

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.: 2009-0219-AIR-E TCEQ ID: RN102926920 CASE NO.: 37166**

**RESPONDENT NAME: Equistar Chemicals, LP**

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Equistar Chemicals Bayport Complex, 5761 Underwood Road, Pasadena, Harris County</p> <p><b>TYPE OF OPERATION:</b> Chemical manufacturing 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 three additional pending enforcement actions regarding this facility location, Docket Nos. 2008-0923-AIR-E, 2009-1549-AIR-E, and 2009-1976-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 January 18, 2010. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Rebecca Johnson, Enforcement Division, Enforcement Team 5, MC R-14, (361) 825-3420; 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 type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" 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> April 30, 2008</p> <p><b>Date of NOV/NOE Relating to this Case:</b> February 6, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a record review.</p> <p><b>AIR</b></p> <p>Failure to prevent unauthorized emissions. Specifically, 15,221 pounds of unauthorized ethylene oxide emissions were released during Incident No. 106249 which started on April 9, 2008 and lasted 96 hours. The unauthorized emissions were released from the Utility Cooling Tower when an exchanger tube plug began leaking on April 9, 2008, however the leak was not discovered until April 11, 2008, when the cooling water sample data from April 9, 2008 was reviewed. Since the emissions event was excessive and could have been avoided through better operational practices, the demonstration criteria for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222 were not met [Air Permit No. 6257E, Special Condition No. 1, 30 TEX. ADMIN. CODE § 116.115(c), and TEX. HEALTH &amp; SAFETY CODE § 382.085(b).</p>	<p><b>Total Assessed:</b> \$40,000</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid (Due) to General Revenue:</b></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 for the Southern District of New York (the "Bankruptcy Court") a voluntary petition for relief under chapter 11 of the Bankruptcy Code.</p> <p>(Remaining \$40,000 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>Findings Orders Justification:</b>                      This case involves emissions which were deemed excessive. Air dispersion modeling conducted in response to the emissions event predicted that the fence line ambient air concentrations of the hazardous air pollutant were above the short term TCEQ Effects Screening Level.</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that on October 31, 2008, the Respondent completed implementation of the Corrective Action Plan that was subsequently approved on July 8, 2009. The Corrective Action Plan included revising Procedures UCT/PCT 3-2-2 and BAY10-02-EO_HS to ensure that cooling tower sample analysis is conducted in a timely manner.</p>

Additional ID No(s): HG1996R



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

<b>DATES</b>	<b>Assigned</b>	9-Feb-2009	<b>Screening</b>	18-Feb-2009	<b>EPA Due</b>	3-Nov-2009
	<b>PCW</b>	18-Feb-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Equistar Chemicals, LP
<b>Reg. Ent. Ref. No.</b>	RN102926920
<b>Facility/Site Region</b>	12-Houston
<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	37168	<b>No. of Violations</b>	1
<b>Docket No.</b>	2009-0219-AIR-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Rebecca Johnson
		<b>EC's Team</b>	Enforcement Team 5
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$40,000**

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

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

**Compliance History** **148.0%** Enhancement **Subtotals 2, 3, & 7** **\$59,200**

**Notes:** Penalty enhancement due to 12 NOV's issued for same or similar violations, one NOV issued for unrelated violations, three agreed orders with a denial of liability, and one court order with a denial of liability. Penalty reduction due to two Notices of Intended Audits and One Disclosure of Violations submitted.

**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** **\$10,000**

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

Total EB Amounts **\$42** \*Capped at the Total EB \$ Amount  
Approx. Cost of Compliance **\$1,500**

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$89,200**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes:**

**Final Penalty Amount** **\$89,200**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$40,000**

**DEFERRAL** **0.0%** Reduction **Adjustment** **\$0**

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

**Notes:**

No deferral is recommended for Findings Orders.

**PAYABLE PENALTY** **\$40,000**

<b>Screening Date:</b> 18-Feb-2009	<b>Docket No:</b> 2009-0219-AIR-E	<b>PCW</b>
<b>Respondent:</b> Equistar Chemicals, LP	<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No:</b> 37166	<i>PCW Revision October 30, 2008</i>	
<b>Reg. Ent. Reference No:</b> RN102926920		
<b>Media [Statute]:</b> Air		
<b>Enf. Coordinator:</b> Rebecca Johnson		

### 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>	12	60%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	3	60%
	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>	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 <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>	2	-2%
	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>	1	-2%

*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)** 148%

**>> 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**

Penalty enhancement due to 12 NOVs issued for same or similar violations, one NOV issued for unrelated violations, three agreed orders with a denial of liability, and one court order with a denial of liability. Penalty reduction due to two Notices of Intended Audits and One Disclosure of Violations submitted.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 148%

<b>Screening Date:</b> 18-Feb-2009		<b>Docket No.:</b> 2009-0219-AIR-E		<b>PCW</b>
<b>Respondent:</b> Equistar Chemicals, LP		<i>Policy Revision 2 (September 2002)</i>		
<b>Case ID No.:</b> 37166		<i>PCW Revision October 30, 2008</i>		
<b>Reg. Ent. Reference No.:</b> RN102926920				
<b>Media [Statute]:</b> Air				
<b>Enf. Coordinator:</b> Rebecca Johnson				
<b>Violation Number</b>	<input type="text" value="1"/>			
<b>Rule Cite(s)</b>	Air Permit No. 6257E, Special Condition No. 1; 30 Tex. Admin. Code § 116.115(c), and Tex. Health & Safety Code § 382.085(b)			
<b>Violation Description</b>	<p>Failed to prevent unauthorized emissions during Incident No. 106249. Specifically, 15,221 pounds of unauthorized ethylene oxide emissions were released during Incident No. 106249 which started on April 9, 2008 and lasted 96 hours. The unauthorized emissions were released from the Utility Cooling Tower when an exchanger tube plug began leaking on April 9, 2008, however the leak was not discovered until April 11, 2008, when the cooling water sample data from April 9, 2008 was reviewed. Since the emissions event was excessive and could have been avoided through better operational practices, the demonstration criteria for an affirmative defense in 30 Tex. Admin. Code § 101.222 were not met.</p>			
<b>Base Penalty</b>				\$10,000
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
<b>OR</b>	<b>Harm</b>			
	<b>Release</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>
	Actual	<input checked="" type="checkbox"/>		
	Potential			
				<b>Percent</b> <input type="text" value="100%"/>
<b>&gt;&gt; Programmatic Matrix</b>				
	<b>Falsification</b>			
	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>	
				<b>Percent</b> <input type="text" value="0%"/>
<b>Matrix Notes</b>	<p>The Houston-Galveston-Brazoria ozone non-attainment area was exposed to an excessive amount of a hazardous air pollutant ("HAP") as a result of the violation. Air dispersion modeling conducted in response to the emissions event predicted that the fence line ambient air concentrations of the HAP were above the short term TCEQ Effects Screening Level.</p>			
<b>Adjustment</b>				\$0
				\$10,000
<b>Violation Events</b>				
<b>Number of Violation Events</b>		<input type="text" value="4"/>	<b>Number of violation days</b>	
		<input type="text" value="4"/>		
<i>mark only one with an x</i>	daily	<input checked="" type="checkbox"/>		
	weekly			
	monthly			
	quarterly			
	semiannual			
	annual			
	single event			
				<b>Violation Base Penalty</b>
				\$40,000
<p>Four daily events are recommended based on the emissions event that started on April 9, 2008 and lasted four days.</p>				
<b>Good Faith Efforts to Comply</b>		25.0% Reduction		\$10,000
		Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary				
Ordinary	<input checked="" type="checkbox"/>			
N/A			(mark with x)	
<b>Notes</b>	<p>The Respondent completed corrective actions on October 31, 2008, which was prior to the NOE issued on February 6, 2009.</p>			
<b>Violation Subtotal</b>				\$30,000
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>	<input type="text" value="\$42"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$89,200"/>	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>				<input type="text" value="\$40,000"/>

### Economic Benefit Worksheet

**Respondent:** Equistar Chemicals, LP  
**Case ID No:** 37166  
**Reg. Ent. Reference No:** RN102926920  
**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
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No commas or \$

**Delayed Costs**

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$1,500	9-Apr-2008	31-Oct-2008	0.56	\$42	n/a	\$42

Notes for DELAYED costs: Estimated cost to implement procedural changes to ensure that leaking exchanger tube plugs are timely identified and addressed. The date required is the date the emissions event started. 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)**

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				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 \$1,500 **TOTAL** \$42

# Compliance History Report

Customer/Respondent/Owner-Operator:	CN600124705 Equistar Chemicals, LP	Classification: AVERAGE	Rating: 2.92
Regulated Entity:	RN102926920 EQUISTAR CHEMICALS BAYPORT COMPLEX	Classification: AVERAGE	Site Rating: 4.55

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	79956
	AIR NEW SOURCE PERMITS	REGISTRATION	82200
	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1010818
	WATER LICENSING	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
	USED OIL	REGISTRATION	C87643

Location: 5761 UNDERWOOD RD, PASADENA, TX, 77507

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: February 20, 2009  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: February 20, 2004 to February 20, 2009  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Rebecca Johnson Phone: (361) 825-3420

### 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
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: 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.

**Effective Date: 11/06/2008**

**ADMINORDER 2008-0714-AIR-E**

Classification: Moderate

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

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

Description: Failed to prevent unauthorized emissions. Specifically, 875 pounds of ethylene and 737 pounds of ethylene oxide were released from Pressure Release Valve 43RV185 at Emission Point Number EOFUG when the Respondent failed to prevent the loss of electrical power to a portion of the plant which caused the unit to shut down, resulting in an emission event on February 2, 2008 which lasted for 4 minutes (Incident No. 103210).

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	03/10/2004	(322449)
2	03/22/2004	(266001)
3	04/20/2004	(364156)
4	05/13/2004	(364157)
5	06/21/2004	(322452)
6	06/30/2004	(272091)
7	07/14/2004	(272984)
8	07/16/2004	(364158)
9	08/13/2004	(281185)
10	08/16/2004	(364159)
11	08/26/2004	(262293)
12	08/31/2004	(290879)
13	09/09/2004	(364160)
14	10/15/2004	(364161)
15	11/11/2004	(339649)
16	11/15/2004	(388602)
17	12/13/2004	(344039)
18	12/13/2004	(388603)

19	12/16/2004	(281572)
20	12/20/2004	(281177)
21	01/12/2005	(388604)
22	01/19/2005	(336524)
23	02/14/2005	(426151)
24	03/16/2005	(342074)
25	03/16/2005	(388601)
26	04/13/2005	(426152)
27	05/12/2005	(426153)
28	06/10/2005	(426154)
29	06/27/2005	(396201)
30	07/11/2005	(446546)
31	07/13/2005	(348288)
32	08/05/2005	(446547)
33	08/10/2005	(404095)
34	08/23/2005	(404905)
35	09/14/2005	(446548)
36	10/04/2005	(393410)
37	10/14/2005	(479270)
38	11/09/2005	(479271)
39	12/19/2005	(479272)
40	01/12/2006	(479273)
41	02/10/2006	(453461)
42	02/10/2006	(479267)
43	02/14/2006	(453393)
44	02/14/2006	(453460)
45	02/14/2006	(453530)
46	02/14/2006	(453533)
47	03/10/2006	(453272)
48	03/13/2006	(479269)
49	04/11/2006	(456847)
50	04/18/2006	(505070)
51	04/25/2006	(457466)
52	04/27/2006	(462400)
53	05/16/2006	(505071)
54	05/25/2006	(373692)
55	05/25/2006	(374834)
56	05/25/2006	(457709)
57	06/19/2006	(505072)
58	06/22/2006	(462252)
59	07/07/2006	(527370)
60	08/10/2006	(527371)
61	09/05/2006	(488332)
62	09/15/2006	(527372)
63	10/11/2006	(527373)
64	11/07/2006	(551134)
65	12/05/2006	(551135)
66	01/18/2007	(551136)
67	02/12/2007	(551133)
68	02/14/2007	(514773)
69	03/02/2007	(587732)
70	04/05/2007	(536838)
71	04/12/2007	(587733)
72	05/01/2007	(532613)
73	05/03/2007	(554897)
74	05/11/2007	(587734)
75	06/08/2007	(587735)
76	07/06/2007	(587736)
77	07/13/2007	(559637)

78 07/16/2007 (565220)  
 79 08/15/2007 (605178)  
 80 09/06/2007 (571788)  
 81 09/12/2007 (605179)  
 82 10/11/2007 (605180)  
 83 11/05/2007 (628503)  
 84 12/05/2007 (628504)  
 85 01/14/2008 (628505)  
 86 01/25/2008 (613136)  
 87 01/25/2008 (613421)  
 88 02/13/2008 (676436)  
 89 02/29/2008 (612847)  
 90 03/06/2008 (616814)  
 91 03/06/2008 (676437)  
 92 03/24/2008 (619007)  
 93 04/03/2008 (676438)  
 94 04/17/2008 (646550)  
 95 04/21/2008 (641735)  
 96 04/21/2008 (641745)  
 97 05/07/2008 (694897)  
 98 05/30/2008 (670772)  
 99 06/03/2008 (694898)  
 100 07/07/2008 (636745)  
 101 07/14/2008 (694899)  
 102 08/06/2008 (716385)  
 103 09/08/2008 (716386)  
 104 10/02/2008 (716387)  
 105 11/06/2008 (716388)  
 106 12/09/2008 (700786)  
 107 12/09/2008 (731851)  
 108 12/15/2008 (721119)  
 109 01/06/2009 (701686)  
 110 01/08/2009 (731852)  
 111 02/06/2009 (654875)

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

**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)  
 TCEQ AIR PERMIT #6257E, SC#1 PERMIT  
**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)  
 6257F, S.C. 1 PERMIT  
**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)  
 4157A PERMIT SC 1  
 5C THC Chapter 382, SubChapter A 382.085(b)  
**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)  
4157A Special Condition 1 PERMIT  
5C THC Chapter 382, SubChapter A 382.085(b)

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)  
No. 6257E, Special Condition 1 PERMIT

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: #6257F, Special Condition #1 PA  
30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THC Chapter 382, SubChapter D 382.085(b)

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)  
Permit #6257E, Special Condition 1 PA

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)  
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 PERMIT  
No. O-01373, Special Condition 15A OP  
No. O-01373, Special Condition 1A OP

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 63.169(c)

5C THC Chapter 382, SubChapter D 382.085(b)  
 No. 6257F, Special Condition 3(l) PERMIT  
 No. O-01373, Special Condition 15A OP  
 No. O-01373, Special Condition 1A OP  
**Description:** 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)  
 No. 6257E, Special Condition 7A PERMIT  
 No. 6257E, Special Condition 7D PERMIT  
 No. O-01373, Special Condition 15A OP  
 No. O-01373, Special Condition 1A OP

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

**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)  
 No. 6257E, Special Condition 16F PERMIT  
 No. O-01373, Special Condition 15A OP  
 No. O-01373, Special Condition 1A OP

**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)  
 Permit #6257E, Special Condition #1 PERMIT

**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)  
 Permit #6257E PERMIT

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

**Date:** 07/07/2008 (636745)

**Self Report?** NO **Classification:** Minor  
**Citation:** 30 TAC Chapter 122, SubChapter B 122.143(4)  
 5C THSC Chapter 382 382.085(b)  
 OP O-01373, Special Condition 3B(iv)(1) OP

**Description:** Failure to conduct quarterly visible emission observation. Unit ID#10-6891,10-6892,10-6893,10-6894.

**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)(1)  
 5C THSC Chapter 382 382.085(b)

OP O-01373, Special Condition 15 OP  
 P 6257E, SC 18E, and 6257F, SC 3E PA  
 Description: Failure to cap/plug open-ended lines, Unit ID#EODFUG, EOFUG, Tank #4623, T-6.  
 Category C10.

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 THSC Chapter 382 382.085(b)  
 OP O-01373, Special Condition 15 PA  
 P 6257E, Special Condition 7B PA

Description: Failure to maintain flare pilot flame, Unit ID# Flare-CV.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 115, SubChapter H 115.725(d)(1)(C)  
 5C THSC Chapter 382 382.085(b)

Description: Failure to re-certify flare header flow meter, 65FIT0363

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 115, SubChapter D 115.354(2)(C)  
 30 TAC Chapter 115, SubChapter H 115.781(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(d)(2)  
 5C THSC Chapter 382 382.085(b)  
 OP O-01373, Special Condition 15 OP  
 P 6257F, Special Condition 3F PA

Description: Failure to monitor nine valves in hazardous air pollutants (HAPs), VOC service.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 115, SubChapter H 115.781(b)(3)  
 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 63.174(b)(3)(i)  
 5C THSC Chapter 382 382.085(b)  
 OP O-01373, Special Condition 15 OP  
 P 6257F, Special Condition 6 PA

Description: Failure to monitor connectors in HAPs/VOC service.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 115, SubChapter C 115.212(a)(3)(B)  
 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 5C THSC Chapter 382 382.085(b)  
 OP O-01373, Special Condition 15 OP  
 P 6257F, Special Condition 13 PA

Description: Monoethanolamine (MEA) tank truck overfilled during loading, Unit ID# T-3.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 115, SubChapter D 115.354(5)  
 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 63.162(f)(1)  
 5C THSC Chapter 382 382.085(b)  
 OP O-01373, Special Condition 15 OP  
 P 6257E, Special Condition 17H PA

Description: Failure to tag leaking pump #23-4310.

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 63.169(c)(1)  
 5C THSC Chapter 382 382.085(b)  
 OP O-01373, Special Condition 15 OP  
 P 6257F, Special Condition 3I PA

Description: Failure to repair leaking pump #23-5220.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 115, SubChapter B 115.112(a)(3)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 5C THSC Chapter 382 382.085(b)  
 OP O-01373, Special Condition 4 OP

Description: Failure to limit raw material vent scrubber temperature, tank 4616

**Date: 12/09/2008 (700786)**

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
Special Condition #1 PERMIT

Description: Failure to prevent unauthorized emissions.

F. Environmental audits.

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

**Disclosure Date: 08/09/2007**

Viol. Classification: Minor

Rqmt Prov: PERMIT O-1373

Description: Failure to maintain CFC recordkeeping.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 117, SubChapter H 117.9020(2)(A)(I)

Description: Failure to perform NOx stack testing on Boiler (EPN-P-25).

Viol. Classification: Major

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)

Description: Failure to permit two emission sources.

**Notice of Intent Date: 10/01/2008 (707526)**

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. 2009-0219-AIR-E**

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 presented this agreement to the Commission.

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

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

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

**I. FINDINGS OF FACT**

1. The Respondent owns and operates a chemical manufacturing 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. During a record review conducted on April 30, 2008, TCEQ staff documented that 15,221 pounds of unauthorized ethylene oxide emissions were released during Incident No. 106249 which started on April 9, 2008, and lasted 96 hours. The unauthorized emissions were released from the Utility Cooling Tower when an exchanger tube plug began leaking on April 9, 2008, however the leak was not discovered until April 11, 2008, when the cooling water sample data from April 9, 2008 was reviewed.
4. The Respondent received notice of the violation on February 11, 2009.
5. The Executive Director recognizes that on October 31, 2008, the Respondent completed implementation of the Corrective Action Plan that was subsequently approved on July 8, 2009. The Corrective Action Plan included revising Procedures UCT/PCT 3-2-2 and BAY10-02-EO\_HS to ensure that cooling tower sample analysis is conducted in a timely manner.
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 Forty Thousand Dollars (\$40,000) as provided in Section II, Paragraph 4 and Section III, 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 Forty Thousand Dollars (\$40,000), which shall be paid in accordance with the terms prescribed in the plan of reorganization approved by the Bankruptcy Court or liquidation.

## II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to prevent unauthorized emissions during Incident No. 106249, in violation of Air Permit No. 6257E, Special Condition No. 1, 30 TEX. ADMIN. CODE § 116.115(c), and TEX. HEALTH & SAFETY CODE § 382.085(b). Since the emissions event was excessive and could have been avoided through better operational practices,

the demonstration criteria for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222 were not met.

3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Forty Thousand Dollars (\$40,000) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.

### III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of Forty Thousand Dollars (\$40,000), as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The assessment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. 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. 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. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
4. 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.
5. 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.
6. 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.

7. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

  
For the Executive Director

12/23/2009  
Date

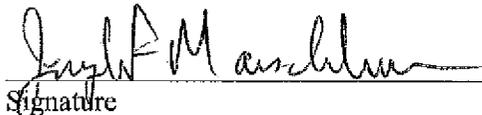
I, the undersigned, have read and understand the attached Agreed Order in the matter of Equistar Chemicals, LP. I am authorized to agree to the attached Agreed Order on behalf of Equistar Chemicals, LP, and do agree to the specified terms and conditions.

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

I also understand that 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.

  
Signature

10/28/2009  
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.

