EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-1458-AIR-E **TCEQ ID:** RN100214576 **CASE NO.:** 36526

RESPONDENT NAME: Merisol USA LLC

ORDER TYPE:		
X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
X AIR	__MULTI-MEDIA (check all that apply)	__INDUSTRIAL AND HAZARDOUS WASTE
__PUBLIC WATER SUPPLY	__PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
__WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
__MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	__DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: Merisol Greens Bayou Plant, 1914 Haden Road, Houston, Harris County

TYPE OF OPERATION: Chemical manufacturing plant

SMALL BUSINESS: ___ Yes __X__ No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on February 16, 2009. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None
TCEQ Enforcement Coordinator: Ms. Suzanne Walrath, Enforcement Division, Enforcement Team 4, MC 169, (512) 239-2134; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387
Respondent: Mr. Kenneth Morgan, Plant Manager, Merisol USA LLC, 1914 Haden Road, Houston, Texas 77015
Mr. Pieter Potgieter, President, Merisol USA LLC, 1914 Haden Road, Houston, Texas 77015
Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: ___ Complaint ___ Routine ___ Enforcement Follow-up _X_ Records Review **Date(s) of Complaints Relating to this Case:** None **Date of Investigation Relating to this Case:** August 19, 2008 **Date of NOV/NOE Relating to this Case:** August 28, 2008 (NOE) **Background Facts:** This was a record review. **AIR** Failure to submit the annual permit compliance certification within 30 days after the end of the certification period. Specifically, the certification for the time period of January 7, 2007 through January 6, 2008 was due to be submitted no later than February 5, 2008, and it was not received by the regional office until August 14, 2008 (191 days late) [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.146(2), Federal Operating Permit No. O-01254, General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b)].	**Total Assessed:** $3,425 **Total Deferred:** $685 _X_ Expedited Settlement __ Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid to General Revenue:** $2,740 **Site Compliance History Classification** ___ **High** _X_ **Average** ___ **Poor** **Person Compliance History Classification** ___ **High** _X_ **Average** ___ **Poor** **Major Source:** _X_ Yes ___ No **Applicable Penalty Policy:** September 2002	**Corrective Actions Taken:** The Executive Director recognizes that the Respondent submitted the annual compliance certification for the time period of January 7, 2007 through January 6, 2008 on August 14, 2008.

Additional ID No(s).: HG0486G

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) — *PCW Revision June 12, 2008*

TCEQ

DATES					
Assigned	2-Sep-2008				
PCW	22-Sep-2008	Screening	9-Sep-2008	EPA Due	25-May-2009

RESPONDENT/FACILITY INFORMATION

Respondent	Merisol USA LLC		
Reg. Ent. Ref. No.	RN100214576		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	36526	No. of Violations	1
Docket No.	2008-1458-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Suzanne Walrath
		EC's Team	Enforcement Team 4

Admin. Penalty $ Limit Minimum $0 Maximum $10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — *Subtotal 1* $2,500

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 62.0% Enhancement — *Subtotals 2, 3, & 7* $1,550

Notes: The Respondent has received 11 Notices of Violation for dissimilar violations, and has received two Agreed Orders containing a denial of liability.

Culpability No 0.0% Enhancement — *Subtotal 4* $0

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments — *Subtotal 5* $625

Economic Benefit 0.0% Enhancement* — *Subtotal 6* $0

**Capped at the Total EB $ Amount*

Total EB Amounts	$4
Approx. Cost of Compliance	$150

SUM OF SUBTOTALS 1-7 — *Final Subtotal* $3,425

OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% — *Adjustment* $0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount $3,425

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* $3,425

DEFERRAL 20.0% Reduction — *Adjustment* -$685

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY $2,740

Screening Date 9-Sep-2008 **Docket No.** 2008-1458-AIR-E **PCW**

Respondent Merisol USA LLC *Policy Revision 2 (September 2002)*

Case ID No. 36526 *PCW Revision June 12, 2008*

Reg. Ent. Reference No. RN100214576

Media [Statute] Air

Enf. Coordinator Suzanne Walrath

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*)	0	0%
	Other written NOVs	11	22%
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*)	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 (*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*)	0	0%
	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%

		Please Enter Yes or No	
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) 62%

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

No

Adjustment Percentage (Subtotal 3) 0%

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

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

The Respondent has received 11 Notices of Violation for dissimilar violations, and has received two Agreed Orders containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 62%

Screening Date 9-Sep-2008 **Docket No.** 2008-1458-AIR-E **PCW**
Respondent Merisol USA LLC *Policy Revision 2 (September 2002)*
Case ID No. 36526 *PCW Revision June 12, 2008*
Reg. Ent. Reference No. RN100214576
Media [Statute] Air
Enf. Coordinator Suzanne Walrath
Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 122.143(4) and 122.146(2), Federal Operating Permit No. O-01254, General Terms and Conditions, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to submit the annual permit compliance certification within 30 days after the end of the certification period. Specifically, the certification for the time period of January 7, 2007 through January 6, 2008 was due to be submitted no later than February 5, 2008, and it was not received by the regional office until August 14, 2008 (191 days late).

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 25%

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

Adjustment $7,500

$2,500

Violation Events

Number of Violation Events 1 — 191 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $2,500

One single event is recommended for the certification not submitted timely.

Good Faith Efforts to Comply

25.0% Reduction $625

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

Notes: The Respondent achieved compliance on August 14, 2008.

Violation Subtotal $1,875

Economic Benefit (EB) for this violation

Estimated EB Amount $4

Statutory Limit Test

Violation Final Penalty Total $3,425

This violation Final Assessed Penalty (adjusted for limits) $3,425

Economic Benefit Worksheet

Respondent Merisol USA LLC
Case ID No. 36526
Reg. Ent. Reference No. RN100214576
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)	$150	5-Feb-2008	14-Aug-2008	0.52	$4	n/a	$4

Notes for DELAYED costs: These are estimated costs for submitting a compliance certification timely, beginning on the date the certification was due to be submitted, and ending on the date compliance was achieved.

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: $150

TOTAL: $4

Compliance History

Customer/Respondent/Owner-Operator:	CN600127583	Merisol USA LLC	Classification: AVERAGE	Rating: 1.52
Regulated Entity:	RN100214576	MERISOL GREENS BAYOU PLANT	Classification: AVERAGE	Site Rating: 1.55

ID Number(s):

AIR OPERATING PERMITS	ACCOUNT NUMBER	HG0486G
AIR OPERATING PERMITS	PERMIT	1254
INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD008106999
INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	30595
INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	50387
INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	50387
WASTEWATER	PERMIT	WQ0000485000
WASTEWATER	PERMIT	TPDES0005584
WASTEWATER	PERMIT	TX0005584
UNDERGROUND INJECTION CONTROL	PERMIT	WDW147
UNDERGROUND INJECTION CONTROL	PERMIT	WDW319
AIR NEW SOURCE PERMITS	REGISTRATION	85847
AIR NEW SOURCE PERMITS	PERMIT	20686
AIR NEW SOURCE PERMITS	PERMIT	1310A
AIR NEW SOURCE PERMITS	PERMIT	4348
AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG0486G
AIR NEW SOURCE PERMITS	PERMIT	20120
AIR NEW SOURCE PERMITS	REGISTRATION	75277
AIR NEW SOURCE PERMITS	REGISTRATION	78532
AIR NEW SOURCE PERMITS	AFS NUM	4820100028
IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	30595

Location: 1914 HADEN RD, HOUSTON, TX, 77015 Rating Date: 9/1/2008 Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: September 09, 2008

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: September 09, 2003 to September 09, 2008

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

Name: Suzanne Walrath Phone: 512/239-2134

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: 02/08/2008 ADMINORDER 2007-1135-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)
5C THC Chapter 382, SubChapter A 382.0518(a)

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

Description: Failed to prevent unauthorized emissions, as documented during an investigation conducted on March 15, 2007. Specifically, an emissions event occurred February 26 through February 27, 2007 when tanks T-362027 and T-362028 overflowed into a spill containment area releasing 9,767 pounds of volatile organic compounds to the atmosphere for a period of 16 hours and 36 minutes. The emissions from Tanks T-362027 and T-362028 are not authorized by the permit.

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(1)(D)
5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failed to properly report the emissions event, as documented during an investigation conducted on March 15, 2007. Specifically, Merisol failed to properly identify the emissions source in the final report of the February 26, 2007 emissions event.

Effective Date: 06/19/2008 ADMINORDER 2007-1621-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.146(2)

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

Rqmt Prov: General Terms and Conditions OP
Description: Failed to submit an annual compliance certification. Specifically, the annual compliance certification for the period January 7, 2006 through January 6, 2007 was due by February 5, 2007 and was not submitted until October 15, 2007.

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(C)

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

Rqmt Prov: General Terms and Conditions OP
Description: Failed to submit semi-annual deviation reports within 30 days from the end of the certification period, as documented during a record review conducted on August 8, 2007. Specifically, a deviation report for the period January 7, 2006 through July 6, 2006 was due by August 5, 2006 and the report for the period July 7, 2006 through January 6, 2007 was due by February 5, 2007. The reports were received by the regional office on August 8, 2006 and February 8, 2007, respectfully.

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	12/18/2003	(252972)
2	12/18/2003	(252878)
3	12/18/2003	(254063)
4	12/18/2003	(254262)
5	12/28/2004	(278033)
6	02/11/2005	(348157)
7	02/11/2005	(348154)
8	02/11/2005	(348156)
9	02/28/2005	(371786)
10	07/20/2005	(399527)
11	07/22/2005	(400703)
12	07/27/2005	(402051)
13	07/29/2005	(402157)
14	07/29/2005	(402501)
15	08/05/2005	(403452)
16	08/15/2005	(405076)
17	08/17/2005	(405222)
18	08/17/2005	(405538)
19	08/22/2005	(406421)
20	08/29/2005	(418219)
21	08/31/2005	(378377)
22	09/06/2005	(405988)
23	09/08/2005	(418471)
24	11/17/2005	(404572)
25	01/13/2006	(451099)
26	01/13/2006	(438255)
27	01/13/2006	(451100)
28	06/21/2006	(461676)
29	08/03/2006	(484308)
30	10/12/2006	(512490)

31	11/29/2006	(511597)
32	02/09/2007	(517309)
33	04/16/2007	(555408)
34	04/16/2007	(555416)
35	05/02/2007	(558753)
36	06/15/2007	(553768)
37	08/30/2007	(571107)
38	11/26/2007	(595741)
39	11/26/2007	(595741)
40	01/07/2008	(613504)
41	07/02/2008	(684175)
42	08/28/2008	(686711)

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

Date 02/28/2005 (371786)

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 117, SubChapter B 117.219(f)(10)

Description: Failure to maintain the required records for EPNs P-175 and P-2. Specifically Merisol failed to maintain the usage records for the most recent 12 months.

Date 06/23/2006 (461676)

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
30 TAC Chapter 116, SubChapter B 116.115(c)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)

Rqmt Prov: PERMIT 20686

Description: Merisol USA LLC failed to keep ensure the flare was lit before venting.

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 20686

Description: Failure to prevent an avoidable emissions event

Date 06/30/2006 (520178)

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 07/31/2006 (520179)

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 08/04/2006 (484308)

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)(ii)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: OP No. O-01254, Provision 1A

Description: Failure to check flares for visible emissions.

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 112, SubChapter A 112.9(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: OP No. O01254, Provision 1A

Description: Failure to maintain the required pH to the C-1 and F-1 Scrubbers.

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: PERMIT No. 20686, Provision 8A
PERMIT No. 20686, Provision 8F
OP No. O-01254, 11A

Description: Failure to record pH and flow rates to scrubbers.

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: PERMIT No. 20686, Provision 6A
OP No. O-01254, Provision 11A

Description: Failure to conduct AVO monitoring for fugitive emissions in required areas.
Self Report? NO Classification Moderate
Citation: 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)(2)
5C THC Chapter 382, SubChapter D 382.085(b)
Rqmt Prov: PERMIT No. 20686, Provision 14A(3)
OP No. O-01254, Provision 11A
OP No. O-01254, Provision 1A
Description: Failure to operate the Tank Vent Flare with a flame to the pilot and a flame at the flare.
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: PERMIT No. 20686, Provision 14B
OP No. O-01254, Provision 11A
Description: Failure to vent storage tanks to the Tank Vent Flare.
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. 20686, Provision 8D
OP No. O-01254, Provision 11A
Description: Failure to maintain loop seal to Storage Tanks 163 & 164.
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: PERMIT No. 20686, Provision 1
OP No. O-01254, Provision 11A
Description: Failure to operate the P-2 diesel engine, Boiler No. 2 and 11 storage tanks within the emission limits specified in the Maximum Allowable Emission Rate Table.
Self Report? NO Classification Minor
Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)(1)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THC Chapter 382, SubChapter D 382.085(b)
Rqmt Prov: OP No. O-01254, Provision 12
Description: Failure to submit notification required by PBR 106.264.
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. 20686, Provision 5E
OP No. O-01254, Provision 11A
Description: Failure to equip open lines with a cap, plug, blind flange or second valve.
Date 09/30/2006 (544466)
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 11/30/2006 (511597)
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: PERMIT 20686, Special Condition No. 1
Description: Failure to prevent a railcar from overflowing.
Date 02/01/2007 (533261)
Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(4)
30 TAC Chapter 305, SubChapter F 305.125(5)
TWC Chapter 26 26.121
TWC Chapter 26 26.121(a)
TWC Chapter 26 26.121(a)(1)
TWC Chapter 26 26.121(a)(2)
TWC Chapter 26 26.121(a)(3)
TWC Chapter 26 26.121(b)
TWC Chapter 26 26.121(c)
TWC Chapter 26 26.121(d)
TWC Chapter 26 26.121(e)
Description: Failure to prevent the unauthorized discharge of storm water from process containment areas.

Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: PERMIT EL&MR, Pgs. 2, 2c, & 2d, Nos. 1 & 2
Description: Failure to maintain compliance with permit limits for pH and total organic carbon.

Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 319, SubChapter A 319.11(b)
Description: Failure to consistently preserve the storm water samples.
Self Report? NO Classification Minor
Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)
Description: Failure to document the frequency of analysis and sample type on the monthly discharge monitoring reports (DMRs).
Date 02/28/2007 (575254)
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 08/31/2007 (601600)
Self Report? YES Classification Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
Date 07/03/2008 (699425)
Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE
Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE
Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE
Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE
Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE
Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

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	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	**TEXAS COMMISSION ON**
MERISOL USA LLC	§	
RN100214576	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2008-1458-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 Merisol USA LLC ("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 Responent owns and operates a chemical manufacturing plant at 1914 Haden Road in Houston, 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 September 2, 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. An administrative penalty in the amount of Three Thousand Four Hundred Twenty-Five Dollars ($3,425) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Thousand Seven Hundred Forty Dollars ($2,740) of the administrative penalty and Six Hundred Eighty-Five Dollars ($685) 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 submitted the annual compliance certification for the time period of January 7, 2007 through January 6, 2008 on August 14, 2008.

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 submit the annual permit compliance certification within 30 days after the end of the certification period, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.146(2), Federal Operating Permit No. O-01254, General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on August 19, 2008. Specifically, the certification for the time period of January 7, 2007 through January 6, 2008 was due to be submitted no later than February 5, 2008, and it was not received by the regional office until August 14, 2008 (191 days late).

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: Merisol USA LLC, Docket No. 2008-1458-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 Plant 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 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.

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

_____ 1/22/2009
For the Executive Director 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.

_____ November 25th, 2008
Signature Date

PIETER POTGIETER PRESIDENT, MUSA
Name (Printed or typed) Title
Authorized Representative of
Merisol USA LLC

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.