

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 2  
**DOCKET NO.:** 2007-1631-IHW-E **TCEQ ID:** RN100210129 **CASE NO.:** 34737  
**RESPONDENT NAME:** Gulf Chemical & Metallurgical Corporation

<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 type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input checked="" 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> Gulf Chemical and Metallurgical Freeport, 302 Midway Road, Freeport, Brazoria County</p> <p><b>TYPE OF OPERATION:</b> Metal processing plant</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is one pending enforcement action regarding this facility location, Docket No. 2007-1520-AIR-E.</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 April 21, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Mr. Clinton Sims, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-6933; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171  <b>Respondent:</b> Mr. David J. Pacella, Executive VP, Gulf Chemical &amp; Metallurgical Corporation, 302 Midway Road, Freeport, Texas 77542  Mr. William Deering, Registered Agent, Gulf Chemical &amp; Metallurgical Corporation, 302 Midway Road, Freeport, Texas 77542  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigations Relating to this Case:</b> July 3, 2007 and July 9, 2007</p> <p><b>Date of NOE Relating to this Case:</b> August 31, 2007 (NOE)</p> <p><b>Background Facts:</b> These were routine investigations.</p> <p><b>WASTE</b></p> <p>Failure to prevent the shipment and delivery of industrial hazardous waste to an unauthorized facility. Specifically, the Respondent allowed one Class 2 waste designated roll-off box which also contained approximately two cubic feet of listed hazardous waste (K171 and K172) to be transported and disposed of at Seabreeze Environmental Landfill. The landfill is not authorized to receive or dispose of hazardous waste [30 TEX. ADMIN. CODE § 335.2(b)].</p>	<p><b>Total Assessed:</b> \$3,600</p> <p><b>Total Deferred:</b> \$720  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$2,880</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><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a) Within 30 days after the effective date of this Agreed Order, develop and implement procedures to ensure that all waste generated at the Facility is transported only to facilities permitted to accept them; and</p> <p>b) Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>

Additional ID No(s): SWR No. 30952 and IHW Permit No. IHW50204



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision September 19, 2007

<b>DATES</b>	<b>Assigned PCW</b>	4-Sep-2007	<b>Screening</b>	4-Oct-2007	<b>EPA Due</b>	
		5-Oct-2007				

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

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	34737	<b>No. of Violations</b>	1
<b>Docket No.</b>	2007-1631-IHW-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Industrial and Hazardous Waste	<b>Enf. Coordinator</b>	Clinton Sims
<b>Multi-Media</b>		<b>EC's Team</b>	EnforcementTeam 7
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$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**  Enhancement **Subtotals 2, 3, & 7**

**Notes**

**Culpability**   Enhancement **Subtotal 4**

**Notes**

**Good Faith Effort to Comply**  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	<input checked="" type="checkbox"/> X	(mark with x)

**Notes**

**Total EB Amounts**  **0% Enhancement\*** **Subtotal 6**   
**Approx. Cost of Compliance**  \*Capped at the Total EB \$ Amount

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

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

Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes**

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL**  Reduction **Adjustment**

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

**Notes**

**PAYABLE PENALTY**

**Screening Date** 4-Oct-2007

**Docket No.** 2007-1631-IHW-E

**PCW**

**Respondent** Gulf Chemical & Metallurgical Corporation

Policy Revision 2 (September 2002)

**Case ID No.** 34737

PCW Revision, September 19, 2007

**Reg. Ent. Reference No.** RN100210129

**Media [Statute]** Industrial and Hazardous Waste

**Enf. Coordinator** Clinton Sims

### 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> )	0	0%
	Other written NOVs	15	30%
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 submitted</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)** 30%

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

**Adjustment Percentage (Subtotal 3)** 0%

>> **Compliance History Person Classification (Subtotal 7)**

**Adjustment Percentage (Subtotal 7)** 0%

>> **Compliance History Summary**

**Compliance History Notes**

The Respondent received 15 NOVs without same or similar violations.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 30%

<b>Screening Date</b> 4-Oct-2007	<b>Docket No.</b> 2007-1631-IHW-E	<b>PCW</b>		
<b>Respondent</b> Gulf Chemical & Metallurgical Corporation	<small>Policy Revision 2 (September 2002)</small>			
<b>Case ID No.</b> 34737	<small>PCW Revision September 19, 2007</small>			
<b>Reg. Ent. Reference No.</b> RN100210129				
<b>Media [Statute]</b> Industrial and Hazardous Waste				
<b>Enf. Coordinator</b> Clinton Sims				
<b>Violation Number</b>	1			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 335.2(b)			
<b>Violation Description</b>	Failed to prevent the shipment and delivery of industrial hazardous waste to an unauthorized facility. Specifically, the Respondent allowed one Class 2 waste designated roll-off box which also contained approximately two cubic feet of listed hazardous waste (K171 and K172) to be transported and disposed of at Seabreeze Environmental Landfill. The landfill is not authorized to receive or dispose of hazardous waste.			
<b>Base Penalty</b>		\$10,000		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
OR	<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input checked="" type="text"/>	
		<b>Percent</b>	10%	
<b>&gt;&gt; Programmatic Matrix</b>				
<b>Falsification</b>				
Major			Moderate	Minor
<input type="text"/>			<input type="text"/>	<input type="text"/>
		<b>Percent</b>	0%	
<b>Matrix Notes</b>	Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed protective levels as a result of the violation.			
<b>Adjustment</b>		\$9,000		
		\$1,000		
<b>Violation Events</b>				
<b>Number of Violation Events</b>		2	<b>Number of violation days</b>	
		1		
<small>mark only one with an x</small>	daily	<input type="text"/>	<b>Violation Base Penalty</b>	
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input checked="" type="text"/>		
Two single events are recommended (one for each hazardous waste stream improperly disposed).			\$2,000	
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>		\$998	<b>Violation Final Penalty Total</b>	
			\$3,600	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>			\$3,600	

### Economic Benefit Worksheet

**Respondent** Gulf Chemical & Metallurgical Corporation  
**Case ID No.** 34737  
**Reg. Ent. Reference No.** RN100210129  
**Media** Industrial and Hazardous Waste  
**Violation No.** 1

<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
No commas or \$							

**Delayed Costs**

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

**Avoided Costs**

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal	\$1,000	3-Jul-2007	14-Jun-2008	1.0	\$48	\$951	\$998
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

Estimated cost to dispose of the hazardous waste at an authorized facility. Date required is the date of the Initial investigation and the Final Date is the estimated date of compliance.

Approx. Cost of Compliance

\$1,000

**TOTAL**

\$998

# Compliance History

Customer/Respondent/Owner-Operator:	CN600124598 Gulf Chemical & Metallurgical Corporation	Classification: Average	Rating: 1.97
Regulated Entity:	RN100210129 GULF CHEMICAL AND METALLURGICAL FREEPORT	Classification: Average	Site Rating: 0.93
ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	BL0029V
	AIR OPERATING PERMITS	PERMIT	1337
	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
	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	4803900032
	AIR NEW SOURCE PERMITS	REGISTRATION	73793
	AIR NEW SOURCE PERMITS	REGISTRATION	74664
	AIR NEW SOURCE PERMITS	REGISTRATION	79434
	AIR NEW SOURCE PERMITS	REGISTRATION	80922
	WASTEWATER	PERMIT	TPDES0034738
	WASTEWATER	PERMIT	WQ0001861000
	WASTEWATER	EPA ID	TPDES0034738
	WASTEWATER	PERMIT	TX0034738
	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	1565
	IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	30952

Location: 302 MIDWAY ROAD, FREEPORT, BRAZORIA COUNTY Rating Date: September 01 07 Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: October 03, 2007

Agency Decision Requiring Compliance Enforcement

Compliance Period: October 03, 2002 to October 03, 2007

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

Name: Clinton Sims Phone: (512) 239-6933

### 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?   | <u>N/A</u> |
| 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	10/17/2002	(180141)
N/A		
2	10/21/2002	(14347)
3	11/20/2002	(180145)
4	12/20/2002	(180149)
5	02/12/2003	(180153)
6	02/21/2003	(180114)
7	03/19/2003	(180117)
8	04/09/2003	(28992)
9	04/15/2003	(31949)
10	04/18/2003	(180122)
11	04/25/2003	(34688)
12	04/30/2003	(33349)
13	05/19/2003	(180126)
14	06/20/2003	(304671)
15	07/18/2003	(304674)
16	08/18/2003	(304676)
17	08/22/2003	(113080)
18	09/12/2003	(304678)
19	10/21/2003	(304680)
20	11/20/2003	(304681)
21	12/22/2003	(304682)
22	01/23/2004	(304683)
23	02/06/2004	(259548)
24	02/13/2004	(304664)
25	04/23/2004	(304667)
26	05/06/2004	(265363)
27	05/21/2004	(304669)
28	06/25/2004	(304666)
29	06/25/2004	(355846)
30	07/19/2004	(355847)
31	07/23/2004	(304672)
32	08/11/2004	(355848)
33	08/13/2004	(250319)
34	09/07/2004	(355849)
35	10/20/2004	(355850)
36	11/12/2004	(355851)
37	12/20/2004	(383948)
38	01/21/2005	(343250)
39	01/21/2005	(383949)
40	02/09/2005	(383946)
41	03/14/2005	(383947)
42	03/29/2005	(373171)
43	04/20/2005	(580010)
44	05/12/2005	(580013)
45	06/10/2005	(580016)
46	07/24/2005	(580019)
47	08/12/2005	(580022)
48	08/26/2005	(402936)
49	09/22/2005	(580024)
50	10/20/2005	(580026)

51 11/18/2005 (580028)  
 52 12/19/2005 (580030)  
 53 01/23/2006 (580032)  
 54 02/10/2006 (580006)  
 55 02/23/2006 (381428)  
 56 03/21/2006 (580008)  
 57 04/14/2006 (580011)  
 58 05/09/2006 (457338)  
 59 05/16/2006 (580014)  
 60 05/17/2006 (465609)

61 05/18/2006 (451345)  
 62 05/30/2006 (465204)  
 63 06/20/2006 (580017)  
 64 07/24/2006 (580020)  
 65 08/23/2006 (580023)  
 66 09/18/2006 (580025)  
 67 10/23/2006 (580027)  
 68 11/21/2006 (580029)  
 69 12/18/2006 (580031)  
 70 01/10/2007 (532191)  
 71 01/16/2007 (580033)  
 72 02/21/2007 (580007)  
 73 03/19/2007 (580009)  
 74 04/16/2007 (580012)  
 75 05/14/2007 (580015)  
 76 06/26/2007 (580018)  
 77 07/18/2007 (580021)  
 78 08/21/2007 (572032)  
 79 08/31/2007 (567030)  
 80 09/12/2007 (565966)

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

Date	05/01/2003	(33349)		
Self Report?	NO		Classification	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c)			
Rqmt Prov:	PERMIT 1157B			
Description:	Failure to maintain vanadium pentoxide emissions below permit allowable.			
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			
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			
Date	01/21/2005	(343250)		
Self Report?	NO		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 335, SubChapter A 335.6(c)[G]			
Description:	Failure to maintain an up-to-date Notice of Registration.			
Self Report?	NO		Classification	Minor
Citation:	40 CFR Chapter 270, SubChapter I, PT 270, SubPT C 270.30(a)			
Rqmt Prov:	PERMIT V.B.1.			
Description:	Failure to store authorized waste in Container Storage Area NOR 012 (Permit Unit 003).			
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		
Date	07/31/2005 (580022)		
Self Report?	YES	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	10/31/2005 (580028)		
Self Report?	YES	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	11/30/2005 (580030)		
Self Report?	YES	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	02/23/2006 (381428)		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 335, SubChapter A 335.6(c)[G]		
Description:	Failure to maintain an up-to-date Notice of Registration.		
Self Report?	NO	Classification	Minor
Citation:	40 CFR Chapter 270, SubChapter I, PT 270, SubPT C 270.30(a)		
Rqmt Prov:	PERMIT V.B.1.		
Description:	Failure to store authorized waste in Container Storage Area NOR 012 (Permit Unit 003).		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 335, SubChapter A 335.5[G]		
Rqmt Prov:	PERMIT II.C.1.h.		
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 305, SubChapter F 305.125(1) 30 TAC Chapter 335, SubChapter A 335.9(a)(2)		
Rqmt Prov:	PERMIT II.C.1.h.		
Description:	Failure to report the generation of Process Wastewater and Rinse Water from Cleaning Equipment Used to Handle K171/K172 Wastes on 2003, 2004, and 2005 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 complete hazardous waste determinations for Process Wastewater (0038119H), Rinse Water (0030101H), and the waste stream comprised of broken concrete, gravel, and associated soil generated at the Freeport facility and deposited on the Pond 4 property.		
Date	05/23/2006 (462884)		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 335, SubChapter A 335.4(1)		
Description:	Failure to prevent the imminent threat of discharge of industrial solid waste from Pond 3 (NOR 003).		
Date	05/30/2006 (465204)		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 335, SubChapter A 335.6(c)[G]		
Description:	Failure to maintain an up-to-date Notice of Registration.		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 335, SubChapter A 335.5[G]		
Rqmt Prov:	PERMIT II.C.1.h.		
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 305, SubChapter F 305.125(1) 30 TAC Chapter 335, SubChapter A 335.9(a)(2)		
Rqmt Prov:	PERMIT II.C.1.h.		
Description:	Failure to report the generation of Process Wastewater and Rinse Water from Cleaning Equipment Used to Handle K171/K172 Wastes on 2003, 2004, and 2005 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 complete hazardous waste determinations for Process Wastewater (0038119H), Rinse Water (0030101H), and the waste stream comprised of broken concrete, gravel, and associated soil generated at the Freeport facility and deposited on the Pond 4 property.		
Self Report?	NO	Classification	Moderate
Citation:	2C TWC Chapter 20, SubChapter A 26.121(a)(1) 30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 335, SubChapter A 335.4(1)		
Description:	Failure to prevent a release of contaminants to groundwater from Pond 4 (surface impoundment NOR 004).		
Date	08/31/2006	(580025)	
Self Report?	YES	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	11/30/2006	(580031)	
Self Report?	YES	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	02/28/2007	(580009)	
Self Report?	YES	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	08/21/2007	(572032)	
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THC Chapter 382, SubChapter D 382.085(b)		
Rqmt Prov:	OP FOP O-01377 SC 8 PA NSR 1157C SC 5		
Description:	Failed to maintain the pH of scrubber 35-01 (EPN 007) below 8.0 as required by NSR Permit 1157C (FOP O-01337; NSR 1157C).		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THC Chapter 382, SubChapter D 382.085(b)		
Rqmt Prov:	OP FOP O-01337 SC 8 PA NSR 19793 SC 6		
Description:	Failed to maintain pH on scrubber 68-03 above 8.0 as required by NSR 19793 (FOP O-01337; NSR 19793).		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 122, SubChapter B 122.165(a)(7) 5C THC Chapter 382, SubChapter D 382.085(b)		
Description:	Failed to certify deviation report with Form OP-CRO1 (FOP O-01337).		

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

§  
§  
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§  
§  
§

BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2007-1631-IHW-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 Gulf Chemical & Metallurgical Corporation ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a metal processing plant at 302 Midway Road in Freeport, Brazoria County, Texas (the "Facility").
2. The Facility involves or involved the management of industrial hazardous waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about September 5, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Three Thousand Six Hundred Dollars (\$3,600) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations").



The Respondent has paid Two Thousand Eight Hundred Eighty Dollars (\$2,880) of the administrative penalty and Seven Hundred Twenty Dollars (\$720) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## **II. ALLEGATIONS**

As owner and operator of the Facility, the Respondent is alleged to have failed to prevent the shipment and delivery of industrial hazardous waste to an unauthorized facility, in violation of 30 TEX. ADMIN. CODE § 335.2(b), as documented during investigations conducted on July 3, 2007 and July 9, 2007. Specifically, the Respondent allowed one Class 2 waste designated roll-off box which also contained approximately two cubic feet of listed hazardous waste (K171 and K172) to be transported and disposed of at Seabreeze Environmental Landfill. The landfill is not authorized to receive or dispose of hazardous waste.

## **III. DENIALS**

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



#### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Gulf Chemical & Metallurgical Corporation, Docket No. 2007-1631-IHW-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, develop and implement procedures to ensure that all waste generated at the Facility is transported only to facilities permitted to accept them.
  - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.

The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

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



with a copy to:

Industrial and Hazardous Waste Section, Manager  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Avenue, Suite H  
Houston, Texas 77023-1486

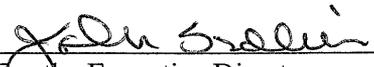
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any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

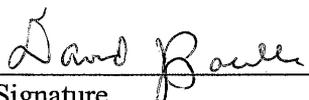
4/6/2008  
Date

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

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

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

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

  
\_\_\_\_\_  
Signature

January 30, 2008  
Date

David J. Pacella  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Gulf Chemical & Metallurgical Corporation

Executive VP  
Title

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

