

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-1350-AIR-E **TCEQ ID:** RN100221662 **CASE NO.:** 36408

RESPONDENT NAME: Equistar Chemicals, LP

ORDER TYPE:		
<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	
CASE TYPE:		
<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>SITE WHERE VIOLATION(S) OCCURRED: Equistar Corpus Christi Plant, 1501 McKinzie Road, Corpus Christi, Nueces County</p> <p>TYPE OF OPERATION: Chemical manufacturing company</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There are two additional pending enforcement actions regarding this facility location, Docket Nos. 2007-1469-IHW-E and 2010-0010-AIR-E.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on March 15, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. John Muennink, Enforcement Division, Enforcement Team 5, MC R-14, (361) 825-3423; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Randal Tatum, Plant Manager, Equistar Chemicals, LP, P.O. Box 10940, Corpus Christi, Texas 78460 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: May 29 through July 31, 2008 and July 18, 2008</p> <p>Date of NOV/NOE Relating to this Case: August 4, 2008 (NOE)</p> <p>Background Facts: These were record reviews.</p> <p>AIR</p> <p>1) Failure to prevent unauthorized emissions. Specifically, the Respondent did not follow Procedure 9.136 for commissioning and decommissioning J-2009-A/B Benzene pumps. An operator failed to close the condensate valve, resulting in the release of 25.77 pounds ("lbs") of the hazardous air pollutant benzene from the deaerator during an avoidable emissions event (Incident No. 106104) that began December 30, 2007 and lasted seven hours and 38 minutes. Since this emissions event was avoidable and reported late, the demonstrations in 30 TEX. ADMIN. CODE § 101.222 necessary to present an affirmative defense were not met [30 TEX. ADMIN. CODE § 116.115(b)(2)(F), TEX. HEALTH & SAFETY CODE § 382.085(b), and Permit No. 4682B, General Conditions].</p> <p>2) Failure to prevent unauthorized emissions. Specifically, the Respondent incorrectly installed wiring in the terminal block, which led to an open loop condition, causing the shutdown of the Hydrogen Methanator, resulting in the release of 5,420.82 lbs of carbon monoxide, 8,500.97 lbs of ethylene, 1,244.18 lbs of nitrogen oxide, 586.23 lbs of propylene and 34.23 lbs of methylacetylene propadiene from the Cold/Dry Flare [emission point number</p>	<p>Total Assessed: \$12,841</p> <p>Total Deferred: \$2,568 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$5,137</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>(\$5,136 due pending outcome of bankruptcy proceedings)</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective actions at the Plant:</p> <p>a. On June 11, 2008, provided refresher Distributed Command System ("DCS") training for Operators and Instrument Technicians. This training consists of explaining the difference between Process Alarms and Honeywell System Alarms. It also explains how to use the system to find soft failures on system alarms including analog outputs (controller outputs to current-to-pressure transducer signal on a control valve). This training also explains who to call in the event of a soft failure (Incident No. 107452);</p> <p>b. On July 30, 2008, completed installation of a newer version of the terminal block for the Hydrogen Methanator. The new block makes it physically impossible for the wiring to be installed incorrectly (Incident No. 107452);</p> <p>c. On August 8, 2008, the DCS Instructions to Proceed were modified to add a "Loss of Methanator" page (three "help" screens). DCS Board Technicians have been trained on the use of these revisions (Incident No. 107452);</p> <p>d. On September 9, 2008, a "Loss of Methanator" section was added to the Abnormal Conditions Checklist manual. This manual is located in the main control room and shift supervisors' offices. All DCS technicians were notified of this revision (Incident No. 107452);</p> <p>e. Immediately after the situation was discovered, site management communicated to operations personnel the environmental consequences of this incident. A formal process was initiated to reinforce the steps in Site Operating Procedure 9.136 (commissioning and decommissioning pumps J2009A/B) (Incident No. 106104);</p> <p>f. On April 8, 2008, submitted the initial report for Incident No. 106104;</p>

<p>("EPN") 11] and the Wet/Hot Flare (BPN 10) during an avoidable emissions event (Incident No. 107452) that began April 25, 2008 and lasted ten hours and seven minutes. Since this emissions event was avoidable, the demonstrations in 30 TEX. ADMIN. CODE § 101.222 necessary to present an affirmative defense were not met [30 TEX. ADMIN. CODE § 116.115(b)(2)(F), TEX. HEALTH & SAFETY CODE § 382.085(b), and Permit No. 4682B, General Conditions].</p> <p>3) Failure to prevent unauthorized emissions. Specifically, a contracted vendor failed to utilize a vacuum breaker in their equipment setup and inadvertently pulled 30 gallons of pyrolysis gasoline onto the floating roof of the tank resulting in the release of 84.88 lbs of VOCs from the Gasoline Pyrolysis Storage Tank (EPN 19) during an avoidable emissions event (Incident No. 106441) that began April 15, 2008 and lasted 23 hours and ten minutes. Since this emissions event was avoidable, the demonstrations in 30 TEX. ADMIN. CODE § 101.222 necessary to present an affirmative defense were not met [30 TEX. ADMIN. CODE § 116.115(b)(2)(F), TEX. HEALTH & SAFETY CODE § 382.085(b), and Permit No. 4682B, General Conditions].</p> <p>4) Failure to submit an initial notification for Incident No. 106104 within 24 hours of the discovery of the event [30 TEX. ADMIN. CODE § 101.201(a)(1) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>		<p>g. On June 11, 2008, a DCS message was developed which alerts control board operators of a potential hydrocarbon leak into the steam condensate system when analyzer Q19932 (total organic carbon analyzer) goes into alarm mode. A statement is displayed which states, "See 'Leak Detection of Hydrocarbons into the Steam Condensate System Procedure 2.23' for follow up - potential release to atmosphere at the deaerator". The DCS change was implemented and training conducted (Incident No. 106104);</p> <p>h. On July 18, 2008, modified Equistar Procedure EP-02, Incident Notification Plan, to include a Technical Department "call out" list. Technical Department personnel are responsible for confirming the quantity of a release and notifying the on-duty Shift Supervisor to make Agency notifications (Incident No. 106104);</p> <p>i. Immediately after the situation was discovered, operating personnel communicated findings to the vapor recovery contractor (Incident No. 106441); and</p> <p>j. On August 5, 2008, revised the "Management of Change" process to assure that vendors, performing work on-site, are aware of the safety and environmental expectations associated with their role in the process change (Incident No. 106441).</p>
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Additional ID No(s): NE0051B



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

DATES	Assigned	11-Aug-2008	Screening	18-Aug-2008	EPA Due	1-May-2009
	PCW	3-Oct-2008				

RESPONDENT/FACILITY INFORMATION			
Respondent	Equistar Chemicals, LP		
Reg. Ent. Ref. No.	RN100221662		
Facility/Site Region	14-Corpus Christi	Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	36408	No. of Violations	4
Docket No.	2008-1350-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	John Muennink
		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 **\$10,100**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 41.0% Enhancement **Subtotals 2, 3, & 7** **\$4,141**

Notes: Enhancement due to one NOV with same or similar violations, 12 NOVs with unrelated violations (including seven self-reported monthly effluent violations) and one 1660 Agreed Order. Reduction due to eight notice of audit letters 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** **\$1,400**

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

Total EB Amounts \$167
Approx. Cost of Compliance \$10,250
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$12,841**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$12,841**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$12,841**

DEFERRAL 20.0% Reduction **Adjustment** **-\$2,568**

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 **\$10,273**

Screening Date 18-Aug-2008

Docket No. 2008-1350-AIR-E

PCW

Respondent Equistar Chemicals, LP

Policy Revision 2 (September 2002)

Case ID No. 36408

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN100221662

Media [Statute] Air

Enf. Coordinator John Muennink

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)	1	5%
	Other written NOVs	12	24%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (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)	8	-8%
	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) 41%

>> 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

Enhancement due to one NOV with same or similar violations, 12 NOVs with unrelated violations (including seven self-reported monthly effluent violations) and one 1660 Agreed Order. Reduction due to eight notice of audit letters submitted.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 41%

Screening Date 18-Aug-2008	Docket No. 2008-1350-AIR-E	PCW		
Respondent Equistar Chemicals, LP		<i>Policy Revision 2 (September 2002)</i>		
Case ID No. 36408		<i>PCW Revision June 12, 2008</i>		
Reg. Ent. Reference No. RN100221682				
Media [Statute] Air				
Enf. Coordinator John Muennink				
Violation Number 1				
Rule Cite(s)	30 Tex. Admin. Code § 116.115(b)(2)(F), Tex. Health & Safety Code § 382.085(b) and Permit No. 4682B, General Conditions			
Violation Description	Failed to prevent unauthorized emissions. Specifically, the Respondent did not follow Procedure 9.138 for commissioning and decommissioning J-2009-A/B Benzene pumps. An operator failed to close the condensate valve, resulting in the release of 25.77 pounds ("lbs") of the hazardous air pollutant benzene from the deaerator during an avoidable emissions event (Incident No. 106104) that began December 30, 2007 and lasted seven hours and 38 minutes. Since this emissions event was avoidable and reported late, the demonstrations in 30 Tex. Admin. Code § 101.222 necessary to present an affirmative defense were not met.			
	Base Penalty	\$10,000		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual			X
	Potential			
				Percent 25%
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
				Percent 0%
Matrix Notes	Human health or the environment has been exposed to an insignificant amount of pollutants that do not exceed levels protective of human health or environmental receptors.			
	Adjustment	\$7,500		
		\$2,500		
Violation Events				
	Number of Violation Events	1	Number of violation days	1
	<i>mark only one with an x</i>	daily		
		monthly		
		quarterly	X	
		semiannual		
		annual		
		single event		
				Violation Base Penalty \$2,500
	One quarterly event is recommended.			
Good Faith Efforts to Comply		25.0% Reduction		\$625
		Before NOV	NOV to EDRP/Sellment Offer	
	Extraordinary			
	Ordinary	X		
	N/A		(mark with x)	
	Notes	The Respondent completed corrective action on June 11, 2008.		
		Violation Subtotal	\$1,875	
Economic Benefit (EB) for this violation		Statutory Limit Test		
	Estimated EB Amount	\$45	Violation Final Penalty Total	\$2,900
		This violation Final Assessed Penalty (adjusted for limits) \$2,900		

Economic Benefit Worksheet

Respondent Equistar Chemicals, LP
Case ID No. 36408
Reg. Ent. Reference No. RN100221862
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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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	\$1,500	30-Dec-2007	30-Dec-2007	0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$2,000	30-Dec-2007	11-Jun-2008	0.45	\$45	n/a	\$45

Notes for DELAYED costs
 Estimated expense to re-enforce Commissioning and Decommissioning Procedure 9.136 and to develop an alarm system to notify operators of leaking components in order to prevent the reoccurrence of emissions due to the same causes. Dates Required are the date of the emissions event. Final Dates are the dates that 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

\$3,500

TOTAL

\$45

Screening Date 18-Aug-2008 **Docket No.** 2008-1350-AIR-E **PCW**
Respondent Equistar Chemicals, LP *Policy Revision 2 (September 2002)*
Case ID No. 36408 *PCW Revision June 12, 2008*
Reg. Ent. Reference No. RN100221662
Media [Statute] Air
Enf. Coordinator John Muennink
Violation Number 2
Rule Cite(s) 30 Tex. Admin. Code § 116.115(b)(2)(F), Tex. Health & Safety Code § 382.085(b) and Permit No. 4682B, General Conditions
Violation Description Failed to prevent unauthorized emissions. Specifically, the Respondent incorrectly installed wiring in the terminal block, which led to an open loop condition, causing the shutdown of the Hydrogen Methanator, resulting in the release of 5,420.82 lbs of carbon monoxide, 8,500.97 lbs of ethylene, 1,244.18 lbs of nitrogen oxide, 586.23 lbs of propylene and 34.23 lbs of methylacetylene propadiene from the Cold/Dry Flare [emission point number ("EPN") 11] and the Wet/Hot Flare (EPN 10) during an avoidable emissions event (Incident No. 107452) that began April 25, 2008 and lasted ten hours and seven minutes. Since this emissions event was avoidable, the demonstrations in 30 Tex. Admin. Code § 101.222 necessary to present an affirmative defense were not met.
Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent
	Major	Moderate	Minor	
	Actual	x		
	Potential			50%

>> Programmatic Matrix

	Major	Moderate	Minor	Percent
				0%

Matrix Notes Human health or the environment has been exposed to a significant amount of pollutants that do not exceed levels protective of human health or environmental receptors.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$5,000

One monthly event is recommended.

Good Faith Efforts to Comply

10.0% Reduction

\$500

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

Notes The Respondent completed corrective action on September 9, 2008.

Violation Subtotal \$4,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$54

Violation Final Penalty Total \$6,550

This violation Final Assessed Penalty (adjusted for limits) \$6,550

Economic Benefit Worksheet

Respondent Equistar Chemicals, LP
Case ID No. 36408
Reg. Ent. Reference No. RN100221662
Media Air
Violation No. 2

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

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	\$1,500	25-Apr-2008	9-Sep-2008	0.38	\$28	n/a	\$28
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$2,000	25-Apr-2008	30-Jul-2008	0.26	\$26	n/a	\$26

Notes for DELAYED costs

Estimated expense to install the new design of the terminal block and to implement new procedures and changes to operating and instruction manuals in order to prevent the reoccurrence of emissions due to the same causes. Dates Required are the date of the emissions event. Final Dates are the dates that 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 \$3,600

TOTAL \$54

Economic Benefit Worksheet

Respondent: Equistar Chemicals, LP
Case ID No.: 38408
Reg. Ent. Reference No.: RN100221862
Media: Air
Violation No.: 3

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description: 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	\$1,500	15-Apr-2008	5-Aug-2008	0.31	\$23	\$23
Remediation/Disposal			0.00	\$0	n/a	\$0
Permit Costs			0.00	\$0	n/a	\$0
Other (as needed)			0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated expense to ensure the proper operation of vacuum breakers and pumps on tanks with floating roofs. Date Required is the date of the emissions event. Final Date is the date that corrective action was 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

\$1,500

TOTAL

\$23

Screening Date 18-Aug-2008	Docket No. 2008-1350-AIR-E	PCW			
Respondent Equistar Chemicals, LP	<small>Policy Revision 2 (September 2002)</small>				
Case ID No. 36408	<small>PCW Revision June 12, 2008</small>				
Reg. Ent. Reference No. RN100221662					
Media [Statute] Air					
Enf. Coordinator John Muennink					
Violation Number <input type="text" value="4"/>					
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 101.201(a)(1) and Tex. Health & Safety Code § 382.085(b)"/>				
Violation Description	<input type="text" value="Failed to submit an initial notification for Incident No. 106104 within 24 hours of the discovery of the event."/>				
Base Penalty		<input type="text" value="\$10,000"/>			
>> Environmental, Property and Human Health Matrix					
OR	Harm			Percent <input type="text" value="0%"/>	
	Release	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
>> Programmatic Matrix					
	Falsification	Major	Moderate	Minor	Percent <input type="text" value="1%"/>
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	
Matrix Notes	<input type="text" value="The Respondent has met at least 70% of the rule requirement."/>				
Adjustment				<input type="text" value="\$9,900"/>	
\$100					
Violation Events					
	Number of Violation Events	<input type="text" value="1"/>	Number of violation days	<input type="text" value="1"/>	
<small>mark only one with an x</small>	daily	<input type="text"/>	Violation Base Penalty	<input type="text" value="\$100"/>	
	monthly	<input type="text"/>			
	quarterly	<input type="text"/>			
	semiannual	<input type="text"/>			
	annual	<input type="text"/>			
	single event	<input checked="" type="checkbox"/>			
<input type="text" value="One single event is recommended."/>					
Good Faith Efforts to Comply		<input type="text" value="25.0%"/>	Reduction	<input type="text" value="\$25"/>	
		<small>Before NOV</small>	<small>NOV to EDRP/Settlement Offer</small>		
Extraordinary	<input type="text"/>				
Ordinary	<input checked="" type="checkbox"/>				
N/A	<input type="text"/>	<small>(mark with x)</small>			
Notes	<input type="text" value="The Respondent completed corrective actions on July 18, 2008."/>				
Violation Subtotal				<input type="text" value="\$75"/>	
Economic Benefit (EB) for this violation			Statutory Limit Test		
	Estimated EB Amount	<input type="text" value="\$44"/>	Violation Final Penalty Total	<input type="text" value="\$116"/>	
This violation Final Assessed Penalty (adjusted for limits)				<input type="text" value="\$116"/>	

Economic Benefit Worksheet

Respondent Equistar Chemicals, LP
Case ID No. 36408
Reg. Ent. Reference No. RN100221662
Media: Air
Violation No. 4

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	\$1,500	31-Dec-2007	18-Jul-2008	0.55	\$41	n/a	\$41
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$250	31-Dec-2007	8-Apr-2008	0.27	\$3	n/a	\$3

Notes for DELAYED costs
 Estimated expense to submit a timely initial report and to implement measures to ensure the timely reporting of emissions events. Dates Required are 24 hours after the discovery of the event. Final Dates are the dates that the report was submitted and the date that 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 \$1,750 **TOTAL** \$44

Compliance History

Customer/Respondent/Owner-Operator:	CN600124705 Equistar Chemicals, LP	Classification: AVERAGE	Rating: 2.92
Regulated Entity:	RN100221662 EQUISTAR CORPUS CHRISTI PLANT	Classification: AVERAGE	Site Rating: 1.25
ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	NE0051B
	AIR OPERATING PERMITS	PERMIT	1486
	WASTEWATER	PERMIT	WQ0002075000
	WASTEWATER	PERMIT	TPDES0076996
	WASTEWATER	PERMIT	TX0076996
	AIR NEW SOURCE PERMITS	PERMIT	4682B
	AIR NEW SOURCE PERMITS	PERMIT	6745B
	AIR NEW SOURCE PERMITS	PERMIT	10664A
	AIR NEW SOURCE PERMITS	PERMIT	18358
	AIR NEW SOURCE PERMITS	PERMIT	26401
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	NE0051B
	AIR NEW SOURCE PERMITS	PERMIT	51781
	AIR NEW SOURCE PERMITS	AFS NUM	4835500089
	AIR NEW SOURCE PERMITS	EPA ID	PSDTX761
	AIR NEW SOURCE PERMITS	EPA ID	PSDTX732
	AIR NEW SOURCE PERMITS	REGISTRATION	78877
	AIR NEW SOURCE PERMITS	EPA ID	P732M2
	AIR NEW SOURCE PERMITS	EPA ID	P732M1
	AIR NEW SOURCE PERMITS	EPA ID	P732
	AIR NEW SOURCE PERMITS	REGISTRATION	84759
	AIR NEW SOURCE PERMITS	PERMIT	83864
	AIR NEW SOURCE PERMITS	EPA ID	PSDTX1120
	AIR NEW SOURCE PERMITS	REGISTRATION	85148
	UNDERGROUND INJECTION CONTROL	PERMIT	WDW152
	UNDERGROUND INJECTION CONTROL	PERMIT	WDW153
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD000836445
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	31685
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD000836445
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD000836445
	STORMWATER	PERMIT	TXR05L891
	SHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	31685
	WASTE WATER GENERAL PERMIT	PERMIT	TXG679097
Location:	1501 MCKENZIE RD, CORPUS CHRISTI, TX, 76410	Rating Date: 9/1/2007 Repeat Violator: NO	
TCEQ Region:	REGION 14 - CORPUS CHRISTI		
Date Compliance History Prepared:	August 11, 2008		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	August 11, 2003 to August 11, 2008		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	<u>John Muennink</u>	Phone:	<u>(361) 825-3423</u>

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: 04/13/2007
Classification: Moderate

ADMINORDER 2006-1222-AIR-E

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
5C THC Chapter 382, SubChapter D 382.085(b)

Rgmt Prov: General Conditions PERMIT

Description: Failure to comply with the general condition contained in the permit document. Specifically, Equistar failed to comply with the Maximum Allowable Emissions Rate Table (MAERT) for Emission Point Number 23A, Tank F2009A.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: General Conditions PERMIT

Description: Failure to comply with the general conditions contained in the permit document. Specifically, Equistar failed to comply with the MAERT on September 20, 2005.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: No. 4682B General Conditions PERMIT
PSD-TX-761M1 PERMIT

Description: Failed to prevent the unauthorized release of 73 lbs of benzene from The Benzene Tank, EPN No. 23A, during an emissions event that began on May 1, 2006 and lasted for one hour.

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	08/20/2003	(149175)
2	08/23/2003	(149148)
3	09/19/2003	(314451)
4	10/24/2003	(314454)
5	11/21/2003	(314455)
6	12/08/2003	(255383)
7	12/08/2003	(255391)
8	12/15/2003	(314456)
9	12/23/2003	(258139)
10	01/06/2004	(255527)
11	01/29/2004	(314457)
12	02/23/2004	(314438)
13	02/27/2004	(262634)
14	02/27/2004	(262638)
15	03/19/2004	(314440)
16	03/23/2004	(266070)
17	03/26/2004	(265559)
18	03/26/2004	(265555)
19	04/22/2004	(314441)
20	05/21/2004	(314443)
21	06/21/2004	(314445)
22	06/21/2004	(314449)
23	06/28/2004	(275725)
24	07/14/2004	(274396)
25	07/15/2004	(277896)
26	07/15/2004	(274093)
27	07/15/2004	(278257)
28	07/21/2004	(314447)
29	07/21/2004	(314452)
30	09/23/2004	(359964)
31	10/20/2004	(359961)
32	11/29/2004	(359962)
33	12/09/2004	(359963)
34	12/14/2004	(359960)
35	12/16/2004	(339654)
36	01/14/2005	(345350)
37	02/09/2005	(349203)
38	02/23/2005	(350977)
39	02/23/2005	(350968)
40	03/22/2005	(386284)
41	03/22/2005	(386285)
42	03/22/2005	(372684)
43	03/22/2005	(372663)
44	04/19/2005	(424181)
45	04/25/2005	(424183)
46	06/20/2005	(424182)
47	06/20/2005	(424184)
48	06/30/2005	(387650)
49	07/20/2005	(401021)
50	07/21/2005	(388829)

51 07/27/2005 (399203)
52 07/27/2005 (388888)
53 08/29/2005 (408883)
54 09/23/2005 (444859)
55 09/23/2005 (444870)
56 09/23/2005 (444971)
57 10/08/2005 (438519)
58 10/14/2005 (475938)
59 11/14/2005 (438247)
60 11/18/2005 (438148)
61 12/14/2005 (438818)
62 12/20/2005 (449850)
63 12/27/2005 (475937)
64 01/03/2006 (497005)
65 02/14/2006 (453584)
66 02/14/2006 (453588)
67 02/14/2006 (475936)
68 03/20/2006 (503189)
69 04/20/2006 (503170)
70 05/12/2006 (464792)
71 05/12/2006 (484782)
72 05/21/2006 (481868)
73 05/21/2006 (481850)
74 05/22/2006 (503171)
75 06/05/2006 (486685)
76 06/19/2006 (503172)
77 06/19/2006 (503173)
78 06/29/2006 (484895)
79 07/07/2006 (488712)
80 08/01/2006 (487807)
81 08/14/2006 (525519)
82 08/22/2006 (488481)
83 09/11/2006 (525523)
84 09/13/2006 (510579)
85 09/15/2006 (488877)
86 09/15/2006 (512148)
87 09/26/2006 (487967)
88 10/12/2006 (525520)
89 10/12/2006 (525521)
90 10/12/2006 (525522)
91 10/16/2006 (514019)
92 10/18/2006 (513459)
93 10/27/2006 (514855)
94 11/06/2006 (588378)
95 11/08/2006 (518189)
96 12/05/2006 (588379)
97 12/19/2006 (533724)
98 01/04/2007 (534588)
99 01/19/2007 (535889)
100 01/31/2007 (538736)
101 02/09/2007 (585871)
102 02/09/2007 (538886)
103 02/18/2007 (538362)
104 02/18/2007 (534352)
105 03/08/2007 (585372)
106 04/06/2007 (585373)
107 04/12/2007 (554052)
108 04/12/2007 (554059)
109 05/14/2007 (580080)
110 05/17/2007 (585374)
111 05/31/2007 (543205)
112 06/14/2007 (585375)
113 07/10/2007 (588376)
114 08/07/2007 (585377)
115 08/29/2007 (573523)
116 09/05/2007 (585371)
117 09/05/2007 (588532)
118 10/08/2007 (585380)
119 12/10/2007 (523666)
120 12/10/2007 (523666)
121 01/23/2008 (514862)
122 01/23/2008 (514842)
123 03/06/2008 (536138)
124 03/10/2008 (574895)
125 03/10/2008 (574897)
126 03/25/2008 (536861)
127 03/25/2008 (536868)
128 03/27/2008 (537272)

129 03/31/2008 (617000)
 130 04/07/2008 (674696)
 131 04/21/2008 (636550)
 132 05/01/2008 (654685)
 133 05/20/2008 (641325)
 134 05/28/2008 (671717)
 135 08/04/2008 (687425)
 136 08/04/2008 (685736)

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

Date: 08/31/2003 (314451)
 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: 12/31/2003 (314457)
 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: 01/06/2004 (255527)
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)
 Description: Failure to create a complete final record for an excess emissions event within the time allotted by rule.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(G)
 Rqmt Prov: PA 4682B
 Description: Failure to obtain regulatory authority or meet the demonstration requirements of § 101.222 for emissions resulting from an emissions event which occurred on October 17, 2003.
 Date: 05/31/2004 (314445)
 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: 11/30/2004 (359963)
 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: 01/31/2005 (359980)
 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: 07/25/2005 (396829)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Rqmt Prov: OP Effluent Limitations
 Description: Failure to comply with self-monitored effluent quality limitations.
 Date: 01/03/2006 (497005)
 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 VIOL FOR MONIT PER OR PIPE
 Date: 08/21/2006 (468431)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
 30 TAC Chapter 113, SubChapter C 113.130
 30 TAC Chapter 113, SubChapter C 113.560
 30 TAC Chapter 116, SubChapter B 116.115(c)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.167(a)(1)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT YY 63.1100(a)
 Rqmt Prov: PERMIT Special Condition 3
 PERMIT Special Conditions 24(VHAP) and 25(VOC)
 Description: Failure to equip open-ended lines with a cap, blind, plug or a secondary valve.
 Date: 08/30/2007 (573523)
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 113, SubChapter C 113.130
 30 TAC Chapter 113, SubChapter C 113.560
 30 TAC Chapter 116, SubChapter B 116.115(c)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.167(a)(1)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT YY 63.1100(g)(4)
 Rqmt Prov: PERMIT Permit No. 6745B, Special Condition 3E

Description: Failure to properly operate or equip each open-ended line (OELs) with a cap, blind flange, plug or a second valve. Specifically, open-ended lines identified in Company Event Nos.: 37296, 39205 and 40015 were not equipped with a cap, blind flange, plug or a second valve as required. A total of 5 open-ended lines for all events combined were found not to have been equipped with a plug, cap, blind flange or second valve.

Self Report? NO **Classification:** Minor

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 113, SubChapter C 113.520
30 TAC Chapter 116, SubChapter B 116.115(c)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT UU 63.1023(b)

Rqmt Prov: PERMIT Permit No. 4682B/PSD-TX-761, SC24 & 25
Description: Failure to conduct monthly monitoring as required by state permit and federal rule. Specifically, six pumps identified in Company Event No.: 37265 were not monitored monthly in accordance with reference method 21. 40 CFR § 63.1023(b) Subpart UU, National Emission Standards For Equipment Leaks: Control Level 2 Standards and TCEQ Air Permit No. 4682B, Special Condition Nos. 24 and 25 are applicable to company event no. 37265.

Date: 08/31/2007 (525521)

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: 04/30/2008 (674897)

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: 05/20/2008 (641326)

Self Report? NO **Classification:** Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: PERMIT TPDES Permit No. WQ0002075-000

Description: Failure to meet self-monitored effluent limitations for chloroform and sulfides.

Self Report? NO **Classification:** Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.11(b)

Rqmt Prov: PERMIT TPDES Permit No. WQ0002075-000

Description: Failure to analyze ammonia as nitrogen within the required holding time.

F. Environmental audits.

Notice of Intent Date: 11/28/2006 (634480)

No DOV Associated

Notice of Intent Date: 07/30/2007 (593607)

No DOV Associated

Notice of Intent Date: 08/31/2007 (695543)

No DOV Associated

Notice of Intent Date: 08/31/2007 (695548)

No DOV Associated

Notice of Intent Date: 08/31/2007 (695555)

No DOV Associated

Notice of Intent Date: 09/07/2007 (695516)

No DOV Associated

Notice of Intent Date: 10/10/2007 (598770)

No DOV Associated

Notice of Intent Date: 06/17/2008 (688536)

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
RN100221662

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-1350-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 company at 1501 McKinzie Road in Corpus Christi, Nueces 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 August 9, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. On January 6, 2009, the Respondent, together with certain other subsidiaries and affiliates of Lyondell Chemical Company, filed with the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court") a voluntary petition for relief under chapter 11 of the Bankruptcy Code (the "Code"). In re Lyondell Chemical Company, et al., Case No. 09-10023

(REG) (Chapter 11) (Bankr. S.D.N.Y.) (the "Bankruptcy Case"). The automatic stay imposed by the Code (specifically, 11 U.S.C. § 362 (a)) does not apply to the commencement or continuation of an action or a proceeding by a governmental unit to enforce such governmental unit's police and regulatory power, including the enforcement of a judgment other than a money judgment obtained in such action or proceeding, by virtue of the exception provided in 11 U.S.C. § 362 (b)(4). Accordingly, TCEQ (a governmental unit as defined under 11 U.S.C. § 101(27)) is expressly excepted from the automatic stay in pursuing enforcement of the State's environmental protection laws, and in seeking to liquidate its damages for such violations, including the assessment of Respondent of the administrative penalty in the amount of Ten Thousand Two Hundred Seventy-Three Dollars (\$10,273) as provided in Section I, Paragraph 7 and Section IV, Paragraph 1 below. TCEQ shall not seek to collect such penalty except in accordance with applicable Bankruptcy law. The Respondent agrees to stipulate that, in accordance with this Agreed Order, TCEQ shall have an allowed general unsecured claim in the amount of Five Thousand One Hundred Thirty-Six Dollars (\$5,136), which shall be paid in accordance with the terms prescribed in the plan of reorganization approved by the Bankruptcy Court or liquidation.

7. An administrative penalty in the amount of Ten Thousand Two Hundred Seventy-Three Dollars (\$10,273) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Five Thousand One Hundred Thirty-Seven Dollars (\$5,137) of the administrative penalty.
8. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
9. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
10. The Executive Director recognizes that the Respondent has implemented the following corrective actions at the Plant:
 - a. On June 11, 2008, provided refresher Distributed Command System ("DCS") training for Operators and Instrument Technicians. This training consists of explaining the difference between Process Alarms and Honeywell System Alarms. It also explains how to use the system to find soft failures on system alarms including analog outputs (controller outputs to current-to-pressure transducer signal on a control valve). This training also explains who to call in the event of a soft failure (Incident No. 107452);
 - b. On July 30, 2008, completed installation of a newer version of the terminal block for the Hydrogen Methanator. The new block makes it physically impossible for the wiring to be installed incorrectly (Incident No. 107452);
 - c. On August 8, 2008, the DCS Instructions to Proceed were modified to add a "Loss of Methanator" page (three "help" screens). DCS Board Technicians have been trained on the use of these revisions (Incident No. 107452);
 - d. On September 9, 2008, a "Loss of Methanator" section was added to the Abnormal Conditions Checklist manual. This manual is located in the main control room and shift supervisors' offices. All DCS technicians were notified of this revision (Incident No. 107452);

- supervisors' offices. All DCS technicians were notified of this revision (Incident No. 107452);
- e. Immediately after the situation was discovered, site management communicated to operations personnel the environmental consequences of this incident. A formal process was initiated to reinforce the steps in Site Operating Procedure 9.136 (commissioning and decommissioning pumps J2009A/B) (Incident No. 106104);
 - f. On April 8, 2008, submitted the initial report for Incident No. 106104;
 - g. On June 11, 2008, a DCS message was developed which alerts control board operators of a potential hydrocarbon leak into the steam condensate system when analyzer QI9932 (total organic carbon analyzer) goes into alarm mode. A statement is displayed which states, "See 'Leak Detection of Hydrocarbons into the Steam Condensate System Procedure 2.23' for follow up - potential release to atmosphere at the deaerator". The DCS change was implemented and training conducted (Incident No. 106104);
 - h. On July 18, 2008, modified Equistar Procedure EP-02, Incident Notification Plan, to include a Technical Department "call out" list. Technical Department personnel are responsible for confirming the quantity of a release and notifying the on-duty Shift Supervisor to make Agency notifications (Incident No. 106104);
 - i. Immediately after the situation was discovered, operating personnel communicated findings to the vapor recovery contractor (Incident No. 106441); and
 - j. On August 5, 2008, revised the "Management of Change" process to assure that vendors, performing work on-site, are aware of the safety and environmental expectations associated with their role in the process change (Incident No. 106441).
11. 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.
 12. 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.
 13. 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:

1. Failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE § 116.115(b)(2)(F), TEX. HEALTH & SAFETY CODE § 382.085(b) and Permit No. 4682B, General Conditions, as documented during a record review conducted on May 29 through July 31, 2008.

resulting in the release of 25.77 pounds ("lbs") of the hazardous air pollutant benzene from the deaerator during an avoidable emissions event (Incident No. 106104) that began December 30, 2007 and lasted seven hours and 38 minutes. Since this emissions event was avoidable and reported late, the demonstrations in 30 TEX. ADMIN. CODE § 101.222 necessary to present an affirmative defense were not met.

2. Failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE § 116.115(b)(2)(F), TEX. HEALTH & SAFETY CODE § 382.085(b) and Permit No. 4682B, General Conditions, as documented during a record review conducted on May 29 through July 31, 2008. Specifically, the Respondent incorrectly installed wiring in the terminal block, which led to an open loop condition, causing the shutdown of the Hydrogen Methanator, resulting in the release of 5,420.82 lbs of carbon monoxide, 8,500.97 lbs of ethylene, 1,244.18 lbs of nitrogen oxide, 586.23 lbs of propylene and 34.23 lbs of methylacetylene propadiene from the Cold/Dry Flare [emission point number ("EPN") 11] and the Wet/Hot Flare (EPN 10) during an avoidable emissions event (Incident No. 107452) that began April 25, 2008 and lasted ten hours and seven minutes. Since this emissions event was avoidable, the demonstrations in 30 TEX. ADMIN. CODE § 101.222 necessary to present an affirmative defense were not met.
3. Failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE § 116.115(b)(2)(F), TEX. HEALTH & SAFETY CODE § 382.085(b) and Permit No. 4682B, General Conditions, as documented during a record review conducted on July 18, 2008. Specifically, a contracted vendor failed to utilize a vacuum breaker in their equipment setup and inadvertently pulled 30 gallons of pyrolysis gasoline onto the floating roof of the tank resulting in the release of 84.88 lbs of VOCs from the Gasoline Pyrolysis Storage Tank (EPN 19) during an avoidable emissions event (Incident No. 106441) that began April 15, 2008 and lasted 23 hours and ten minutes. Since this emissions event was avoidable, the demonstrations in 30 TEX. ADMIN. CODE § 101.222 necessary to present an affirmative defense were not met.
4. Failed to submit an initial notification for Incident No. 106104 within 24 hours of the discovery of the event, in violation of 30 TEX. ADMIN. CODE § 101.201(a)(1) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on May 29 through July 31, 2008.

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 7 above. The assessment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Subject to the provisions of Section I, Paragraph 6 above, which are expressly incorporated herein, TCEQ shall have an allowed general unsecured claim in the Respondent's bankruptcy case.
2. 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

John Berlin

For the Executive Director

2/25/2010

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 also understand that failure to comply with the Ordering Provisions, if any, in this 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.

Randal Tatum

Signature

12/17/2009

Date

RANDAL TATUM

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.