

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.:** 2010-1078-AIR-E **TCEQ ID:** RN101062099 **CASE NO.:** 39967  
**RESPONDENT NAME:** MEMC Pasadena, Inc.

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> MEMC Pasadena, 3000 North South Street, Pasadena, Harris County</p> <p><b>TYPE OF OPERATION:</b> Ultrapure silica production 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 no record of additional pending enforcement actions regarding this facility location.</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 November 29, 2010. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732  <b>TCEQ Enforcement Coordinator:</b> Ms. Kimberly Morales, Enforcement Division, Enforcement Team 5, MC R-12, (713) 422-8938; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> Mr. Edgardo Colon, ESH Manager, MEMC Pasadena, Inc., 3000 North South Street, Pasadena, Texas 77053  Mr. R. Booher, Site Manager, MEMC Pasadena, Inc., 3000 North South Street, Pasadena, Texas 77053  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> April 21, 2010</p> <p><b>Date of NOV/NOE Relating to this Case:</b> June 11, 2010 (NOE)</p> <p><b>Background Facts:</b> This was a records review.</p> <p><b>AIR</b></p> <p>1) Failed to prevent unauthorized emissions. Specifically, the Respondent released 1,959 pounds of silica which resulted in 30% opacity from the Inorganic Flare in the PA-21 Process Unit during an emissions event that began on March 24, 2010 and lasted 36 minutes (Incident No. 137503) when Storage Tank D-9344 was overfilled during a silane transfer, causing the relief valve to lift. Since this emissions event could have been avoided by better operational practices and was not properly reported, the demonstrations in 30 TEX. ADMIN. CODE § 101.222 necessary to present an affirmative defense were not met [30 TEX. ADMIN. CODE § 116.115(c), TEX. HEALTH &amp; SAFETY CODE § 382.085(b), and Air Permit No. 9597, Special Condition Nos. 1 and 6].</p> <p>2) Failed to properly report Incident No. 137503. Specifically, the emissions event was discovered at 2:45 p.m. on March 24, 2010, but was not reported until 3:25 p.m. on March 25, 2010, and the permit number governing the facilities involved in the emissions event was not provided in the final record [30 TEX. ADMIN. CODE § 101.201(a)(1)(B) and (b)(1)(H), and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>	<p><b>Total Assessed:</b> \$6,604</p> <p><b>Total Deferred:</b> \$1,320  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$2,642</p> <p><b>Total Paid (Due) to General Revenue:</b> \$2,642</p> <p><b>Compliance History Classification:</b>                  Person/CN – Average                  Site/RN – Average</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:</p> <p>a. In order to prevent a reoccurrence of emissions events similar to Incident No. 137503, Procedure 9300-19.00 was implemented on July 7, 2010 to prevent tank overfilling, and distributed control system high level alarm setpoints were updated on July 20, 2010 to correspond to the maximum inventory levels stated in Procedure 9300-19.00; and</p> <p>b. In order to ensure emissions events are properly reported, appropriate personnel were identified and trained by July 15, 2010.</p> <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). See SEP Attachment A)</p>

Additional ID No(s): HX0029W

**Attachment A**  
**Docket Number: 2010-1078-AIR-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

**Respondent:** MEMC Pasadena, Inc.  
**Payable Penalty Amount:** Five Thousand Two Hundred Eighty-Four Dollars (\$5,284)  
**SEP Amount:** Two Thousand Six Hundred Forty-Two Dollars (\$2,642)  
**Type of SEP:** Pre-approved  
**Third-Party Recipient:** Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program  
**Location of SEP:** Texas Air Quality Control Region 216 – Houston-Galveston

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

A. Project

The Respondent shall contribute the SEP offset amount to the Third-Party Recipient named above. The contribution will be to **Houston-Galveston AERCO** for the **Clean Cities/Clean Vehicles Program** as set forth in an agreement between the Third-Party Recipient and the TCEQ. SEP monies will be used to aid local school districts and area transit agencies in reaching local match requirements mandated by the Federal Highway Administration's ("FHWA") Congestion Mitigation/Air Quality Funding program. SEP monies will be disbursed to school districts and transit agencies in need of funding assistance in the Houston-Galveston non-attainment area. Those SEP monies will be used exclusively by the school districts and transit agencies as supplements to meet the local match requirements of the EPA. SEP monies will be used to pay for the cost of replacing older diesel buses with alternative fueled or clean diesel buses. The old buses will be permanently retired and only sold for scrap. The schools and transit agencies will also use the SEP monies to retrofit more buses to reduce emissions. Houston-Galveston AERCO will send the TCEQ verification in the form of paid invoices and other documentation to show that the retrofits were completed. Retrofit technologies include particulate matter traps, diesel particulate matter filters, NOx reduction catalyst technology in combination with diesel particulate filters, and other emission control technologies that are developed and approved by EPA or the California Air Resources Board.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.



B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing particulate emissions of buses by more than 90% below today's level and reducing hydrocarbons below measurement capability.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP amount to the Third-Party Recipient and comply with all other provisions of this SEP.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Houston-Galveston Area Council  
Houston-Galveston AERCO  
P.O. Box 22777  
Houston, Texas 77227-2777

**3. Records and Reporting**

Concurrent with the payment of the SEP amount, the Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division  
Attention: SEP Coordinator, MC 219  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

**4. Failure to Fully Perform**

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP amount.



MEMC Pasadena, Inc.  
Agreed Order - Attachment A

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Litigation Division  
Attention: SEP Coordinator, MC 175  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the Enforcement Division SEP Coordinator at the address in Section 3 above.

**5. Publicity**

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

**6. Clean Texas Program**

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**7. Other SEPs by TCEQ or Other Agencies**

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.







# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

<b>DATES</b>	<b>Assigned</b>	1-Jun-2010	<b>Screening</b>	2-Jul-2010	<b>EPA Due</b>	
	<b>PCW</b>	20-Aug-2010				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	MEMC Pasadena, Inc.
<b>Reg. Ent. Ref. No.</b>	RN101062099
<b>Facility/Site Region</b>	12-Houston
<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>		<b>No. of Violations</b>	2
<b>Enf./Case ID No.</b>	39967	<b>Order Type</b>	1660
<b>Docket No.</b>	2010-1078-AIR-E	<b>Government/Non-Profit</b>	No
<b>Media Program(s)</b>	Air	<b>Enf. Coordinator</b>	Kimberly Morales
<b>Multi-Media</b>		<b>EC's Team</b>	Enforcement Team 5
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$2,600
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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>	164.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$4,264
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**Notes:** Enhancement for 20 NOVs with same/similar violations, seven NOVs with dissimilar violations, one order with denial of liability, and one judgment with denial of liability.

<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>	\$260
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts \$96  
 Approx. Cost of Compliance \$6,000  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$6,604
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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>	\$6,604
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$6,604
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	-\$1,320
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes:**

Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$5,284
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Screening Date 2-Jul-2010

Docket No. 2010-1078-AIR-E

PCW

Respondent MEMC Pasadena, Inc.

Policy Revision 2 (September 2002)

Case ID No. 39967

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101062099

Media [Statute] Air

Enf. Coordinator Kimberly Morales

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	20	100%
	Other written NOVs	7	14%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	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 ( <i>number of judgements or consent decrees meeting criteria</i> )	1	30%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of</i>	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an Intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<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) 164%

>> 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 for 20 NOVs with same/similar violations, seven NOVs with dissimilar violations, one order with denial of liability, and one judgment with denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 164%

Screening Date 2-Jul-2010

Docket No. 2010-1078-AIR-E

PCW

Respondent MEMC Pasadena, Inc.

Policy Revision 2 (September 2002)

Case ID No. 39967

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101062099

Media [Statute] Air

Enf. Coordinator Kimberly Morales

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 116.115(c), Tex. Health & Safety Code § 382.085(b), and Air Permit No. 9597, Special Condition Nos. 1 and 6

Violation Description Failed to prevent unauthorized emissions. Specifically, the Respondent released 1,959 pounds of silica which resulted in 30% opacity from the Inorganic Flare in the PA-21 Process Unit during an emissions event that began on March 24, 2010 and lasted 36 minutes (Incident No. 137503) when Storage Tank D-9344 was overfilled during a silane transfer, causing the relief valve to lift. Since this emissions event could have been avoided by better operational practices and was not properly reported, 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	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual			X	25%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0%

Human health or the environment has been exposed to an insignificant amount of pollutants which do not exceed levels protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 1

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,500

One quarterly event is recommended.

Good Faith Efforts to Comply

10.0% Reduction

\$250

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

Notes The Respondent completed corrective actions on July 20, 2010, after the June 11, 2010 NOE, but prior to the July 30, 2010 settlement offer.

Violation Subtotal \$2,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$81

Violation Final Penalty Total \$6,350

This violation Final Assessed Penalty (adjusted for limits) \$6,350

# Economic Benefit Worksheet

**Respondent:** MEMC Pasadena, Inc.  
**Case ID No.:** 39967  
**Reg. Ent. Reference No.:** RN101062099  
**Media:** Air  
**Violation No.:** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No. continues on: \$							

**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	24-Mar-2010	20-Jul-2010	0.32	\$81	n/a	\$81

Notes for DELAYED costs

Estimated cost to ensure proper operational practices during silane transfers. The Date Required is the date of the emissions event. The Final Date is 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

\$5,000

**TOTAL**

\$81

Screening Date 2-Jul-2010

Docket No. 2010-1078-AIR-E

PCW

Respondent MEMC Pasadena, Inc.

Policy Revision 2 (September 2007)

Case ID No. 39967

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101062099

Media [Statute] Air

Enf. Coordinator Kimberly Morales

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 101.201(a)(1)(B) and (b)(1)(H), and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to properly report Incident No. 137503. Specifically, the emissions event was discovered at 2:45 p.m. on March 24, 2010, but was not reported until 3:25 p.m. on March 25, 2010, and the permit number governing the facilities involved in the emissions event was not provided in the final record.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
			X	1%

Matrix Notes

The Respondent has met at least 70% of the rule requirements.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 1

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

10.0% Reduction

\$10

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

Notes

The Respondent completed corrective actions on July 15, 2010, after the June 11, 2010 NOE, but prior to the July 30, 2010 settlement offer.

Violation Subtotal \$90

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$15

Violation Final Penalty Total \$254

This violation Final Assessed Penalty (adjusted for limits) \$254

# Economic Benefit Worksheet

**Respondent:** MEMC Pasadena, Inc.

**Case ID No.:** 39967

**Reg. Ent. Reference No.:** RN101062099

**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
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	\$1,000	25-Mar-2010	15-Jul-2010	0.31	\$15	n/a	\$15
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 implement measures designed to ensure emissions events are properly reported. The Date Required is the date the initial notification was submitted. The Final Date is 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

\$1,000

**TOTAL**

\$15

# Compliance History Report

Customer/Respondent/Owner-Operator: CN600619415 MEMC Pasadena, Inc. Classification: AVERAGE Rating: 9.71  
Regulated Entity: RN101062099 MEMC PASADENA Classification: AVERAGE Site Rating: 9.71

ID Number(s):	AIR OPERATING PERMITS	PERMIT	1412
	AIR OPERATING PERMITS	ACCOUNT NUMBER	HX0029W
	AIR NEW SOURCE PERMITS	PERMIT	9597
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HX0029W
	AIR NEW SOURCE PERMITS	REGISTRATION	55246
	AIR NEW SOURCE PERMITS	REGISTRATION	75654
	AIR NEW SOURCE PERMITS	AFS NUM	4820101473
	AIR NEW SOURCE PERMITS	REGISTRATION	89942
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXR000007088
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	84039
	IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	84039
	AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	HX0029W

Location: 3000 N SOUTH STREET, PASADENA, TX, 77503

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: July 01, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: July 01, 2005 to July 01, 2010

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

Name: Kimberly Morales Phone: (713) 422-8938

## 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? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2009 Repeat Violator: NO

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the state of Texas and the federal government.

Effective Date: 04/05/2009

ADMINORDER 2008-1378-AIR-E

Classification: Moderate

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

Rqmt Prov: 9597, Special Condition 1. PERMIT

Description: Failed to prevent unauthorized emissions during Incident No. 109377.

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(c)  
5C THSC Chapter 382.085(b)

Description: Failed to submit the final record for Incident No. 109377 within fourteen days after the end of the emissions event.

Effective Date: 12/21/2009

COURTORDER

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter A 101.4  
30 TAC Chapter 101, SubChapter F 101.201(b)(2)(F)  
30 TAC Chapter 101, SubChapter F 101.201(b)(2)(G)  
30 TAC Chapter 101, SubChapter F 101.201(b)(2)(H)  
5C THSC Chapter 382.002

Description: On September 8, 2008, a Violation Notice for violations of 30 TAC Code 101.04 and 101.201(b)(2)(F), (G) and (H) because it was determined that defendant caused a nuisance condition caused by particular matter generated from two non-reportable emission events at Defendant's manufacturing plant that occurred on or about July 2, 2008. It was additionally determined that Defendant failed to keep proper records of the incidents as required by TAC101.201(b)(2)et seq.

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	08/17/2005	(394198)
2	04/06/2006	(453290)
3	04/25/2007	(512503)
4	12/06/2007	(595631)
5	01/23/2008	(611333)
6	02/26/2008	(618266)
7	03/14/2008	(610799)
8	04/07/2008	(640627)
9	04/21/2008	(640075)
10	06/10/2008	(655935)
11	06/10/2008	(671582)
12	08/13/2008	(686347)
13	12/08/2008	(704839)
14	12/15/2008	(707786)
15	01/13/2009	(703624)
16	02/17/2009	(725031)
17	03/05/2009	(725234)
18	03/20/2009	(724923)
19	04/03/2009	(735687)
20	04/08/2009	(737712)
21	04/10/2009	(741325)
22	05/05/2009	(738972)
23	05/05/2009	(738973)
24	05/05/2009	(742664)
25	05/12/2009	(745311)
26	05/27/2009	(745895)
27	10/16/2009	(778955)
28	11/13/2009	(777896)
29	12/03/2009	(783342)
30	12/07/2009	(783831)
31	01/27/2010	(786427)
32	03/24/2010	(767586)
33	03/31/2010	(793659)
34	04/06/2010	(794771)
35	04/06/2010	(794887)



36 04/06/2010 (794927)  
 37 04/08/2010 (795020)  
 38 04/08/2010 (795299)  
 39 04/08/2010 (795300)  
 40 04/22/2010 (797306)  
 41 05/18/2010 (763033)  
 42 05/21/2010 (797307)  
 43 05/27/2010 (801933)  
 44 05/28/2010 (802102)  
 45 05/28/2010 (802200)  
 46 05/28/2010 (802373)  
 47 05/28/2010 (802595)  
 48 05/28/2010 (803535)  
 49 05/28/2010 (803537)  
 50 06/10/2010 (798585)  
 51 06/10/2010 (798913)

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

Date: 08/18/2005 (394198) CN600619415  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 101, SubChapter H 101.376(d)(1)(B)  
 Description: The intended first day of the use for the DERCs was April 1, 2005. The application for the DERCs was submitted on February 26, 2005. The submittal is required 45 days prior to use.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 117, SubChapter D 117.475(c)(1)  
 Description: Furnaces PA-21 and PA-22 were tested in February 2005 and found to have NOx emissions of 64.9 ppm and 61.3 ppm respectively. The 30 TAC 117.475(c)(1)(A) limit is 30 ppm.

Date: 04/25/2007 (512503) CN600619415  
 Self Report? NO Classification: Moderate  
 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 60, SubChapter C, PT 60, SubPT VV 60.482-6(a)(1)  
 5C THC Chapter 382, SubChapter D 382.085(b)  
 OP O-01412, Special Conditions 1A & 12 OP  
 Permit 9597, Special Condition 10E PERMIT  
 Description: Failure to seal open-ended lines volatile organic compound service.  
 Self Report? NO Classification: Moderate  
 Citation: Permit 9597, Special Condition 6 PERMIT  
 30 TAC Chapter 116, SubChapter B 116.115(c)  
 5C THC Chapter 382, SubChapter D 382.085(b)  
 OP O-01412, Special Condition 12 OP  
 Description: Failure to maintain the required the minimum of 90 percent removal efficiency as stated in the NSR Permit 9597, Special Condition 6.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 5C THC Chapter 382, SubChapter D 382.085(b)  
 OP O-01412, Special Condition 12 OP  
 Permit 9597, Special Condition 6 PERMIT  
 Description: Failure to maintain the caustic reactor's maximum waste stream feed rate of 170 pounds per hour.

Date: 12/07/2007 (595631) CN600619415  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
 30 TAC Chapter 122, SubChapter B 122.146(2)

5C THC Chapter 382, SubChapter A 382.085(b)  
FOP No. O-01412 OP

Description: MEMC failed to submit a PCC report within 30 days of the end of the PCC reporting period.

Date: 01/23/2008 (611333) CN600619415  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
No.9597, Special Condition 3 PERMIT  
Description: MEMC failed to prevent excess opacity event  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)  
Description: MEMC failed to control visible emissions from its Process Flare

Date: 02/26/2008 (618266) CN600619415  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
9597, Special Condition 3 PERMIT  
Description: MEMC Pasadena Inc. failed to comply with the opacity limits specified in TCEQ Permit No. 9597.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)  
Description: MEMC Pasadena Inc. failed to control visible emissions from the Inorganic Flare.

Date: 03/14/2008 (610799) CN600619415  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 335, SubChapter A 335.6(c)  
Description: Failure to revise the Notice of Registration.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)(1)(A)  
30 TAC Chapter 335, SubChapter E 335.112(a)(8)  
40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(a)(1)(i)  
40 CFR Chapter 265, SubChapter I, PT 265, SubPT I 265.174  
Description: Each hazardous waste container storage area must be inspected weekly for leakage or deterioration. During the investigation, it was noted that inspection logs for waste management unit 001 were missing.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 335, SubChapter A 335.4  
Description: Failure to send Class 1 waste to an authorized facility.

Date: 06/10/2008 (655935) CN600619415  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(1)(H)  
Description: MEMC failed to comply with the emission event reporting requirements.

Date: 12/08/2008 (704839) CN600619415  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
9597, Special Condition 1 PERMIT  
Description: Failure to prevent unauthorized emissions.  
Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(c)  
5C THSC Chapter 382 382.085(b)  
Description: Failure to submit initial report as required.

Date: 01/13/2009 (703624) CN600619415  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(2)  
5C THSC Chapter 382 382.085(b)  
GT&C OP  
SC 5A PERMIT  
SC 5B PERMIT  
ST&C 4 OP  
ST&C 7 OP  
Description: Failure to maintain a continuously burning pilot light on flare PA 23 (Y-D-201)

Date: 02/13/2009 (725031) CN600619415  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)  
5C THSC Chapter 382 382.085(b)  
Description: Failed to submit the final report in a timely manner.  
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: Failed to prevent the unauthorized emissions of 150 lbs of Silicon Tetrafluoride.

Date: 03/05/2009 (725234) CN600619415  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
Special Condition # 3 OP  
Description: Failed to prevent excess opacity. MEMC failed to prevent clogging of the caustic scrubbers R-9450 and R-9460.

Date: 10/16/2009 (778955) CN600619415  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
Special Condition # 3 PERMIT  
Description: Failed to prevent an excess opacity event.

Date: 11/13/2009 (777896) CN600619415  
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. Specifically, MEMC failed to reopen a manual valve that caused the over pressuring of the unit.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
Special Condition 6 PERMIT

Description: Failure to prevent excess opacity. Specifically, MEMC failed to reopen a manual valve that caused the over pressuring of the unit.

Self Report? NO Classification: Minor

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

Description: Failure to identify in the Final Report for Incident #128353 the particulate matter released during the incident, which exceeded the reportable quantity (RQ). Specifically, MEMC failed to report the PM10 emissions resulting from this event.

Date: 12/07/2009 (783831) CN600619415

Self Report? NO Classification: Minor

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

Description: Failure to revise the Notice of Registration.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)(1)(A)  
30 TAC Chapter 335, SubChapter E 335.112(a)(8)  
40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(a)(1)(i)  
40 CFR Chapter 265, SubChapter I, PT 265, SubPT I 265.174

Description: Each hazardous waste container storage area must be inspected weekly for leakage or deterioration. During the investigation, it was noted that inspection logs for waste management unit 001 were missing.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter A 335.4

Description: Failure to send Class 1 waste to an authorized facility.

Self Report? NO Classification: Moderate

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

Description: Failure to update the NOR to reflect current facility operations.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)(1)(A)  
30 TAC Chapter 335, SubChapter E 335.112(a)(8)  
40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(a)(1)(i)  
40 CFR Chapter 265, SubChapter I, PT 265, SubPT I 265.174

Description: Failure to conduct weekly inspections of container storage areas.

Date: 01/28/2010 (786427) CN600619415

Self Report? NO Classification: Minor

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

Description: Failed to include emissions of particulate material in the report.

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: Failed to prevent plugging of Caustic scrubber resulting emissions of particulates.

Date: 03/25/2010 (767586) CN600619415

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 THSC Chapter 382 382.085(b)  
Special Condition No. 6 PERMIT  
Special Condition No. 7 OP

Description: Failed to maintain records of the Caustic Scrubber/Lime Scrubber feed rate, down time, and removal efficiency from July 27, 2008 through January 1, 2009. (Category C3 Violation)

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 THSC Chapter 382 382.085(b)  
Special Condition No. 8 PERMIT  
Special Terms and Conditions No. 7 OP  
Description: Failed to maintain records of the duration of emissions from carbon regeneration activities conducted on July 1, 2008.  
(Category C3 Violation)

Date: 04/06/2010 (795400) CN600619415  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 335, SubChapter E 335.112(a)(8)  
40 CFR Chapter 265, SubChapter I, PT 265, SubPT I 265.174  
Description: Failure to conduct weekly container storage area inspections.

Date: 04/06/2010 (794771) CN600619415  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
Special Condition 6 PERMIT  
Description: Failed to control opacity in YD-2 for non availability of D-95125 Unit due to leaking heat exchangers at D-95125 Unit.

Date: 04/06/2010 (794887) CN600619415  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.065(b)  
Special Condition 6 PERMIT  
Description: Failed to prevent excess opacity due to leakage in a relief valve in the facility.

Date: 04/06/2010 (794927) CN600619415  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
Special Condition 6 PERMIT  
Description: Failed to prevent opacity by failing to prevent moisture buildup in the transformers in the facility

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: MEMC failed to prevent an emissions event by not preventing accumulation of moisture in transformers leading to a long outage.

Date: 04/08/2010 (795020) CN600619415  
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: MEMC failed to prevent an emissions event due to a seal failure in one of the caustic scrubbers.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
Special Condition 6 PERMIT

Description: MEMC failed to prevent an emission and excess opacity event due to failure of seal in caustic scrubber.

Date: 04/08/2010 (795299) CN600619415  
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
Special Condition 6 PERMIT

Description: Failed to prevent emission and excess opacity due to non availability of scrubber-one is clogged while other is being recharged.

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: Failed to prevent emission and excess opacity due to non availability of scrubber-one is clogged while other is being recharged.

Date: 04/08/2010 (795300) CN600619415  
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
Special Condition 6 PERMIT

Description: Failed to prevent an excess opacity event due to failure to prevent leaking from valves.

Date: 04/22/2010 (797306) CN600619415  
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
Special Condition 6 PERMIT

Description: Failed to prevent an excess opacity event by failing to maintain the rupture disc below the PSV.

Date: 05/20/2010 (797307) CN600619415  
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
Special Condition 6 PERMIT

Description: Failed to prevent an excess opacity by failing to prevent leaking of heat exchanger.

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: Failed to prevent unauthorized emissions.

Date: 05/25/2010 (798990) CN600619415  
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
Special Condition No. 9 PERMIT

Description: MEMC failed to comply with the 90 percent removal efficiency requirement for silane containing compounds.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
Special Condition No. 22 PERMIT  
Description: MEMC failed to maintain the reactor feed-flow rate and conduct vent gas sampling at the inlet and outlet of the caustic scrubbers.

Date: 06/11/2010 (798913) CN600619415  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(1)(H)  
5C THSC Chapter 382 382.085(b)  
Description: MEMC failed to include the authorization number in the final report.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
Special Condition 6 PERMIT  
Description: MEMC failed to prevent an excessive opacity event by failing to prevent overfilling of a tank.  
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: MEMC failed to prevent an unauthorized emissions event by failing to prevent overfilling of a tank.

F. Environmental audits.  
N/A

G. Type of environmental management systems (EMSs).  
N/A

H. Voluntary on-site compliance assessment dates.  
N/A

I. Participation in a voluntary pollution reduction program.  
N/A

J. Early compliance.  
N/A

Sites Outside of Texas  
N/A





# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
MEMC PASADENA, INC.  
RN101062099**

§       **BEFORE THE**  
§  
§       **TEXAS COMMISSION ON**  
§  
§       **ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2010-1078-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 MEMC Pasadena, Inc. ("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 an ultrapure silica production plant at 3000 North South Street in Pasadena, Harris County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about June 16, 2010.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Six Thousand Six Hundred Four Dollars (\$6,604) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Thousand Six Hundred Forty-Two

Dollars (\$2,642) of the administrative penalty and One Thousand Three Hundred Twenty Dollars (\$1,320) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Two Thousand Six Hundred Forty-Two Dollars (\$2,642) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:
  - a. In order to prevent a reoccurrence of emissions events similar to Incident No. 137503, Procedure 9300-19.00 was implemented on July 7, 2010 to prevent tank overfilling, and distributed control system high level alarm setpoints were updated on July 20, 2010 to correspond to the maximum inventory levels stated in Procedure 9300-19.00; and
  - b. In order to ensure emissions events are properly reported, appropriate personnel were identified and trained by July 15, 2010.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have:

1. Failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE § 116.115(c), TEX. HEALTH & SAFETY CODE § 382.085(b), and Air Permit No. 9597, Special Condition Nos. 1 and 6, as documented during a record review conducted on April 21, 2010. Specifically, the Respondent released 1,959 pounds of silica which resulted in 30%

opacity from the Inorganic Flare in the PA-21 Process Unit during an emissions event that began on March 24, 2010 and lasted 36 minutes (Incident No. 137503) when Storage Tank D-9344 was overfilled during a silane transfer, causing the relief valve to lift. Since this emissions event could have been avoided by better operational practices and was not properly reported, the demonstrations in 30 TEX. ADMIN. CODE § 101.222 necessary to present an affirmative defense were not met.

2. Failed to properly report Incident No. 137503, in violation of 30 TEX. ADMIN. CODE § 101.201(a)(1)(B) and (b)(1)(H), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on April 21, 2010. Specifically, the emissions event was discovered at 2:45 p.m. on March 24, 2010, but was not reported until 3:25 p.m. on March 25, 2010, and the permit number governing the facilities involved in the emissions event was not provided in the final record.

### III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: MEMC Pasadena, Inc., Docket No. 2010-1078-AIR-E" to:  

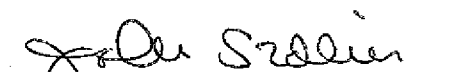
Financial Administration Division; Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088
2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Two Thousand Six Hundred Forty-Two Dollars (\$2,642) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
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. 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.
7. 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.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

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

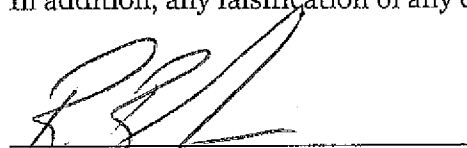
\_\_\_\_\_  
Date 11/2/2010

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

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

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

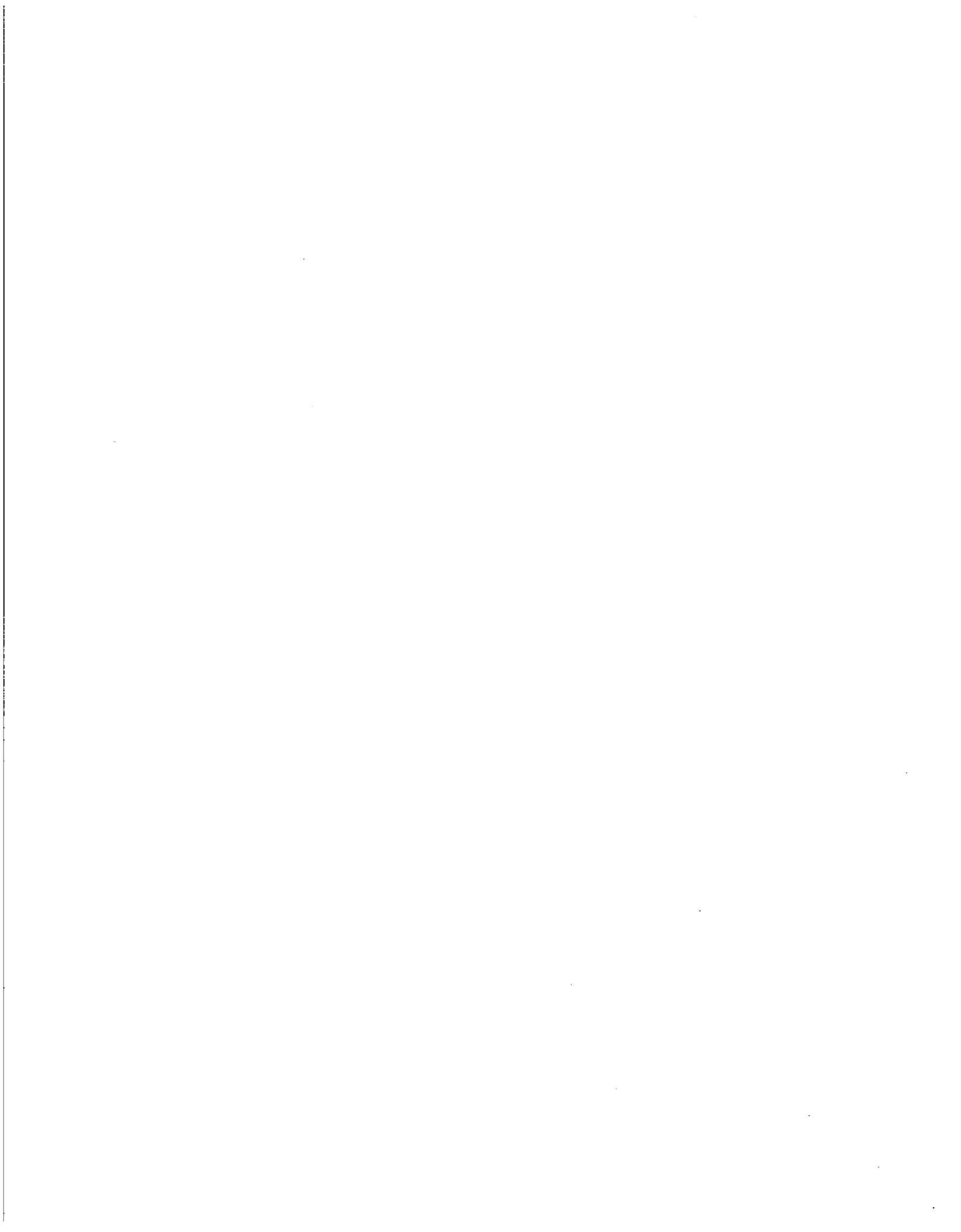
  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date 9/22/10

R. Booher  
Name (Printed or typed)  
Authorized Representative of  
MEMC Pasadena, Inc.

Site Manager  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.



Attachment A  
Docket Number: 2010-1078-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

**Respondent:** MEMC Pasadena, Inc.

**Payable Penalty Amount:** Five Thousand Two Hundred Eighty-Four Dollars  
(\$5,284)

**SEP Amount:** Two Thousand Six Hundred Forty-Two Dollars  
(\$2,642)

**Type of SEP:** Pre-approved

**Third-Party Recipient:** Houston-Galveston AERCO's Clean Cities/Clean  
Vehicles Program

**Location of SEP:** Texas Air Quality Control Region 216 – Houston-  
Galveston

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

A. Project

The Respondent shall contribute the SEP offset amount to the Third-Party Recipient named above. The contribution will be to *Houston-Galveston AERCO* for the **Clean Cities/Clean Vehicles Program** as set forth in an agreement between the Third-Party Recipient and the TCEQ. SEP monies will be used to aid local school districts and area transit agencies in reaching local match requirements mandated by the Federal Highway Administration's ("FHWA") Congestion Mitigation/Air Quality Funding program. SEP monies will be disbursed to school districts and transit agencies in need of funding assistance in the Houston-Galveston non-attainment area. Those SEP monies will be used exclusively by the school districts and transit agencies as supplements to meet the local match requirements of the EPA. SEP monies will be used to pay for the cost of replacing older diesel buses with alternative fueled or clean diesel buses. The old buses will be permanently retired and only sold for scrap. The schools and transit agencies will also use the SEP monies to retrofit more buses to reduce emissions. Houston-Galveston AERCO will send the TCEQ verification in the form of paid invoices and other documentation to show that the retrofits were completed. Retrofit technologies include particulate matter traps, diesel particulate matter filters, NOx reduction catalyst technology in combination with diesel particulate filters, and other emission control technologies that are developed and approved by EPA or the California Air Resources Board.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

**B. Environmental Benefit**

This SEP will provide a discernible environmental benefit by reducing particulate emissions of buses by more than 90% below today's level and reducing hydrocarbons below measurement capability.

**C. Minimum Expenditure**

The Respondent shall contribute at least the SEP amount to the Third-Party Recipient and comply with all other provisions of this SEP.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Houston-Galveston Area Council  
Houston-Galveston AERCO  
P.O. Box 22777  
Houston, Texas 77227-2777

**3. Records and Reporting**

Concurrent with the payment of the SEP amount, the Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division  
Attention: SEP Coordinator, MC 219  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

**4. Failure to Fully Perform**

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP amount.



MEMC Pasadena, Inc.  
Agreed Order - Attachment A

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Litigation Division  
Attention: SEP Coordinator, MC 175  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the Enforcement Division SEP Coordinator at the address in Section 3 above.

**5. Publicity**

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

**6. Clean Texas Program**

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**7. Other SEPs by TCEQ or Other Agencies**

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

