

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.:** 2008-0923-AIR-E **TCEQ ID:** RN102926920 **CASE NO.:** 36007  
**RESPONDENT NAME:** Equistar Chemicals, LP

<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> Equistar Chemicals Bayport Complex, 5761 Underwood Road, Pasadena, Harris County</p> <p><b>TYPE OF OPERATION:</b> Petrochemical plant</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 are two additional pending enforcement actions regarding this facility location, Docket Nos. 2009-1549-AIR-E and 2009-0219-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 November 23, 2009. 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. Samuel Short, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-5363; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> Mr. Joseph F. Marschhauser, Plant Manager, Equistar Chemicals, LP, 5761 Underwood Road, Pasadena, Texas 77507  <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 Investigation Relating to this Case:</b> March 11, 2008</p> <p><b>Date of NOV/NOE Relating to this Case:</b> May 30, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>AIR</b></p> <p>Failure to prevent the release of unauthorized air contaminants into the atmosphere. Specifically, on February 24, 2008, the water level in the Tank Farm Vent Scrubber ("TFVS") reached 95% capacity while decontaminating ethylene oxide storage facilities causing activation of an overfill interlock which closed the flow valve supplying lean absorbent to the TFVS. As a result of this 3 hour and 40 minute incident, 40.85 pounds of ethylene oxide was released into the atmosphere. The event did not meet the demonstration criteria necessary to present an affirmative defense for the unauthorized emissions [30 TEX. ADMIN. CODE § 116.115(c), TEX. HEALTH &amp; SAFETY CODE § 382.085(b), and Air New Source Permit No. 6257B, Special Condition No. 1].</p>	<p><b>Total Assessed:</b> \$5,575</p> <p><b>Total Deferred:</b> \$1,115  <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> \$2,230</p> <p>On January 6, 2009, the Respondent, together with certain other subsidiaries and affiliates of Lyondell Chemical Company, filed with the United States Bankruptcy Court a voluntary petition for relief under chapter 11 of the Bankruptcy Code.</p> <p>(Remaining \$2,230 due pending outcome of bankruptcy proceedings)</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 of the effective date of this Agreed Order:</p> <p>i. Develop and implement maintenance and operating procedures designed to prevent the recurrence of an emissions event due to the same root causes as those associated with the February 24, 2008 event; and</p> <p>ii. Develop and implement improvements to the interlock design to re-establish water flow to the TFVS after the high level interlock has cleared.</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): Air Permit 6257B



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

**TCEQ**

**DATES**

Assigned 2-Jun-2008  
 PCW 17-Jun-2008 Screening 5-Jun-2008 EPA Due 6-Dec-2008

**RESPONDENT/FACILITY INFORMATION**

Respondent Equistar Chemicals, LP  
 Reg. Ent. Ref. No. RN102926920  
 Facility/Site Region 12-Houston Major/Minor Source Major

**CASE INFORMATION**

Enf./Case ID No. 36007 No. of Violations 1  
 Docket No. 2008-0923-AIR-E Order Type 1660  
 Media Program(s) Air Government/Non-Profit No  
 Multi-Media Inf. Coordinator Samuel Short  
 EC's Team Enforcement Team 3  
 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** 123.0% Enhancement Subtotals 2, 3, & 7

Notes: An enhancement is recommended for having ten NOVs for same or similar violations, two NOVs for non-similar violations, two agreed final enforcement orders containing a denial of liability, one letter notifying the Executive Director of an intended audit, and one Court Order.

**Culpability** No 0.0% Enhancement Subtotal 4

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** Subtotal 5

**Economic Benefit** 0.0% Enhancement\* Subtotal 6

Total EB Amounts \$117  
 Approx. Cost of Compliance \$2,500  
 \*Capped at the Total EB \$ Amount

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

**OTHER FACTORS AS JUSTICE MAY REQUIRE** 0.0% Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty

**DEFERRAL** 20.0% Reduction Adjustment

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

Notes

Deferral offered for expedited settlement.

**PAYABLE PENALTY**

**Screening Date** 5-Jun-2008

**Docket No.** 2008-0923-AIR-E

**PCW**

**Respondent** Equistar Chemicals, LP

Policy Revision 2 (September 2002)

**Case ID No.** 36007

PCW Revision June 12, 2008

**Reg. Ent. Reference No.** RN102926920

**Media [Statute]** Air

**Enf. Coordinator** Samuel Short

**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 (number of NOVs meeting criteria)	10	50%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	2	40%
	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 (number of judgements or consent decrees meeting criteria)	1	30%
	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 (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	1	-1%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	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)** 123%

>> **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**

An enhancement is recommended for having ten NOVs for same or similar violations, two NOVs for non-similar violations, two agreed final enforcement orders containing a denial of liability, one letter notifying the Executive Director of an intended audit, and one Court Order.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 123%

<b>Screening Date</b> 5-Jun-2008	<b>Docket No.</b> 2008-0923-AIR-E	<b>PCW</b>												
<b>Respondent</b> Equistar Chemicals, LP	<small>Policy Revision 2 (September 2002)</small>													
<b>Case ID No.</b> 36007	<small>PCW Revision June 12, 2008</small>													
<b>Reg. Ent. Reference No.</b> RN102928920														
<b>Media [Statute]</b> Air														
<b>Enf. Coordinator</b> Samuel Short														
<b>Violation Number</b> <input type="text" value="1"/>														
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 116.115(c), Tex. Health & Safety Code § 382.085(b), and TCEQ Air New Source Permit No. 6257E, Special Condition No. 1													
<b>Violation Description</b>	Failed to prevent the release of unauthorized air contaminants into the atmosphere. Specifically, on February 24, 2008, the water level in the Tank Farm Vent Scrubber ("TFVS") reached 95% capacity while decontaminating ethylene oxide storage facilities causing activation of an overfill interlock which closed the flow valve supplying lean absorbent to the TFVS. As result of this 3 hour and 40 minute incident, 40.85 pounds of ethylene oxide was released into the atmosphere. The event did not meet the demonstration criteria necessary to present an affirmative defense for the unauthorized emissions.													
<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>													
	Major    Moderate    Minor													
<b>Release</b>	Major    Moderate    Minor													
Actual	<input type="text"/> <input type="text"/> <input checked="" type="text" value="X"/>	<b>Percent</b> <input type="text" value="25%"/>												
Potential	<input type="text"/> <input type="text"/> <input type="text"/>													
<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 in the Houston-Galveston-Brazoria ozone nonattainment area has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or the environment.													
<b>Adjustment</b>		<input type="text" value="\$7,500"/>												
		<input type="text" value="\$2,500"/>												
<b>Violation Events</b>														
<b>Number of Violation Events</b>	<input type="text" value="1"/>	<b>Number of violation days</b> <input type="text" value="1"/>												
<small>mark only one with an x</small>	<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td>daily</td><td><input type="text"/></td></tr> <tr><td>monthly</td><td><input type="text"/></td></tr> <tr><td>quarterly</td><td><input checked="" type="text" value="X"/></td></tr> <tr><td>semiannual</td><td><input type="text"/></td></tr> <tr><td>annual</td><td><input type="text"/></td></tr> <tr><td>single event</td><td><input type="text"/></td></tr> </table>	daily	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input checked="" type="text" value="X"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input type="text"/>	<b>Violation Base Penalty</b> <input type="text" value="\$2,500"/>
daily	<input type="text"/>													
monthly	<input type="text"/>													
quarterly	<input checked="" type="text" value="X"/>													
semiannual	<input type="text"/>													
annual	<input type="text"/>													
single event	<input type="text"/>													
One quarterly event is recommended.														
<b>Good Faith Efforts to Comply</b>		<b>0.0% Reduction</b> <input type="text" value="\$0"/>												
	Before NOV    NOV to ED/PRP/Settlement													
Extraordinary	<input type="text"/> <input type="text"/>													
Ordinary	<input type="text"/> <input type="text"/>													
N/A	<input checked="" type="text" value="X"/> (mark with x)													
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.													
<b>Violation Subtotal</b>		<input type="text" value="\$2,500"/>												
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>												
<b>Estimated EB Amount</b>	<input type="text" value="\$117"/>	<b>Violation Final Penalty Total</b> <input type="text" value="\$5,575"/>												
<b>This violation Final Assessed Penalty (adjusted for limits)</b>		<input type="text" value="\$5,575"/>												

## Economic Benefit Worksheet

**Respondent** Equistar Chemicals, LP  
**Case ID No.** 36007  
**Reg. Ent. Reference No.** RN102926920  
**Media** Air  
**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
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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)	\$2,500	24-Feb-2008	30-Jan-2009	0.93	\$117	n/a	\$117

Notes for DELAYED costs

Estimated costs to implement measures designed to prevent the recurrence of an emission event caused by the water level in the TFVS. The date required is the date of the emissions event, and the final date is the date the Respondent is anticipated to achieve compliance.

**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	\$2,500	<b>TOTAL</b>	\$117
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## Compliance History

Customer/Respondent/Owner-Operator:	CN600124705	Eqlstar Chemicals, LP	Classification: AVERAGE	Rating: 2.92
Regulated Entity:	RN102926920	EQUISTAR CHEMICALS BAYPORT COMPLEX	Classification: AVERAGE	Site Rating: 3.70
ID Number(s):	WASTEWATER	PERMIT		WQ0003029000
	WASTEWATER	PERMIT		TPDES0103900
	WASTEWATER	PERMIT		TX0103900
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID		TXD982306144
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)		38073
	AIR NEW SOURCE PERMITS	AFS NUM		4820100882
	AIR NEW SOURCE PERMITS	PERMIT		83663
	AIR NEW SOURCE PERMITS	PERMIT		6257E
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER		HG1996R
	AIR NEW SOURCE PERMITS	PERMIT		53450
	AIR NEW SOURCE PERMITS	PERMIT		6257F
	AIR NEW SOURCE PERMITS	PERMIT		24932
	AIR NEW SOURCE PERMITS	PERMIT		26681
	AIR NEW SOURCE PERMITS	PERMIT		27151
	AIR NEW SOURCE PERMITS	PERMIT		74933
	AIR NEW SOURCE PERMITS	REGISTRATION		77075
	AIR NEW SOURCE PERMITS	REGISTRATION		77418
	AIR NEW SOURCE PERMITS	REGISTRATION		77771
	AIR NEW SOURCE PERMITS	REGISTRATION		77500
	AIR NEW SOURCE PERMITS	REGISTRATION		78061
	AIR NEW SOURCE PERMITS	REGISTRATION		78854
	AIR NEW SOURCE PERMITS	REGISTRATION		79958
	AIR NEW SOURCE PERMITS	REGISTRATION		82200
	PUBLIC WATER SYSTEM/SUPPLY WATER LICENSING	REGISTRATION		1010818
	AIR OPERATING PERMITS	LICENSE		1010818
	AIR OPERATING PERMITS	PERMIT		1608
	AIR OPERATING PERMITS	PERMIT		2314
	AIR OPERATING PERMITS	ACCOUNT NUMBER		HG0621B
	AIR OPERATING PERMITS	PERMIT		1373
	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION		51237

Location: 5761 UNDERWOOD RD, PASADENA, TX, 77507 Rating Date: September 01 07 Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON  
 Date Compliance History Prepared: June 04, 2008  
 Agency Decision Requiring Compliance History: Enforcement  
 Compliance Period: June 02, 2003 to June 02, 2008

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

Name: Samuel Short Phone: 512-239-5363

### 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.

Effective Date: 03/03/2005 ADMINORDER 2004-0458-AIR-E  
 Classification: Major

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

5C THC Chapter 382, SubChapter A 382.085(b)  
 Rqmt Prov: 4157A, Special Condition No. 3 PA

Description: Failed to route waste gas from point sources containing volatile organic compounds (VOCs) to the flare (EPN 1-167) or obtain an exception.

Classification: Major

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Special Condition 6 PA

Description: Failed to operate the polyethylene production process with a required emergency particulate emission control system for containing emissions from Reactor Dump Valve B

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter D 115.354(1)(B)  
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failed to conduct yearly monitoring of 136 difficult-to-monitor (DTM) valves in the low-density polyethylene unit for year 2002

Classification: Major

Citation: 5C THC Chapter 382, SubChapter A 382.085(a)

Description: Failed to prevent the unauthorized emissions from the polyethylene unit on February 27-28, 2003

Effective Date: 04/25/2005

COURTORDER

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)  
30 TAC Chapter 116, SubChapter B 116.115(c)

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

Rqmt Prov: Special Condition 1 & MACT Rate Table PERMIT

Description: Exceeded permitted values for Ethylene Oxide during an emissions event.

Effective Date: 03/08/2008

ADMINORDER 2007-0815-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter H 115.722(c)(1)  
30 TAC Chapter 116, SubChapter B 116.115(c)

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

Rqmt Prov: Permit # 6257E, Special Condition #1 PA

Description: Failure to prevent unauthorized emission of ethylene.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)  
30 TAC Chapter 101, SubChapter F 101.221(a)

30 TAC Chapter 115, SubChapter H 115.722(d)

30 TAC Chapter 116, SubChapter B 116.115(c)

40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(2)

Rqmt Prov: Permit #6257E, Special Condition #7B PERMIT

Permit #6257E, Special Condition #7D PERMIT

Description: Failure to prevent lost of flare flame.

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	06/12/2003	(322451)
2	07/01/2003	(31841)
3	07/24/2003	(322453)
4	08/14/2003	(9930)
5	09/02/2003	(322454)
6	09/22/2003	(322456)
7	10/14/2003	(322457)
8	11/19/2003	(322458)
9	11/30/2003	(249910)
10	11/30/2003	(249778)
11	12/08/2003	(322459)

12	01/21/2004	(322460)
13	02/17/2004	(322448)
14	03/10/2004	(322449)
15	03/22/2004	(266001)
16	04/20/2004	(364156)
17	05/13/2004	(364157)
18	06/21/2004	(322452)
19	06/30/2004	(272091)
20	07/14/2004	(272984)
21	07/16/2004	(364158)
22	08/13/2004	(281185)
23	08/16/2004	(364159)
24	08/26/2004	(262293)
25	08/31/2004	(290879)
26	09/09/2004	(364160)
27	10/15/2004	(364161)
28	11/11/2004	(339649)
29	11/15/2004	(388602)
30	12/13/2004	(388603)
31	12/13/2004	(344039)
32	12/16/2004	(281572)
33	12/20/2004	(281177)
34	01/12/2005	(388604)
35	01/19/2005	(336524)
36	02/14/2005	(426151)
37	03/16/2005	(388601)
38	03/16/2005	(342074)
39	04/13/2005	(426152)
40	05/12/2005	(426153)
41	06/10/2005	(426154)
42	06/27/2005	(396201)
43	07/11/2005	(446546)
44	07/13/2005	(348288)
45	08/05/2005	(446547)
46	08/10/2005	(404095)
47	08/23/2005	(404905)
48	09/14/2005	(446548)
49	10/04/2005	(393410)
50	10/14/2005	(479270)
51	11/09/2005	(479271)
52	12/19/2005	(479272)
53	01/12/2006	(479273)
54	02/10/2006	(453461)
55	02/10/2006	(479267)
56	02/14/2006	(453530)
57	02/14/2006	(453460)
58	02/14/2006	(453533)
59	02/14/2006	(453393)
60	03/10/2006	(453272)
61	03/13/2006	(479269)
62	04/11/2006	(456847)
63	04/18/2006	(505070)
64	04/25/2006	(457466)
65	04/27/2006	(462400)
66	05/16/2006	(505071)
67	05/25/2006	(457709)
68	05/25/2006	(373692)
69	05/25/2006	(374834)
70	06/19/2006	(505072)
71	06/22/2006	(462252)
72	07/07/2006	(527370)
73	08/10/2006	(527371)
74	09/05/2006	(488332)
75	09/15/2006	(527372)
76	10/11/2006	(527373)
77	11/07/2006	(551134)
78	12/05/2006	(551135)
79	01/18/2007	(551136)
80	02/12/2007	(551133)
81	02/14/2007	(514773)
82	03/02/2007	(587732)
83	04/05/2007	(536638)

84	04/12/2007	(587733)
85	05/01/2007	(532613)
86	05/03/2007	(554897)
87	05/11/2007	(587734)
88	06/08/2007	(587735)
89	07/06/2007	(587736)
90	07/13/2007	(559637)
91	07/16/2007	(565220)
92	08/15/2007	(605178)
93	09/06/2007	(571788)
94	09/12/2007	(605179)
95	10/11/2007	(605180)
96	11/05/2007	(628503)
97	12/05/2007	(628504)
98	01/14/2008	(628505)
99	01/25/2008	(613136)
100	01/25/2008	(613421)
101	02/13/2008	(676436)
102	02/29/2008	(812847)
103	03/06/2008	(676437)
104	03/06/2008	(616614)
105	03/24/2008	(619007)
106	04/03/2008	(676438)
107	04/17/2008	(646550)
108	04/21/2008	(641745)
109	04/21/2008	(641735)
110	05/30/2008	(670772)

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

Date:	08/14/2003	(9930)		
Self Report?	NO		Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c)			
Rqmt Prov:	PA 6257F, Special Condition No. 8			
Description:	Failure to load EEA (ethylene glycol monoethyl ether acetate); EBA (ethylene glycol monobutyl ether acetate); and DBA (diethylene glycol monobutyl ether acetate) at loading racks R-9 and T-4 only.			
Self Report?	NO		Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c)			
Rqmt Prov:	PA 6257F, Special Condition No. 9			
Description:	Failure to load HE; HM; HB; HHM; TM; MEG; DEG; TEG; HEG; MEA; DEA; and TEA at loading racks R-8 (EPN P-206) and T-5 (EPN P-207) only.			
Self Report?	NO		Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c)			
Rqmt Prov:	PA 6257E, Special Condition No. 1			
Description:	Emitted 930.9 pounds of ethylene per hour for a total of 27, 928 pounds of ethylene over a 30 hour period from June 24-25, 2003. Equistar also emitted 70 pounds of ethylene oxide over the 30 hour period which amounted to 2.3 pounds / hour.			
Self Report?	NO		Classification:	Minor
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c)			
Rqmt Prov:	PA 6257E, Special Condition No. 9B			
Description:	Failure to maintain records of the November and December 2001 monthly monitoring results of the cooling tower (EPN UCT).			
Self Report?	NO		Classification:	Minor
Citation:	30 TAC Chapter 106, SubChapter K 106.263 30 TAC Chapter 116, SubChapter B 116.115(c)			
Description:	Failure to maintain complete abrasive blasting & painting records to include the reason for the activity, the process and equipment involved, and the time and duration of the activity for 2002 blasting abrasive and daily paint usage forms.			
Self Report?	NO		Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c)			
Rqmt Prov:	PA 6257F, Special Condition No. 11			
Description:	Failure to load within the loading rate of 10,700 gallons per hour on 05/23/2003, 11/19/2002, and 08/08/2001.			
Date:	08/26/2004	(262293)		
Self Report?	NO		Classification:	Moderate
Citation:	30 TAC Chapter 101, SubChapter F 101.201(a)(2)(J) 30 TAC Chapter 116, SubChapter B 116.115(c) 5C THC Chapter 382, SubChapter A 382.085(b)			
Rqmt Prov:	PERMIT TCEQ AIR PERMIT #6257E, SC#1			
Description:	Failed to submit an administratively complete initial emissions event notification.			

Date: 11/11/2004 (339649)  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 5C THC Chapter 382, SubChapter A 382.085(b)  
 Rqmt Prov: PERMIT 6257F, S.C. 1  
 Description: Failure to limit the emissions within the values stated in the MAERT.  
 Date: 12/16/2004 (281572)  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 5C THC Chapter 382, SubChapter A 382.085(b)  
 Rqmt Prov: PERMIT 4157A  
 Description: Failure to prevent the premature failure of the reactor due to fouling.  
 Date: 12/20/2004 (281177)  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 5C THC Chapter 382, SubChapter A 382.085(b)  
 Rqmt Prov: PERMIT 4157A Special Condition 1  
 Description: Failure to prevent the failure of the hydraulic oil pumps.  
 Date: 04/25/2006 (457466)  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 5C THC Chapter 382, SubChapter A 382.085(b)  
 Rqmt Prov: PERMIT No. 6257E, Special Condition 1  
 Description: Equistar Chemicals failed to prevent the malfunction of the mechanical seal of pump 23-6060.  
 Date: 06/22/2006 (462252)  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 5C THC Chapter 382, SubChapter D 382.085(b)  
 Rqmt Prov: PA #6257F, Special Condition #1  
 Description: Failure to prevent the unauthorized emission of ammonia from the pressure safety relief valve to the environment.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(1)(H)  
 Description: Failure to identify the preconstruction authorization (rule or permit #) on the final record.  
 Date: 12/31/2006 (551136)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)  
 Description: Failure to meet the limit for one or more permit parameter  
 Date: 03/21/2007 (536838)  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 5C THC Chapter 382, SubChapter D 382.085(b)  
 Rqmt Prov: PA Permit #6257E, Special Condition 1  
 Description: Failure to prevent the unauthorized emissions of volatile organic compounds (VOC).  
 Date: 05/02/2007 (532613)  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)  
 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.167(a)(2)  
 5C THC Chapter 382, SubChapter D 382.085(b)  
 Rqmt Prov: PERMIT No. 6257E, Special Condition 16E  
 PERMIT No. 6257E, Special Condition 18  
 PERMIT No. 6257E, Special Condition 19E  
 PERMIT No. 6257F, Special Condition 3E  
 PERMIT No. 6257F, Special Condition 5  
 OP No. O-01373, Special Condition 15A  
 OP No. O-01373, Special Condition 1A  
 Description: failure to equip open-ended lines in VOC Service with a cap, plug, blind flange or second valve and failure to close the second valve on an open-ended lines in VOC and Ethylene Oxide service.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 115, SubChapter D 115.352(1)(B)  
 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 122, SubChapter B 122.143(4)

40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.168(c)  
 5C THC Chapter 382, SubChapter D 382.085(b)  
 Rqmt Prov: PERMIT No. 6257F, Special Condition 3(I)  
 OP No. O-01373, Special Condition 15A  
 Description: OP No. O-01373, Special Condition 1A  
 failure to repair two leaking pumps within 15 days of the date they were found leaking.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter H 115.722(d)(1)  
 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(3)(ii)  
 5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: PERMIT No. 6257E, Special Condition 7A  
 PERMIT No. 6257E, Special Condition 7D  
 OP No. O-01373, Special Condition 15A  
 OP No. O-01373, Special Condition 1A

Description: failure to maintain the net heating value to the Plant Flare at a minimum value of 300 Btu/scf.

Self Report? NO Classification: Minor

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: PERMIT No. 6257F, Special Condition 3H  
 OP No. O-01373, Special Condition 15A

Description: failure to attach a tag to a leaking component indicating the component is leaking and needs repair.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.168(d)(2)  
 5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: PERMIT No. 6257E, Special Condition 16F  
 OP No. O-01373, Special Condition 15A  
 OP No. O-01373, Special Condition 1A

Description: failure to monitor 21 components in VOC service for fugitive emissions.

Date: 03/03/2008 (612847)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 5C THSC Chapter 382 382.085(b)

Rqmt Prov: PERMIT Permit #6257E, Special Condition #1

Description: Failure of the Recycle Gas Compressor West Drainer Module Level Controller resulting in the release of contaminants from the relief valve to the atmosphere.

Date: 03/06/2008 (616814)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 5C THSC Chapter 382 382.085(b)

Rqmt Prov: PERMIT Permit #6257E

Description: Failure of the Quench Bleed Stripper Overhead Pressure Controller which resulted in the release of ethylene oxide to the atmosphere.

F. Environmental audits.

Notice of Intent Date: 06/01/2007 (571660)

No DOV Associated

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  
EQUISTAR CHEMICALS, LP  
RN102926920**

**§ BEFORE THE  
§ TEXAS COMMISSION ON  
§ ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2008-0923-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 Equistar Chemicals, LP ("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 petrochemical plant at 5761 Underwood Road in Pasadena, Harris County, Texas (the "Plant").
2. The Plant 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 June 4, 2008.
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. On January 6, 2009, the Respondent, together with certain other subsidiaries and affiliates of Lyondell Chemical Company, filed with the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court") a voluntary petition for relief under chapter 11 of the Bankruptcy Code (the "Code"). In re Lyondell Chemical Company, et al., Case No. 09-10023

(REG) (Chapter 11) (Bankr. S.D.N.Y.) (the "Bankruptcy Case"). The automatic stay imposed by the Code [specifically, 11 U.S.C. § 362 (a)] does not apply to the commencement or continuation of an action or a proceeding by a governmental unit to enforce such governmental unit's police and regulatory power, including the enforcement of a judgment other than a money judgment obtained in such action or proceeding, by virtue of the exception provided in 11 U.S.C. § 362 (b)(4). Accordingly, TCEQ [a governmental unit as defined under 11 U.S.C. § 101(27)] is expressly excepted from the automatic stay in pursuing enforcement of the State's environmental protection laws, and in seeking to liquidate its damages for such violations, including the assessment of Respondent of the administrative penalty in the amount of \$5,575 as provided in Section I, Paragraph 7 and Section IV, Paragraph 1 below. TCEQ shall not seek to collect such penalty except in accordance with applicable Bankruptcy law. The Respondent agrees to stipulate that, in accordance with this Agreed Order, TCEQ shall have an allowed general unsecured claim in the amount of \$3,345, which shall be paid in accordance with the terms prescribed in the plan of reorganization approved by the Bankruptcy Court or liquidation.

7. An administrative penalty in the amount of Five Thousand Five Hundred Seventy-Five Dollars (\$5,575) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Thousand Two Hundred Thirty Dollars (\$2,230) of the administrative penalty.
8. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
9. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
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 Plant, the Respondent is alleged to have failed to prevent the release of unauthorized air contaminants into the atmosphere, in violation of 30 TEX. ADMIN. CODE § 116.115(c), TEX. HEALTH & SAFETY CODE § 382.085(b), and Air New Source Permit No. 6257E, Special Condition No. 1, as documented during an investigation conducted on March 11, 2008. Specifically, on February 24, 2008, the water level in the Tank Farm Vent Scrubber ("TFVS") reached 95% capacity while decontaminating ethylene oxide storage facilities causing activation of an overfill interlock which closed the flow valve supplying lean absorbent to the TFVS. As a result of this 3 hour and 40 minute incident,

40.85 pounds of ethylene oxide was released into the atmosphere. The event did not meet the demonstration criteria necessary to present an affirmative defense for the unauthorized emissions.

### 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 be assessed an administrative penalty as set forth in Section I, Paragraph 6 above. The assessment 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. Subject to the provisions of Section I, Paragraph 6 above, which are expressly incorporated herein, TCEQ shall have an allowed general unsecured claim in the Respondent's bankruptcy case.
2. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Within 30 days of the effective date of this Agreed Order:
    - i. Develop and implement maintenance and operating procedures designed to prevent the recurrence of an emissions event due to the same root causes as those associated with the February 24, 2008 event; and
    - ii. Develop and implement improvements to the interlock design to re-establish water flow to the Tank Farm Vent Scrubber after the high level interlock has cleared.
  - 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 fines 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:

Air 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 Plant 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

John Soderlin  
For the Executive Director

10/20/2009  
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 also understand that failure to comply with the Ordering Provisions, if any, in this order 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;
- 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.

Joseph F. Marschhausen  
Signature

9/8/2009  
Date

JOSEPH F. MARSCHHAUSEN  
Name (Printed or typed)  
Authorized Representative of  
Equistar Chemicals, LP

PLANT MANAGER  
Title

**Instructions:** Send the original, signed Agreed Order to the Financial Administration Division, Revenues Section.

