

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2009-1247-AIR-E **TCEQ ID:** RN100216159 **CASE NO.:** 38076
RESPONDENT NAME: Equistar Chemicals, LP

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Equistar Matagorda Plant, located 13 miles south of Bay City on Highway 60, Matagorda County</p> <p>TYPE OF OPERATION: Polyethylene manufacturing plant</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on May 31, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. James Nolan, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-6634; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. M. D. Wobser, Plant Manager, Equistar Chemicals, LP, P.O. Box 2100, Bay City, Texas 77404 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: May 4, 2009</p> <p>Date of NOV/NOE Relating to this Case: July 16, 2009 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>AIR</p> <p>1) Failure to maintain the exit velocity, net heating value, and visible emission requirements of the flare (Emission Point Number FLARE). Specifically, on April 15, 2008, June 3, 2008, August 3, 2008, August 5, 2008, November 15, 2008, and November 22, 2008, the flare was not operated as required [30 TEX. ADMIN. CODE §§ 101.20(1), 116.115(c), and 122.143(4), 40 CODE OF FEDERAL REGULATIONS § 60.18(c)(4), Federal Operating Permit No. O-01635 Special Terms and Conditions 1A, New Source Review Permit No. 18836 Special Conditions 6, 7c, and 9, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>2) Failure to monitor the firebox temperature of the GRP-Boiler [30 TEX. ADMIN. CODE §§ 101.20(2) and 122.143(4), 40 CODE OF FEDERAL REGULATIONS § 63.2455(a), Federal Operating Permit No. O-01635 Special Terms and Conditions 1A, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$8,500</p> <p>Total Deferred: \$1,700 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$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>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that prior to November 23, 2008, the Respondent provided additional training to flare operators to prevent the recurrence of similar violations.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 180 days after the effective date of this Agreed Order:</p> <p>i. Implement measures designed to ensure the proper monitoring of the firebox temperature of the GRP-Boiler; or</p> <p>ii. Obtain an exception from the Environmental Protection Agency that negates the requirement to monitor the firebox temperature of the GRP-Boiler.</p> <p>b. Within 195 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>

Additional ID No(s): MH0040N



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	20-Jul-2009	Screening	27-Jul-2009	EPA Due	11-Apr-2010
	PCW	12-Oct-2009				

RESPONDENT/FACILITY INFORMATION			
Respondent	Equistar Chemicals, LP		
Reg. Ent. Ref. No.	RN100216159		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	38076	No. of Violations	2
Docket No.	2009-1247-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	James Nolan
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement **Subtotals 2, 3, & 7**

Notes

Culpability Enhancement **Subtotal 4**

Notes

Good Faith Effort to Comply Total Adjustments **Subtotal 5**

Economic Benefit Enhancement* **Subtotal 6**

Total EB Amounts
 Approx. Cost of Compliance *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Notes

PAYABLE PENALTY

Screening Date 27-Jul-2009

Docket No. 2009-1247-AIR-E

PCW

Respondent Equistar Chemicals, LP

Policy Revision 2 (September 2002)

Case ID No. 38076

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100216159

Media [Statute] Air

Enf. Coordinator James Nolan

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)	4	20%
	Other written NOVs	15	30%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<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) 70%

>> 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 adjustment due to four previous similar NOVs, fifteen non-similar NOVs, and one 1660-style agreed order.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 70%

Screening Date 27-Jul-2009

Docket No. 2009-1247-AIR-E

PCW

Respondent Equistar Chemicals, LP

Policy Revision 2 (September 2002)

Case ID No. 38076

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100216159

Media [Statute] Air

Enf. Coordinator James Nolan

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 101.20(1), 116.115(c) and 122.143(4), 40 Code of Federal Regulations § 60.18(c)(4), Federal Operating Permit No. O-01635 Special Terms and Conditions 1A, New Source Review Permit No. 18836 Special Conditions 6, 7c, and 9, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to maintain the exit velocity, net heating value, and visible emissions requirements of the Flare (Emission Point Number (EPN) Flare). Specifically, on April 15, 2008, June 3, 2008, August 3, 2008, August 5, 2008, November 15, 2008, and November 22, 2008, the flares were not operated as required.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual			x	25%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes

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

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 3 Number of violation days 223

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$7,500

Three quarterly events are recommended based upon the period of noncompliance that began April 15, 2008 and ended November 23, 2008.

Good Faith Efforts to Comply

25.0% Reduction

\$1,875

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

Notes

Prior to November 23, 2008, flare operators were provided additional training to prevent the reoccurrence of similar violations.

Violation Subtotal \$5,625

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$46

Violation Final Penalty Total \$10,875

This violation Final Assessed Penalty (adjusted for limits) \$10,875

Economic Benefit Worksheet

Respondent Equistar Chemicals, LP
Case ID No. 38076
Reg. Ent. Reference No. RN100216159
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 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)	\$1,500	15-Apr-2008	23-Nov-2008	0.61	\$46	n/a	\$46

Notes for DELAYED costs

Estimated cost for additional oversight and management practices designed to ensure proper operation and maintenance practices are followed. Date Required is the first date of noncompliance and the Final Date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

TOTAL

\$46

Screening Date 27-Jul-2009

Docket No. 2009-1247-AIR-E

PCW

Respondent Equistar Chemicals, LP

Policy Revision 2 (September 2002)

Case ID No. 38076

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100216159

Media [Statute] Air

Enf. Coordinator James Nolan

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code §§ 101.20(2) and 122.143(4), 40 Code of Federal Regulations § 63.2455(a), Federal Operating Permit No. O-01635 Special Terms and Conditions 1A, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to monitor the firebox temperature of the GRP-Boiler.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential		x		

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 5

443 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$12,500

Five quarterly events are recommended base upon the period of noncompliance that began May 10, 2008 and ended with case screening on July 27, 2009.

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 \$12,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$454

Violation Final Penalty Total \$21,250

This violation Final Assessed Penalty (adjusted for limits) \$21,250

Economic Benefit Worksheet

Respondent Equistar Chemicals, LP
Case ID No. 38076
Reg. Ent. Reference No. RN100216159
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	\$3,000	10-May-2008	10-Mar-2010	1.83	\$18	\$367	\$385
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)	\$750	10-May-2008	10-Mar-2010	1.83	\$69	n/a	\$69

Notes for DELAYED costs

Estimated cost to modify equipment and procedures to monitor the temperature of the GRP-Boiler. Date Required is the date of noncompliance and the Final Date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$3,750

TOTAL

\$454

Compliance History Report

Customer/Respondent/Owner-Operator: CN600124705 Equistar Chemicals, LP Classification: AVERAGE Rating: 3.00
 Regulated Entity: RN100216159 EQUSTAR MATAGORDA PLANT Classification: AVERAGE Site Rating: 2.01

ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	MH0040N
	AIR OPERATING PERMITS	PERMIT	1635
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD980796643
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	32390
	WASTEWATER	PERMIT	WQ0002481000
	WASTEWATER	EPA ID	TX0087173
	WASTEWATER	PERMIT	TX0087173
	AIR NEW SOURCE PERMITS	PERMIT	18836
	AIR NEW SOURCE PERMITS	PERMIT	23806
	AIR NEW SOURCE PERMITS	PERMIT	25716
	AIR NEW SOURCE PERMITS	PERMIT	45196
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	MH0040N
	AIR NEW SOURCE PERMITS	PERMIT	53473
	AIR NEW SOURCE PERMITS	REGISTRATION	76004
	AIR NEW SOURCE PERMITS	AFS NUM	4832100026
	AIR NEW SOURCE PERMITS	REGISTRATION	74298
	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1610089

Location: 13 MILES SOUTH OF BAY CITY ON HWY 60

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: July 27, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: July 27, 2004 to July 27, 2009

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

Name: James Nolan Phone: (512) 239-6634

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: 9/1/2008 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
- Effective Date: 09/22/2008 ADMINORDER 2007-1188-AIR-E
 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 DDD 60.562-2(a)
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-6(a)(1)
 5C THC Chapter 382, SubChapter A 382.085(b)
 Rqmt Prov: FOP O-01635, SC #1A OP
 FOP O-01635, SC #7 OP
 Permit 18836, SC #17E PERMIT
 Description: Failed to seal open-ended lines in VOC service, as reported in the July 21, 206 and January 29, 2007 deviation reports.
 Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

30 TAC Chapter 122, SubChapter B 122.143(4)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: FOP O-01635, SC #7 OP
Permit 18836, SC #18B(1) PERMIT

Description: Failed to perform quarterly monitoring on connectors in VOC service, as reported in the July 21, 2006 and January 29, 2007 deviation reports.

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 DDD 60.562-2(a)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-7(a)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: FOP O-01635, SC #1A OP
FOP O-01635, SC #7 OP

Permit 18836, SC #17F PERMIT

Description: Failed to perform quarterly monitoring on valves in VOC service, as reported in the July 21, 2006 and January 29, 2007 deviation reports.

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT DDD 60.562-2(a)

40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-7(a)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: FOP O-01635, SC #1A OP

Description: Failed to monitor valves in VOC service for two consecutive months after installation, as reported in the July 21, 2006 deviation report.

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 DDD 60.562-2(a)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-7(d)(1)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: FOP O-01635, SC #1A OP
FOP O-01635, SC #7 OP

Permit 18836, SC #17F PERMIT

Description: Failed to re-monitor a valve in VOC service within 15 days of being replaced, as reported in the January 29, 2007 deviation report.

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT DDD 60.562-2(a)

40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-7(c)(2)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: FOP O-01635, SC #1A OP

Description: Failed to re-monitor two valves leaking more than 10,000 parts per million for two consecutive leak-free months, as reported in the July 21, 2006 deviation report.

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 DDD 60.562-2(a)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-9(a)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: FOP O-01635, SC #1A OP
FOP O-01635, SC #7 OP

Permit 18836, SC #17I PERMIT

Description: Failed to repair one valve in VOC service by the end of the next unit shutdown, as reported in the July 21, 2006 deviation report.

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)

40 CFR Chapter 60, SubChapter C, PT 60, SubPT DDD 60.562-2(a)

40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-4(b)

5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: FOP O-01635, SC #1A OP

Description: Failed to re-monitor the PSV downstream of rupture disc RD-302 within five days after pressure release, as reported in the July 21, 2006 deviation report.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

30 TAC Chapter 122, SubChapter B 122.143(4)

5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: FOP O-01635, SC #7 OP

Permit 18836, SC #9 PERMIT

Description: Failed to maintain the flare exit velocity at or below 10 fps on a six minute rolling average while the BTU value was less than 500 on January 23, February 26, August 3, September 11 and 17, November 27 and 29, and December 5, 21, 22, and 23, 2006, as reported in the July 21, 2006 deviation report.

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)(4)

5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: FOP O-01635, SC #1A OP

FOP O-01635, SC #7 OP

Permit 18836, SC #9 PERMIT

Description: Failed to maintain the flare tip velocity below 60 fps on March 1, 2006, as reported in the July 21, 2006 deviation report.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

30 TAC Chapter 122, SubChapter B 122.143(4)

5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: FOP O-01635, SC #7 OP

Permit 18836, SC #6 PERMIT

Description: Failed to maintain the flare BTU value greater than 400 on a six minute rolling average on August 8, September 11 and 17, November 29, December 4, 21, 22, 23, 24, and 26, 2006.

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)(3)(ii)

5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: FOP O-01635, SC #1A OP

FOP O-01635, SC #7 OP

Permit 18836, SC #7A PERMIT

Description: Failed to maintain the flare BTU value greater than 300 on September 11 and December 21, 22, 23, 24, and 26, 2006, as reported in the July 21, 2006 deviation report.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

30 TAC Chapter 122, SubChapter B 122.143(4)

5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: FOP O-01635, SC #7 OP

Permit 18836, SC #8 PERMIT

Description: Failed to maintain a minimum steam-to-hydrocarbon ratio of less than or equal to 2.0 for a feed rate greater than 300 lbs/hr and less than or equal to 3.0 for a feed rate greater than 300 lbs/hr averaged over six minutes on October 9, December 4, 5, 6, 22, and 24, 2006, as reported in the July 21, 2006 deviation report.

Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(A)

5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: FOP O-01635, General Conditions OP

Description: Failed to report five deviations for Tanks T-171, T-601, T-602, T-606, and T-735 which occurred in the previous deviation reporting period of January 1 to June 30, 2006, as reported in the January 29, 2007 deviation report.

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT Ka 60.112a(a)(2)

5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: FOP O-01635, SC #1A OP

Description: Failed to prevent the landing of the internal floating roof to Tank T-606 (EPN No. HT-606), as reported in the January 29, 2007 deviation report.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)

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 Ka 60.112a(a)(2)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: FOP O-01635, SC #1A OP
FOP O-01635, SC #7 OP

Permit 18836, GC #8 PERMIT
Permit 18836, SC #1 PERMIT

Description: Failed to prevent the landing of the internal floating roof to Tanks T-601 (EPN HT-601) and T-602 (EPN HT-602), as reported in the January 29, 2007 deviation report.

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	09/17/2004	(361219)
2	10/22/2004	(361220)
3	11/24/2004	(387048)
4	12/20/2004	(387049)
5	01/24/2005	(387050)
6	02/15/2005	(424832)
7	03/18/2005	(387047)
8	04/01/2005	(346693)
9	04/22/2005	(424833)
10	05/11/2005	(380629)
11	05/20/2005	(424834)
12	06/20/2005	(424835)
13	07/08/2005	(375897)
14	07/21/2005	(445482)
15	08/22/2005	(445483)
16	09/19/2005	(445484)
17	11/21/2005	(477021)
18	12/20/2005	(477020)
19	12/20/2005	(477022)
20	01/13/2006	(477023)
21	02/10/2006	(477018)
22	03/23/2006	(477019)

23 03/31/2006 (454659)
 24 04/24/2006 (503780)
 25 05/23/2006 (503781)
 26 06/07/2006 (463101)
 27 06/22/2006 (503782)
 28 07/26/2006 (526134)
 29 08/21/2006 (526135)
 30 09/19/2006 (526136)
 31 10/24/2006 (509045)
 32 10/24/2006 (550468)
 33 10/24/2006 (550471)
 34 11/16/2006 (550469)
 35 12/12/2006 (550470)
 36 02/20/2007 (586702)
 37 03/12/2007 (586703)
 38 03/12/2007 (586704)
 39 05/11/2007 (586705)
 40 06/04/2007 (543647)
 41 06/12/2007 (586706)
 42 07/19/2007 (586707)
 43 08/16/2007 (604770)
 44 09/07/2007 (567382)
 45 09/18/2007 (604771)
 46 10/16/2007 (604772)
 47 11/15/2007 (624615)
 48 11/28/2007 (598885)
 49 12/07/2007 (624616)
 50 01/10/2008 (624617)
 51 02/11/2008 (614628)
 52 02/15/2008 (675435)
 53 03/12/2008 (675436)
 54 04/17/2008 (675437)
 55 05/19/2008 (693755)
 56 06/16/2008 (693756)
 57 07/18/2008 (693757)
 58 08/11/2008 (637082)
 59 08/14/2008 (715092)
 60 09/26/2008 (715093)
 61 10/09/2008 (704847)
 62 10/16/2008 (715094)
 63 11/12/2008 (730920)
 64 01/09/2009 (730921)
 65 01/09/2009 (730922)
 66 01/15/2009 (708401)
 67 02/06/2009 (754161)
 68 03/09/2009 (754162)
 69 04/21/2009 (754163)
 70 05/29/2009 (746815)
 71 07/16/2009 (737291)

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

Date: 08/31/2004 (361219) CN600124705
 Self 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: 10/31/2004 (387048) CN600124705
 Self YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 11/30/2004 (387049) CN600124705
 Self YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2004 (387050) CN600124705

Self 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: 04/01/2005 (346693) CN600124705

Self NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

No. O-01635, SC No.7 OP

Description: Failure to monitor connectors quarterly with an approved gas analyzer during the certification period.

Self NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-7(a)

No. 18836 SC 12F PERMIT

No. O-01635, SC 7 OP

Description: Failure to monitor the valves monthly with an approved gas analyzer during the certification period.

Self Report? NO Classification: Moderate

Citation: 40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-7(c)(2)

No. O-01635, SC 1.A OP

Description: Failure to monitor 11 valves consecutively for two months after detecting the leaks during the quarterly monitoring with an approved gas analyzer during the certification period

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-2(a)(1)

No. 18836 PERMIT

No. O-01635, SC 7 OP

Description: Failure to monitor the pumps monthly with an approved gas analyzer during the certification period.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-6(a)(1)

No. 18836 SC 12E PERMIT

No. O-01635 SC7 OP

Description: Failure to cap or plug 92 open ended lines in the Matagorda Plant, during the certification period.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter B 115.114(c)(1)

No. O-01635, SC 1.A OP

Description: Failure to repair the storage tank (HT-606) detached seal within 60 days after the inspection date.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)(ii)

No. O-01635 SC 1A OP

Description: Failure to perform daily flare observations by using Method 9 or 22 for 48 days during the certification period.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

No. 18836, SC 4 PERMIT

No. O-01635, SC 7 OP

Description: Failure to maintain the minimum heating value of waste gas going to flare at 400 BTU/scf.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

No. 18836, SC 6 PERMIT

No. O-01635, SC 7 OP

Description: Failure to maintain the steam to hydrocarbon ratio below 2:1 or 3:1 depending on the hydrocarbon feed rate.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

No. 18836, SC7 PERMIT

No. O-01635, SC7 OP

Description: Failure to maintain the minimum heating value of waste gas going to flare at 500 BTU/scf when the exit velocity exceeds 10 ft/second.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter B 115.112(c)(1)
No. O-01635, SC 1A OP

Description: Failure to submerge the bottom of the fill pipe of the storage tank (HT-801) during the certification period.

Date 06/30/2005 (445482) CN600124705

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 04/03/2006 (454659)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-7(c)

Description: Failure to verify two leak free months on valves in VOC service.

Date 06/30/2006 (526134) CN600124705

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 10/24/2006 (509045) CN600124705

Self Report? NO Classification: Moderate

Citation: 18836, Special Condition 4 PERMIT
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)
O-01635, Special Condition 7 OP

Description: Exceeded the oxides of nitrogen emissions from the boiler stacks.

Self Report? NO Classification: Moderate

Citation: 18836, Special Condition 18A PERMIT
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)
O-01635, Special Condition 7 OP

Description: Failed to monitor 164 connections designated as annual Difficult to Monitor (DTM) components.

Self Report? NO Classification: Moderate

Citation: 18836, Special Condition 18B PERMIT
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)
O-01635, Special Conditions 7 OP

Description: Failed to monitor 404 connections on a quarterly schedule.

Self Report? NO Classification: Moderate

Citation: 18836, Special Condition 9 PERMIT
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)
O-01635, Special Condition 7 OP

Description: Failed to maintain the BTU content and the tip velocity of the flare. Sub Category B13

Self Report? NO Classification: Moderate

Citation: 18836, Special Condition 8 PERMIT
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)
O-01635, Special Condition 7 OP

Description: Exceeded the steam to hydrocarbon ratio at the flare. Sub Category B13

Self Report? NO Classification: Moderate

Citation: 18836, Special Condition 6 PERMIT
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)

O-01635, Special Condition 7 OP
Description: Failed to maintain the BTU content of the flare. Sub Category B13
Self Report? NO Classification: Moderate
Citation: 18836, Special Condition 17E PERMIT
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 DDD 60.562-2(a)
5C THC Chapter 382, SubChapter D 382.085(b)
O-01635 Special Condition 1 OP
O-01635, Special Condition 7 OP

O-01635, Special Condition 7 OP
Description: Failed to seal thirty three open-ended lines.
Self Report? NO Classification: Moderate
Citation: 18836, Special Condition 17F PERMIT
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 DDD 60.562-2(a)
5C THC Chapter 382, SubChapter D 382.085(b)
O-01635, Special Condition 1 OP

O-01635, Special Condition 7 OP
Description: Failed to monitor replacement valves within 15 days of replacement.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(7)(A)
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(G)
5C THC Chapter 382, SubChapter D 382.085(b)
O-01635, Special Condition 1 OP

O-01635, Special Condition 7 OP
Description: Exceeded the opacity limit with in buildings CB-2 & CB-3. Sub Category B13
Self Report? NO Classification: Moderate
Citation: 18836, Special Condition 2 PERMIT
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)
O-01635, Special Condition 7 OP

O-01635, Special Condition 7 OP
Description: Located a blown ruptured disc.
Self Report? NO Classification: Moderate
Citation: 18836, Special Condition 7B PERMIT
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)
O-01635, Special Condition 7 OP

O-01635, Special Condition 7 OP
Description: Failed to maintain the flare pilot flame.
Self Report? NO Classification: Moderate
Citation: 40 CFR Chapter 60, SubChapter C, PT 60, SubPT DDD 60.562-2(a)
5C THC Chapter 382, SubChapter D 382.085(b)
O-01635, Special Condition 1 OP

O-01635, Special Condition 7 OP
Description: Failed to remonitor components within 5 days to insure it had reseated.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(A)
30 TAC Chapter 122, SubChapter B 122.145(2)(C)
5C THC Chapter 382, SubChapter D 382.085(b)
O-01635, General Terms and Conditions OP

O-01635, Special Condition 7 OP
Description: Failed to report three deviations in the appropriate deviation report time frames.
Self Report? NO Classification: Moderate
Citation: 18836, Special Condition 17F PERMIT
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 DDD 60.562-2(a)
5C THC Chapter 382, SubChapter D 382.085(b)
O-01635, Special Condition 1A OP
O-01635, Special Condition 7 OP

O-01635, Special Condition 7 OP
Description: Failed to monitor 45 valves designated as annual Difficult to Monitor (DTM).
Self Report? NO Classification: Moderate
Citation: 18836, Special Condition 17F PERMIT
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 DDD 60.562-2(b)

5C THC Chapter 382, SubChapter D 382.085(b)
 O-01635, Special Condition 1A OP
 O-01635, Special Condition 7 OP
 Description: Failed to monitor 266 valves on a quarterly schedule.
 Date 01/31/2007 (586702) CN600124705
 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 03/31/2007 (586704) CN600124705
 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 04/30/2007 (586705) CN600124705
 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 08/31/2007 (604771) CN600124705
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter
 Date 12/31/2007 (624617) CN600124705
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter
 Date 02/29/2008 (675436) CN600124705
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter
 Date 03/31/2008 (675437) CN600124705
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter
 Date 06/30/2008 (693757) CN600124705
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter
 Date 08/11/2008 (637082) CN600124705
 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 VV 60.482-6(a)(1)
 5C THSC Chapter 382 382.085(b)
 SC 17E PERMIT
 ST&C 1A OP
 ST&C 7 OP

Description: Failure to cap and plug 5 open-ended lines
 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)
 ST&C 7 OP
 ST&C 9 OP

Description: Failure to prevent the GRP-FLARE emissions exit velocity from exceeding the 10 ft/sec permit limit.
 Self Report? NO Classification: Moderate
 Citation: 40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-7(a)

5C THSC Chapter 382 382.085(b)
 ST&C 1A PERMIT
 Description: Failure to consecutively monitor a leaking valve on DOR
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT Kb 60.112b(a)(1)(i)
 5C THSC Chapter 382 382.085(b)
 ST&C 1A PERMIT
 Description: Failure to maintain the internal floating roof to float on the liquid at all times
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 115, SubChapter D 115.354(2)
 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 60.482-7(a)
 5C THSC Chapter 382 382.085(b)
 SC17F PERMIT
 ST&C 1A OP
 ST&C 7 OP

 Description: Failure to monitor 5 valves quarterly in the Pilot Plant
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 115, SubChapter D 115.354(2)
 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)
 SC18B PERMIT
 ST&C 7 OP
 Description: Failure to monitor 10 connectors in the Pilot Plant quarterly
 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)
 ST&C 7 OP
 ST&C19 OP
 Description: Failure to consecutively monitor/determine the lower heating value of the gases going to the flare
 Date 07/15/2009 (737291) CN600124705
 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 60, SubChapter C, PT 60, SubPT VV 60.482-6(a)(1)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT FFFF 63.2480(b)
 5C THSC Chapter 382 382.085(b)
 NSR SC 17E PERMIT
 O-01635 Special Terms and Conditions 1A OP
 O-01635 Special Terms and Conditions 7 OP
 Description: Failed to cap and plug open ended lines during the certification period 1/1/2008 through 12/31/2008. (Category C10 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)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT FFFF 63.2480(b)
 5C THSC Chapter 382 382.085(b)
 NSR SC 17F PERMIT
 NSR SC 17I PERMIT
 O-01635 Special Terms and Conditions 1A OP
 O-01635 Special Terms and Conditions 7 OP
 Description: Failed to monitor and repair leaking components put into delay of repair status on 7/6/2008 and 6/24/2008. (Category C1 Violation)
 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)
 NSR SC 8 PERMIT
 O-01635 Special Terms and Conditions 1A OP
 O-01635 Special Terms and Conditions 7 OP
 Description: Failed to maintain the feed rate of the hydrocarbon to the EPN: FLARE on 8/6/2008,

8/30/2008, and 9/3/2008. (Category C1 Violation)

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT FFFF 63.2480(b)
5C THSC Chapter 382 382.085(b)

Description: O-06135 Special Terms and Conditions 1A OP
Failed to monitor the pressure safety valves to ensure proper reseating within a five day timeline. (Category C1 Violation)

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
EQUISTAR CHEMICALS, LP
RN100216159**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2009-1247-AIR-E

I. JURISDICTION AND STIPULATIONS

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

1. The Respondent owns and operates a polyethylene manufacturing plant located 13 miles south of Bay City on Highway 60, Matagorda 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 July 21, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Eight Thousand Five Hundred Dollars (\$8,500) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). On or about January 6, 2009, the Respondent filed a petition for bankruptcy relief pursuant to Chapter 11 of the United States Code in the U.S. Bankruptcy Court of the Southern District of

New York. The Respondent's Plan of Reorganization was confirmed by the Bankruptcy Court on or about April 23, 2010. At the time of the violations Alleged in Section II, Respondent remained as a debtor in possession and no trustee or examiner had been appointed. The Automatic Stay imposed by the Federal Bankruptcy Code (specifically, 11 USC 362(a)) does not apply to the commencement or continuation of an action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power, by virtue of the exception set out at 11 USC § 362(b)(4). Accordingly, TCEQ (a governmental unit as defined under 11 USC § 101(27)) is expressly excepted from the automatic stay in pursuing enforcement of the State's Environmental Protection Laws, and in seeking to liquidate its damages for such violations. These violations having been incurred post-petition, pre-confirmation are entitled to be treated as administrative expense priority for purpose of the claims hierarchy of payment from the bankruptcy estate. So long as the Debtors bankruptcy proceedings are pending and/or until relief from the automatic stay is granted, the TCEQ will, however not seek to execute upon any monetary judgment obtained without first approaching the United States Bankruptcy Court where the Debtor's bankruptcy case is pending as necessary, after consultation with the Office of the Attorney General. One Thousand Seven Hundred Dollars (\$1,700) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. Any deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty upon approval by the bankruptcy court.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that prior to November 23, 2008, the Respondent provided additional training to flare operators to prevent the recurrence of similar violations.
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 maintain the exit velocity, net heating value, and visible emission requirements of the flare [Emission Point Number FLARE], in violation of 30 TEX. ADMIN. CODE §§ 101.20(1), 116.115(c) and 122.143(4), 40 CODE OF FEDERAL REGULATIONS § 60.18(c)(4), Federal Operating Permit No. O-01635 Special Terms and Conditions 1A, New Source Review Permit No. 18836 Special Conditions 6, 7c, and 9, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on May 4, 2009. Specifically, on April 15, 2008, June 3, 2008, August 3, 2008, August 5, 2008, November 15, 2008, and November 22, 2008, the flare was not operated as required.
2. Failed to monitor the firebox temperature of the GRP-Boiler, in violation of 30 TEX. ADMIN. CODE §§ 101.20(2) and 122.143(4), 40 CODE OF FEDERAL REGULATIONS § 63.2455(a), Federal Operating Permit No. O-01635 Special Terms and Conditions 1A, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on May 4, 2009.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent be assessed an administrative penalty as set forth in Section I, Paragraph 6 above. The assessment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. However, the agreement by the Respondent to the assessment of a penalty is expressly not in lieu of or an alternative to compliance with all injunctive requirements in this Agreed order. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments when paid shall be made payable to "TCEQ" and sent with the notation "Re: Equistar Chemicals, LP, Docket No. 2009-1247-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. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 180 days after the effective date of this Agreed Order:
 - i. Implement measures designed to ensure the proper monitoring of the firebox temperature of the GRP-Boiler, as required by 40 CODE OF FEDERAL REGULATIONS § 63.2455(a); or
 - ii. Obtain an exception from the Environmental Protection Agency that negates the requirement to monitor the firebox temperature of the GRP-Boiler.

- b. Within 195 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. 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 fines 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. 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 1/10/2011

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

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

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

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



Signature

Date 10-14-2010

M. D. Wobser

Name (Printed or typed)
Authorized Representative of
Equistar Chemicals, LP

Title Site Manager

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.