

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 3  
**DOCKET NO.:** 2009-0582-AIR-E **TCEQ ID:** RN100223858 **CASE NO.:** 37504  
**RESPONDENT NAME:** Tenet Hospitals Limited

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Providence Memorial Hospital, 2001 North Oregon Street, El Paso, El Paso County</p> <p><b>TYPE OF OPERATION:</b> Medical assistance site</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 one additional pending enforcement action regarding this facility location, Docket No. 2009-0196-PST-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 October 5, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  TCEQ Attorney/SEP Coordinator: None  TCEQ Enforcement Coordinator: Ms. Trina Grieco, Enforcement Division, Enforcement Team 5, MC R-13, (210) 403-4006; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  Respondent: Mr. Marco Marquez, Director of Engineering, Tenet Hospitals Limited, 2001 North Oregon Street, El Paso, Texas 79902-3320  Mr. John Harris, CEO, Tenet Hospitals Limited, 2001 North Oregon Street, El Paso, Texas 79902-3320  Respondent's Attorney: 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 Investigation Relating to this Case:</b> March 23, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> April 17, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>AIR</b></p> <p>1) Failure to submit the Permit Compliance Certifications ("PCCs") for the March 31, 2007 to March 30, 2008 and March 31, 2008 to September 23, 2008 (when the permit was voided) annual compliance certification ("ACC") periods and to report deviations in the PCCs for the March 31, 2004 to March 30, 2005 and March 31, 2006 to March 30, 2007 ACC periods [30 TEX. ADMIN. CODE §§ 122.143(4), 122.145(2)(A), and 122.146(1), Federal Operating Permit ("FOP") No. O-01245, General Terms and Conditions, and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>2) Failure to conduct annual visible emissions observations of the Co-Generation Unit between March 30, 2005 and September 23, 2008 [30 TEX. ADMIN. CODE § 122.143(4), FOP No. O-01245, General Terms and Conditions and Special Condition 3, and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>3) Failure to operate the Ethylene Oxide Sterilizers with a vent stack exhausting vertically upward, at least 15 feet above the roof line, and with an exit velocity of at least 50 feet per second. Specifically, the sterilizers were operated with the stack venting horizontally, approximately two feet above the roof line, and at less than 50 feet per second velocity [30 TEX. ADMIN.</p>	<p><b>Total Assessed:</b> \$19,331</p> <p><b>Total Deferred:</b> \$3,866  <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> \$15,465</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>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Site:</p> <p>a. Demonstrated to the TCEQ that it no longer meets the major source criteria for emissions, and requested that its FOP No. O-01245 be voided. The TCEQ voided the permit on September 23, 2008; therefore, the requirements referenced in Allegations 1 and 2 are no longer applicable;</p> <p>b. Removed the Ethylene Oxide Sterilizers from service on April 2, 2009;</p> <p>c. Submitted the PCCs for the March 31, 2007 to March 30, 2008 and March 31, 2008 to September 23, 2008 (when the permit was voided) ACC periods, which were received by the TCEQ on May 18, 2009; and</p> <p>d. Reported deviations that occurred during the March 31, 2004 to March 30, 2005 and March 31, 2006 to March 30, 2007 ACC periods in the PCC that was received by the TCEQ on May 18, 2009.</p>

CODE § 106.417(2)(E)(i), (ii), and (iii) and TEX. HEALTH & SAFETY CODE § 382.085(b)].		
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Additional ID No(s): EE0188V





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

<b>DATES</b>	<b>Assigned</b>	20-Apr-2009			
	<b>PCW</b>	24-Apr-2009	<b>Screening</b>	23-Apr-2009	<b>EPA Due</b> 12-Jan-2010

<b>RESPONDENT/FACILITY INFORMATION</b>			
<b>Respondent</b>	Tenet Hospitals Limited		
<b>Reg. Ent. Ref. No.</b>	RN100223858		
<b>Facility/Site Region</b>	6-El Paso	<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	37504	<b>No. of Violations</b>	3
<b>Docket No.</b>	2009-0582-AIR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Trina Grieco
		<b>EC's Team</b>	Enforcement Team 5
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>		<b>Subtotal 1</b>	\$15,000
<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>			
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.			
<b>Compliance History</b>	25.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$3,750
<b>Notes</b>	Penalty enhancement due to one previous NOV issued for the same violation and one agreed order issued with a denial of liability.		
<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b> \$0
<b>Notes</b>	The Respondent does not meet the culpability criteria.		
<b>Good Faith Effort to Comply Total Adjustments</b>		<b>Subtotal 5</b>	\$1,250
<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
Total EB Amounts	\$2,107	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$2,000		
<b>SUM OF SUBTOTALS 1-7</b>		<b>Final Subtotal</b>	\$17,500
<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>		10.5%	<b>Adjustment</b> \$1,831
Reduces or enhances the Final Subtotal by the indicated percentage.			
<b>Notes</b>	Enhancement recommended for recovery of avoided costs of compliance associated with Violation No. 2.		
<b>Final Penalty Amount</b>			\$19,331
<b>STATUTORY LIMIT ADJUSTMENT</b>		<b>Final Assessed Penalty</b>	\$19,331
<b>DEFERRAL</b>	20.0%	Reduction	<b>Adjustment</b> -\$3,866
Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)			
<b>Notes</b>	Deferral offered for expedited settlement.		
<b>PAYABLE PENALTY</b>			\$15,465

<b>Screening Date</b> 23-Apr-2009	<b>Docket No.</b> 2009-0582-AIR-E	<b>PCW</b>
<b>Respondent</b> Tenet Hospitals Limited		<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b> 37504		<i>PCW Revision October 30, 2008</i>
<b>Reg. Ent. Reference No.</b> RN100223858		
<b>Media [Statute]</b> Air		
<b>Enf. Coordinator</b> Trina Grieco		

### 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	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	1	20%
	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)** 25%

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

<span style="border: 1px solid black; padding: 2px;">No</span>		<b>Adjustment Percentage (Subtotal 3)</b>	<span style="border: 1px solid black; padding: 2px;">0%</span>
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**>> Compliance History Person Classification (Subtotal 7)**

<span style="border: 1px solid black; padding: 2px;">Average Performer</span>		<b>Adjustment Percentage (Subtotal 7)</b>	<span style="border: 1px solid black; padding: 2px;">0%</span>
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**>> Compliance History Summary**

<b>Compliance History Notes</b>	Penalty enhancement due to one previous NOV issued for the same violation and one agreed order issued with a denial of liability.
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**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 25%

**Screening Date** 23-Apr-2009 **Docket No.** 2009-0582-AIR-E **PCW**  
**Respondent** Tenet Hospitals Limited *Policy Revision 2 (September 2002)*  
**Case ID No.** 37504 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN100223858  
**Media [Statute]** Air  
**Enf. Coordinator** Trina Grieco

**Violation Number** 1  
**Rule Cite(s)** 30 Tex. Admin. Code §§ 122.143(4), 122.145(2)(A), and 122.146(1), Federal Operating Permit ("FOP") No. O-01245, General Terms and Conditions, and Tex. Health & Safety Code § 382.085(b)  
**Violation Description** Failed to submit the permit compliance certifications ("PCCs") for the March 31, 2007 to March 30, 2008 and March 31, 2008 to September 23, 2008 (when the permit was voided) annual compliance certification ("ACC") periods and to report deviations in the PCCs for the March 31, 2004 to March 30, 2005 and March 31, 2006 to March 30, 2007 ACC periods.

**Base Penalty** \$10,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					0%
Potential					

>> **Programmatic Matrix**

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		X			25%

100% of the rule requirements were not met.

**Adjustment** \$7,500

\$2,500

**Violation Events**

Number of Violation Events 4 Number of violation days 1454

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

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

Four single events are recommended for the two reports that were not submitted and the two reports that were deficient of deviations.

**Good Faith Efforts to Comply**

10.0% Reduction

\$1,000

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		X
N/A		(mark with x)

Notes The Respondent completed corrective action by May 18, 2009.

**Violation Subtotal** \$9,000

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

**Statutory Limit Test**

Estimated EB Amount \$61

**Violation Final Penalty Total** \$12,703

**This violation Final Assessed Penalty (adjusted for limits)** \$12,703

## Economic Benefit Worksheet

**Respondent:** Tenet Hospitals Limited  
**Case ID No.:** 37504  
**Reg. Ent. Reference No.:** RN100223858  
**Media:** Air  
**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
No commas or \$							

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$300	30-Apr-2005	18-May-2009	4.05	\$61	n/a	\$61

Notes for DELAYED costs

Estimated cost to complete and submit two PCCs and to report the deviations that were not previously reported. The date required is the date the first deficient PCC was due, but missing deviations. The final date is the date corrective actions were completed.

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$300

**TOTAL**

\$61

<b>Screening Date</b>	23-Apr-2009	<b>Docket No.</b>	2009-0582-AIR-E	<b>PCW</b>
<b>Respondent</b>	Tenet Hospitals Limited			<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b>	37504			<i>PCW Revision October 30, 2008</i>
<b>Reg. Ent. Reference No.</b>	RN100223858			
<b>Media [Statute]</b>	Air			
<b>Enf. Coordinator</b>	Trina Grieco			
<b>Violation Number</b>	2			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 122.143(4), FOP No. O-01245, General Terms and Conditions and Special Condition 3, and Tex. Health & Safety Code § 382.085(b)			
<b>Violation Description</b>	Failed to conduct annual visible emissions observations of the Co-Generation Unit between March 30, 2005 and September 23, 2008.			
<b>Base Penalty</b>	\$10,000			

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual				
	Potential			x	Percent 10%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent 0%

Matrix Notes: Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 4      1273 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	x
	single event	

Violation Base Penalty \$4,000

Four annual events are recommended for the four years observations did not occur.

Good Faith Efforts to Comply 0.0% Reduction \$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes: The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$4,000

Economic Benefit (EB) for this violation      Statutory Limit Test

Estimated EB Amount \$1,831      Violation Final Penalty Total \$5,523

This violation Final Assessed Penalty (adjusted for limits) \$5,523

## Economic Benefit Worksheet

**Respondent** Tenet Hospitals Limited  
**Case ID No.** 37504  
**Reg. Ent. Reference No.** RN100223858  
**Media** Air  
**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
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No commas or \$

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$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				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$500	30-Mar-2005	23-Sep-2008	3.49	\$87	\$1,744	\$1,831
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to conduct annual visible emissions observations. The date required is the last day of the first year in which an annual observation should have been conducted. The final date is the date the permit was voided (the requirement no longer applied).

Approx. Cost of Compliance \$500

**TOTAL** \$1,831

<b>Screening Date</b> 23-Apr-2009	<b>Docket No.</b> 2009-0582-AIR-E	<b>PCW</b>		
<b>Respondent</b> Tenet Hospitals Limited		<i>Policy Revision 2 (September 2002)</i>		
<b>Case ID No.</b> 37504		<i>PCW Revision October 30, 2008</i>		
<b>Reg. Ent. Reference No.</b> RN100223858				
<b>Media [Statute]</b> Air				
<b>Enf. Coordinator</b> Trina Grieco				
<b>Violation Number</b> <input type="text" value="3"/>				
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 106.417(2)(E)(i), (ii), and (iii) and Tex. Health & Safety Code § 382.085(b)			
<b>Violation Description</b>	Failed to operate the Ethylene Oxide Sterilizers with a vent stack exhausting vertically upward, at least 15 feet above the roof line, and with an exit velocity of at least 50 feet per second. Specifically, the sterilizers were operated with the stack venting horizontally, approximately two feet above the roof line, and at less than 50 feet per second velocity.			
	<b>Base Penalty</b>	<input type="text" value="\$10,000"/>		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
<b>OR</b>	<b>Harm</b>			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input checked="" type="text" value="x"/>
		<b>Percent</b>	<input type="text" value="10%"/>	
<b>&gt;&gt; Programmatic Matrix</b>				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
		<b>Percent</b>	<input type="text" value="0%"/>	
<b>Matrix Notes</b>	Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.			
	<b>Adjustment</b>	<input type="text" value="\$9,000"/>		
		<b>Adjustment</b>	<input type="text" value="\$1,000"/>	
<b>Violation Events</b>				
	Number of Violation Events	<input type="text" value="1"/>	<input type="text" value="16"/>	Number of violation days
<i>mark only one with an x</i>	daily	<input type="text"/>		
	weekly	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input checked="" type="text" value="x"/>		
		<b>Violation Base Penalty</b>	<input type="text" value="\$1,000"/>	
One single event is recommended.				
<b>Good Faith Efforts to Comply</b>		<input type="text" value="25.0%"/>	Reduction	<input type="text" value="\$250"/>
		Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>		
Ordinary	<input checked="" type="text" value="x"/>	<input type="text"/>		
N/A	<input type="text"/>	<input type="text"/>	(mark with x)	
<b>Notes</b>	The Respondent completed corrective actions by April 2, 2009.			
	<b>Violation Subtotal</b>	<input type="text" value="\$750"/>		
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>	<input type="text" value="\$215"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$1,105"/>	
		<b>This violation Final Assessed Penalty (adjusted for limits)</b>	<input type="text" value="\$1,105"/>	

## Economic Benefit Worksheet

**Respondent:** Tenet Hospitals Limited  
**Case ID No.:** 37504  
**Reg. Ent. Reference No.:** RN100223858  
**Media:** Air  
**Violation No.:** 3

<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
<small>No commas or \$</small>							

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$1,000	25-Jul-2006	2-Apr-2009	2.69	\$9	\$179	\$188
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$200	25-Jul-2006	2-Apr-2009	2.69	\$27	n/a	\$27

Notes for DELAYED costs

Estimated cost to install a vertical stack rising 15 feet above the roof line (\$1,000), and to ensure that the exit velocity is at least 50 feet per second (\$200). The date required is the date the sterilizers began operating. The final date is the date corrective actions were completed (sterilizers removed from service).

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,200

**TOTAL**

\$215

# Compliance History Report

Customer/Respondent/Owner-Operator: CN601453897 Tenet Hospitals Limited Classification: AVERAGE Rating: 6.86  
Regulated Entity: RN100223858 PROVIDENCE MEMORIAL HOSPITAL Classification: AVERAGE Site Rating: 6.86

ID Number(s):  
AIR NEW SOURCE PERMITS PERMIT 16887  
AIR NEW SOURCE PERMITS PERMIT 16907  
AIR NEW SOURCE PERMITS ACCOUNT NUMBER EE0188V  
AIR NEW SOURCE PERMITS AFS NUM 4814100050  
AIR NEW SOURCE PERMITS REGISTRATION 79267

Location: 2001 N OREGON ST, EL PASO, TX, 79902

TCEQ Region: REGION 06 - EL PASO

Date Compliance History Prepared: April 21, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: April 20, 2004 to April 20, 2009

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Trina Grieco Phone: (210) 403-4006

## 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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2008 Repeat Violator: NO

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 11/06/2005

ADMINORDER 2004-1220-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.146(2)

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

Description: Facility failed to submit an annual certification of compliance for the certification period of March 31, 2003 to March 31, 2004 in a timely manner.

- 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	07/09/2004	(271321)
N/A	2	07/13/2005	(393933)
	3	08/15/2006	(481026)
	4	09/01/2006	(489708)
	5	10/17/2006	(516093)
	6	06/05/2007	(562501)
	7	02/02/2009	(721442)
	8	04/13/2009	(739320)

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

Date: 08/17/2006 (481026)  
N/A Self Report? NO  
Citation:

CN601453897

Classification: Moderate

Description: 30 TAC Chapter 122, SubChapter B 122.146(2)  
Failure to submit annual compliance certification no later than 30 days after the end of the certification period. The reporting period was from March 3, 2005, through March 2, 2006.

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  
TENET HOSPITALS LIMITED  
RN100223858

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2009-0582-AIR-E

### I. JURISDICTION AND STIPULATIONS

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Tenet Hospitals Limited ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a medical assistance site at 2001 North Oregon Street in El Paso, El Paso County, Texas (the "Site").
2. The Site consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
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 April 22, 2009.
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 Nineteen Thousand Three Hundred Thirty-One Dollars (\$19,331) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Fifteen Thousand Four Hundred Sixty-Five Dollars (\$15,465) of the administrative penalty and Three Thousand Eight Hundred Sixty-Six Dollars

(\$3,866) 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 recognizes that the Respondent has implemented the following corrective measures at the Site:
  - a. Demonstrated to the TCEQ that it no longer meets the major source criteria for emissions, and requested that its Federal Operating Permit ("FOP") No. O-01245 be voided. The TCEQ voided the permit on September 23, 2008; therefore, the requirements referenced in Allegations 1 and 2 are no longer applicable;
  - b. Removed the Ethylene Oxide Sterilizers from service on April 2, 2009;
  - c. Submitted the Permit Compliance Certifications ("PCCs") for the March 31, 2007 to March 30, 2008 and March 31, 2008 to September 23, 2008 (when the permit was voided) annual compliance certification ("ACC") periods, which were received by the TCEQ on May 18, 2009; and
  - d. Reported deviations that occurred during the March 31, 2004 to March 30, 2005 and March 31, 2006 to March 30, 2007 ACC periods in the PCC that was received by the TCEQ on May 18, 2009.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Site, the Respondent is alleged to have:

1. Failed to submit the PCCs for the March 31, 2007 to March 30, 2008 and March 31, 2008 to September 23, 2008 (when the permit was voided) ACC periods and to report deviations in the PCCs for the March 31, 2004 to March 30, 2005 and March 31, 2006 to March 30, 2007 ACC periods, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4), 122.145(2)(A), and 122.146(1), FOP No. O-01245, General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on March 23, 2009.
2. Failed to conduct annual visible emissions observations of the Co-Generation Unit between March 30, 2005 and September 23, 2008, in violation of 30 TEX. ADMIN. CODE § 122.143(4), FOP No. O-01245, General Terms and Conditions and Special Condition 3, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on March 23, 2009.
3. Failed to operate the Ethylene Oxide Sterilizers with a vent stack exhausting vertically upward, at least 15 feet above the roof line, and with an exit velocity of at least 50 feet per second, in violation of 30 TEX. ADMIN. CODE § 106.417(2)(E)(i), (ii), and (iii) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on March 23, 2009. Specifically, the sterilizers were operated with the stack venting horizontally, approximately two feet above the roof line, and at less than 50 feet per second velocity.

### 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: Tenet Hospitals Limited, Docket No. 2009-0582-AIR-E" to:  

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088
2. 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 Site operations referenced in this Agreed Order.

3. 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.
4. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
5. 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

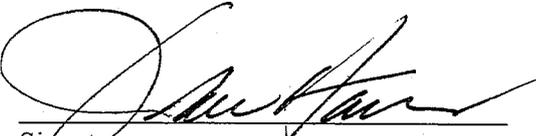
9/3/2009  
Date

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

7-28-09  
Date

John Harris  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Tenet Hospitals Limited

CEO  
\_\_\_\_\_  
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.

