

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2009-1549-AIR-E **TCEQ ID:** RN102926920 **CASE NO.:** 38411

**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> 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 two additional pending enforcement actions regarding this facility location, Docket Nos. 2009-1976-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 March 1, 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> Ms. Rebecca Johnson, Enforcement Division, Enforcement Team 5, MC R-14, (361) 825-3420; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <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> July 3, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> September 10, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a record review investigation.</p> <p><b>AIR</b></p> <p>Failure to prevent unauthorized emissions during Incident No. 125119. Specifically, during the June 3, 2009 emissions event 1,225.29 pounds of unauthorized ethylene oxide emissions were released from the Ethylene Oxide Process Unit over a period of seven minutes when a switch failure, caused by deteriorated insulation, resulted in electrical failure. Since the unauthorized emissions could have been avoided through better operational practices, the demonstration criteria 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> \$6,150</p> <p><b>Total Deferred:</b> \$1,230  <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 (Due) to General Revenue:</b></p> <p>On or about 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 \$4,920 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>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:</p> <p>a. Completed testing and replacement of other similar switches in the same area of the Plant on June 18, 2009; and</p> <p>b. Completed adjustments to the maintenance switching operations and removal of the switches in the area on July 31, 2009.</p>

Additional ID No(s): HG1996R



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	Assigned	14-Sep-2009	Screening	22-Sep-2009	EPA Due	7-Jun-2010
	PCW	7-Dec-2009				

## 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.	38411	No. of Violations	1
Docket No.	2009-1549-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Rebecca Johnson
		EC's Team	Enforcement Team 5
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** 171.0% Enhancement **Subtotals 2, 3, & 7** \$4,275

Notes: Penalty enhancement due to eleven NOV's for same or similar violations, one NOV for unrelated violations, three agreed orders with a denial of liability, and two court orders with a denial of liability. Penalty reduction due to two Notices of Intended Audits and two Disclosures 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** \$625

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

Total EB Amounts	\$24	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$3,000	

**SUM OF SUBTOTALS 1-7** **Final Subtotal** \$6,150

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount** \$6,150

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** \$6,150

**DEFERRAL** 20.0% Reduction **Adjustment** -\$1,230

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** \$4,920

Screening Date 22-Sep-2009

Docket No. 2009-1549-AIR-E

PCW

Respondent Equistar Chemicals, LP

Policy Revision 2 (September 2002)

Case ID No. 38411

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102926920

Media [Statute] Air

Enf. Coordinator 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 (number of NOVs meeting criteria)	11	55%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	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 (number of judgements or consent decrees meeting criteria)	2	60%
	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)	2	-2%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	2	-4%
<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) 171%

>> 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 eleven NOVs for same or similar violations, one NOV for unrelated violations, three agreed orders with a denial of liability, and two court orders with a denial of liability. Penalty reduction due to two Notices of Intended Audits and two Disclosures of Violations submitted.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 171%

Screening Date 22-Sep-2009

Docket No. 2009-1549-AIR-E

PCW

Respondent Equistar Chemicals, LP

Policy Revision 2 (September 2002)

Case ID No. 38411

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102926920

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

Violation Number 1

Rule Cite(s) Air Permit No. 6257E, Special Condition No. 1, 30 Tex. Admin. Code § 116.115(c), and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to prevent unauthorized emissions during Incident No. 125119. Specifically, during the June 3, 2009 emissions event 1,225.29 pounds of unauthorized ethylene oxide emissions were released from the Ethylene Oxide Process Unit over a period of seven minutes when a switch failure, caused by deteriorated insulation, resulted in electrical failure. Since the unauthorized emissions could have been avoided through better operational practices, the demonstration criteria in 30 Tex. Admin. Code § 101.222 were not met.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			x	25%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Human health or environmental receptors have been exposed to an insignificant amount of pollutants that did not exceed protective levels as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 1

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,500

One quarterly event is recommended based on the June 3, 2009 emissions event.

Good-Faith Efforts to Comply

25.0% Reduction

\$625

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

Notes The Respondent completed corrective actions on July 31, 2009, which was prior to the NOE issued on September 10, 2009.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$24

Violation Final Penalty Total \$6,150

This violation Final Assessed Penalty (adjusted for limits) \$6,150

# Economic Benefit Worksheet

**Respondent** Equistar Chemicals, LP  
**Case ID No.** 38411  
**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)	\$3,000	3-Jun-2009	31-Jul-2009	0.16	\$24	n/a	\$24

Notes for DELAYED costs

Estimated cost to make adjustments to the maintenance switching operations and remove the load break switch as a point of failure. The date required is the date of the emissions event. The final date is the date corrective actions were completed.

**Avoided Costs**

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$3,000

**TOTAL**

\$24

# Compliance History Report

Customer/Respondent/Owner-Operator: CN600124705 Equistar Chemicals, LP Classification: AVERAGE Rating: 2.95  
Regulated Entity: RN102926920 EQUiSTAR CHEMICALS BAYPORT COMPLEX Classification: AVERAGE Site Rating: 4.74

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	77418
	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
	AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	HG1996R

Location: 5761 UNDERWOOD RD, PASADENA, TX, 77507

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: September 21, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: September 21, 2004 to September 21, 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/operator of the site during the compliance period? Yes
3. If Yes, who is the current owner/operator? Equistar Chemicals, LP
4. If Yes, who was/were the prior owner(s)/operator(s) ? Millennium Petrochemicals GP LLC
5. When did the change(s) in owner or operator occur? 12/31/2004
6. Rating Date: 9/1/2009 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: Moderate

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: Moderate

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: Moderate

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: 10/01/2008**

**COURTORDER**

Classification: Moderate

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

Rqmt Prov: TCEQ Air Permit No. 6257E, SC #1 PA

Description: Failed to prevent unauthorized emissions of 736.6 pounds of Ethylene Oxide from the Ethylene Oxide Unit during an emissions event that occurred on December 28, 2004 and lasted 47 hours and 42 minutes.

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(8)  
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failed to identify the preconstruction permit authorization number for the facility involved in the emissions event.

**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	10/15/2004	(364161)
2	11/11/2004	(339649)
3	11/15/2004	(388602)
4	12/13/2004	(344039)
5	12/13/2004	(388603)
6	12/16/2004	(281572)
7	12/20/2004	(281177)
8	01/12/2005	(388604)
9	01/19/2005	(336524)

10	02/14/2005	(426151)
11	03/16/2005	(342074)
12	03/16/2005	(388601)
13	04/13/2005	(426152)
14	05/12/2005	(426153)
15	06/10/2005	(426154)
16	06/27/2005	(396201)
17	07/11/2005	(448546)
18	07/13/2005	(348288)
19	08/05/2005	(446547)
20	08/10/2005	(404095)
21	08/23/2005	(404905)
22	09/14/2005	(446548)
23	10/04/2005	(393410)
24	10/14/2005	(479270)
25	11/09/2005	(479271)
26	12/19/2005	(479272)
27	01/12/2006	(479273)
28	02/10/2006	(453461)
29	02/10/2006	(479267)
30	02/14/2006	(453393)
31	02/14/2006	(453460)
32	02/14/2006	(453530)
33	02/14/2006	(453533)
34	03/10/2006	(453272)
35	03/13/2006	(479269)
36	04/11/2006	(456847)
37	04/18/2006	(505070)
38	04/25/2006	(457466)
39	04/27/2006	(462400)
40	05/16/2006	(505071)
41	05/25/2006	(373692)
42	05/25/2006	(374834)
43	05/25/2006	(457709)
44	06/19/2006	(505072)
45	06/22/2006	(462252)
46	07/07/2006	(527370)
47	08/10/2006	(527371)
48	09/05/2006	(488332)
49	09/15/2006	(527372)
50	10/11/2006	(527373)
51	11/07/2006	(551134)
52	12/05/2006	(551135)
53	01/18/2007	(551136)
54	02/12/2007	(551133)
55	02/14/2007	(514773)
56	03/02/2007	(587732)
57	04/05/2007	(536838)
58	04/12/2007	(587733)
59	05/01/2007	(532613)
60	05/03/2007	(554897)
61	05/11/2007	(587734)
62	06/08/2007	(587735)
63	07/06/2007	(587736)
64	07/13/2007	(559637)
65	07/16/2007	(565220)
66	08/15/2007	(605178)
67	09/06/2007	(571788)
68	09/12/2007	(605179)

69 10/11/2007 (605180)  
70 11/05/2007 (628503)  
71 12/05/2007 (628504)  
72 01/14/2008 (628505)  
73 01/25/2008 (613136)  
74 01/25/2008 (613421)  
75 02/13/2008 (676436)  
76 02/29/2008 (612847)  
77 03/06/2008 (616814)  
78 03/06/2008 (676437)  
79 03/24/2008 (619007)  
80 04/03/2008 (676438)  
81 04/17/2008 (646550)  
82 04/21/2008 (641735)  
83 04/21/2008 (641745)  
84 05/07/2008 (694897)  
85 05/30/2008 (670772)  
86 06/03/2008 (694898)  
87 07/07/2008 (636745)  
88 07/14/2008 (694899)  
89 08/06/2008 (716385)  
90 09/08/2008 (716386)  
91 10/02/2008 (716387)  
92 11/06/2008 (716388)  
93 12/09/2008 (700786)  
94 12/09/2008 (731851)  
95 12/15/2008 (721119)  
96 01/06/2009 (701686)  
97 01/08/2009 (731852)  
98 02/04/2009 (755262)  
99 02/06/2009 (654875)  
100 03/04/2009 (755263)  
101 03/24/2009 (737363)  
102 04/08/2009 (755264)  
103 04/20/2009 (736550)  
104 04/21/2009 (703526)  
105 05/05/2009 (740163)  
106 05/11/2009 (772355)  
107 06/05/2009 (772356)  
108 06/17/2009 (749392)  
109 07/08/2009 (742361)  
110 08/06/2009 (749798)  
111 08/27/2009 (767173)  
112 09/02/2009 (749562)  
113 09/10/2009 (759204)

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

**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 Special Condition 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)

Disclosure Date: 11/18/2008

Viol. Classification: Moderate

Citation: 40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.166(b)(4)

Description: Failure to adequately control of sample purges containing hazardous air pollutants that were routed to the facility wastewater system.

Disclosure Date: 05/15/2009

Viol. Classification: Major

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

Description: Failure to obtain authorization for wastewater pond emissions.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter A 335.6(b)

Description: Failure to include wastewater pond as a solid waste management unit for the management of process wastewater.

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**

§  
§  
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§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2009-1549-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 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. 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 15, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Six Thousand One Hundred Fifty Dollars (\$6,150) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). On or about January 6, 2009, the Respondent filed a petition for bankruptcy relief pursuant to Chapter 11 of the United States Code now pending in the U.S. Bankruptcy Court for the Southern

District of New York. Debtor remains as a debtor in possession and no trustee or examiner has been appointed. The Automatic Stay imposed by the Federal Bankruptcy Code (specifically, 11 USC § 362(a)) does not apply to the commencement or continuation of an action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power, by virtue of the exception set out at 11 USC § 362(b)(4). Accordingly, TCEQ (a governmental unit as defined under 11 USC § 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. These violations having been incurred post-petition are entitled to be treated as an administrative expense priority for purposes of the claims hierarchy of payment from the bankruptcy estate. So long as the Debtor's bankruptcy proceedings are pending and/or until relief from the automatic stay is granted, the TCEQ will, however, not seek to execute upon any monetary judgment obtained without first approaching the United States Bankruptcy Court where the Debtor's bankruptcy case is pending as necessary, after consultation with the Office of the Attorney General. One Thousand Two Hundred Thirty Dollars (\$1,230) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. Any 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 upon approval by the bankruptcy court.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:
  - a. Completed testing and replacement of other similar switches in the same area of the Plant on June 18, 2009; and
  - b. Completed adjustments to the maintenance switching operations and removal of the switches in the area on July 31, 2009.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have failed to prevent unauthorized emissions during Incident No. 125119, 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), as documented during an investigation conducted on July 3, 2009. Specifically, during the June 3, 2009 emissions event 1,225.29 pounds of unauthorized ethylene oxide emissions were released from the Ethylene Oxide Process Unit over a period of seven minutes when a switch failure, caused by deteriorated insulation, resulted in electrical failure. Since the unauthorized emissions could have been avoided through better operational practices, the demonstration criteria in 30 TEX. ADMIN. CODE § 101.222 were not met.

## 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. However, the agreement by the Respondent to the assessment of a penalty is expressly not in lieu of or an alternative to compliance with all injunctive requirements in this Agreed Order. 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 when paid shall be made payable to "TCEQ" and sent with the notation "Re: Equistar Chemicals, LP, Docket No. 2009-1549-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

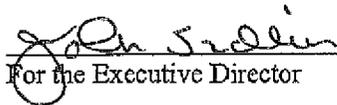
2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, 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 Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.

5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

  
\_\_\_\_\_  
For the Executive Director

2/8/2010  
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 is materially relying on such representation.

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

12/16/2009  
Date

JOSEPH F. MARSCHHAUSER  
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 at the address in Section IV, Paragraph 1 of this Agreed Order.

