

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**      **Page 1 of 3**  
**DOCKET NO.: 2005-1672-AIR-E**    **TCEQ ID: RN102660909**    **CASE NO.: 26936**  
**RESPONDENT NAME: GENERAL DYNAMICS OTS (GARLAND), L.P.**

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> 1200 North Glenbrook Drive in Garland, Dallas County</p> <p><b>TYPE OF OPERATION:</b> Ordnance production facility</p> <p><b>SMALL BUSINESS:</b>    <input type="checkbox"/> Yes    <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on July 23, 2007. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney:</b> Ms. Kathleen C. Decker, Litigation Division, MC 175, (512) 239-6500;             Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873  <b>SEP Coordinator:</b> Ms. Sharon Blue, Litigation Division, MC 175, (512) 239-2223  <b>TCEQ Enforcement Coordinator:</b> Ms. Miriam Hall, Air Enforcement Section, MC 128, (512) 239-1044  <b>TCEQ Regional Contact:</b> Ms. Alyssa Taylor, DFW Regional Office, MC R-4, (817) 588-5828  <b>Respondent:</b> Mr. Daniel W. Paul, Vice President and General Manager, Operations, General Dynamics OTS (Garland), L.P.,          1200 North Glenbrook Drive, Garland, Texas 75040  <b>Respondent's Attorney:</b> Ms. Patricia Finn Braddock, Fulbright &amp; Jaworski LLP, 600 Congress Avenue, Suite 2400, Austin,          Texas 78701-2978</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date of Complaints Relating to this Case:</b> None</p> <p><b>Dates of Investigation Relating to this Case:</b> April 8, 2005 April 27, 2006</p> <p><b>Date of NOV Relating to this Case:</b> August 18, 2005</p> <p><b>Background Facts:</b></p> <p>Litigation received a signed Agreed Order on December 8, 2006.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database</p> <p><b>AIR:</b></p> <p>1. Failed to comply with permitted Maximum Allowable Emission Rates (MAER) for the plafORIZATION system at emission point number ("EPN") 7-PLAF-PRETREAT for volatile organic compounds ("VOCs"). The MAER for VOC emissions from EPN 7-PLAF-PRETREAT is 6.22 pounds per hour and 16.15 tons per year. Specifically, the Respondent's permit records listed VOC emissions of up to 11.96 pounds per hour and 24.423 tons per year for EPN 7-PLAF-PRETREAT, and the 2004 Emission Inventory report listed VOC emissions of 23.37 tons per year for EPN 7-PLAF-PRETREAT [NSR Permit No. 51412 General Condition No. 8, 30 TEX. ADMIN. CODE § 116.115(b)(2)(F) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>	<p><b>Total Assessed:</b> \$86,775</p> <p><b>Total Deferred:</b> \$0</p> <p><b>SEP Conditional Offset:</b> \$43,387</p> <p><b>Total Paid to General Revenue:</b> \$43,388</p> <p>The Respondent has paid \$43,388 of the administrative penalty. The remaining amount of \$43,387 of the administrative penalty shall be conditionally offset by the completion of a Supplemental Environmental Project (SEP).</p> <p><b>Site Compliance History Classification</b>  <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken</b></p> <p>The Executive Director recognizes that the Respondent has undertaken the following corrective measures at the Facility:</p> <ol style="list-style-type: none"> <li>Submitted coating and solvent information records and data requested during the April 8, 2005 investigation with correspondence dated April 20, 2005.</li> <li>Submitted permit amendments on September 7, 2005 and January 2 and 6, 2006. In addition, two more submittals were received relating to emission source inventory and a certificate of emission limits dated December 7, 2005 and a Permit-by-Rule registration on March 10, 2006.</li> </ol> <p><b>Ordering Provisions</b></p> <p>The Respondent shall implement and complete a Supplemental Environmental Project.</p> <p><b>Technical Requirements</b></p> <p>The Respondent shall immediately undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>Within 30 days, respond completely and adequately, as determined by the TCEQ, to all requests for information concerning any PBR registrations.</li> <li>Maintain copies of each PBR and the applicable general conditions or general requirements in effect. In addition, make the record available in a reviewable format at the request of personnel from the Commission or any air pollution control program having jurisdiction.</li> </ol>

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>2. Failed to maintain records and data to demonstrate compliance with the permit in a readily available format for TCEQ staff. Specifically, the Respondent did not have records available to demonstrate compliance with dip coating hours of operation and records for the coating material including a log, tank throughput, monthly data usage, hours of operation, examples of calculations performed for emissions, assumptions and the basis of the assumptions [NSR Permit No. 51412 General Condition No. 7 and Special Condition Nos. 11B., C. and D., 30 TEX. ADMIN. CODE § 116.115(b)(2)(E) and (c) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>3. Failed to maintain and make permit by rule ("PBR") records for a surface coating facility immediately available to TCEQ staff. Specifically, records relating to coating and solvent usage, hours of operation, and copies of the required monthly report were not immediately available to TCEQ staff [30 TEX. ADMIN. CODE §§ 106.433(8)(B), (8)(C), (8)(D) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>4. Failed to maintain records containing sufficient information to demonstrate compliance with PBR requirements. Specifically, the Respondent failed to present copies of applicable PBRs or exemptions, as well as the applicable general conditions, for a number of units at the Plant upon request of TCEQ staff [30 TEX. ADMIN. CODE § 106.8(c) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>		

Attachment A  
Docket Number: 2005-1672-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

**Respondent:** General Dynamics OTS (Garland), L.P.

**Penalty Amount:** Eighty-Six Thousand Seven Hundred Seventy-Five Dollars (\$86,775)

**SEP Amount:** Forty-Three Thousand Three Hundred Eighty-Seven Dollars (\$43,387)

**Type of SEP:** Contribution to Third Party Administrator

**Third-Party Recipient:** City of Fort Worth "Mow Down Air Pollution" Mower Exchange

**Location of SEP:** Dallas County (Event to be held in Tarrant County)

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for 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

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 *City of Fort Worth, Texas "Mow Down Air Pollution" Mower Exchange* will perform a SEP in Tarrant County, with participation from residents of Dallas County, pursuant to the agreement between the City of Fort Worth and the TCEQ. SEP monies will be used to remove gasoline-powered lawn mowers from service and replace them with more fuel-efficient and lower pollution-emitting electric mowers. The City will scrap all unusable parts and recycle any recyclable parts from the gasoline-powered mowers. The City will not resell the mowers.

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 older, gasoline-powered mowers and replacing them with less-polluting electric mowers, which will improve the air quality in the 8-county ozone non-attainment region. The project will provide the following environmental benefits:

- Reduce levels of nitrogen oxides (NOx) and volatile organic compounds (VOC)s in the non-attainment region;

- ~~• Promote the use of more fuel-efficient and lower emission lawn equipment;~~
  - Educate the public about the causes and sources of air pollutants in the non-attainment region;
  - Educate the public about what can be done to help reduce the levels of contaminants in the non-attainment region.
- C. Minimum Expenditure

Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

## 2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent must contribute the SEP Amount to the Third-Party Recipient. Respondent shall mail the contribution, with a copy of the Agreed Order, to:

City of Fort Worth, Texas  
Attention: Haily Summerford  
Environmental Management Department  
1000 Throckmorton Street  
Fort Worth, Texas 76102

## 3. Records and Reporting

Concurrent with the payment of the SEP Amount, 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. 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 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 include the notation "SEP Refund" and the docket number of the case, be made out to "Texas Commission on Environmental Quality", and be mailed to:

~~Texas Commission on Environmental Quality~~

Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13088  
Austin, Texas 78711-3088

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 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**

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, 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 Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

**Penalty Calculation Worksheet (PCW)**

Policy Revision 2 (September 2002) PCW Revision May 19, 2005

<b>DATES</b>	Assigned: 22-Aug-2005	Screening: 23-Sep-2005	EPA Due: [ ]
	PCW: 06-Mar-2007		

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	General Dynamics OTS (Garland), L.P.		
Reg. Ent. Ref. No.	RN102660909		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Major Source

<b>CASE INFORMATION</b>			
Enf./Case ID No.	26936	No. of Violations	4
Docket No.	2005-1672-AIR-E	Order Type	1660
Media Program(s)	Air Quality	Enf. Coordinator	Miriam Hall
Multi-Media		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

### Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<i>Subtotal 1</i>	\$97,500
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**ADJUSTMENTS (+/-) TO SUBTOTAL 1**

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

<b>Compliance History</b>	-11% Enhancement	<i>Subtotals 2, 3, &amp; 7</i>	-\$10,725
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Notes: Compliance history reductions due to one notice of an audit and high performer person classification.

<b>Culpability</b>	No	0% Enhancement	<i>Subtotal 4</i>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply</b>	0% Reduction	<i>Subtotal 5</i>	\$0
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	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with a small x)

Notes: The Respondent achieved compliance as of April 20, 2005 regarding certain violations and has not yet achieved compliance regarding other violations.

<b>Economic Benefit</b>	0% Enhancement*	<i>Subtotal 6</i>	\$0
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Total EB Amounts	\$1,733	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$9,400	

<b>SUM OF SUBTOTALS 1-7</b>	<i>Final Subtotal</i>	\$86,775
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<i>Adjustment</i>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes: [ ]

<b>Final Penalty Amount</b>	\$86,775
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<i>Final Assessed Penalty</i>	\$86,775
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<b>DEFERRAL</b>	0% Reduction	<i>Adjustment</i>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: [ ]

<b>PAYABLE PENALTY</b>	\$86,775
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<b>Screening Date</b> 23-Sep-2005	<b>Docket No.</b> 2005-1672-AIR-E	<b>PCW</b>
<b>Respondent</b> General Dynamics OTS (Garland), L.P.	<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No.</b> 26936	<i>PCW Revision May 19, 2005</i>	
<b>Reg. Ent. Reference No.</b> RN102660909		
<b>Media [Statute]</b> Air Quality		
<b>Enf. Coordinator</b> Miriam Hall		

### Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOV's with same or similar violations as those in the current enforcement action ( <i>number of NOV's meeting criteria</i> )	0	0%
	Other written NOV's	0	0%
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 (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were</i>	1	-1%
	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)**

>> **Repeat Violator (Subtotal 3)**

No	<b>Adjustment Percentage (Subtotal 3)</b>	-1%
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>> **Compliance History Person Classification (Subtotal 7)**

High Performer	<b>Adjustment Percentage (Subtotal 7)</b>	-10%
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>> **Compliance History Summary**

**Compliance History Notes** Compliance history reductions due to one notice of an audit and high performer person classification.

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

-11%

<b>Screening Date</b> 23-Sep-2005	<b>Docket No.</b> 2005-1672-AIR-E	<b>PCW</b>
<b>Respondent</b> General Dynamics OTS (Garland), L.P.	<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No.</b> 26936	<i>PCW Revision May 19, 2005</i>	
<b>Reg. Ent. Reference No.</b> RN102660909		
<b>Media [Statute]</b> Air Quality		
<b>Enf. Coordinator</b> Miriam Hall		

<b>Violation Number</b>	1
<b>Primary Rule Cite(s)</b>	NSR Permit No. 51412 General Condition No. 8 and 30 Tex. Admin. Code § 116.115(b)(2)(F)
<b>Secondary Rule Cite(s)</b>	Tex. Health Safety Code § 382.085(b)
<b>Violation Description</b>	Failed to comply with permitted Maximum Allowable Emission Rates (MAER) for the Plaforization system at Emission Point No. (EPN) 7-PLAF-PRETREAT for Volatile Organic Compounds (VOC). Specifically, the MAER for VOC emissions from EPN 7-PLAF-PRETREAT are 6.22 pounds (lbs) per hour and 16.15 tons per year (TPY). Records from the Respondent (maintained pursuant to NSR permit 51412 Special Condition No. 11(B)) listed VOC emissions of up to 11.96 lb/hour and 24.423 TPY for this EPN. In addition, the 2004 Emission Inventory reported VOC emissions of 23.37 TPY for this EPN.
<b>Base Penalty</b>	\$10,000

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

OR	<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor
	Actual			X
	Potential			
				<b>Percent</b> 25%

>> **Programmatic Matrix**

<b>Falsification</b>	Major	Moderate	Minor	<b>Percent</b>

**Matrix Notes** Failure to comply with the permitted emission limits resulted in the exposure of an insignificant amount of contaminants which did not exceed levels that are protective of human health and environmental receptors.

**Adjustment** -\$7,500

**Base Penalty Subtotal** \$2,500

**Violation Events**

Number of Violation Events

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

**Violation Base Penalty** \$10,000

Quarterly events are recommended for the year 2004 in which the permitted limits were exceeded.

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
Estimated EB Amount <input type="text" value="\$425"/>	Violation Final Penalty Total <input type="text" value="\$8,900"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$8,900"/>	

### Economic Benefit Worksheet

Respondent: General Dynamics OTS (Garland), L.P.  
 Case ID No: 26936  
 Reg. Ent. Reference No: RN102660909  
 Media [Statute]: Air Quality  
 Violation No: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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**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)	\$3,000	01-Jan-2004	01-Nov-2006	2.8	\$425	n/a	\$425

Notes for DELAYED costs

Estimated costs for additional oversight which might have reduced or alleviated the exceedances or costs to obtain a permit amendment. Date required is the start date of the reporting period and the final date is the estimated date of compliance.

**Avoided Costs**

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$3,000

**TOTAL** \$425

<b>Screening Date</b>	23-Sep-2005	<b>Docket No.</b>	2005-1672-AIR-E	<b>PCW</b>
<b>Respondent</b>	General Dynamics OTS (Garland), L.P.		Policy Revision 2 (September 2002)	
<b>Case ID No.</b>	26936	PCW Revision May 19, 2005		
<b>Reg. Ent. Reference No.</b>	RN102660909			
<b>Media [Statute]</b>	Air Quality			

<b>Ent. Coordinator</b>	Miriam Hall
<b>Violation Number</b>	2
<b>Primary Rule Cite(s)</b>	NSR Permit No. 51412 General Condition No. 7 and Special Conditions No. 11.B, C, and D and 30 Tex. Admin. Code § 116.115(b)(2)(E) and (c)
<b>Secondary Rule Cite(s)</b>	Tex. Health Safety Code § 382.085(b)
<b>Violation Description</b>	Failure to maintain records and data to demonstrate compliance with the permit and have the records available upon request of the TCEQ staff. Specifically, the Respondent did not have records available to demonstrate compliance with dip coating hours of operation, and records for the coating material (Ecophor) including a log, tank throughput, monthly data usage, hours of operation, examples of calculations performed for emissions, assumptions and the basis of the assumptions.
<b>Base Penalty</b>	\$10,000

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

OR	<b>Harm</b>				Percent
	<b>Release</b>	Major	Moderate	Minor	
	Actual				
	Potential				

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
		X			25%

**Matrix Notes**

100% of the rule was not met.

**Adjustment** -\$7,500

**Base Penalty Subtotal** \$2,500

**Violation Events**

Number of Violation Events

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

**Violation Base Penalty** \$2,500

One single event is recommended based on the investigation date of April 8, 2005.

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
Estimated EB Amount <input type="text" value="\$0"/>	Violation Final Penalty Total <input type="text" value="\$2,225"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$2,225"/>	

### Economic Benefit Worksheet

Respondent: General Dynamics OTS (Garland), L.P.  
 Case ID No: 26936  
 Reg. Ent. Reference No: RN102660909  
 Media / Statute: Air Quality  
 Violation No: 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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**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	\$200	08-Apr-2005	21-Apr-2005	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

Estimated costs to maintain records and make them available for review to TCEQ staff. Date required is the date of the investigation and final date is the date records were submitted to the TCEQ investigator to resolve the violation.

**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 \$200

**TOTAL** \$0

<b>Screening Date:</b> 23-Sep-2005	<b>Docket No.:</b> 2005-1672-AIR-E	<b>PCW</b>
<b>Respondent:</b> General Dynamics OTS (Garland), L.P.	<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No.:</b> 26936	<i>PCW Revision May 19, 2005</i>	
<b>Reg. Ent. Reference No.:</b> RN102660909		
<b>Media [Statute]:</b> Air Quality		

<b>Enf. Coordinator:</b> Miriam Hall	
<b>Violation Number:</b> 3	
<b>Primary Rule Cite(s):</b>	30 Tex. Admin. Code § 106.433(8)(B), (8)(C) and (8)(D)
<b>Secondary Rule Cite(s):</b>	Tex. Health Safety Code § 382.085(b)
<b>Violation Description:</b>	Failure to maintain and make permit by rule records for a surface coat facility immediately available to TCEQ staff. Specifically, the Respondent did not have records available for review regarding coating and solvent usage, hours of operation, and the required monthly report.
<b>Base Penalty:</b>	\$10,000

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

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

>> **Programmatic Matrix**

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

**Matrix Notes:** 100% of the rule requirement was not met.

**Adjustment:** -\$7,500

**Base Penalty Subtotal:** \$2,500

**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:** \$2,500

One single event is recommended based on the investigation date of April 8, 2005.

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
Estimated EB Amount: <input type="text" value="\$0"/>	Violation Final Penalty Total: <input type="text" value="\$2,225"/>
This violation Final Assessed Penalty (adjusted for limits): <input type="text" value="\$2,225"/>	

### Economic Benefit Worksheet

**Respondent:** General Dynamics OTS (Garland), L.P.  
**Case ID No.:** 26936  
**Reg. Ent. Reference No.:** RN102660909  
**Media/Statute:** Air Quality  
**Violation No.:** 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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**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	\$200	08-Apr-2005	21-Apr-2005	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

Estimated costs to maintain records and make them available for review to TCEQ staff. Date required is the date of the investigation and final date is the date records were submitted to the TCEQ investigator to resolve the violation.

**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 \$200

**TOTAL** \$0

<b>Screening Date</b>	23-Sep-2005	<b>Docket No.</b>	2005-1672-AIR-E	<b>PCW</b>
<b>Respondent</b>	General Dynamics OTS (Garland), L.P.		<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No.</b>	26936	<i>PCW Revision May 19, 2005</i>		
<b>Reg. Ent. Reference No.</b>	RN102660909			
<b>Media [Statute]</b>	Air Quality			
<b>Enf. Coordinator</b>	Miriam Hall			

<b>Violation Number</b>	4
<b>Primary Rule Cite(s)</b>	30 Tex. Admin. Code § 106.8(c)
<b>Secondary Rule Cite(s)</b>	Tex. Health Safety Code § 382.085(b)
<b>Violation Description</b>	Failure to maintain records to demonstrate compliance with permit by rule (PBR) requirements. Specifically, the Respondent failed to maintain a copy of each PBR or exemption and the applicable general conditions.
<b>Base Penalty</b>	\$10,000

<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>	
<b>Harm</b>	
<b>Release</b>	Major    Moderate    Minor
Actual	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
Potential	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
<b>Percent</b>	<input type="text"/>
<b>&gt;&gt; Programmatic Matrix</b>	
<b>Falsification</b>	Major    Moderate    Minor
	<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
<b>Percent</b>	25%
<b>Matrix Notes</b>	100% of the rule requirement was not met.
<b>Adjustment</b>	-\$7,500

<b>Base Penalty Subtotal</b>	\$2,500
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<b>Violation Events</b>													
<b>Number of Violation Events</b>	33												
<i>mark only one use a small x</i>	<table border="1"> <tr><td>daily</td><td><input type="checkbox"/></td></tr> <tr><td>monthly</td><td><input type="checkbox"/></td></tr> <tr><td>quarterly</td><td><input type="checkbox"/></td></tr> <tr><td>semiannual</td><td><input type="checkbox"/></td></tr> <tr><td>annual</td><td><input type="checkbox"/></td></tr> <tr><td>single event</td><td><input checked="" type="checkbox"/></td></tr> </table>	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"/>
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"/>												
<b>Violation Base Penalty</b>	\$82,500												
Thirty-Three single events are calculated for the failure to maintain required information for 33 units or sources that were claimed as PBRs or exemptions.													

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
Estimated EB Amount <input type="text" value="\$1,307"/>	Violation Final Penalty Total <input type="text" value="\$73,425"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$73,425"/>	

### Economic Benefit Worksheet

Respondent: General Dynamics OTS (Garland), L.P.  
 Case ID No: 26936  
 Reg. Ent. Reference No: RN102660909  
 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	\$6,000	01-Nov-2001	10-Mar-2006	4.4	\$1,307	n/a	\$1,307
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 costs to complete an emission source inventory to determine the authorization status and to document PBR requirements. Date required is the effective date of the rule and the final date is the date Respondent provided PBR information and authorization status information.

**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 \$6,000

**TOTAL** \$1,307

# Compliance History

Customer/Respondent/Owner-Operator: CN602483067 General Dynamics OTS (Garland), L.P. Classification: HIGH Rating: 0.000

Regulated Entity: RN102660909 GENERAL DYNAMICS OTS GARLAND-LP Classification: HIGH Site Rating: 0.00

ID Number(s):	IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	30434
	STORMWATER	PERMIT	TXR05Q837
	AIR NEW SOURCE PERMITS	REGISTRATION	76541
	AIR NEW SOURCE PERMITS	AFS NUM	0032
	AIR NEW SOURCE PERMITS	REGISTRATION	55883
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	30434
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD007332224
	AIR NEW SOURCE PERMITS	PERMIT	51412
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	DB0482W
	AIR NEW SOURCE PERMITS	PERMIT	48894
	AIR NEW SOURCE PERMITS	PERMIT	11588
	AIR NEW SOURCE PERMITS	PERMIT	4539
	VOLUNTARY CLEANUP PROGRAM	ID NUMBER	228
	AIR OPERATING PERMITS	PERMIT	2594
	AIR OPERATING PERMITS	ACCOUNT NUMBER	DB0482W

Location: 1200 N GLENBROOK DR, GARLAND, TX, 75040 Rating Date: 9/1/05 Repeat Violator: NO

TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: September 27, 2005

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: September 19, 2000 to September 19, 2005

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
 Name: J. Mac Vilas, P.G. Phone: (512) 239-2557

### 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?    | Yes   |
| 3. If Yes, who is the current owner?   | General Dynamics OTS Garland LP                             |
| 4. If Yes, who was/were the prior owner(s)?  | Intercontinental Manufacturing Company, Inc<br>Datron, Inc. |
| 5. When did the change(s) in ownership occur?  | 09/03/2003<br>09/03/2003                                    |
| 6. Comments:   |   |

### 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 08/18/2005 (381335)
- 2 04/10/2002 (136492)

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

N/A

F. Environmental audits.

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Notice of Intent Date: 10/08/2000

No DOV Associated

Citation:

No Classification

Description:

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  
AGAINST  
GENERAL DYNAMICS OTS  
(GARLAND), L.P.  
RN102660909

§  
§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2005-1672-AIR-E

I. JURISDICTION AND STIPULATIONS

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding General Dynamics OTS (Garland), L.P. ("General Dynamics") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and General Dynamics represented by Patricia Finn Braddock of the law firm Fulbright & Jaworski L.L.P., appear before the Commission and together stipulate that:

1. General Dynamics owns and operates an ordnance production facility at 1200 North Glenbrook Drive in Garland, Dallas County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. 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 the TEX. HEALTH & SAFETY CODE ch. 382.
4. The Commission and General Dynamics agree that the Commission has jurisdiction to enter this Agreed Order, and that General Dynamics is subject to the Commission's jurisdiction.
5. General Dynamics received notice of the violations alleged in Section II ("Allegations") on or about August 23, 2005.
6. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by General Dynamics of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

7. An administrative penalty in the amount of eighty-six thousand seven hundred seventy-five dollars (\$86,775) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). General Dynamics has paid forty-three thousand three hundred eighty-eight dollars (\$43,388) of the administrative penalty. Forty-three thousand three hundred eighty-seven dollars (\$43,387) shall be conditionally offset by General Dynamic's completion of a Supplemental Environmental Project as defined in Attachment A and incorporated herein by reference. General Dynamic'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.
8. 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.
9. The Executive Director of the TCEQ and General Dynamics have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
10. The Executive Director recognizes that General Dynamics submitted coating and solvent information records and data requested during the April 8, 2005 investigation with correspondence dated April 20, 2005.
11. The Executive Director recognizes that General Dynamics submitted permit amendments on September 7, 2005 and January 2 and 6, 2006. In addition, two more submittals were received relating to emission source inventory and a certificate of emission limits dated December 7, 2005 and a Permit-by-Rule registration on March 10, 2006.
12. 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 General Dynamics has not complied with one or more of the terms or conditions in this Agreed Order.
13. 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.
14. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Plant, General Dynamics is alleged to have:

1. Failed to comply with permitted Maximum Allowable Emission Rates (MAER) for the plafORIZATION system at emission point number ("EPN") 7-PLAF-PRETREAT for volatile organic compounds ("VOCs"), in violation of NSR Permit No. 51412 General Condition No. 8, 30 TEX. ADMIN. CODE § 116.115(b)(2)(F) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an inspection conducted on April 8, 2005. The MAER for VOC emissions from EPN 7-PLAF-PRETREAT is 6.22 pounds per hour and 16.15 tons per year. Specifically, General Dynamics' permit records listed VOC emissions of up to 11.96 pounds per hour and 24.423 tons per year for EPN 7-PLAF-PRETREAT, and the 2004 Emission Inventory report listed VOC emissions of 23.37 tons per year for EPN 7-PLAF-PRETREAT.
2. Failed to maintain records and data to demonstrate compliance with the permit in a readily available format for TCEQ staff, in violation of NSR Permit No. 51412 General Condition No. 7 and Special Condition Nos. 11B., C. and D., 30 TEX. ADMIN. CODE § 116.115(b)(2)(E) and (c) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an inspection conducted on April 8, 2005. Specifically, General Dynamics did not have records available to demonstrate compliance with dip coating hours of operation and records for the coating material including a log, tank throughput, monthly data usage, hours of operation, examples of calculations performed for emissions, assumptions and the basis of the assumptions.
3. Failed to maintain and make permit by rule ("PBR") records for a surface coating facility immediately available to TCEQ staff, in violation of 30 TEX. ADMIN. CODE §§ 106.433(8)(B), (8)(C), (8)(D) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an inspection conducted on April 8, 2005. Specifically, records relating to coating and solvent usage, hours of operation, and copies of the required monthly report were not immediately available to TCEQ staff.
4. Failed to maintain records containing sufficient information to demonstrate compliance with PBR requirements in violation of 30 TEX. ADMIN. CODE § 106.8(c) and TEX. HEALTH & SAFETY CODE § 382.085(b) as documented during an inspection on April 8, 2005 and a record review on April 27, 2006. Specifically, General Dynamics failed to present copies of applicable PBRs or exemptions, as well as the applicable general conditions, for a number of units at the Plant upon request of TCEQ staff.

### III. DENIALS

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

#### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that General Dynamics pay an administrative penalty as set forth in Section I, Paragraph 7 above. The payment of this administrative penalty and General Dynamics' compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: General Dynamics OTS (Garland), L.P., Docket No. 2005-1672-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. General Dynamics shall implement and complete a Supplemental Environmental Project in accordance with TEX. WATER CODE § 7.067. Forty-three thousand three hundred eighty-seven dollars (\$43,387) of the assessed penalty shall be offset with the condition that General Dynamics implement the SEP defined in Attachment A. General Dynamics's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered that General Dynamics shall undertake the following technical requirements immediately upon the effective date of this Agreed Order:
  - a. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning any PBR registrations within 30 days after the date of such requests, or by any other deadline specified in writing;
  - b. Maintain copies of each PBR and the applicable general conditions or general requirements in effect in accordance with 30 TEX. ADMIN. CODE § 106.8(c). In addition, make the record available in a reviewable format at the request of personnel from the Commission or any air pollution control program having jurisdiction.
4. The provisions of this Agreed Order shall apply to and be binding upon General Dynamics. General Dynamics 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.

5. If General Dynamics 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, General Dynamics' failure to comply is not a violation of this Agreed Order. General Dynamics shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. General Dynamics shall notify the Executive Director within seven days after General Dynamics becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. 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 General Dynamics shall be made in writing to the Executive Director. Extensions are not effective until General Dynamics receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against General Dynamics 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.
8. 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.
9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to General Dynamics, or three days after the date on which the Commission mails notice of the Order to General Dynamics, 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



For the Executive Director

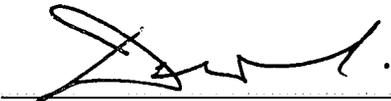
7/17/07

Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, 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 General Dynamic's failure to comply with the Ordering Provisions, if any, in this order and/or General Dynamic's failure to timely pay the penalty amount, may result in:

- A negative impact on General Dynamics' compliance history;
  - Greater scrutiny of any permit applications submitted by General Dynamics;
  - 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 General Dynamics;
  - Automatic referral to the Attorney General's Office of any future enforcement actions against General Dynamics; and
  - TCEQ seeking other relief as authorized by law.
- In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

5/24/2007

Date

Daniel W. Paul

Name (Printed or typed)

V.P. & G.M. Operations.

Title

Authorized Representative of  
General Dynamics OTS (Garland), L.P.

Attachment A  
Docket Number: 2005-1672-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

**Respondent:** General Dynamics OTS (Garland), L.P.

**Penalty Amount:** Eighty-Six Thousand Seven Hundred Seventy-Five Dollars (\$86,775)

**SEP Amount:** Forty-Three Thousand Three Hundred Eighty-Seven Dollars (\$43,387)

**Type of SEP:** Contribution to Third Party Administrator

**Third-Party Recipient:** City of Fort Worth "Mow Down Air Pollution" Mower Exchange

**Location of SEP:** Dallas County (Event to be held in Tarrant County)

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for 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

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 *City of Fort Worth, Texas "Mow Down Air Pollution" Mower Exchange* will perform a SEP in Tarrant County, with participation from residents of Dallas County, pursuant to the agreement between the City of Fort Worth and the TCEQ. SEP monies will be used to remove gasoline-powered lawn mowers from service and replace them with more fuel-efficient and lower pollution-emitting electric mowers. The City will scrap all unusable parts and recycle any recyclable parts from the gasoline-powered mowers. The City will not resell the mowers.

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 older, gasoline-powered mowers and replacing them with less-polluting electric mowers, which will improve the air quality in the 8-county ozone non-attainment region. The project will provide the following environmental benefits:

- Reduce levels of nitrogen oxides (NOx) and volatile organic compounds (VOC)s in the non-attainment region;

- Promote the use of more fuel-efficient and lower emission lawn equipment;
  - Educate the public about the causes and sources of air pollutants in the non-attainment region;
  - Educate the public about what can be done to help reduce the levels of contaminants in the non-attainment region.
- C. Minimum Expenditure

Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

## 2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent must contribute the SEP Amount to the Third-Party Recipient. Respondent shall mail the contribution, with a copy of the Agreed Order, to:

City of Fort Worth, Texas  
Attention: Haily Summerford  
Environmental Management Department  
1000 Throckmorton Street  
Fort Worth, Texas 76102

## 3. Records and Reporting

Concurrent with the payment of the SEP Amount, 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. 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 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 include the notation "SEP Refund" and the docket number of the case, be made out to "Texas Commission on Environmental Quality", and be mailed to:

General Dynamics OTS (Garland), L.P.  
Agreed Order Attachment A Docket No. 2005-1672-AIR-E

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13088  
Austin, Texas 78711-3088

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 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**

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, 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 Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.