EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2010-1515-AIR-E **TCEQ ID:** RN102926920 **CASE NO.:** 40398

RESPONDENT NAME: Equistar Chemicals, LP

ORDER TYPE:		
_X_ 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
_X_ AIR	__MULTI-MEDIA (check all that apply)	__INDUSTRIAL AND HAZARDOUS WASTE
__PUBLIC WATER SUPPLY	__PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
__WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
__MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	__DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: Equistar Chemicals Bayport Complex, 5761 Underwood Road, Pasadena, Harris County

TYPE OF OPERATION: Chemical manufacturing plant

SMALL BUSINESS: ___ **Yes** _X_ **No**

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on March 7, 2011. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732

TCEQ Enforcement Coordinator: Ms. Kimberly Morales, Enforcement Division, Enforcement Team 5, MC R-12, (713) 422-8938; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495

Respondent: Mr. Guy Tremblay, Site Manager, Equistar Chemicals, LP, 5761 Underwood Road, Pasadena, Texas 77507

Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: __ Complaint __ Routine __ Enforcement Follow-up X Records Review **Date(s) of Complaints Relating to this Case:** None **Date of Investigation Relating to this Case:** June 15, 2010 **Date of NOV/NOE Relating to this Case:** September 3, 2010 (NOE) **Background Facts:** This was a records review. **AIR** Failed to prevent unauthorized emissions. Specifically, the Respondent released 5,806 pounds of ethylene which is a highly reactive volatile organic compound ("HRVOC") from pressure relief valves 43RV322 and 43RV323 in the Ethylene Oxide Unit during an emissions event that began on June 5, 2010 and lasted 15 minutes (Incident No. 140622), due to a failed interlock caused by a build up of solid particles in the liquid carbonate that removes carbon dioxide from the recycled gas. Since the Respondent has not provided sufficient information to demonstrate that this emissions event was caused by a sudden breakdown of equipment or process that was beyond the control of the owner or operator, and that the emissions event stemmed from an activity that could have been foreseen and avoided, the demonstrations in 30 TEX. ADMIN. CODE § 101.222 necessary to present an affirmative defense were not met. The Respondent also exceeded 1,200 pounds of HRVOC per one-hour block period from any flare, vent, pressure relief valve, cooling tower, or any combination for a site located in Harris County that is subject to the Vent Gas Control requirements [30 TEX. ADMIN. CODE §§ 115.722(c)(1) and 116.115(c), TCEQ Air Permit No. 6257E, Special Condition No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b)].	**Total Assessed:** $10,000 **Total Deferred:** $2,000 X Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $4,000 **Total Paid to General Revenue:** $4,000 **Compliance History Classifications:** Person/CN - Average Site/RN - Average **Major Source:** X Yes __ No **Applicable Penalty Policy:** September 2002	**Corrective Actions Taken:** The Executive Director recognizes that the Respondent has implemented short-term corrective measures by increasing the frequency of preventative maintenance action from once per quarter to once every two weeks. The preventative maintenance action includes steps to blow down or clear the switch to reduce the risk of solids buildup. **Ordering Provisions:** 1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A) 2) The Order will also require the Respondent to: a. Within 180 days after the effective date of this Agreed Order, implement measures designed to prevent a build up of solid particles in the liquid carbonate that removes carbon dioxide from the recycled gas in order to prevent recurrence of emissions events due to a same or similar cause as that of Incident No. 140622; and 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.

Additional ID No(s).: Air Account HG1996R

Attachment A
Docket Number: 2010-1515-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**Equistar Chemicals, LP**
Payable Penalty Amount:	**Eight Thousand Dollars ($8,000)**
SEP Amount:	**Four Thousand Dollars ($4,000)**
Type of SEP:	**Pre-approved**
Third-Party Recipient:	**Barbers Hill Independent School District-Alternative Fueled Vehicle and Equipment Program**
Location of SEP:	**Harris County**

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 ***Barbers Hill Independent School District*** for the **Alternative Fueled Vehicle and Equipment Program** as set forth in an agreement between the Third-Party Recipient and the TCEQ. SEP monies will be used to retire current diesel-powered or gasoline powered vehicles and equipment and replace those vehicles and equipment with alternative-fueled vehicles and equipment; convert current vehicles and equipment to alternative-fueled equipment; or retrofit current gasoline or diesel-powered equipment.

SEP funds will only be used for the incremental costs of purchase of clean fuel or lower-emission vehicles or retrofit of existing vehicles and for the purchase of these cleaner burning fuels.

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 air pollution emissions of particulate matter, volatile organic compounds, nitrogen oxides, and other pollutants associated with the combustion of fuel that would have been generated by older vehicles.

C. Minimum Expenditure

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:

John Johnson
Carl Griffith & Associates, Inc.
2901 Turtle Creek Drive, Suite 101
Port Arthur, Texas 77642

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.

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

Texas Commission on Environmental Quality
Financial Administration Division, Revenues
Attention: Cashier, MC 214
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

DATES					
Assigned	7-Sep-2010				
PCW	11-Oct-2010	Screening	15-Sep-2010	EPA Due	31-May-2011

RESPONDENT/FACILITY INFORMATION

Respondent	Equistar Chemicals, LP		
Reg. Ent. Ref. No.	RN102926920		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	40398	No. of Violations	1
Docket No.	2010-1515-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Kimberly Morales
		EC's Team	Enforcement Team 5

Admin. Penalty $ Limit Minimum $0 Maximum $10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — *Subtotal 1* **$5,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History — **215.0%** Enhancement — *Subtotals 2, 3, & 7* **$10,750**

Notes: Enhancement for 11 NOVs with same/similar violations, three NOVs with dissimilar violations, four agreed orders with a denial of liability, two agreed orders without a denial of liability, and one court judgment with a denial of liability. Reduction for two notice of audit letters and two disclosures of violations submitted.

Culpability — No — **0.0%** Enhancement — *Subtotal 4* **$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments — *Subtotal 5* **$0**

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

Total EB Amounts $641
Approx. Cost of Compliance $12,000

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 — *Final Subtotal* **$15,750**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **$15,750**

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* **$10,000**

DEFERRAL — **20.0%** Reduction — *Adjustment* **-$2,000**

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY **$8,000**

Screening Date 15-Sep-2010 **Docket No.** 2010-1515-AIR-E **PCW**

Respondent Equistar Chemicals, LP

Case ID No. 40398

Reg. Ent. Reference No. RN102926920

Media [Statute] Air

Enf. Coordinator Kimberly Morales

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Compliance History Worksheet

>> Compliance History *Site* Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (*number of NOVs meeting criteria*)	11	55%
	Other written NOVs	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	4	80%
	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	2	50%
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*)	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 (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which notices were submitted)*	2	-2%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	2	-4%

		Please Enter Yes or No	
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 215%

>> 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 11 NOVs with same/similar violations, three NOVs with dissimilar violations, four agreed orders with a denial of liability, two agreed orders without a denial of liability, and one court judgment with a denial of liability. Reduction for two notice of audit letters and two disclosures of violations submitted.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 215%

Screening Date	15-Sep-2010	**Docket No.** 2010-1515-AIR-E	**PCW**
Respondent	Equistar Chemicals, LP		*Policy Revision 2 (September 2002)*
Case ID No.	40398		*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN102926920		
Media [Statute]	Air		
Enf. Coordinator	Kimberly Morales		

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 115.722(c)(1) and 116.115(c), TCEQ Air Permit No. 6257E, Special Conditions No. 1, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to prevent unauthorized emissions. Specifically, the Respondent released 5,806 pounds of ethylene which is a highly reactive volatile organic compound ("HRVOC") from pressure relief valves 43RV322 and 43RV323 in the Ethylene Oxide Unit during an emissions event that began on June 5, 2010 and lasted 15 minutes (Incident No. 140622), due to a failed interlock caused by a build up of solid particles in the liquid carbonate that removes carbon dioxide from the recycled gas. Since the Respondent has not provided sufficient information to demonstrate that this emissions event was caused by a sudden breakdown of equipment or process that was beyond the control of the owner or operator, and that the emissions event stemmed from an activity that could have been foreseen and avoided, the demonstrations in 30 Tex. Admin. Code § 101.222 necessary to present an affirmative defense were not met. The Respondent also exceeded 1,200 pounds of HRVOC per one-hour block period from any flare, vent, pressure relief valve, cooling tower, or any combination for a site located in Harris County that is subject to the Vent Gas Control requirements.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm: Major	Moderate	Minor
	Actual		x	
	Potential			

Percent 50%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

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

Adjustment $5,000

$5,000

Violation Events

Number of Violation Events: 1 — 1 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $5,000

One monthly event is recommended.

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 $5,000

Economic Benefit (EB) for this violation

Estimated EB Amount $641

Statutory Limit Test

Violation Final Penalty Total $15,750

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

Economic Benefit Worksheet

Respondent Equistar Chemicals, LP
Case ID No. 40398
Reg. Ent. Reference No. RN102926920
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or $						
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling				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)	$12,000	5-Jun-2010	30-Jun-2011	1.07	$641	n/a	$641

Notes for DELAYED costs Estimated cost to implement measures to prevent a build up of solid particles in the liquid carbonate that removes carbon dioxide from the recycled gas. The Date Required is the start date of the emissions event. The Final Date is date that corrective actions are expected to be completed.

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance $12,000

TOTAL $641

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600124705	Equistar Chemicals, LP	Classification: AVERAGE	Rating: 4.42
Regulated Entity:	RN102926920	EQUISTAR CHEMICALS BAYPORT COMPLEX	Classification: AVERAGE	Site Rating: 4.29

ID Number(s):	WASTEWATER	PERMIT	WQ0003029000
	WASTEWATER	EPA ID	TX0103900
	INDUSTRIAL AND HAZARDOUS WASTE	EPA ID	TXD982306144
	INDUSTRIAL AND HAZARDOUS WASTE	SOLID WASTE REGISTRATION # (SWR)	38073
	AIR NEW SOURCE PERMITS	AFS NUM	4820100882
	AIR NEW SOURCE PERMITS	PERMIT	83663
	AIR NEW SOURCE PERMITS	PERMIT	6257E
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG1996R
	AIR NEW SOURCE PERMITS	REGISTRATION	53450
	AIR NEW SOURCE PERMITS	PERMIT	6257F
	AIR NEW SOURCE PERMITS	REGISTRATION	24932
	AIR NEW SOURCE PERMITS	REGISTRATION	26681
	AIR NEW SOURCE PERMITS	REGISTRATION	27151
	AIR NEW SOURCE PERMITS	REGISTRATION	82200
	WATER LICENSING	LICENSE	1010818
	AIR OPERATING PERMITS	PERMIT	2314
	AIR OPERATING PERMITS	ACCOUNT NUMBER	HGA009I
	AIR OPERATING PERMITS	ACCOUNT NUMBER	HG0621B
	AIR OPERATING PERMITS	PERMIT	1373
	AIR OPERATING PERMITS	ACCOUNT NUMBER	HG1996R
	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	51237
	USED OIL	REGISTRATION	C87643
	AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	HG1996R

Location: 5761 UNDERWOOD RD, PASADENA, TX, 77507

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: September 15, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: September 15, 2005 to September 15, 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: 9/1/2010 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: 03/08/2008 ADMINORDER 2007-0815-AIR-E
Classification: Moderate
Citation: 30 TAC Chapter 115, SubChapter H 115.722(c)(1)
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter D 382.085(b)
Rqmt Prov: Permit # 6257E, Special Condition #1 PA
Description: Failure to prevent unauthorized emission of ethylene.
Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
30 TAC Chapter 101, SubChapter F 101.221(a)
30 TAC Chapter 115, SubChapter H 115.722(d)
30 TAC Chapter 116, SubChapter B 116.115(c)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(2)
Rqmt Prov: Permit #6257E, Special Condition #7B PERMIT
Permit #6257E, Special Condition #7D PERMIT
Description: Failure to prevent lost of flare flame.

Effective Date: 10/01/2008 COURTORDER
Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)
Rqmt Prov: TCEQ Air Permit No. 6257E, SC #1 PA
Description: Failed to prevent unauthorized emissions of 736.6 pounds of Ethylene Oxide from the Ethylene Oxide Unit during an emissions event that occurred on December 26, 2004 and lasted 47 hours and 42 minutes.
Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(8)
5C THC Chapter 382, SubChapter A 382.085(b)
Description: Failed to identify the preconstruction permit authorization number for the facility involved in the emissions event.

Effective Date: 11/06/2008 ADMINORDER 2008-0714-AIR-E
Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)
Rqmt Prov: Permit #6257E, Special Condition #1 PERMIT
Description: Failed to prevent unauthorized emissions. Specifically, 875 pounds of ethylene and 737 pounds of ethylene oxide were released from Pressure Release Valve 43RV185 at Emission Point Number EOFUG when the Respondent failed to prevent the loss of electrical power to a portion of the

plant which caused the unit to shut down, resulting in an emission event on February 2, 2008 which lasted for 4 minutes (Incident No. 103210).

Effective Date: 12/18/2009 ADMINORDER 2008-0923-AIR-E
Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)
Rqmt Prov: Special Condition No. 1 PERMIT
Description: Failure to prevent the release of unauthorized air contaminants into the atmosphere.

Effective Date: 02/22/2010 ADMINORDER 2009-0219-AIR-E
Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)
Rqmt Prov: Special Condition #1 PERMIT
Description: The Respondent failed to prevent unauthorized emissions during Incident No. 106249.

Effective Date: 04/11/2010 ADMINORDER 2009-1549-AIR-E
Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)
Rqmt Prov: Special Condition #1 PERMIT
Description: The Respondent is alleged to have failed to prevent unauthorized emissions during Incident No. 125119.

Effective Date: 06/18/2010 ADMINORDER 2009-1976-AIR-E
Classification: Moderate
Citation: 30 TAC Chapter 115, SubChapter H 115.722(c)(1)
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)
Rqmt Prov: No. 6257E, Special Condition #1 PERMIT
Description: Failure to prevent unauthorized emissions during Incident No. 124036. Since the emissions event was excessive and could have been avoided through better operational practices, the demonstration criteria for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222 were not met.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 10/04/2005 (393410)
2 10/14/2005 (479270)
3 11/09/2005 (479271)
4 12/19/2005 (479272)
5 01/12/2006 (479273)
6 02/10/2006 (453461)
7 02/10/2006 (479267)
8 02/14/2006 (453393)
9 02/14/2006 (453460)
10 02/14/2006 (453530)
11 02/14/2006 (453533)

12	03/10/2006	(453272)
13	03/13/2006	(479269)
14	04/11/2006	(456847)
15	04/18/2006	(505070)
16	04/25/2006	(457466)
17	04/27/2006	(462400)
18	05/16/2006	(505071)
19	05/25/2006	(373692)
20	05/25/2006	(374834)
21	05/25/2006	(457709)
22	06/19/2006	(505072)
23	06/22/2006	(462252)
24	07/07/2006	(527370)
25	08/10/2006	(527371)
26	09/05/2006	(488332)
27	09/15/2006	(527372)
28	10/11/2006	(527373)
29	11/07/2006	(551134)
30	12/05/2006	(551135)
31	01/18/2007	(551136)
32	02/12/2007	(551133)
33	02/14/2007	(514773)
34	03/02/2007	(587732)
35	04/05/2007	(536838)
36	04/12/2007	(587733)
37	05/01/2007	(532613)
38	05/03/2007	(554897)
39	05/11/2007	(587734)
40	06/08/2007	(587735)
41	07/06/2007	(587736)
42	07/13/2007	(559637)
43	07/16/2007	(565220)
44	08/15/2007	(605178)
45	09/06/2007	(571788)
46	09/12/2007	(605179)
47	10/11/2007	(605180)
48	11/05/2007	(628503)
49	12/05/2007	(628504)
50	01/14/2008	(628505)
51	01/25/2008	(613136)
52	01/25/2008	(613421)
53	02/13/2008	(676436)
54	02/29/2008	(612847)
55	03/06/2008	(616814)
56	03/06/2008	(676437)
57	03/24/2008	(619007)
58	04/03/2008	(676438)
59	04/17/2008	(646550)
60	04/21/2008	(641735)
61	04/21/2008	(641745)
62	05/07/2008	(694897)
63	05/30/2008	(670772)
64	06/03/2008	(694898)
65	07/07/2008	(636745)
66	07/14/2008	(694899)
67	08/06/2008	(716385)
68	09/08/2008	(716386)
69	10/02/2008	(716387)
70	11/06/2008	(716388)

71	12/09/2008	(700786)
72	12/09/2008	(731851)
73	12/15/2008	(721119)
74	01/06/2009	(701686)
75	01/08/2009	(731852)
76	02/04/2009	(755262)
77	02/06/2009	(654875)
78	03/04/2009	(755263)
79	03/24/2009	(737363)
80	04/08/2009	(755264)
81	04/20/2009	(736550)
82	04/21/2009	(703526)
83	05/05/2009	(740163)
84	05/11/2009	(772355)
85	06/05/2009	(772356)
86	06/17/2009	(749392)
87	07/08/2009	(742361)
88	07/20/2009	(817082)
89	08/06/2009	(749798)
90	08/12/2009	(817083)
91	08/27/2009	(767173)
92	09/02/2009	(749562)
93	09/02/2009	(817084)
94	09/10/2009	(759204)
95	09/30/2009	(768078)
96	10/06/2009	(817085)
97	11/16/2009	(817086)
98	11/23/2009	(747102)
99	12/09/2009	(817087)
100	12/21/2009	(767399)
101	01/12/2010	(817088)
102	02/08/2010	(817081)
103	03/18/2010	(835215)
104	03/22/2010	(794745)
105	04/09/2010	(835216)
106	04/28/2010	(795330)
107	05/06/2010	(835217)
108	06/02/2010	(847599)
109	07/01/2010	(824417)
110	08/05/2010	(790168)
111	08/09/2010	(843325)
112	08/09/2010	(844509)
113	08/19/2010	(861996)
114	09/03/2010	(828301)
115	09/03/2010	(829342)

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

Date: 04/25/2006 (457466)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)
No. 6257E, Special Condition 1 PERMIT
Description: Equistar Chemicals failed to prevent the malfunction of the mechanical seal of pump 23-6060.

Date: 06/22/2006 (462252)
Self Report? NO Classification: Moderate

Citation: #6257F, Special Condition #1 PA
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter D 382.085(b)
Description: Failure to prevent the unauthorized emission of ammonia from the pressure safety relief valve to the environment.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(1)(H)
Description: Failure to identify the preconstruction authorization (rule or permit #) on the final record.

Date: 12/31/2006 (551136)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 03/21/2007 (536838)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter D 382.085(b)
Permit #6257E, Special Condition 1 PA
Description: Failure to prevent the unauthorized emissions of volatile organic compounds (VOC).

Date: 05/02/2007 (532613) CN600124705
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.167(a)(2)
5C THC Chapter 382, SubChapter D 382.085(b)
No. 6257E, Special Condition 16E PERMIT
No. 6257E, Special Condition 18 PERMIT
No. 6257E, Special Condition 19E PERMIT
No. 6257F, Special Condition 3E PERMIT
No. 6257F, Special Condition 5 PERMIT
No. O-01373, Special Condition 15A OP
No. O-01373, Special Condition 1A OP
Description: failure to equip open-ended lines in VOC Service with a cap, plug, blind flange or second valve and failure to close the second valve on an open-ended lines in VOC and Ethylene Oxide service.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 115, SubChapter D 115.352(1)(B)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.169(c)
5C THC Chapter 382, SubChapter D 382.085(b)
No. 6257F, Special Condition 3(I) PERMIT
No. O-01373, Special Condition 15A OP
No. O-01373, Special Condition 1A OP
Description: failure to repair two leaking pumps within 15 days of the date they were found leaking.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 115, SubChapter H 115.722(d)(1)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)

40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(3)(ii)
5C THC Chapter 382, SubChapter D 382.085(b)
No. 6257E, Special Condition 7A PERMIT
No. 6257E, Special Condition 7D PERMIT
No. O-01373, Special Condition 15A OP
No. O-01373, Special Condition 1A OP

Description: failure to maintain the net heating value to the Plant Flare at a mimimum value of 300 Btu/scf.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THC Chapter 382, SubChapter D 382.085(b)
No. 6257F, Special Condition 3H PERMIT
No. O-01373, Special Condition 15A OP

Description: failure to attach a tag to a leaking component indicating the component is leaking and needs repair.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.168(d)(2)
5C THC Chapter 382, SubChapter D 382.085(b)
No. 6257E, Special Condition 16F PERMIT
No. O-01373, Special Condition 15A OP
No. O-01373, Special Condition 1A OP

Description: failure to monitor 21 components in VOC service for fugitive emissions.

Date: 03/03/2008 (612847) CN600124705

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)
Permit #6257E, Special Condition #1 PERMIT

Description: Failure of the Recycle Gas Compressor West Drainer Module Level Controller resulting in the release of contaminants from the relief valve to the atmosphere.

Date: 03/06/2008 (616814) CN600124705

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)
Permit #6257E PERMIT

Description: Failure of the Quench Bleed Stripper Overhead Pressure Controller which resulted in the release of ethylene oxide to the atmosphere.

Date: 07/07/2008 (636745)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
OP O-01373, Special Condition 3B(iv)(1) OP

Description: Failure to conduct quarterly visible emission observation. Unit ID#10-6891,10-6892,10-6893,10-6894.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.167(a)(1)
5C THSC Chapter 382 382.085(b)
OP O-01373, Special Condition 15 OP

P 6257E, SC 18E, and 6257F, SC 3E PA

Description: Failure to cap/plug open-ended lines, Unit ID#EODFUG, EOFUG, Tank #4623, T-6. Category C10.

Self Report? NO Classification: Moderate

Citation:
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
OP O-01373, Special Condition 15 PA
P 6257E, Special Condition 7B PA

Description: Failure to maintain flare pilot flame, Unit ID# Flare-CV.

Self Report? NO Classification: Minor

Citation:
30 TAC Chapter 115, SubChapter H 115.725(d)(1)(C)
5C THSC Chapter 382 382.085(b)

Description: Failure to re-certify flare header flow meter, 65FIT0363

Self Report? NO Classification: Moderate

Citation:
30 TAC Chapter 115, SubChapter D 115.354(2)(C)
30 TAC Chapter 115, SubChapter H 115.781(b)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.168(d)(2)
5C THSC Chapter 382 382.085(b)
OP O-01373, Special Condition 15 OP
P 6257F, Special Condition 3F PA

Description: Failure to monitor nine valves in hazardous air pollutants (HAPs), VOC service.

Self Report? NO Classification: Moderate

Citation:
30 TAC Chapter 115, SubChapter H 115.781(b)(3)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.174(b)(3)(i)
5C THSC Chapter 382 382.085(b)
OP O-01373, Special Condition 15 OP
P 6257F, Special Condition 6 PA

Description: Failure to monitor connectors in HAPs/VOC service.

Self Report? NO Classification: Moderate

Citation:
30 TAC Chapter 115, SubChapter C 115.212(a)(3)(B)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
OP O-01373, Special Condition 15 OP
P 6257F, Special Condition 13 PA

Description: Monoethanolamine (MEA) tank truck overfilled during loading, Unit ID# T-3.

Self Report? NO Classification: Minor

Citation:
30 TAC Chapter 115, SubChapter D 115.354(5)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.162(f)(1)
5C THSC Chapter 382 382.085(b)
OP O-01373, Special Condition 15 OP
P 6257E, Special Condition 17H PA

Description: Failure to tag leaking pump #23-4310.

Self Report? NO Classification: Minor

Citation:
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.169(c)(1)
5C THSC Chapter 382 382.085(b)
OP O-01373, Special Condition 15 OP
P 6257F, Special Condition 3I PA

Description: Failure to repair leaking pump #23-5220.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter B 115.112(a)(3)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
OP O-01373, Special Condition 4 OP
Description: Failure to limit raw material vent scrubber temperature, tank 4616

Date: 12/09/2008 (700786)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)
Special Condition #1 PERMIT
Description: Failure to prevent unauthorized emissions.

Date: 12/21/2009 (767399) CN600124705
Self Report? NO Classification: Minor
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 63, SubChapter C, PT 63, SubPT H 63.168(d)(2)
5C THSC Chapter 382 382.085(b)
FOP O-01373 Special Term & Condition 15 OP
NSR 6257E Special Condition 17F PERMIT
NSR 6257F Special Condition 3F PERMIT
Description: Failure to monitor for fugitive components. (CATEGORY C4 Violation)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 115, SubChapter D 115.352(2)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.168(f)(1)
5C THSC Chapter 382 382.085(b)
FOP O-01373 Special Term & Condition 15 OP
NSR Permit 6257E Special Condition 17H PERMIT
NSR Permit 6257F Special Condition 7H PERMIT
Description: Failure to repair leaking components within the required timeframe. (CATEGORY B18 Violation)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 115, SubChapter D 115.356(2)(E)(ii)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.181(d)
5C THSC Chapter 382 382.085(b)
FOP O-01373 Special Term & Condition 15 OP
NSR Permit 6257E Special Condition 17H PERMIT
NSR Permit 6257F Special Condition 7H PERMIT
Description: Failure to tag leaking components. (CATEGORY C4 Violation)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.167(a)(1)
5C THSC Chapter 382 382.085(b)
FOP O-01373 Special Term & Condition 15 OP
NSR 6257E Special Condition 19 PERMIT
NSR 6257F Special Condition 5 PERMIT
Description: Failure to prevent open ended lines. (CATEGORY C10 Violation)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 115, SubChapter H 115.722(d)

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)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.11(b)(5)
5C THSC Chapter 382 382.085(b)
FOP O-01373 Special Term & Condtion 15 OP
NSR 6257E Special Condition 7B PERMIT

Description: Failure to maintain flare pilot light. (CATEGORY B18 Violation)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 117, SubChapter B 117.310(f)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
FOP O-01373 Special Term & Condition 1A OP

Description: Operation of Diesel Engine during restricted hours. (CATEGORY B18 Violation)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(8)(A)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)

Description: Failure to prevent opacity exceedance on emergency generator. (CATEGORY B18 Violation)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter B 115.112(a)(3)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
FOP O-01373 Special Term & Condtion 14 OP

Description: Failure to maintain scrubber temperature limits less than 100 degress Fahrenheit. (CATEGORY C4 Violation)

Date: 12/31/2009 (817088)

Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

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

Date: 05/31/2010 (847599)

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: 07/01/2010 (824417) CN600124705

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 due to transmitter malfunction.

Date: 09/03/2010 (829342)

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 due to the ethylene oxide (EO) Feed Pump Pressure Transmitter 52PT006 gasket failure.

F. Environmental audits.

Notice of Intent Date: 06/01/2007 (571660)
Disclosure Date: 08/09/2007
Viol. Classification: Minor
Rqmt Prov: PERMIT O-1373
Description: Failure to maintain CFC recordkeeping.
Viol. Classification: Moderate
Citation: 30 TAC Chapter 117, SubChapter H 117.9020(2)(A)(i)
Description: Failure to perform NOx stack testing on Boiler (EPN-P-25).
Viol. Classification: Major
Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)
Description: Failure to permit two emission sources.

Notice of Intent Date: 10/01/2008 (707526)
Disclosure Date: 11/18/2008
Viol. Classification: Moderate
Citation: 40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.166(b)(4)
Description: Failure to adequately control of sample purges containing hazardous air pollutants that were routed to the facility wastewater system.
Disclosure Date: 05/15/2009
Viol. Classification: Major
Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)
Description: Failure to obtain authorization for wastewater pond emissions.
Viol. Classification: Moderate
Citation: 30 TAC Chapter 335, SubChapter A 335.6(b)
Description: Failure to include wastewater pond as a solid waste management unit for the management of process wastewater.

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN	**§**	**BEFORE THE**
ENFORCEMENT ACTION	**§**	
CONCERNING	**§**	**TEXAS COMMISSION ON**
EQUISTAR CHEMICALS, LP	**§**	
RN102926920	**§**	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2010-1515-AIR-E

I. JURISDICTION AND STIPULATIONS

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

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

2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).

3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.

4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about September 8, 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 Ten Thousand Dollars ($10,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Four Thousand Dollars ($4,000) of the administrative penalty and Two Thousand Dollars ($2,000) 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. Four Thousand Dollars ($4,000) 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 short-term corrective measures by increasing the frequency of preventative maintenance action from once per quarter to once every two weeks. The preventative maintenance action includes steps to blow down or clear the switch to reduce the risk of solids buildup.

10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE §§ 115.722(c)(1) and 116.115(c), TCEQ Air Permit No. 6257E, Special Condition No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on June 15, 2010. Specifically, the Respondent released 5,806 pounds of ethylene which is a highly reactive volatile organic compound ("HRVOC") from pressure relief valves 43RV322 and 43RV323 in the Ethylene Oxide Unit during an emissions event that began on June 5, 2010 and lasted 15 minutes (Incident No. 140622), due to a failed interlock caused by a build up of solid particles in the liquid carbonate that removes carbon dioxide from the recycled gas. Since the Respondent has not provided sufficient information to demonstrate that this emissions event was caused by a sudden breakdown of equipment or process that was beyond the control of the owner or operator, and that the emissions event stemmed from an activity that could have been foreseen and avoided, the demonstrations in 30 TEX. ADMIN. CODE § 101.222 necessary to present an affirmative defense were not met. The Respondent also exceeded 1,200 pounds of HRVOC per one-hour block period from any flare, vent, pressure relief valve, cooling tower, or any combination for a site located in Harris County that is subject to the Vent Gas Control requirements.

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: Equistar Chemicals, LP, Docket No. 2010-1515-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, Four Thousand Dollars ($4,000) 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. 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, implement measures designed to prevent a build up of solid particles in the liquid carbonate that removes carbon dioxide from the recycled gas in order to prevent recurrence of emissions events due to a same or similar cause as that of Incident No. 140622; and

   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. 3.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

4. 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.

5. 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.

6. 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.

7. 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.

8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

9. 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

_____ 2/17/2011
For the Executive Director Date

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

_____ 12/17/10
Signature Date

Guy Trombley Site Manager
Name (Printed or typed) Title
Authorized Representative of
Equistar Chemicals, LP

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: 2010-1515-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**Equistar Chemicals, LP**
Payable Penalty Amount:	**Eight Thousand Dollars ($8,000)**
SEP Amount:	**Four Thousand Dollars ($4,000)**
Type of SEP:	**Pre-approved**
Third-Party Recipient:	**Barbers Hill Independent School District-Alternative Fueled Vehicle and Equipment Program**
Location of SEP:	**Harris County**

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 ***Barbers Hill Independent School District*** for the **Alternative Fueled Vehicle and Equipment Program** as set forth in an agreement between the Third-Party Recipient and the TCEQ. SEP monies will be used to retire current diesel-powered or gasoline powered vehicles and equipment and replace those vehicles and equipment with alternative-fueled vehicles and equipment; convert current vehicles and equipment to alternative-fueled equipment; or retrofit current gasoline or diesel-powered equipment.

SEP funds will only be used for the incremental costs of purchase of clean fuel or lower-emission vehicles or retrofit of existing vehicles and for the purchase of these cleaner burning fuels.

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 air pollution emissions of particulate matter, volatile organic compounds, nitrogen oxides, and other pollutants associated with the combustion of fuel that would have been generated by older vehicles.

C. Minimum Expenditure

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:

John Johnson
Carl Griffith & Associates, Inc.
2901 Turtle Creek Drive, Suite 101
Port Arthur, Texas 77642

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.

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

Texas Commission on Environmental Quality
Financial Administration Division, Revenues
Attention: Cashier, MC 214
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.