

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 2  
**DOCKET NO.:** 2009-1976-AIR-E **TCEQ ID:** RN102926920 **CASE NO.:** 38810  
**RESPONDENT NAME:** Equistar Chemicals, LP

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Equistar Chemicals Bayport Complex, 5761 Underwood Road, Pasadena, Harris County</p> <p><b>TYPE OF OPERATION:</b> Chemical manufacturing plant</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is one additional pending enforcement action regarding this facility location, Docket No. 2009-1549-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 April 26, 2010. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Rebecca Johnson, Enforcement Division, Enforcement Team 5, MC R-14, (361) 825-3420; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> Mr. Joseph 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> May 27, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> November 23, 2009</p> <p><b>Background Facts:</b> This was a record review.</p> <p><b>AIR</b></p> <p>Failure to prevent unauthorized emissions during Incident No. 124036. Specifically, during the May 10, 2009 emissions event 16,146 pounds of unauthorized ethylene emissions were released over a period of 37 minutes from the recycle gas loop vent and the waste flare when the recycle gas compressor's north seal failed. Since the emissions event was excessive and could have been avoided through better operational practices, the demonstration criteria for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222 were not met [Air Permit No. 6257E, Special Condition No. 1, 30 TEX. ADMIN. CODE §§ 115.722(c)(1) and 116.115(c), and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>	<p><b>Total Assessed:</b> \$10,000</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$0</p> <p>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.</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> <p><b>Findings Orders Justification:</b> This case involves unauthorized emissions which have been deemed excessive.</p>	<p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Comply with the TCEQ request dated November 23, 2009 for submittal of a corrective action plan ("CAP") to address the excessive emissions event that occurred on May 10, 2009, in accordance with 30 TEX. ADMIN. CODE § 101.223(a)(1);</p> <p>b. Respond completely and adequately, as determined by the executive director, to all written requests for information concerning the submitted CAP within 15 days after the date of such requests, or by any other deadline specified in writing;</p> <p>c. Upon Commission approval, implement the CAP in accordance with the approved schedule;</p> <p>d. Upon completion of CAP implementation, submit written certification to demonstrate compliance with Ordering Provisions a. through c. as described in Ordering Provision e.; and</p> <p>e. Written certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a. through c.</p>

Additional ID No(s): HG1996R



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2009

<b>DATES</b>	Assigned	30-Nov-2009	Screening	7-Dec-2009	EPA Due	20-Aug-2010
	PCW	7-Dec-2009				

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

<b>CASE INFORMATION</b>			
Enf./Case ID No.	38810	No. of Violations	1
Docket No.	2009-1976-AIR-E	Order Type	Findings
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

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$10,000
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	166.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$16,600
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Notes: Penalty enhancement due to ten 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.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts \$320  
Approx. Cost of Compliance \$5,000  
\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$26,600
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

<b>Final Penalty Amount</b>	\$26,600
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$10,000
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<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral is recommended for Findings Orders.

<b>PAYABLE PENALTY</b>	\$10,000
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Screening Date 7-Dec-2009

Docket No. 2009-1976-AIR-E

PCW

Respondent Equistar Chemicals, LP

Policy Revision 2 (September 2002)

Case ID No. 38810

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)	10	50%
	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 judgments 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) 166%

>> 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 ten 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) 166%

Screening Date 7-Dec-2009

Docket No. 2009-1976-AIR-E

PCW

Respondent Equistar Chemicals, LP

Policy Revision 2 (September 2002)

Case ID No. 38810

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 §§ 115.722(c)(1) and 116.115(c), and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to prevent unauthorized emissions during Incident No. 124036. Specifically, during the May 10, 2009 emissions event 16,146 pounds of unauthorized ethylene emissions were released over a period of 37 minutes from the recycle gas loop vent and the waste flare when the recycle gas compressor's north seal failed. Since the emissions event was excessive and could have been avoided through better operational practices, the demonstration criteria for an affirmative defense in 30 Tex. Admin. Code § 101.222 were not met.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm		
	Major	Moderate	Minor
Actual	x		
Potential			

Percent 100%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

The Houston-Galveston-Brazoria ozone non-attainment area was exposed to an excessive amount of pollutants as a result of the violation. Air dispersion modeling conducted in response to the emissions event predicted that the fence line ambient air concentrations of ethylene were 14.76 times above the short term TCEQ Effects Screening Level ("ESL") and that portions of a residential area were impacted with ground level concentrations of up to three times the short term ESL.

Adjustment \$0

\$10,000

Violation Events

Number of Violation Events 1

Number of violation days 1

daily	x
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$10,000

One daily event is recommended based on the May 10, 2009 emissions event.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	
N/A	x (mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$10,000

Economic Benefit (EB) for this violation

Estimated EB Amount \$320

Statutory Limit Test

Violation Final Penalty Total \$26,600

This violation Final Assessed Penalty (adjusted for limits) \$10,000

# Economic Benefit Worksheet

**Respondent** Equistar Chemicals, LP  
**Case ID No.** 38810  
**Reg. Ent. Reference No.** RN102926920  
**Media** Air  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

**Delayed Costs**

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)	\$5,000	10-May-2009	20-Aug-2010	1.28	\$320	n/a	\$320

Notes for DELAYED costs

Estimated cost to implement measures designed ensure that routine maintenance is conducted on seals and pins prior to failure. The date required is the date of the emissions event. The final date is the projected date that corrective actions will be 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

\$5,000

**TOTAL**

\$320

# 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	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:	November 30, 2009		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	November 30, 2004 to November 30, 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 26, 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. (CEEDS Inv. Track. No.)

1	12/13/2004	(344039)
2	12/13/2004	(388603)
3	12/16/2004	(281572)
4	12/20/2004	(281177)
5	01/12/2005	(388604)
6	01/19/2005	(336524)
7	02/14/2005	(426151)
8	03/16/2005	(342074)
9	03/16/2005	(388601)
10	04/13/2005	(426152)
11	05/12/2005	(426153)
12	06/10/2005	(426154)
13	06/27/2005	(396201)
14	07/11/2005	(446546)
15	07/13/2005	(348288)
16	08/05/2005	(446547)
17	08/10/2005	(404095)
18	08/23/2005	(404905)
19	09/14/2005	(446548)
20	10/04/2005	(393410)
21	10/14/2005	(479270)
22	11/09/2005	(479271)
23	12/19/2005	(479272)
24	01/12/2006	(479273)
25	02/10/2006	(453461)
26	02/10/2006	(479267)

27	02/14/2006	(453393)
28	02/14/2006	(453460)
29	02/14/2006	(453530)
30	02/14/2006	(453533)
31	03/10/2006	(453272)
32	03/13/2006	(479269)
33	04/11/2006	(456847)
34	04/18/2006	(505070)
35	04/25/2006	(457466)
36	04/27/2006	(462400)
37	05/16/2006	(505071)
38	05/25/2006	(373692)
39	05/25/2006	(374834)
40	05/25/2006	(457709)
41	06/19/2006	(505072)
42	06/22/2006	(462252)
43	07/07/2006	(527370)
44	08/10/2006	(527371)
45	09/05/2006	(488332)
46	09/15/2006	(527372)
47	10/11/2006	(527373)
48	11/07/2006	(551134)
49	12/05/2006	(551135)
50	01/18/2007	(551136)
51	02/12/2007	(551133)
52	02/14/2007	(514773)
53	03/02/2007	(587732)
54	04/05/2007	(536838)
55	04/12/2007	(587733)
56	05/01/2007	(532613)
57	05/03/2007	(554897)
58	05/11/2007	(587734)
59	06/08/2007	(587735)
60	07/06/2007	(587736)
61	07/13/2007	(559637)
62	07/16/2007	(565220)
63	08/15/2007	(605178)
64	09/06/2007	(571788)
65	09/12/2007	(605179)
66	10/11/2007	(605180)
67	11/05/2007	(628503)
68	12/05/2007	(628504)
69	01/14/2008	(628505)
70	01/25/2008	(613136)
71	01/25/2008	(613421)
72	02/13/2008	(676436)
73	02/29/2008	(612847)
74	03/06/2008	(616814)
75	03/06/2008	(676437)
76	03/24/2008	(619007)
77	04/03/2008	(676438)
78	04/17/2008	(646550)
79	04/21/2008	(641735)
80	04/21/2008	(641745)
81	05/07/2008	(694897)
82	05/30/2008	(670772)
83	06/03/2008	(694898)
84	07/07/2008	(636745)
85	07/14/2008	(694899)

86 08/06/2008 (716385)  
 87 09/08/2008 (716386)  
 88 10/02/2008 (716387)  
 89 11/06/2008 (716388)  
 90 12/09/2008 (700786)  
 91 12/09/2008 (731851)  
 92 12/15/2008 (721119)  
 93 01/06/2009 (701686)  
 94 01/08/2009 (731852)  
 95 02/04/2009 (755262)  
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 97 03/04/2009 (755263)  
 98 03/24/2009 (737363)  
 99 04/08/2009 (755264)  
 100 04/20/2009 (736550)  
 101 04/21/2009 (703526)  
 102 05/05/2009 (740163)  
 103 05/11/2009 (772355)  
 104 06/05/2009 (772356)  
 105 06/17/2009 (749392)  
 106 07/08/2009 (742361)  
 107 08/06/2009 (749798)  
 108 08/27/2009 (767173)  
 109 09/02/2009 (749562)  
 110 09/10/2009 (759204)  
 111 09/30/2009 (768078)  
 112 11/23/2009 (747102)

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

**Date: 12/16/2004 (281572)**  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 4157A PERMIT  
 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(I) 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 THSC 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. 2009-1976-AIR-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Equistar Chemicals, LP ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

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

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

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

### **I. FINDINGS OF FACT**

1. The Respondent owns and operates a chemical manufacturing plant at 5761 Underwood Road in Pasadena, Harris County, Texas (the "Plant").

2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. During a record review investigation conducted on May 27, 2009, TCEQ staff documented the release of unauthorized emissions during Incident No. 124036. Specifically, during the May 10, 2009 emissions event 16,146 pounds of unauthorized ethylene emissions were released over a period of 37 minutes from the recycle gas loop vent and the waste flare when the recycle gas compressor's north seal failed.
4. The Respondent received notice of the violations on November 28, 2009.
5. 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.

## II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to prevent unauthorized emissions during Incident No. 124036, in violation of Air Permit No. 6257E, Special Condition No. 1, 30 TEX. ADMIN. CODE §§ 115.722(c)(1) and 116.115(c), and TEX. HEALTH & SAFETY CODE § 382.085(b). Since the emissions event was excessive and could have been avoided through better operational practices, the demonstration criteria for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222 were not met.
3. As evidenced by Findings of Fact No. 5, the Respondent filed a petition for bankruptcy relief pursuant to Chapter 11 of the United States Code. The Automatic Stay imposed by the 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 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.
4. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the

Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.

5. An administrative penalty in the amount of Ten Thousand Dollars (\$10,000) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.

### III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of Ten Thousand Dollars (\$10,000) as set forth in Section II, Paragraph 5 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the 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 actions or penalties for other violations that 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. 2009-1976-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 Respondent shall undertake the following technical requirements:
  - a. Comply with the TCEQ request dated November 23, 2009 for submittal of a corrective action plan ("CAP") to address the excessive emissions event that occurred on May 10, 2009, in accordance with 30 TEX. ADMIN. CODE § 101.223(a)(1);
  - b. Respond completely and adequately, as determined by the executive director, to all written requests for information concerning the submitted CAP within 15 days after the date of such requests, or by any other deadline specified in writing;
  - c. Upon Commission approval, implement the CAP in accordance with the approved schedule;
  - d. Upon completion of CAP implementation, submit written certification to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.c. as described in Ordering Provision No. 2.e.; and

- e. Written certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.c. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Air Section, Manager  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Avenue, Suite H  
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
7. 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.
8. 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.
9. 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.
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

John Szolter  
For the Executive Director

4/6/2010  
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Equistar Chemicals, LP. I am authorized to agree to the attached Agreed Order on behalf of Equistar Chemicals, LP, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ is materially relying on such representation.

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

I also understand that failure to comply with the Ordering Provisions, if any, in this order may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Joseph F. Marschhausen  
Signature

2/23/2010  
Date

JOSEPH F. MARSCHAUSEN  
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.