic excessive emissions events (<i>number of events</i>) | 0 | 0% |
| Audits | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were</i>) | 0 | 0% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>) | 0 | 0% |
| <i>Please Enter Yes or No</i> | | | |
| 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) 23%

>> 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 Respondent self-reported nine effluent violations and received one NOV for the same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 23%

| | | |
|---|--|---------------------------------------|
| Screening Date 09-Sep-2004 | Docket No. 2004-1389-AIR-E | PCW |
| Respondent Gulf Chemical & Metallurgical Corporation | <i>Policy Revision 2 (September 2002)</i> | |
| Case ID No. 19435 | <i>PCW Revision May 19, 2005</i> | |
| Reg. Ent. Reference No. RN100210129 | | |
| Media [Statute] Air Quality | | |
| Enf. Coordinator Terry Murphy | | |
| Violation Number <input type="text" value="1"/> | | |
| Primary Rule Cite(s) | <input type="text" value="30 Tex. Admin. Code § 116.110(a)"/> | |
| Secondary Rule Cite(s) | <input type="text" value="Tex. Health and Safety Code §§ 382.0518(a) and 382.085(b)"/> | |
| Violation Description | <input type="text" value="The Respondent has conducted surface coating and dry abrasive cleaning activities at the site, without authorization for the resultant emissions, as documented during an investigation conducted on June 29, 2004."/> | |
| Base Penalty | | <input type="text" value="\$10,000"/> |

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

| | | | | |
|----------------|----------------------|----------------------|----------------------|-------------------------------------|
| Harm | | | | |
| Release | Major | Moderate | Minor | |
| Actual | <input type="text"/> | <input type="text"/> | <input type="text"/> | Percent <input type="text"/> |
| Potential | <input type="text"/> | <input type="text"/> | <input type="text"/> | |

OR

>> **Programmatic Matrix**

| | | | | |
|----------------------|-------------------------------------|----------------------|----------------------|---|
| Falsification | Major | Moderate | Minor | |
| <input type="text"/> | <input checked="" type="checkbox"/> | <input type="text"/> | <input type="text"/> | Percent <input type="text" value="25%"/> |

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

| | | | |
|----------------------|--------------|-------------------------------------|---|
| | daily | <input type="text"/> | Violation Base Penalty <input type="text" value="\$15,000"/> |
| | monthly | <input checked="" type="checkbox"/> | |
| | quarterly | <input type="text"/> | |
| <i>mark only one</i> | semiannual | <input type="text"/> | |
| <i>use a small x</i> | annual | <input type="text"/> | |
| | single event | <input type="text"/> | |

Six monthly events are recommended (3 for each of the 2 sources) from the date of the investigation (June 29, 2004) to the enforcement screening date (September 9, 2004).

| | |
|--|---|
| Economic Benefit (EB) for this violation | Statutory Limit Test |
| Estimated EB Amount <input type="text" value="\$0"/> | Violation Final Penalty Total <input type="text" value="\$17,386"/> |
| This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$17,386"/> | |

Economic Benefit Worksheet

Respondent: Gulf Chemical & Metallurgical Corporation
 Case ID No. 19435
 Reg. Ent. Reference No. RN100210129
 Media [Statute]: Air Quality
 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 |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|

| 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: The economic benefits for this Violation are included in Violation 3, as the Respondent has opted to seek authorization for these sources in one of its existing permits.

| 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-Sep-2004 | Docket No. 2004-1389-AIR-E | PCW |
| Respondent Gulf Chemical & Metallurgical Corporation | <i>Policy Revision 2 (September 2002)</i> | |
| Case ID No. 19435 | <i>PCW Revision May 19, 2005</i> | |
| Reg. Ent. Reference No. RN100210129 | | |
| Media [Statute] Air Quality | | |
| Enf. Coordinator Terry Murphy | | |
| Violation Number <input type="text" value="2"/> | | |
| Primary Rule Cite(s) | 30 Tex. Admin. Code §§ 122.121 and 122.142(b)(2) | |
| Secondary Rule Cite(s) | Tex. Health and Safety Code §§ 382.085(b) and 382.054 | |
| Violation Description | Operated the following emissions points and failed to include them in Title V Permit No O-01337, issued on March 8, 2001: Pond #2, Pond #3, Feed Pad Area, Containment Building 1, Containment Building 2, Cooling Tower # 68-14A, Cooling Tower # 68-14B, Cooling Tower # 68-34A, and Cooling Tower # 68-34B, as documented during an investigation conducted on June 29, 2004 and a record review conducted on September 14, 2004. | |

Base Penalty

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

| | | Harm | | | |
|----|-----------|----------------------|----------------------|----------------------|------------------------------|
| | Release | Major | Moderate | Minor | |
| OR | Actual | <input type="text"/> | <input type="text"/> | <input type="text"/> | Percent <input type="text"/> |
| | Potential | <input type="text"/> | <input type="text"/> | <input type="text"/> | |

>> **Programmatic Matrix**

| | Falsification | Major | Moderate | Minor | |
|--|----------------------|-------|----------------------|----------------------|--|
| | <input type="text"/> | X | <input type="text"/> | <input type="text"/> | Percent <input type="text" value="25%"/> |

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

| | | |
|--|---------------------|----------------------|
| <i>mark only one use a small x</i> | <i>daily</i> | <input type="text"/> |
| | <i>monthly</i> | <input type="text"/> |
| | <i>quarterly</i> | <input type="text"/> |
| | <i>semiannual</i> | <input type="text"/> |
| | <i>annual</i> | <input type="text"/> |
| | <i>single event</i> | X |

Violation Base Penalty

| 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: Gulf Chemical & Metallurgical Corporation
 Case ID No: 19435
 Reg. Ent. Reference No: RN100210129
 Media [Statute]: Air Quality
 Violation No: 2

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

| Item Description | Item Cost | 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 | \$1,000 | 29-Jun-2004 | 25-Jan-2007 | 2.6 | \$129 | n/a | \$129 |
| Other (as needed) | | | | 0.0 | \$0 | n/a | \$0 |

Notes for DELAYED costs: Estimated cost to include emissions in Title V permit.

| 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: \$1,000 TOTAL \$129

| | | |
|---|--|---------------------------------------|
| Screening Date 09-Sep-2004 | Docket No. 2004-1389-AIR-E | PCW |
| Respondent Gulf Chemical & Metallurgical Corporation | <i>Policy Revision 2 (September 2002)</i> | |
| Case ID No. 19435 | <i>PCW Revision May 19, 2005</i> | |
| Reg. Ent. Reference No. RN100210129 | | |
| Media [Statute] Air Quality | | |
| Enf. Coordinator Terry Murphy | | |
| Violation Number <input type="text" value="3"/> | | |
| Primary Rule Cite(s) | 30 Tex. Admin. Code § 116.116(a)(1) and NSR Air Permit No. 1157C, General-Condition No. 1 | |
| Secondary Rule Cite(s) | Tex. Health and Safety Code § 382.085(b) | |
| Violation Description | Failed to operate within the representations of NSR Air Permit No. 1157C. Specifically, the Respondent no longer uses sulfur dioxide, a compound represented in the permit, in the process of the recovery of molybdic trioxide. There has been a change from the use of this compound to another compound, not represented in the permit, as documented during an investigation conducted on June 29, 2004 and a record review conducted on July 8, 2004. | |
| Base Penalty | | <input type="text" value="\$10,000"/> |

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

| | | | | | |
|-----------|----------------------|----------------------|----------------------|----------------------|--|
| OR | Harm | | | | |
| | Release | Major | Moderate | Minor | |
| | Actual | <input type="text"/> | <input type="text"/> | <input type="text"/> | |
| Potential | <input type="text"/> | <input type="text"/> | <input type="text"/> | | |

>> **Programmatic Matrix**

| | | | | | |
|-----------|----------------------|-------------------------------------|----------------------|----------------------|--|
| | Falsification | Major | Moderate | Minor | |
| Actual | <input type="text"/> | <input checked="" type="checkbox"/> | <input type="text"/> | <input type="text"/> | |
| Potential | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | |

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

| | | | |
|--|---------------------|-------------------------------------|--|
| <i>mark only one use a small x</i> | <i>daily</i> | <input type="text"/> | |
| | <i>monthly</i> | <input checked="" type="checkbox"/> | |
| | <i>quarterly</i> | <input type="text"/> | |
| | <i>semiannual</i> | <input type="text"/> | |
| | <i>annual</i> | <input type="text"/> | |
| | <i>single event</i> | <input type="text"/> | |

Violation Base Penalty

Three monthly events are recommended from the date of the investigation (June 29, 2004) to the enforcement screening date (September 9, 2004).

| | |
|---|--|
| Economic Benefit (EB) for this violation | Statutory Limit Test |
| Estimated EB Amount <input type="text" value="\$501"/> | Violation Final Penalty Total <input type="text" value="\$8,693"/> |
| This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$8,693"/> | |

Economic Benefit Worksheet

Respondent Gulf Chemical & Metallurgical Corporation
Case ID No. 19435
Reg. Ent. Reference No. RN100210129
Media [Statute] Air Quality
Violation No. 3

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

| Item | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------|-----------|---------------|------------|-----|----------------|---------------|-----------|
|------|-----------|---------------|------------|-----|----------------|---------------|-----------|

| Description | Item Cost | 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 | \$5,000 | 29-Jun-2004 | 30-Jun-2006 | 2.0 | \$501 | n/a | \$501 |
| Other (as needed) | | | | 0.0 | \$0 | n/a | \$0 |

Notes for DELAYED costs: Estimated cost to amend permits. Permit 1157C was issued July 11, 2005 (2 other permits are expected to be combined and issued by June 2006).

| Avoided Costs | ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs) | | | | | | |
|-------------------------------|--|---------------|------------|-----|----------------|---------------|-----------|
| Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
| 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 \$5,000

TOTAL \$501

Screening Date 09-Sep-2004

Docket No. 2004-1389-AIR-E

PCW

Respondent Gulf Chemical & Metallurgical Corporation

Policy Revision 2 (September 2002)

Case ID No. 19435

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN100210129

Media [Statute] Air Quality

Enf. Coordinator Terry Murphy

Violation Number 4

30 Tex. Admin. Code § 116.115(b)(2) and NSR Air Permit No. 1157C,
General-Condition-No.-8

Primary Rule Cite(s)

Secondary Rule Cite(s)

Tex. Health and Safety Code § 382.085(b)

Violation Description

Failed to operate within permit limits for EPN 006 and EPN 007. Specifically, NSR AIR Permit No.1157C authorizes 0.63 tpy of carbon monoxide ("CO") from EPN 006 and less than 0.01 tpy of hydrochloric acid ("HCl") from EPN 007. The Respondent reported CO emissions from EPN 006 of 0.9628 tpy, 0.7401 tpy, and 0.8511 tpy for the years 2003, 2002, and 2001, respectively; and reported HCl emissions from EPN 007 of 0.2536 tpy, 0.1375 tpy, and 0.4350 tpy for the years 2003, 2002, and 2001, respectively, as documented during an investigation conducted on June 29, 2004 and a record review conducted on July 8, 2004.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

| Release | Harm | | | Percent |
|-----------|-------|----------|-------|---------|
| | Major | Moderate | Minor | |
| Actual | | | X | 25% |
| Potential | | | | |

>> Programmatic Matrix

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

Matrix Notes

Human health or the environment have been exposed to insignificant amounts of pollutants which do 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 6

| | | |
|--------------------------------|--------------|---|
| mark only one use a small x | daily | |
| | monthly | |
| | quarterly | |
| | semiannual | |
| | annual | X |
| | single event | |

Violation Base Penalty \$15,000

Six annual events are recommended based on the three years of reported emissions exceedances (2003, 2002, and 2001) from two EPNs (EPN 006 and EPN 007), as documented during the investigation conducted on June 29, 2004 and the record review conducted on July 8, 2004.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$17,386

This violation Final Assessed Penalty (adjusted for limits) \$17,386

Economic Benefit Worksheet

Respondent: Gulf Chemical & Metallurgical Corporation
 Case ID No.: 19435
 Reg. Ent. Reference No.: RN100210129
 Media [Statute]: Air Quality
 Violation No.: 4

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

| Item Description | Item Cost | 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 benefits for this Violation are included in Violation 3, since the use of different emissions factors to resolve this violation will entail a permit amendment.

| 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

TOTAL

| | | |
|---|---|---------------------------------------|
| Screening Date 09-Sep-2004 | Docket No. 2004-1389-AIR-E | PCW |
| Respondent Gulf Chemical & Metallurgical Corporation | <i>Policy Revision 2 (September 2002)</i> | |
| Case ID No. 19435 | <i>PCW Revision May 19, 2005</i> | |
| Reg. Ent. Reference No. RN100210129 | | |
| Media [Statute] Air Quality | | |
| Enf. Coordinator Terry Murphy | | |
| Violation Number <input type="text" value="5"/> | | |
| Primary Rule Cite(s) | 30 Tex. Admin. Code § 122.146(5)(C) and (D) | |
| Secondary Rule Cite(s) | Tex. Health and Safety Code § 382.085(b) | |
| Violation Description | Failed to submit, in the compliance certifications dated March 14, 2003, and March 4, 2004, the deviations for 12 violations that occurred during the annual compliance certification periods of March 7, 2003 to March 2, 2004 and March 8, 2002 to March 7, 2003, as documented during an investigation conducted on June 29, 2004 and a record review conducted on July 8, 2004. | |
| Base Penalty | | <input type="text" value="\$10,000"/> |

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

| | | | | | |
|----|----------------|----------------------|----------------------|----------------------|-------------------------------------|
| OR | Harm | | | | |
| | Release | Major | Moderate | Minor | |
| | Actual | <input type="text"/> | <input type="text"/> | <input type="text"/> | |
| | Potential | <input type="text"/> | <input type="text"/> | <input type="text"/> | Percent <input type="text"/> |

>> **Programmatic Matrix**

| | | | | | |
|--|----------------------|-------|----------------------|----------------------|---|
| | Falsification | Major | Moderate | Minor | |
| | <input type="text"/> | X | <input type="text"/> | <input type="text"/> | |
| | | | | | Percent <input type="text" value="25%"/> |

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

| | | | | | | | | | | | | | | |
|------------------------------------|--|--------------|----------------------|----------------|----------------------|------------------|----------------------|-------------------|----------------------|---------------|----------------------|---------------------|---|--|
| Number of Violation Events | <input type="text" value="2"/> | | | | | | | | | | | | | |
| <i>mark only one use a small x</i> | <table border="1" style="width:100%; border-collapse: collapse;"> <tr><td style="text-align: center;"><i>daily</i></td><td><input type="text"/></td></tr> <tr><td style="text-align: center;"><i>monthly</i></td><td><input type="text"/></td></tr> <tr><td style="text-align: center;"><i>quarterly</i></td><td><input type="text"/></td></tr> <tr><td style="text-align: center;"><i>semiannual</i></td><td><input type="text"/></td></tr> <tr><td style="text-align: center;"><i>annual</i></td><td><input type="text"/></td></tr> <tr><td style="text-align: center;"><i>single event</i></td><td style="text-align: center;">X</td></tr> </table> | <i>daily</i> | <input type="text"/> | <i>monthly</i> | <input type="text"/> | <i>quarterly</i> | <input type="text"/> | <i>semiannual</i> | <input type="text"/> | <i>annual</i> | <input type="text"/> | <i>single event</i> | X | Violation Base Penalty <input type="text" value="\$5,000"/> |
| <i>daily</i> | <input type="text"/> | | | | | | | | | | | | | |
| <i>monthly</i> | <input type="text"/> | | | | | | | | | | | | | |
| <i>quarterly</i> | <input type="text"/> | | | | | | | | | | | | | |
| <i>semiannual</i> | <input type="text"/> | | | | | | | | | | | | | |
| <i>annual</i> | <input type="text"/> | | | | | | | | | | | | | |
| <i>single event</i> | X | | | | | | | | | | | | | |

Two single events are recommended for each of the two deficient annual reports, as documented during the investigation conducted on June 29, 2004 and the record review conducted on July 8, 2004.

| | |
|---|---|
| Economic Benefit (EB) for this violation | Statutory Limit Test |
| Estimated EB Amount <input type="text" value="\$61"/> | Violation Final Penalty Total <input type="text" value="\$5,795"/> |
| This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$5,795"/> | |

Economic Benefit Worksheet

Respondent Gulf Chemical & Metallurgical Corporation
 Case ID No. 19435
 Reg. Ent. Reference No. RN100210129
 Media [Statute] Air Quality
 Violation No. 5

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

| Item Description | Item Cost | 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) | \$400 | 14-Mar-2003 | 01-Apr-2006 | 3.1 | \$61 | n/a | \$61 |

Notes for DELAYED costs: Estimated cost to submit corrected compliance certifications.

| 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 \$400 TOTAL \$61

Screening Date 09-Sep-2004 **Docket No.** 2004-1389-AIR-E **PCW**
Respondent Gulf Chemical & Metallurgical Corporation *Policy Revision 2 (September 2002)*
Case ID No. 19435 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN100210129
Media [Statute] Air Quality
Enf. Coordinator Terry Murphy
Violation Number 6

Primary Rule Cite(s) 30 Tex. Admin. Code § 116.110(a)
Secondary Rule Cite(s) Tex. Health and Safety Code §§ 382.0518(a) and 382.085(b)
Violation Description
 An investigation conducted on June 29, 2004 and a record review conducted on July 8, 2004 documented unauthorized emissions from fugitive emissions from Areas 2, 3, 4, 5, 6, 7, and 12, EPNs Feed Pad Area, Ponds 2 and 3, Tailings Area, Cooling Towers 21-20, 68-34A, 68-34B, 13-36, 68-14A, and 68-14B, 16-8 (organic slope), 24-23 (AM storage), 39-01A, and OWS-3 TANK.
Base Penalty \$10,000

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

Harm

| | | | | |
|------------------|----------------------|----------------------|----------------------|-------------------------------------|
| Release | Major | Moderate | Minor | Percent <input type="text"/> |
| Actual | <input type="text"/> | <input type="text"/> | <input type="text"/> | |
| Potential | <input type="text"/> | <input type="text"/> | <input type="text"/> | |

 OR

>> **Programmatic Matrix**

| | | | | |
|----------------------|-------|----------------------|----------------------|--------------------|
| Falsification | Major | Moderate | Minor | Percent 25% |
| <input type="text"/> | X | <input type="text"/> | <input type="text"/> | |

Matrix Notes The Respondent failed to comply with 100% of the rule

Adjustment -\$7,500
Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events 6

| | | | |
|------------------------------------|--------------|----------------------|--|
| <i>mark only one use a small x</i> | daily | <input type="text"/> | Violation Base Penalty \$15,000 |
| | monthly | X | |
| | quarterly | <input type="text"/> | |
| | semiannual | <input type="text"/> | |
| | annual | <input type="text"/> | |
| | single event | <input type="text"/> | |

Six monthly events are recommended (3 for each of the two permits needing amendment or alteration to include the unauthorized sources) from the investigation date (June 29, 2004) to the enforcement screening date (September 9, 2004), as documented during the investigation conducted on June 29, 2004 and the record review conducted on July 8, 2004.

Economic Benefit (EB) for this violation **Statutory Limit Test**
Estimated EB Amount \$0 **Violation Final Penalty Total** \$17,386
This violation Final Assessed Penalty (adjusted for limits) \$17,386

Economic Benefit Worksheet

Respondent: Gulf Chemical & Metallurgical Corporation
 Case ID No. 19435
 Reg. Ent. Reference No. RN100210129
 Media [Statute] Air Quality
 Violation No. 6

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

| Item Description | Item Cost | 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 benefits for this violation are included in Violation 3.

| 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

TOTAL

Screening Date 09-Sep-2004 **Docket No.** 2004-1389-AIR-E **PCW**

Respondent Gulf Chemical & Metallurgical Corporation *Policy Revision 2 (September 2002)*

Case ID No. 19435 *PCW Revision May 19, 2005*

Reg. Ent. Reference No. RN100210129

Media [Statute] Air Quality

Enf. Coordinator Terry Murphy

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description
 Emitted unauthorized emissions. Specifically, the Respondent reported emissions from EPNs that were authorized for some, but not all compounds, with the following reported compounds having had no emissions authorization: Sodium carbonate ("Na₂CO₃") from EPN 7-21-BH of 0.043 tpy, 0.004 tpy, and 0.003 tpy for 2003, 2002, and 2001, respectively. Particulate matter ("PM") from EPN 003 (7-25A, 7-25B) of 0.6 tpy, 0.6 tpy, and 0.4 tpy for 2003, 2002, and 2001, respectively. Na₂CO₃ from EPN 26-02 of 0.004 tpy, 0.004 tpy, and 0.002 tpy for 2003, 2002, and 2001, respectively. PM from EPN F-10-09 (Pond # 1) of 0.04 tpy for 2003, 2002, and 2001. Fugitive hydrogen chloride, volatile organic compounds, and ammonia from F-AREA 9 of 0.04 tpy, 0.05 tpy, and 9.62 tpy, respectively for 2003; 0.088 tpy, 0.05 tpy, and 13.65 tpy, respectively for 2002; and 0.95 tpy, 0.05 tpy, and 47.82 tpy, respectively for 2001. These violations were documented during an investigation conducted on June 29, 2004 and a record review conducted on July 8, 2004.

Base Penalty

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

| | | Harm | | | |
|---------|-----------|----------------------|----------------------|----------------------|--|
| Release | | Major | Moderate | Minor | |
| OR | Actual | <input type="text"/> | <input type="text"/> | <input type="text"/> | Percent <input type="text" value="0%"/> |
| | Potential | <input type="text"/> | <input type="text"/> | <input type="text"/> | |

>> **Programmatic Matrix**

| | | Falsification | Major | Moderate | Minor | |
|--|--|----------------------|---|----------------------|----------------------|---|
| | | <input type="text"/> | <input checked="" type="text" value="X"/> | <input type="text"/> | <input type="text"/> | Percent <input type="text" value="25%"/> |

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

| | | |
|--|--------------|---|
| <i>mark only one use a small x</i> | daily | <input type="text"/> |
| | monthly | <input checked="" type="text" value="X"/> |
| | quarterly | <input type="text"/> |
| | semiannual | <input type="text"/> |
| | annual | <input type="text"/> |
| | single event | <input type="text"/> |

Violation Base Penalty

Six monthly events are recommended (3 for each of the two permits needing amendment or alteration to include the unauthorized compounds) from the investigation date (June 29, 2004) to the enforcement screening date (September 9, 2004), as documented during the investigation conducted on June 29, 2004 and the record review conducted on July 8, 2004.

| Economic Benefit (EB) for this violation | Statutory Limit Test |
|--|--|
| Estimated EB Amount <input type="text" value="\$0"/> | Violation Final Penalty Total <input type="text" value="\$17,386"/> |
| This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$17,386"/> | |

Economic Benefit Worksheet

Respondent: Gulf Chemical & Metallurgical Corporation
Case ID No.: 19435
Reg. Ent. Reference No.: RN100210129
Media [Statute]: Air Quality
Violation No.: 7

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

| Item Description | Item Cost | 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 benefits for this violation are included in Violation 3.

| 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-Sep-2004 **Docket No.** 2004-1389-AIR-E **PCW**
Respondent Gulf Chemical & Metallurgical Corporation *Policy Revision 2 (September 2002)*
Case ID No. 19435 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN100210129
Media [Statute] Air Quality
Enf. Coordinator Terry Murphy
Violation Number
Primary Rule Cite(s)
Secondary Rule Cite(s)
Violation Description
Base Penalty

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

| Release | Harm | | | Percent |
|-----------|----------------------|----------------------|----------------------|----------------------|
| | Major | Moderate | Minor | |
| Actual | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> |
| Potential | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> |

OR

>> **Programmatic Matrix**

| Falsification | Major | Moderate | Minor | Percent |
|----------------------|----------------------|----------------------|-------------------------------------|---------------------------------|
| <input type="text"/> | <input type="text"/> | <input type="text"/> | <input checked="" type="checkbox"/> | <input type="text" value="1%"/> |

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

| | | |
|--------------------------------|--------------|-------------------------------------|
| mark only one use a small x | 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="checkbox"/> |

Violation Base Penalty

| Economic Benefit (EB) for this violation | Statutory Limit Test |
|---|--|
| Estimated EB Amount <input type="text" value="\$31"/> | Violation Final Penalty Total <input type="text" value="\$116"/> |
| This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$116"/> | |

Economic Benefit Worksheet

Respondent Gulf Chemical & Metallurgical Corporation
 Case ID No. 19435
 Reg. Ent. Reference No. RN100210129
 Media [Statute] Air Quality
 Violation No. 8

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

| Item Description | Item Cost | 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 | \$300 | 31-Mar-2004 | 30-Apr-2006 | 2.1 | \$31 | n/a | \$31 |
| 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: Estimated cost to prepare and submit a corrected emissions inventory for 2003.

| 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 \$300 TOTAL \$31

| | | |
|---|---|---------------------------------------|
| Screening Date 09-Sep-2004 | Docket No. 2004-1389-AIR-E | PCW |
| Respondent Gulf Chemical & Metallurgical Corporation | <i>Policy Revision 2 (September 2002)</i> | |
| Case ID No. 19435 | <i>PCW Revision May 19, 2005</i> | |
| Reg. Ent. Reference No. RN100210129 | | |
| Media [Statute] Air Quality | | |
| Enf. Coordinator Terry Murphy | | |
| Violation Number <input type="text" value="9"/> | | |
| Primary Rule Cite(s) | 30 Tex. Admin. Code §§ 116.116(a)(1) and 116.115(b)(1), and NSR Air Permit-No: 1157C, General-Condition-No: 1. | |
| Secondary Rule Cite(s) | Tex. Health and Safety Code § 382.085(b) | |
| Violation Description | Failed to operate as represented in the permit. Specifically, the following unrepresented activities were documented during an investigation conducted on June 29, 2004: One, the ammonia scrubber, EPN 006, was changed to receive vent streams from the molybdenum kiln, Unit 15-01, Unit 15-06, and scrubber 15-04. Two, Tanks 14-2A, 14-2B, 14-2C, 14-2D, and 14-3 were re-routed from EPN 006 to EPN 008. These violations were documented during an investigation conducted on June 29, 2004 and record reviews conducted on July 8, 2004 and September 14, 2004. | |
| Base Penalty | | <input type="text" value="\$10,000"/> |

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

| | | | | | |
|-----------|----------------|----------------------|----------------------|----------------------|-------------------------------------|
| | | Harm | | | |
| | Release | Major | Moderate | Minor | |
| OR | Actual | <input type="text"/> | <input type="text"/> | <input type="text"/> | Percent <input type="text"/> |
| | Potential | <input type="text"/> | <input type="text"/> | <input type="text"/> | |

>> **Programmatic Matrix**

| | | | | | | |
|---|----------------------|----------------------|-------------------------------------|----------------------|----------------------|---|
| | | Falsification | Major | Moderate | Minor | |
| | <input type="text"/> | <input type="text"/> | <input checked="" type="checkbox"/> | <input type="text"/> | <input type="text"/> | Percent <input type="text" value="25%"/> |
| Matrix Notes <input type="text" value="The Respondent failed to comply with 100% of the rule."/> | | | | | | |

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

| | | |
|--|--------------|-------------------------------------|
| <i>mark only one use a small 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="checkbox"/> |

Violation Base Penalty

One single event is recommended based on the one permit (1157C), as documented during the investigation conducted on June 29, 2004 and the record reviews conducted on July 8, 2004 and September 14, 2004.

| | |
|---|--|
| Economic Benefit (EB) for this violation | Statutory Limit Test |
| Estimated EB Amount <input type="text" value="\$0"/> | Violation Final Penalty Total <input type="text" value="\$2,898"/> |
| This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$2,898"/> | |

Economic Benefit Worksheet

Respondent: Gulf Chemical & Metallurgical Corporation
Case ID No.: 19435
Reg. Ent. Reference No.: RN100210129
Media [Statute]: Air Quality
Violation No.: 9

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

| Item Description | Item Cost | 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 benefits for this violation included in Violation 3.

| 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

TOTAL

| | | | | |
|--------------------------------|---|----------------------------------|---|------------|
| Screening Date | 09-Sep-2004 | Docket No. | 2004-1389-AIR-E | PCW |
| Respondent | Gulf Chemical & Metallurgical Corporation | | <i>Policy Revision 2 (September 2002)</i> | |
| Case ID No. | 19435 | <i>PCW Revision May 19, 2005</i> | | |
| Reg. Ent. Reference No. | RN100210129 | | | |
| Media [Statute] | Air Quality | | | |
| Enf. Coordinator | Terry Murphy | | | |
| Violation Number | 10 | | | |
| Primary Rule Cite(s) | 30 Tex. Admin. Code § 116.110(a) | | | |
| Secondary Rule Cite(s) | Tex. Health and Safety Code §§ 382.0518(a) and 382.085(b) | | | |
| Violation Description | <p>Failed to obtain authorization for the installation of low NOx burners in Roaster # 3 and Roaster # 4. Specifically, during an investigation conducted on June 29, 2004 and a record review conducted on September 14, 2004, facility representatives stated that they installed the low NOx burners between 1987 and 2001, and that they had authorization to do so under 30 Tex. Admin. Code § 106.261 (Permit by Rule). However, the Respondent was required to authorize the installations by either a permit amendment or by a standard permit.</p> | | | |
| Base Penalty | | | \$10,000 | |

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

| | | | | | |
|----|----------------|-------------|----------|-------|--|
| | | Harm | | | |
| | Release | Major | Moderate | Minor | |
| OR | Actual | | | | Percent <input style="width: 50px;" type="text"/> |
| | Potential | | | | |

>> **Programmatic Matrix**

| | | | | | |
|--|---------------|-------|----------|-------|--|
| | Falsification | Major | Moderate | Minor | |
| | | X | | | Percent <input style="width: 50px;" type="text" value="25%"/> |

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

| | | |
|--------------------------------|--------------|---|
| mark only one use a small x | daily | |
| | monthly | X |
| | quarterly | |
| | semiannual | |
| | annual | |
| | single event | |

Violation Base Penalty

Six monthly events are recommended (3 for each of the 2 sources) from the date of the investigation (June 29, 2004) to the enforcement screening date (September 9, 2004).

| | |
|--|--|
| Economic Benefit (EB) for this violation | Statutory Limit Test |
| Estimated EB Amount <input style="width: 50px;" type="text" value="\$0"/> | Violation Final Penalty Total <input style="width: 100px;" type="text" value="\$17,386"/> |
| This violation Final Assessed Penalty (adjusted for limits) <input style="width: 100px;" type="text" value="\$17,386"/> | |

Economic Benefit Worksheet

Respondent: Gulf Chemical & Metallurgical Corporation
 Case ID No. 19435
 Reg. Ent. Reference No. RN100210129
 Media [Statute]: Air Quality
 Violation No. 10

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

| Item Description | Item Cost | 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 benefits for this violation included in Violation 3.

| 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-Sep-2004 | Docket No. | 2004-1389-AIR-E | PCW |
| Respondent | Gulf Chemical & Metallurgical Corporation | | <i>Policy Revision 2 (September 2002)</i> | |
| Case ID No. | 19435 | <i>PCW Revision May 19, 2005</i> | | |
| Reg. Ent. Reference No. | RN100210129 | | | |
| Media [Statute] | Air Quality | | | |
| Enf. Coordinator | Terry Murphy | | | |
| Violation Number | 11 | | | |
| Primary Rule Cite(s) | 30 Tex. Admin. Code § 116.115(c) and NSR Air Permit No. 19793, Special-Condition No. 5 | | | |
| Secondary Rule Cite(s) | Tex. Health and Safety Code § 382.085(b) | | | |
| Violation Description | Failed to operate the scrubber for the electric arc furnace at the proper pH. Specifically, NSR Air Permit No. 19793, Special Condition No. 5, requires that all scrubber solutions shall be maintained at a pH higher than 10, and during an investigation conducted on June 29, 2004, the scrubber was being maintained at a pH of 8.8. | | | |
| Base Penalty | | | \$10,000 | |

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

| | | | | | |
|----|----------------|--------------------------|--------------------------|-------------------------------------|--|
| OR | Harm | | | | |
| | Release | Major | Moderate | Minor | |
| | Actual | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| | Potential | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Percent <input type="text" value="10%"/> |

>> **Programmatic Matrix**

| | | | | |
|--------------------------|--------------------------|--------------------------|--------------------------|------------------------------|
| Falsification | Major | Moderate | Minor | Percent <input type="text"/> |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |

Matrix Notes

Human health or the environment could have been exposed to insignificant amounts of pollutants not exceeding levels protective of human health or environmental receptors as a result of the violation.

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

| | | | |
|--------------------------------|--------------|-------------------------------------|--|
| mark only one use a small x | daily | <input type="checkbox"/> | |
| | monthly | <input type="checkbox"/> | |
| | quarterly | <input type="checkbox"/> | |
| | semiannual | <input type="checkbox"/> | |
| | annual | <input type="checkbox"/> | |
| | single event | <input checked="" type="checkbox"/> | |

Violation Base Penalty

One single event is recommended based on the investigation conducted on June 29, 2004.

| | |
|---|--|
| Economic Benefit (EB) for this violation | Statutory Limit Test |
| Estimated EB Amount <input type="text" value="\$389"/> | Violation Final Penalty Total <input type="text" value="\$1,159"/> |
| This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$1,159"/> | |

Economic Benefit Worksheet

Respondent: Gulf Chemical & Metallurgical Corporation
 Case ID No.: 19435
 Reg. Ent. Reference No.: RN100210129
 Media [Statute]: Air Quality
 Violation No.: 11

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

| Item Description | Item Cost | 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 | \$1,000 | 29-Jun-2004 | 05-Nov-2004 | 0.4 | \$18 | n/a | \$18 |
| 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 for more personnel training and pH sampling. Final date is the date of the TCEQ letter acknowledging Gulf's claim to operate the scrubber at a minimum pH of 8 under conditions of PBR Registration No. 73793.

| Avoided Costs | ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs) | | | | | | |
|-------------------------------|--|-------------|-------------|-----|------|-------|-------|
| Disposal | | | | 0.0 | \$0 | \$0 | \$0 |
| Personnel | \$1,000 | 29-Jun-2004 | 05-Nov-2004 | 0.4 | \$18 | \$353 | \$371 |
| 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: Estimated cost for more personnel oversight and training. Final date is the date of the TCEQ letter acknowledging Gulf's claim to operate the scrubber at a minimum pH of 8 under conditions of PBR Registration No. 73793.

Approx. Cost of Compliance \$2,000

TOTAL \$389

| | | | | |
|--------------------------------|---|----------------------------------|---|------------|
| Screening Date | 09-Sep-2004 | Docket No. | 2004-1389-AIR-E | PCW |
| Respondent | Gulf Chemical & Metallurgical Corporation | | <i>Policy Revision 2 (September 2002)</i> | |
| Case ID No. | 19435 | <i>PCW Revision May 19, 2005</i> | | |
| Reg. Ent. Reference No. | RN100210129 | | | |
| Media [Statute] | Air Quality | | | |
| Enf. Coordinator | Terry Murphy | | | |
| Violation Number | 12 | | | |
| Primary Rule Cite(s) | 30 Tex. Admin. Code § 116.115(c) and NSR Air Permit No. 1157C, Special-Condition-No.-2 | | | |
| Secondary Rule Cite(s) | Tex. Health and Safety Code § 382.085(b) | | | |
| Violation Description | Failed to operate the ammonia scrubber, EPN 006, at the proper pH. During a record review conducted on July 8, 2004, the Respondent's records documented that the pH in the ammonia scrubber exceeded the required maximum of 4.5 (exceedances ranged from 4.74 to 12.74) on 20 different days during January 2003. | | | |
| | | | Base Penalty | \$10,000 |

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

| | | | | | |
|----|----------------|--------------|-----------------|--------------|--|
| | | Harm | | | |
| | Release | Major | Moderate | Minor | |
| OR | Actual | | | | Percent <input style="width: 50px;" type="text" value="10%"/> |
| | Potential | | | X | |

>> **Programmatic Matrix**

| | | | | | |
|--|----------------------|--------------|-----------------|--------------|--|
| | Falsification | Major | Moderate | Minor | Percent <input style="width: 50px;" type="text"/> |
| | | | | | |

Matrix Notes Human health or the environment could have been exposed to insignificant amounts of pollutants not exceeding levels protective of human health or environmental receptors as a result of the violation.

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

| | | |
|------------------------------------|---------------------|---|
| | <i>daily</i> | |
| | <i>monthly</i> | |
| <i>mark only one use a small x</i> | <i>quarterly</i> | |
| | <i>semiannual</i> | |
| | <i>annual</i> | |
| | <i>single event</i> | X |

Violation Base Penalty

Twenty single events are recommended based on the 20 days of exceedances, as documented during the investigation conducted on June 29, 2004.

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: Gulf Chemical & Metallurgical Corporation
 Case ID No: 19435
 Reg. Ent. Reference No: RN100210129
 Media [Statute]: Air Quality
 Violation No: 12

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

| Item Description | Item Cost | 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

| Avoided Costs | ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs) | | | | | | |
|-------------------------------|--|-------------|-------------|-----|------|---------|---------|
| | | | | | | | |
| Disposal | | | | 0.0 | \$0 | \$0 | \$0 |
| Personnel | \$1,000 | 29-Jun-2004 | 24-Apr-2005 | 0.8 | \$41 | \$819 | \$860 |
| 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) | \$1,000 | 29-Jun-2004 | 24-Apr-2005 | 1.0 | \$50 | \$1,000 | \$1,050 |

Notes for AVOIDED costs: Estimated cost for more personnel oversight and training.

Approx. Cost of Compliance \$2,000

TOTAL \$1,910

Compliance History

| | | | | |
|---|---|---|---|-------------------|
| Customer/Respondent/Owner-Operator: | CN600124598 | Gulf Chemical & Metallurgical Corporation | Classification: AVERAGE | Rating: 1.730 |
| Regulated Entity: | RN100210129 | GULF CHEMICAL AND METALLURGICAL-FREEPORT | Classification: AVERAGE | Site Rating: 0.45 |
| ID Number(s): | WASTEWATER | PERMIT | TPDES0034738 | |
| | WASTEWATER | EPA ID | TPDES0034738 | |
| | WASTEWATER | PERMIT | WQ0001861000 | |
| | AIR OPERATING PERMITS | PERMIT | 1337 | |
| | AIR OPERATING PERMITS | ACCOUNT NUMBER | BL0029V | |
| | INDUSTRIAL AND HAZARDOUS WASTE GENERATION | SOLID WASTE REGISTRATION # (SWR) | 30952 | |
| | INDUSTRIAL AND HAZARDOUS WASTE GENERATION | EPA ID | TXD074195678 | |
| | INDUSTRIAL AND HAZARDOUS WASTE GENERATION | PERMIT | 50204 | |
| | AIR NEW SOURCE PERMITS | PERMIT | 12094 | |
| | AIR NEW SOURCE PERMITS | PERMIT | 11990 | |
| | AIR NEW SOURCE PERMITS | PERMIT | 7723 | |
| | AIR NEW SOURCE PERMITS | PERMIT | 1157C | |
| | AIR NEW SOURCE PERMITS | PERMIT | 1157B | |
| | AIR NEW SOURCE PERMITS | PERMIT | 9803 | |
| | AIR NEW SOURCE PERMITS | ACCOUNT NUMBER | BL0029V | |
| | AIR NEW SOURCE PERMITS | PERMIT | 36867 | |
| | AIR NEW SOURCE PERMITS | PERMIT | 25593 | |
| | AIR NEW SOURCE PERMITS | PERMIT | 19793 | |
| | AIR NEW SOURCE PERMITS | PERMIT | 12540 | |
| | AIR NEW SOURCE PERMITS | PERMIT | 12539 | |
| | AIR NEW SOURCE PERMITS | PERMIT | 12538 | |
| | AIR NEW SOURCE PERMITS | PERMIT | 12161 | |
| | AIR NEW SOURCE PERMITS | AFS NUM | 0032 | |
| | PETROLEUM STORAGE TANK REGISTRATION | REGISTRATION | 1565 | |
| Location: | 302 MIDWAY RD, FREEPORT, TX, 77542 | | Rating Date: 9/1/04 Repeat Violator: NO | |
| TCEQ Region: | REGION 12 - HOUSTON | | | |
| Date Compliance History Prepared: | September 09, 2004 | | | |
| Agency Decision Requiring Compliance History: | Enforcement | | | |
| Compliance Period: | September 09, 1999 to September 09, 2004 | | | |

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

Name: Terry Murphy Phone: (512) 239-5025

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.

N/A

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 | 08/13/2004 | (250319) |
| 2 | 01/21/2000 | (180154) |
| 3 | 02/12/2003 | (180153) |
| 4 | 02/13/2004 | (304664) |
| 5 | 01/24/2002 | (180152) |
| 6 | 04/25/2003 | (34688) |
| 7 | 01/19/2001 | (180151) |
| 8 | 12/27/1999 | (180150) |
| 9 | 06/25/2004 | (304666) |
| 10 | 12/20/2002 | (180149) |
| 11 | 04/23/2004 | (304667) |
| 12 | 12/27/2001 | (180148) |
| 13 | 05/21/2004 | (304669) |
| 14 | 11/26/2000 | (180147) |
| 15 | 06/20/2003 | (304671) |
| 16 | 12/27/1999 | (180146) |
| 17 | 07/23/2004 | (304672) |
| 18 | 11/20/2002 | (180145) |
| 19 | 11/20/2001 | (180144) |
| 20 | 07/18/2003 | (304674) |
| 21 | 11/21/2000 | (180143) |
| 22 | 05/06/2004 | (265363) |
| 23 | 12/27/1999 | (180142) |
| 24 | 08/18/2003 | (304676) |
| 25 | 09/14/1999 | (304677) |
| 26 | 10/17/2002 | (180141) |
| 27 | 10/18/2001 | (180140) |
| 28 | 09/12/2003 | (304678) |
| 29 | 10/20/2000 | (180139) |
| 30 | 10/14/1999 | (304679) |
| 31 | 09/18/2002 | (180138) |
| 32 | 10/21/2003 | (304680) |
| 33 | 10/11/2001 | (180137) |
| 34 | 11/20/2003 | (304681) |
| 35 | 12/22/2003 | (304682) |
| 36 | 12/14/2000 | (180136) |
| 37 | 01/23/2004 | (304683) |
| 38 | 08/16/2002 | (180135) |
| 39 | 08/20/2001 | (180134) |
| 40 | 08/21/2000 | (180133) |
| 41 | 07/22/2002 | (180132) |
| 42 | 07/18/2001 | (180131) |
| 43 | 07/27/2000 | (180130) |
| 44 | 06/19/2002 | (180129) |
| 45 | 07/13/2001 | (180128) |
| 46 | 06/23/2000 | (180127) |
| 47 | 05/19/2003 | (180126) |
| 48 | 08/22/2003 | (113080) |

49 05/17/2002 (180125)
50 05/14/2001 (180124)
51 05/19/2000 (180123)
52 04/18/2003 (180122)
53 04/15/2003 (31949)
54 04/22/2002 (180121)
55 05/14/2001 (180120)
56 04/20/2000 (180119)
57 03/22/2000 (180118)
58 03/19/2003 (180117)
59 03/21/2002 (180116)
60 05/14/2001 (180115)
61 02/21/2003 (180114)
62 02/19/2002 (180113)
63 03/08/2001 (180112)
64 02/22/2000 (180111)
65 01/29/2002 (67181)
66 12/13/2001 (67180)
67 11/17/2000 (67179)
68 11/16/2000 (67178)
69 11/08/2000 (67177)
70 08/16/2000 (67176)
71 10/21/2002 (14347)
72 08/14/2000 (67175)
73 05/24/2000 (67174)
74 05/24/2000 (67173)
75 04/19/2000 (67172)
76 12/14/1999 (67171)
77 12/14/1999 (67170)
78 12/12/1999 (67169)
79 05/05/2000 (284233)
80 05/01/2001 (113730)
81 02/06/2004 (259548)
82 04/09/2003 (28992)
83 04/30/2003 (33349)

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

Date: 11/30/2000 (180147)

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: 10/31/1999 (180146)

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: 09/30/2002 (180141)

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: 08/31/2000 (180136)

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: 06/30/2001 (180131)

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: 05/31/2001 (180128)

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: 04/30/2000 (180123)

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: 03/31/2001 (180120)

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: 01/31/2001 (180112)

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: 05/01/2003 (33349)

Self Report? NO

Classification: Moderate

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

Rqmt Prov: PERMIT IA

Description: Failure to maintain vanadium pentoxide emissions below permit allowable.

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
GULF CHEMICAL &
METALLURGICAL
CORPORATION,
TCEQ AIR ACCOUNT NO.
BL0029V;
RN100210129

§
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§
§
§
§
§
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BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2004-1389-AIR-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Gulf Chemical & Metallurgical Corporation ("GCMC") under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE ch. 382. The Executive Director of the TCEQ, represented by the Litigation Division, and GCMC, represented by D. Alan Lindsey, II of the law firm of Squire, Sanders & Dempsey L.L.P, appear before the Commission and together stipulate that:

1. GCMC owns and operates a chemicals and metals manufacturing facility located at 302 Midway Road, Freeport, Brazoria County, Texas (the "Plant").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 382 and TCEQ rules.
3. The Commission and GCMC agree that the Commission has jurisdiction to enter this Agreed Order, and that GCMC is subject to the Commission's jurisdiction.
4. GCMC received notice of the violations alleged in Section II ("Allegations") on or about August 18, 2004.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by GCMC of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of one hundred eighteen thousand five hundred dollars (\$118,500.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). GCMC has paid fifty-nine thousand two hundred fifty dollars (\$59,250.00) of the administrative penalty. GCMC shall implement and complete a Supplemental Environmental Project ("SEP") in accordance with TEX. WATER CODE § 7.067. Fifty-nine thousand two hundred fifty dollars (\$59,250.00) of the assessed administrative penalty shall be offset with the condition that GCMC implement the SEP defined in Attachment A, incorporated herein by reference. GCMC'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.
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 GCMC 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 GCMC has implemented the following corrective measures at the Plant in response to this enforcement action:
 - a. On November 5, 2004 the TCEQ Air Permits Division acknowledged GCMC's claim to operate the electric arc furnace scrubber at a minimum pH of 8 under the conditions of Permit by Rule Registration No. 73793; and
 - b. GCMC amended and renewed its NSR Air Permit No. 1157C on July 11, 2005.
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 GCMC 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

GCMC is alleged to have violated:

1. 30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b) by conducting surface coating and dry abrasive cleaning activities at the Plant without authorization for the resultant emissions, as documented on June 29, 2004.
2. 30 TEX. ADMIN. CODE §§ 122.121 and 122.142(b)(2) and TEX. HEALTH & SAFETY CODE §§ 382.085(b) and 382.054 by operating the following emission points and failing to include them in Title V Permit No. O-01337, issued on March 8, 2001: Pond # 2, Pond # 3, Feed Pad Area, Containment Building 1, Containment Building 2, Cooling Tower # 68-14A, Cooling Tower # 68-14B, Cooling Tower # 68-34A, and Cooling Tower # 68-34B, as documented on June 29, 2004, and September 14, 2004.
3. 30 TEX. ADMIN. CODE § 116.116(a)(1); TCEQ NSR Air Permit No. 1157C, General Condition No. 1; and TEX. HEALTH & SAFETY CODE § 382.085(b) by failing to operate within the representations of NSR Air Permit No. 1157C. Specifically, GCMC no longer uses sulfur dioxide, a compound represented in the permit, in the process of the recovery of molybdic trioxide. There has been a change from the use of this compound to another compound not represented in the permit, as documented on June 29, 2004, and July 8, 2004.
4. 30 TEX. ADMIN. CODE § 116.115(b)(2); TCEQ NSR Air Permit No. 1157C, General Condition No. 8; and TEX. HEALTH & SAFETY CODE § 382.085(b) by failing to operate within the permit limits for EPN 006 and EPN 007. Specifically, TCEQ NSR Air Permit No. 1157C authorizes 0.63 tons per year (tpy) of carbon monoxide (CO) from EPN 006 and less than 0.01 tpy of hydrochloric acid (HCl) from EPN 007. GCMC reported CO emissions of 0.9628 tpy, 0.7401 tpy, and 0.8511 tpy, for the years 2003, 2002, and 2001, respectively, from EPN006; and HCl emissions of 0.2536 tpy, 0.1375 tpy, and 0.4350 tpy, for the years 2003, 2002, and 2001, respectively, from EPN 007, as documented on June 29, 2004, and July 8, 2004.
5. 30 TEX. ADMIN. CODE § 122.146(5)(C) and (D), and TEX. HEALTH & SAFETY CODE § 382.085(b) by failing to submit, in the compliance certifications dated March 14, 2003, and March 4, 2004, the deviations for 12 violations that occurred during the annual compliance certification periods of March 7, 2003, to March 2, 2004, and of March 8, 2002, to March 7, 2003, as documented on June 29, 2004, and July 8, 2004.
6. 30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b) by allowing the unauthorized emissions from fugitive emissions from Areas 2,

- 3, 4, 5, 6, 7, and 12; and EPNs Feed Pad Area, Ponds 2 and 3, Tailings Area, Cooling Towers 21-20, 68-34A, 68-34B, 13-36, 68-14A, and 68-14B, 16-8 (organic slope), 24-23 (AM Storage), and 39-01A, and OWS-3 TANK as documented on June 29, 2004, and July 8, 2004.
7. 30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b) by allowing unauthorized emissions. GCMC reported emissions from EPNs that were authorized for some, but not all compounds, with the following reported compounds having had no emissions authorized: sodium carbonate (Na_2CO_3) from EPN 7-21-BH of 0.043 tpy, 0.004 tpy, and 0.003 tpy for 2003, 2002, and 2001, respectively; particulate matter (PM) from EPN 003 (7-25A, 7-25B) of 0.6 tpy, 0.6 tpy, and 0.4 tpy for 2003, 2002, and 2001, respectively; Na_2CO_3 from EPN 26-02 of 0.004 tpy, 0.004 tpy, 0.002 tpy for 2003, 2002, and 2001, respectively; PM from EPN F-10-09 (Pond # 1) of 0.04 tpy for 2003, 2002, and 2001; fugitive hydrogen chloride, volatile organic compounds, and ammonia from F-AREA 9 of 0.04 tpy, 0.05 tpy, and 9.62 tpy respectively, for 2003, 0.088 tpy, 0.05 tpy, and 13.65 tpy respectively, for 2002, and 0.95 tpy, 0.05 tpy, and 47.82 tpy respectively, for 2001, as documented on June 29, 2004, and July 8, 2004.
 8. 30 TEX. ADMIN. CODE § 101.10(b)(2) and TEX. HEALTH & SAFETY CODE § 382.085(b) by failing to submit accurate emissions information in the Emission Inventory Questionnaires for the year 2003. Specifically, GCMC did not report emissions from the following sources: fugitives from Pond # 2, Pond # 3, EPN CB1, and EPN CB2, as documented on June 29, 2004, and July 8, 2004.
 9. 30 TEX. ADMIN. CODE §§ 116.116(a)(1) and 116.115(b)(1); TCEQ NSR Air Permit No. 1157C, General Condition No. 1; and TEX. HEALTH & SAFETY CODE § 382.085(b) by failing to operate as represented in the permits. Specifically, GCMC carried out the following unrepresented activities: the ammonia scrubber, EPN 006, was changed to receive vent streams from the molybdenum kiln, Unit 15-01, Unit 15-06, and scrubber 15-04; and Tanks 14-2A, 14-2B, 14-2C, 14-2D, 14-3 were routed from EPN 006 to EPN 008, as documented on June 29, 2004, July 8, 2004, and September 14, 2004.
 10. 30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b) by installing low NO_x burners in Roaster # 3 and Roaster # 4 without authorization. Specifically, GCMC's representatives stated that the low NO_x burners were installed between 1987 and 2001, and that GCMC had authorization to do so under 30 TEX. ADMIN. CODE § 106.261 (Permit by Rule). However GCMC was required to authorize the installations by either a permit amendment or by a standard permit. This violation was documented on June 29, 2004, and September 14, 2004.

11. 30 TEX. ADMIN. CODE § 116.115(c); TCEQ NSR Air Permit No. 19793, Special Condition No. 5; and TEX. HEALTH & SAFETY CODE § 382.085(b) by failing to operate the scrubber for the electric arc furnace at the proper pH. Specifically, the permit requires that all scrubber solutions be maintained at a pH higher than 10, but the scrubber was being maintained at a pH of 8.8 as documented on June 29, 2004.
12. 30 TEX. ADMIN. CODE § 116.115(c); TCEQ NSR Air Permit No. 1157C, Special Condition No. 2; and TEX. HEALTH & SAFETY CODE § 382.085(b) by failing to operate the ammonia scrubber, EPN 006, at the proper pH. GCMC's records documented that the pH in the ammonia scrubber exceeded the required maximum of 4.5 (exceedances ranged from 4.74 to 12.74) on 20 different days during January, 2003, as documented on June 29, 2004.

III. DENIALS

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

IV. ORDER

1. It is, therefore, ordered by the TCEQ that GCMC pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and GCMC'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 considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Gulf Chemical & Metallurgical Corporation, Docket No. 2004-1389-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. GCMC shall undertake the following technical requirements:

- a. Immediately upon the effective date of this Agreed Order, GCMC shall submit written certification that it has begun to operate the ammonia scrubber, EPN 006, at the proper pH, as required by TCEQ NSR Air Permit No. 1157C, Special Condition No. 4 [previously Special Condition No. 2].
- b. Within 10 days after the effective date of this Agreed Order, GCMC shall submit written certification that it:
 - i. Has either obtained authorization for the emissions from the surface coating and dry abrasive cleaning activities at the Plant or has ceased those operations until such time that appropriate authorization is obtained, as required by 30 TEX. ADMIN. CODE § 116.110(a) or (b).
 - ii. Has either obtained authorization for the emissions from the following emission points at the Plant or has ceased those operations until such time that appropriate authorization is obtained, as required by 30 TEX. ADMIN. CODE § 116.110(a): fugitive emissions from Areas 2, 3, 4, 5, 6, 7, and 12, Feed Pad Area, Ponds 2 and 3, Tailings Area, Cooling Towers 21-20, 13-36, 68-34A, 68-34-B, 68-14A, 68-14B, 16-8 (organic slope), 24-23 (AM storage), 39-01A, and OWS-3 TANK.
 - iii. Has either obtained authorization for the emissions of the following compounds or has ceased operations until such time that appropriate authorization is obtained, as required by 30 TEX. ADMIN. CODE § 116.110(a): sodium carbonate from EPN 7-21-BH, particulate matter from EPN 003 (7-25A, 7-25B), sodium carbonate from EPN 26-02, particulate matter from EPN F-10-09 (Pond # 1), and hydrogen chloride, volatile organic compound, and ammonia fugitives from F-AREA 9.
 - iv. Has corrected the representations of TCEQ NSR Air Permit No. 1157C regarding the change in compounds used in the recovery of molybdic trioxide.
 - v. Has corrected the representations of TCEQ NSR Air Permit No. 1157C regarding the change in vent streams from the molybdenum kiln, Unit 15-01, Unit 15-06, and scrubber 15-04 to the ammonia scrubber, EPN 006, and the re-routing of Tanks 14-2A, 14-2B, 14-2C, 14-2D, and 14-3 from EPN 006 to EPN 008.
 - vi. Is operating EPN 006 and EPN 007 within the permitted limits of TCEQ NSR AIR Permit No. 1157C for carbon monoxide and hydrochloric acid.

- vii. Has either obtained authorization for the installation of low NOx burners in Roaster # 3 and Roaster # 4, as required by 30 TEX. ADMIN. CODE §§ 116.116(b)(1)(A) or 116.601(a)(1), or has ceased operations until such time that appropriate authorization is obtained.
- c. Within 30 days after the effective date of this Agreed Order, GCMC shall submit corrected compliance certifications for the periods March 8, 2002 to March 7, 2003 and March 7, 2003 to March 2, 2004 to:

Air Permits Division, MC 162
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- d. Within 60 days after the effective date of this Agreed Order, GCMC shall submit corrected Emission Inventory Questionnaires for the year 2003, as required by 30 TEX. ADMIN. CODE § 101.10 to:

Emissions Inventories, MC 164
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- e. Within 75 days after the effective date of this Agreed Order, GCMC shall submit written certification of compliance with Ordering Provisions 2.c. and 2.d.
- f. The certifications required by Ordering Provisions 2.a., 2.b., and 2.e. shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, 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".

GCMC shall submit the certifications required by Ordering Provisions 2.a., 2.b., and 2.f. to:

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

and

Manager, Air Section
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 GCMC. GCMC 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 GCMC 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, GCMC's failure to comply is not a violation of this Agreed Order. GCMC shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. GCMC shall notify the Executive Director within seven days after GCMC 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 GCMC shall be made in writing to the Executive Director. Extensions are not effective until GCMC 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 GCMC 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) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to GCMC, or three days after the date on which the Commission mails notice of the Order to GCMC, 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

S. Bergeron-Randall

For the Executive Director

8/8/07

Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that 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.

Zenon R. Llanos

Signature

5-30-2006

Date

ZENON R. LLANOS

Name (Printed or typed)

V.P. ENVIRONMENTAL

Title

Authorized representative of

Gulf Chemical & Metallurgical Corporation

Attachment A
Docket Number: 2004-1389-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Gulf Chemical and Metallurgical Corporation
Penalty Amount: One Hundred Eighteen Thousand Five Hundred Dollars (\$118,500)
SEP Amount: Fifty-Nine Thousand Two Hundred Fifty Dollars (\$59,250)
Type of SEP: Pre-approved
Third-Party Recipient: Houston Galveston AERCO – Clean Cities/Clean Vehicles Program
Location of SEP: Brazoria 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 **Houston-Galveston Area Emission Reduction Credit Organization** (AERCO) Clean Cities/Clean Vehicles Program will perform a SEP in Brazoria County pursuant to the agreement between AERCO and the TCEQ. SEP monies will be used to aid local school districts and area transit agencies in reaching local match requirements mandated by the Federal Highway Administration’s (“FHWA”) Congestion Mitigation/Air Quality funding program. SEP funds will be disbursed to school districts and transit agencies in need of funding assistance in the Houston-Galveston non-attainment area. SEP funds will be used for the costs of replacing older diesel buses with alternative fueled or clean fuel diesel buses.

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 retiring high-emission buses from service, purchasing newer, clean fuel technology buses, and replacing newer buses with fuel treatment technology that reduces particulate emissions and hydrocarbons.

C. Minimum Expenditure

The 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:

Houston-Galveston Area Council
Houston-Galveston AERCO
P.O. Box 22777
Houston, TX 77227-2777

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:

Litigation Division
Attention: SEP Coordinator, MC 175
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.

In the event of incomplete performance, 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.