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**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2006-0583-AIR-E TCEQ ID: RN100210129 CASE NO.: 29492**  
**RESPONDENT NAME: GULF CHEMICAL & METALLURGICAL CORPORATION**

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" 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> 302 Midway Road, Freeport, Brazoria County</p> <p><b>TYPE OF OPERATION:</b> Chemical and metals manufacturing facility</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" 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 location.</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 September 24, 2007. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b></p> <p><b>TCEQ Attorney:</b> Mr. Alfred Oloko, Litigation Division, MC R-12, (713) 422-8918  Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873</p> <p><b>SEP Coordinator:</b> Ms. Sharon Blue, Litigation Division, MC 175, (512) 239-2223</p> <p><b>TCEQ Enforcement Coordinator:</b> Mr. Terry Murphy, Air Enforcement Section, MC 169, (512) 239-5025</p> <p><b>TCEQ Regional Contact:</b> Ms. Linda Vasse, Houston Regional Office, MC R-12, (713) 767-3637</p> <p><b>Respondent:</b> Mr. William G. Deering, Registered Agent, Gulf Chemical &amp; Metallurgical Corporation, 302 Midway Road,  P. O. Box 2290, Freeport, Texas 77542</p> <p><b>Respondent's Attorney:</b> Mr. D. Alan Lindsey, II, Squire, Sanders &amp; Dempsey L.L.P., 6250 Chase Tower, 600 Travis Street,  Houston, Texas 77002-3000</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 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>Date of Investigation Relating to this Case:</b>                      April 18, 2006</p> <p><b>Date of NOE Relating to this Case:</b>                      May 19, 2006</p> <p><b>Background Facts:</b> A negotiated settlement of this case was achieved without filing an EDPRP. The Respondent decided to do a pre-approved SEP. The signed Agreed Order and check for half the penalty amount was received about June 10, 2007.</p> <p><b>AIR:</b></p> <p>1. Failed to comply with permitted emissions limits. Specifically, NSR Air Permit No. 1157C allows the emission of up to 6.24 pounds per hour (lbs/hr) of ammonia and up to 0.78 lbs/hr of carbon monoxide from the Ammonia Scrubber (EPN 006). A stack test performed October 4 to October 6, 2005 determined that the emission rates were 50.08 and 0.82 lbs/hr for ammonia and carbon monoxide respectively [30 TEX. ADMIN. CODE § 116.115(c), NSR Air Permit No. 1157C, Special Condition No. 1, and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>2. Failed to comply with permitted emissions limits. Specifically, NSR Air Permit No. 1157C allows the emission of up to 0.05 lbs/hr for volatile organic compounds from the Ammonia Scrubber (EPN 006). A stack test performed on March 21 to March 22, 2006 determined that the emissions rate was 3.46 lbs/hr. [30 TEX. ADMIN. CODE § 116.115(c), NSR Air Permit No. 1157C, Special Condition No. 1, and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>3. Failed to comply with permitted emissions limits. Specifically, NSR Air Permit No. 1157C allows the emission of up to 0.21 lbs/hr for sulfur dioxide from the Molybdenum Tank (EPN 008). Stack tests performed on October 4 to October 6, 2005 and March 21 to March 22, 2006 determined that the emission rates were 9.50 lbs/hr and 12.36 lbs/hr respectively [30 TEX. ADMIN. CODE § 116.115(c), NSR Air Permit No.</p>	<p><b>Total Assessed:</b> \$154,275</p> <p><b>Total Deferred:</b> \$0</p> <p><b>SEP Conditional Offset:</b> \$77,137</p> <p><b>Total Paid to General Revenue:</b>                      \$77,138/\$77,137                      The Respondent has paid \$77,138 of the administrative penalty. The remaining amount of \$77,137 is offset by a Supplemental Environmental Project (SEP).</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" 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>This is a Findings Order because violation No. 3 in the PCW is assessed as an actual major emissions violation wherein people and environmental receptors have been exposed to pollutants which exceed levels that are protective.</p>	<p><b>Corrective Action(s) Taken</b>                      The Executive Director recognizes that the Respondent returned to compliance with the permitted limits for ammonia and carbon monoxide from the Ammonia Scrubber (EPN 006) on March 21, 2006.</p> <p><b>Ordering Provision(s)</b>                      The Respondent shall:</p> <ol style="list-style-type: none"> <li>1. Within 30 days, implement improvements to record keeping systems and/or procedures that address the causes leading to the late submittal of test reports and designed to prevent reoccurrence of same or similar incidents;</li> <li>2. Within 45 days submit written certification of compliance with Ordering Provision 2.a. in the Agreed Order</li> <li>3. Within 60 days become compliant with the permitted emissions limits for volatile organic compounds from EPN 006 and sulfur dioxide from EPN 008; or in the alternative:</li> <li>4. Within 60 days, in order to increase the allowable emissions rate for volatile organic compounds from EPN 006 and/or sulfur dioxide from EPN 008, GCMC shall submit an administratively complete request to amend NSR Air Permit No. 1157C</li> <li>5. Within 75 days submit written certification of compliance with Ordering Provision 2.c. in the Agreed Order</li> <li>6. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit amendment within 30 days after the date of such requests, or by any other deadline specified in writing;</li> <li>7. Within 180 days submit written certification that GCMC has either obtained authorization for an increase in allowable emissions of volatile organic compounds from EPN 006 and/or of sulfur dioxide from EPN 008, and is in compliance with those allowable emissions limits, or has ceased all unauthorized emissions from those EPNs until such time that appropriate authorization is obtained.</li> <li>8. Implement and complete a Supplemental Environmental Project in accordance with TEX. WATER CODE 7.067. Seventy-seven thousand</li> </ol>

<p>1157C, Special Condition No. 1, and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>4. Failed to submit a timely report. Specifically, testing of EPN 006 and EPN 008 was completed on October 6, 2005 and the test report was due November 5, 2005, but was not submitted until November 18, 2005 [30 TEX. ADMIN. CODE § 116.115(c), NSR Air Permit No. 1157C, Special Condition No. 7.E., and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>		<p>one hundred thirty-seven dollars (\$77,137.00) of the assessed administrative penalty shall be conditionally offset by GCMC s completion of a Supplemental Environmental Project defined in Attachment A. 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.</p>
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Attachment A

Docket Number: 2006-0583-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

**Respondent:** Gulf Chemical & Metallurgical Corporation

**Penalty Amount:** One Hundred Fifty-Four Thousand Two Hundred Seventy-Five Dollars (\$154,275)

**SEP Amount:** Seventy-Seven Thousand One Hundred Thirty-Seven Dollars (\$77,137)

**Type of SEP:** Pre-approved

**Third-Party Recipient:** Houston-Galveston Area Emission Reduction Credit Organization (AERCO)

**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 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 **Houston-Galveston Area Emission Reduction Credit Organization (AERCO)** Clean Cities/Clean Vehicles Program will perform a SEP within the airshed of 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 for the costs of replacing older diesel buses with alternative fueled or clean fuel diesel buses or retrofitting older buses with clean fuel technology.

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

Passengers, drivers, and students in the area where buses idle during transportation are subject to harmful diesel exhaust emission every school day. Apart from containing the ozone precursors nitrogen oxides (NOx), and hydrocarbons (HC), and particulate emissions, diesel exhaust is known to cause or exacerbate a number of respiratory diseases, including asthma. This SEP will provide a discernible environmental benefit by retiring high-emission buses from service, purchasing newer, clean fuel technology buses, or replacing newer buses with fuel treatment technology that reduces particulate emissions, NOx, and HC.

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 shall contribute the SEP Amount to the Third-Party Recipient. 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, 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:

Litigation Division  
Attention: SEP Coordinator, MC 175  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

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.



Policy Revision 2 (September 2002)

# Penalty Calculation Worksheet (PCW)

PCW Revision May 19, 2005

<b>DATES</b>	Assigned	22-May-2006	Screening	23-May-2006	EPA Due	30-Mar-2007
	PCW	18-Sep-2006				

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

<b>CASE INFORMATION</b>			
Enf./Case ID No.	29492	No. of Violations	4
Docket No.	2006-0583-AIR-E	Order Type	Findings
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

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

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

**Compliance History** 21% Enhancement Subtotals 2, 3, & 7

Notes

**Culpability** No  Subtotal 4

Notes

**Good Faith Effort to Comply** 0% Reduction Subtotal 5

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	X	(mark with a small x)

Notes

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

Total EB Amounts	<input type="text" value="\$2,401"/>	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	<input type="text" value="\$30,500"/>	

**SUM OF SUBTOTALS 1-7** Final Subtotal

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  Adjustment

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

Notes

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty

**DEFERRAL** 0% Reduction Adjustment

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

Notes

**PAYABLE PENALTY**

**Screening Date** 23-May-2006 **Docket No.** 2006-0583-AIR-E **PCW**  
**Respondent** Gulf Chemical & Metallurgical Corporation *Policy Revision 2 (September 2002)*  
**Case ID No.** 29492 *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	8	16%
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)** 21%

>> 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 six effluent violations and received two dissimilar NOVs and one same or similar NOV.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 21%

Screening Date 23-May-2006

Docket No. 2006-0583-AIR-E

PCW

Respondent Gulf Chemical & Metallurgical Corporation

Policy Revision 2 (September 2002)

Case ID No. 29492

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN100210129

Media [Statute] Air Quality

Enf. Coordinator Terry Murphy

Violation Number

Primary Rule Cite(s) 30 Tex. Admin. Code § 116.115(c) and NSR Air Permit No. 1157C, Special Condition No. 1

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

Violation Description Failed to comply with permitted emissions limits. Specifically, NSR AIR Permit No.1157C allows emissions of up to 6.24 pounds per hour (lbs/hr) of ammonia and up to 0.78 lb/hr of carbon monoxide from the Ammonia Scubber (EPN 006). A stack test performed October 4 to October 6, 2005 determined that the emissions rates for those compounds were 50.08 and 0.82 lbs/hr, respectively, as documented during an investigation conducted on March 18, 2006.

Base Penalty

>> Environmental, Property and Human Health Matrix

		Harm			
Release		Major	Moderate	Minor	
OR	Actual	<input type="text"/>	<input checked="" type="text" value="X"/>	<input type="text"/>	Percent <input type="text" value="50%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

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

Matrix Notes Human health or the environment were exposed to significant amounts of pollutants which did not exceed 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="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 from October 4, 2005 (the date of the initial stack test) to March 21, 2006 (the date the stack was retested and emissions of those compounds returned to compliance with permit limits).

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. 29492  
 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
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$10,000	04-Oct-2005	21-Mar-2006	0.5	\$15	\$307	\$322
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: Estimated costs to make adjustments to the process and retest the EPN. The Date Required is the date of the initial stack test, and the Final Date is the date the stack was retested.

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 **\$10,000**

**TOTAL \$322**

Screening Date 23-May-2006

Docket No. 2006-0583-AIR-E

PCW

Respondent Gulf Chemical & Metallurgical Corporation

Policy Revision 2 (September 2002)

Case ID No. 29492

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN100210129

Media [Statute] Air Quality

Enf. Coordinator Terry Murphy

Violation Number

Primary Rule Cite(s)

30 Tex. Admin. Code § 116.115(c) and NSR Air Permit No. 1157C, Special Condition No. 1

Secondary Rule Cite(s)

Tex. Health and Safety Code § 382.085(b)

Violation Description

Failed to comply with permitted emissions limits. Specifically, NSR AIR Permit No.1157C allows emissions of up to 0.05 lb/hr for volatile organic compounds from the Ammonia Scubber (EPN 006). A stack test performed March 21 to March 22, 2006 determined that the emissions rate was 3.46 lbs/hr, as documented during an investigation conducted on March 18, 2006.

Base Penalty

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual		X		<input type="text" value="50%"/>
Potential				

>> Programmatic Matrix

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

Matrix Notes

Human health or the environment have been exposed to significant amounts of pollutants which do not exceed 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="text"/>
	monthly	X
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

Three monthly events are recommended from March 21, 2006 (the date of the stack test) to May 23, 2006 (the enforcement screening date).

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. 29492  
 Reg. Ent. Reference No. RN100210129  
 Media [Statute] Air Quality  
 Violation No. 2

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$10,000	21-Mar-2006	01-Jul-2007	1.3	\$43	\$853	\$896
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: Estimated cost to adjust equipment and retest the EPN, or submit a request to amend the permit to increase the allowable rate. The Date Required is the date of the first stack test, and the Final Date is the latest date the Respondent is expected to return to 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 \$10,000 TOTAL \$896

**Screening Date** 23-May-2006 **Docket No.** 2006-0583-AIR-E **PCW**  
**Respondent** Gulf Chemical & Metallurgical Corporation *Policy Revision 2 (September 2002)*  
**Case ID No.** 29492 *PCW Revision May 19, 2005*  
**Reg. Ent. Reference No.** RN100210129  
**Media [Statute]** Air Quality  
**Enf. Coordinator** Terry Murphy  
**Violation Number** 3

**Primary Rule Cite(s)** 30 Tex. Admin. Code § 116.115(c) and NSR Air Permit No. 1157C, Special Condition No. 1  
**Secondary Rule Cite(s)** Tex. Health and Safety Code § 382.085(b)  
**Violation Description** Failed to comply with permitted emissions limits. Specifically, NSR AIR Permit No.1157C allows emissions of up to 0.21 lb/hr for sulfur dioxide from the Molybdenum Tank (EPN 008). Stack tests performed October 4 to October 6, 2005 and March 21 to March 22, 2006 determined that the emissions rate was 9.50 and 12.36 lbs/hr, respectively, as documented during an investigation conducted on March 18, 2006.

**Base Penalty** \$10,000

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

		Harm			
Release		Major	Moderate	Minor	
OR	Actual	X			Percent 100%
	Potential				

>> **Programmatic Matrix**

		Falsification	Major	Moderate	Minor	
						Percent

**Matrix Notes** Human health or the environment were exposed to significant amounts of pollutants which exceeded levels protective of human health or environmental receptors as a result of the violation.

**Adjustment** \$0

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

**Violation Events**

**Number of Violation Events** 8

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

**Violation Base Penalty** \$80,000

Eight monthly events are recommended from October 4, 2005 (the date of the initial stack test) to May 23, 2006 (the enforcement screening date).

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$1,158

**Violation Final Penalty Total** \$96,800

**This violation Final Assessed Penalty (adjusted for limits)** \$96,800

### Economic Benefit Worksheet

Respondent Gulf Chemical & Metallurgical Corporation  
 Case ID No. 29492  
 Reg. Ent. Reference No. RN100210129  
 Media [Statute] Air Quality  
 Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$10,000	04-Nov-2005	01-Jul-2007	1.7	\$55	\$1,103	\$1,158
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: Estimated cost to adjust equipment and retest the EPN, or submit a request to amend the permit to increase the allowable rate. The Date Required is the date of the first stack test, and the Final Date is the latest date the Respondent is expected to return to compliance.

Item	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 23-May-2006

Docket No. 2006-0583-AIR-E

PCW

Respondent Gulf Chemical & Metallurgical Corporation

Policy Revision 2 (September 2002)

Case ID No. 29492

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"/>

>> Programmatic Matrix

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

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

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

### Economic Benefit Worksheet

Respondent Gulf Chemical & Metallurgical Corporation  
 Case ID No. 29492  
 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
<b>Delayed Costs</b>							
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	\$500	05-Nov-2005	01-Nov-2006	1.0	\$25	n/a	\$25
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 estimated costs to make improvements to the record keeping system and/or procedures for submitting timely reports. The Date Required is the date the report was due, and the Final Date is the date the Respondent is expected to return to compliance.

Item	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

## Compliance History

Customer/Respondent/Owner-Operator:	CN600124598 Gulf Chemical & Metallurgical Corporation	Classification: AVERAGE	Rating: 1.74
Regulated Entity:	RN100210129 GULF CHEMICAL AND METALLURGICAL-FREEPORT	Classification: AVERAGE	Site Rating: 0.47
ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	BL0029V
	AIR OPERATING PERMITS	PERMIT	1337
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	PERMIT	50204
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD074195678
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	30952
	INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	50204
	INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	50204
	AIR NEW SOURCE PERMITS	PERMIT	12161
	AIR NEW SOURCE PERMITS	PERMIT	12539
	AIR NEW SOURCE PERMITS	PERMIT	12540
	AIR NEW SOURCE PERMITS	PERMIT	19793
	AIR NEW SOURCE PERMITS	PERMIT	25593
	AIR NEW SOURCE PERMITS	PERMIT	36867
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	BL0029V
	AIR NEW SOURCE PERMITS	PERMIT	9803
	AIR NEW SOURCE PERMITS	PERMIT	1157B
	AIR NEW SOURCE PERMITS	PERMIT	1157C
	AIR NEW SOURCE PERMITS	PERMIT	7723
	AIR NEW SOURCE PERMITS	PERMIT	11990
	AIR NEW SOURCE PERMITS	PERMIT	12094
	AIR NEW SOURCE PERMITS	AFS NUM	0032
	AIR NEW SOURCE PERMITS	REGISTRATION	73793
	AIR NEW SOURCE PERMITS	REGISTRATION	74664
	WASTEWATER	PERMIT	WQ0001861000
	WASTEWATER	EPA ID	TPDES0034738
	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	1565
	IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	30952

Location: 302 Midway Rd, Freeport, TX, 77541

Rating Date: 9/1/2005

Repeat Violator: No

TCEQ Region: REGION 12 - HOUSTON  
 Date Compliance History Prepared: May 22, 2006  
 Agency Decision Requiring Compliance History: Enforcement  
 Compliance Period: May 22, 2001 to May 22, 2006

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)	50	12/20/2004	(383948)
2	02/12/2003	(180153)	54	02/21/2003	(180114)
3	02/13/2004	(304664)	55	05/17/2006	(465609)
4	01/24/2002	(180152)	56	02/19/2002	(180113)
5	04/25/2003	(34688)	57	01/29/2002	(67181)
6	06/25/2004	(304666)	58	12/13/2001	(67180)
7	12/20/2002	(180149)	59	03/29/2005	(373171)
8	04/23/2004	(304667)	60	10/21/2002	(14347)
9	12/27/2001	(180148)	61	08/26/2005	(402936)
10	05/21/2004	(304669)	62	02/06/2004	(259548)
11	06/20/2003	(304671)	63	04/09/2003	(28992)
12	07/23/2004	(304672)	64	04/30/2003	(33349)
13	11/20/2002	(180145)	65	05/18/2006	(451345)
14	11/20/2001	(180144)			
15	01/21/2005	(343250)			
16	07/18/2003	(304674)			
17	05/06/2004	(265363)			
18	08/18/2003	(304676)			
19	10/17/2002	(180141)			
20	02/23/2006	(381428)			
21	10/18/2001	(180140)			
22	09/12/2003	(304678)			
23	09/18/2002	(180138)			
24	10/21/2003	(304680)			
25	10/11/2001	(180137)			
26	11/20/2003	(304681)			
27	12/22/2003	(304682)			
28	01/23/2004	(304683)			
29	05/09/2006	(457338)			
30	08/16/2002	(180135)			
31	08/20/2001	(180134)			
32	07/22/2002	(180132)			
33	07/18/2001	(180131)			
34	06/19/2002	(180129)			
35	07/13/2001	(180128)			
36	05/19/2003	(180126)			
37	08/22/2003	(113080)			
38	05/17/2002	(180125)			
39	06/25/2004	(355846)			
40	07/19/2004	(355847)			
41	04/18/2003	(180122)			
42	04/15/2003	(31949)			
43	04/22/2002	(180121)			
44	08/11/2004	(355848)			
45	09/07/2004	(355849)			
46	02/09/2005	(383946)			
47	10/20/2004	(355850)			
48	11/12/2004	(355851)			
49	03/14/2005	(383947)			

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

- 1 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
- 2 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
- 3 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
- 4 Date: 02/23/2006 (381428)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 335, SubChapter A 335.6(c)[G]  
Rqmt Prov: PERMIT IA  
Description: Failure to maintain an up-to-date Notice of Registration.  
Self Report? NO Classification: Minor  
Rqmt Prov: PERMIT IA  
Description: Failure to store authorized waste in Container Storage Area NOR 012 (Permit Unit 003).  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 335, SubChapter A 335.5[G]  
Rqmt Prov: PERMIT IA  
Description: Failure to deed record the burial of approximately 4 million cubic feet of alumina concentrate in a surface impoundment known as Pond 4 (NOR 004) in 1994.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 335, SubChapter A 335.9(a)(2)  
Rqmt Prov: PERMIT IA  
Description: Failure to report the generation of Process Wastewater and Rinse Water from Cleaning Equipment Used to Handle K171/K172 Wastes on annual waste summaries.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 335, SubChapter R 335.504[G]  
40 CFR Chapter 262, SubChapter I, PT 262, SubPT A 262.11[G]  
Description: Failure to make a complete hazardous waste determination for the Process Wastewater (waste stream 0038119H), and Rinse Water from Cleaning Equipment Used to Handle K171/K172 Wastes (waste stream 0030101H).
- 5 Date: 01/21/2005 (343250)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 335, SubChapter A 335.6(c)[G]  
Rqmt Prov: PERMIT IA  
Description: Failure to maintain an up-to-date Notice of Registration.  
Self Report? NO Classification: Minor  
Rqmt Prov: PERMIT IA  
Description: Failure to store authorized waste in Container Storage Area NOR 012 (Permit Unit 003).

- 6 Date: 06/30/2004 (355847)  
 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
- 7 Date: 01/31/2005 (383946)  
 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
- 8 Date: 11/30/2004 (383948)  
 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
- 9 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  
RN100210129

§  
§  
§  
§  
§  
§

BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

**AGREED ORDER**  
**DOCKET NO. 2006-0583-AIR-E**

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., presented this agreement to the Commission.

GCMC understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, GCMC agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon GCMC.

The Commission makes the following Findings of Fact and Conclusions of Law:

**FINDINGS OF FACT**

1. GCMC owns and operates a chemicals and metals manufacturing facility located at 302 Midway Road, Freeport, Brazoria County, Texas (the "Plant").

**Gulf Chemical & Metallurgical Corporation**

**Docket No. 2006-0583-AIR-E**

**Page 2**

2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. During a record review on April 18, 2006, a TCEQ Houston Regional Office investigator documented that GCMC:
  - a. Failed to comply with permitted emissions limits. Specifically, New Source Review (NSR) Air Permit No. 1157C allows the emission of up to 6.24 pounds per hour (lbs/hr) of ammonia and up to 0.78 lbs/hr of carbon monoxide from the Ammonia Scrubber (EPN 006). A stack test performed October 4 to October 6, 2005 determined that the emission rates were 50.08 and 0.82 lbs/hr for ammonia and carbon monoxide respectively.
  - b. Failed to comply with permitted emissions limits. Specifically, NSR Air Permit No. 1157C allows the emission of up to 0.05 lbs/hr for volatile organic compounds from the Ammonia Scrubber (EPN 006). A stack test performed on March 21 to March 22, 2006 determined that the emissions rate was 3.46 lbs/hr.
  - c. Failed to comply with permitted emissions limits. Specifically, NSR Air Permit No. 1157C allows the emission of up to 0.21 lbs/hr for sulfur dioxide from the Molybdenum Tank (EPN 008). Stack tests performed on October 4 to October 6, 2005 and March 21 to March 22, 2006 determined that the emission rates were 9.50 lbs/hr and 12.36 lbs/hr respectively.
  - d. Failed to submit a timely report. Specifically, testing of EPN 006 and EPN 008 was completed on October 6, 2005 and the test report was due November 5, 2005, but was not submitted until November 18, 2005.
4. GCMC received notice of the violations on or about May 24, 2006.
5. The Executive Director recognizes that GCMC returned to compliance with the permitted limits for ammonia and carbon monoxide from the Ammonia Scrubber (EPN 006) on March 21, 2006.

**CONCLUSIONS OF LAW**

1. As evidenced by Finding of Fact Nos. 1 and 2, GCMC is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE § 7.002, TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the Commission.

**Gulf Chemical & Metallurgical Corporation**

**Docket No. 2006-0583-AIR-E**

**Page 3**

2. As evidenced by Finding of Fact No. 3.a., GCMC has failed to comply with permitted emissions limits in violation of 30 TEX. ADMIN. CODE § 116.115(c), NSR Air Permit No. 1157C, Special Condition No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, NSR Air Permit No. 1157C allows the emission of up to 6.24 pounds per hour (lbs/hr) of ammonia and up to 0.78 lbs/hr of carbon monoxide from the Ammonia Scrubber (EPN 006). A stack test performed October 4 to October 6, 2005 determined that the emission rates were 50.08 and 0.82 lbs/hr for ammonia and carbon monoxide respectively.
3. As evidenced by Finding of Fact No. 3.b., GCMC has failed to comply with permitted emissions limits in violation of 30 TEX. ADMIN. CODE § 116.115(c), NSR Air Permit No. 1157C, Special Condition No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, NSR Air Permit No. 1157C allows the emission of up to 0.05 lbs/hr for volatile organic compounds from the Ammonia Scrubber (EPN 006). A stack test performed on March 21 to March 22, 2006 determined that the emissions rate was 3.46 lbs/hr.
4. As evidenced by Finding of Fact No. 3.c., GCMC has failed to comply with permitted emissions limits in violation of 30 TEX. ADMIN. CODE § 116.115(c), NSR Air Permit No. 1157C, Special Condition No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, NSR Air Permit No. 1157C allows the emission of up to 0.21 lbs/hr for sulfur dioxide from the Molybdenum Tank (EPN 008). Stack tests performed on October 4 to October 6, 2005 and March 21 to March 22, 2006 determined that the emission rates were 9.50 lbs/hr and 12.36 lbs/hr respectively.
5. As evidenced by Finding of Fact No. 3.d., GCMC has failed to submit a timely report in violation of 30 TEX. ADMIN. CODE § 116.115(c), NSR Air Permit No. 1157C, Special Condition No. 7.E., and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, testing of EPN 006 and EPN 008 was completed on October 6, 2005 and the test report was due November 5, 2005, but was not submitted until November 18, 2005.
6. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against GCMC for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount of one hundred fifty-four thousand two hundred seventy-five dollars (\$154,275.00) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. GCMC has paid seventy-seven thousand one hundred thirty-eight dollars (\$77,138.00) of the administrative penalty. GCMC shall implement and complete a Supplemental Environmental Project ("SEP") in accordance with TEX. WATER CODE § 7.067. Seventy-seven thousand one hundred thirty-seven dollars (\$77,137.00) 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.

### **ORDERING PROVISIONS**

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. GCMC is assessed an administrative penalty in the amount of one hundred fifty-four thousand two hundred seventy-five dollars (\$154,275.00) as set forth in Conclusion of Law No. 7 for violations of TCEQ rules and state statutes. The payment of this administrative penalty and GCMC's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that 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. 2006-0583-AIR-E; Enforcement ID No. 29492" 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 implement and complete a Supplemental Environmental Project in accordance with TEX. WATER CODE § 7.067. Seventy-seven thousand one hundred thirty-seven dollars (\$77,137.00) of the assessed administrative penalty shall be conditionally offset by GCMC's completion of a Supplemental Environmental Project defined in Attachment A. 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.
3. GCMC shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, GCMC shall implement improvements to record keeping systems and/or procedures that address the causes leading to the late submittal of test reports and designed to

**Gulf Chemical & Metallurgical Corporation**

**Docket No. 2006-0583-AIR-E**

**Page 5**

prevent reoccurrence of same or similar incidents;

- b. Within 45 days after the effective date of this Agreed Order, GCMC shall submit written certification of compliance with Ordering Provision 3.a.;
- c.
  - i. Within 60 days after the effective date of this Agreed Order, GCMC shall become compliant with the permitted emissions limits for volatile organic compounds from EPN 006 and sulfur dioxide from EPN 008; or in the alternative:
  - ii. Within 60 days after the effective date of this Agreed Order, in order to increase the allowable emissions rate for volatile organic compounds from EPN 006 and/or sulfur dioxide from EPN 008, GCMC shall submit an administratively complete request to amend NSR Air Permit No. 1157C to:  

Air Permits Division, MC 162  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087
- d. Within 75 days after the effective date of this Agreed Order, GCMC shall submit written certification of compliance with Ordering Provisions 3.c.;
- e. GCMC shall respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit amendment within 30 days after the date of such requests, or by any other deadline specified in writing;
- f. Within 180 days after the effective date of this Agreed Order, GCMC shall submit written certification that GCMC has either obtained authorization for an increase in allowable emissions of volatile organic compounds from EPN 006 and/or of sulfur dioxide from EPN 008, and is in compliance with those allowable emissions limits, or has ceased all unauthorized emissions from those EPNs until such time that appropriate authorization is obtained.

The certifications required by Ordering Provisions 3. b., d., and/or f, 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"; and

g GCMC shall submit the certifications required by the Ordering Provisions to:

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

with a copy to:

Manager, Air Section  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Avenue, Suite H  
Houston, Texas 77023-1486

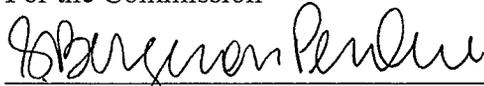
4. The provisions of this Agreed Order shall apply to and be binding upon GCMC. GCMC is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
5. If GCMC fails to comply with any of the Ordering Provisions in 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 has 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.
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 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.

7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to GCMC if the Executive Director determines that GCMC has not complied with one or more of the terms or conditions in this Agreed Order.
8. 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.
9. 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.
10. 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.
11. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date 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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission



\_\_\_\_\_  
For the Executive Director

8/29/07

\_\_\_\_\_  
Date

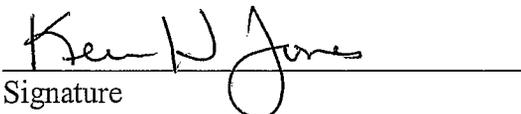
I, the undersigned, have read and understand the attached Agreed Order in the matter of Gulf Chemical & Metallurgical Corporation. I represent that I am authorized to agree to the attached Agreed Order on behalf of Gulf Chemical & Metallurgical Corporation, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Gulf Chemical & Metallurgical Corporation waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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.

  
\_\_\_\_\_  
Signature

June 29, 2007  
\_\_\_\_\_  
Date

Kevin H. Jones  
\_\_\_\_\_  
Name (printed or typed)  
Authorized Representative  
Gulf Chemical & Metallurgical Corporation

President  
\_\_\_\_\_  
Title

Attachment A

Docket Number: 2006-0583-AIR-E

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

**Respondent:** Gulf Chemical & Metallurgical Corporation

**Penalty Amount:** One Hundred Fifty-Four Thousand Two Hundred Seventy-Five Dollars (\$154,275)

**SEP Amount:** Seventy-Seven Thousand One Hundred Thirty-Seven Dollars (\$77,137)

**Type of SEP:** Pre-approved

**Third-Party Recipient:** Houston-Galveston Area Emission Reduction Credit Organization (AERCO)

**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 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 **Houston-Galveston Area Emission Reduction Credit Organization** (AERCO) Clean Cities/Clean Vehicles Program will perform a SEP within the airshed of 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 for the costs of replacing older diesel buses with alternative fueled or clean fuel diesel buses or retrofitting older buses with clean fuel technology.

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

Passengers, drivers, and students in the area where buses idle during transportation are subject to harmful diesel exhaust emission every school day. Apart from containing the ozone precursors nitrogen oxides (NOx), and hydrocarbons (HC), and particulate emissions, diesel exhaust is known to cause or exacerbate a number of respiratory diseases, including asthma. This SEP will provide a discernible environmental benefit by retiring high-emission buses from service, purchasing newer, clean fuel technology buses, or replacing newer buses with fuel treatment technology that reduces particulate emissions, NOx, and HC.

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 shall contribute the SEP Amount to the Third-Party Recipient. 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, 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:

Litigation Division  
Attention: SEP Coordinator, MC 175  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

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.