

**Executive Summary – Enforcement Matter – Case No. 45169**

**MEMC PASADENA, INC.**

**RN101062099**

**Docket No. 2012-2036-AIR-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

AIR

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

MEMC Pasadena, 3000 North South Street, Pasadena, Harris County

**Type of Operation:**

Chemical manufacturing plant

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** June 14, 2013

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$11,401

**Amount Deferred for Expedited Settlement:** \$2,280

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$9,121

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - Satisfactory

**Major Source:** Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2011

**Executive Summary – Enforcement Matter – Case No. 45169  
MEMC PASADENA, INC.  
RN101062099  
Docket No. 2012-2036-AIR-E**

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** May 7, 2012 and November 12, 2012

**Date(s) of NOE(s):** July 12, 2012 and January 10, 2013

***Violation Information***

1. Failed to prevent unauthorized emissions. Specifically, Respondent released 2,700 pounds of silicon tetrafluoride during an emissions event (Incident No. 166969) that began on April 9, 2012 and lasted three minutes. The release occurred in the Silanes Production Unit when a Joint Industry Council fitting in the Silicon Tetrafluoride feed system failed due to erosion-corrosion. Since the emissions event could not have been prevented by better operational or maintenance practices, Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), Air Permit No. 9597, Special Conditions No. 1, and Federal Operating Permit ("FOP") No. O1412, Special Terms and Conditions No. 12].

2. Failed to submit a Permit Compliance Certification ("PCC") within 30 days of the end of the certification period. Specifically, the PCC for the certification period from July 1, 2011 through June 30, 2012 was due on July 30, 2012, but was not submitted until November 12, 2012 [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.146(2), TEX. HEALTH & SAFETY CODE § 382.085(b), and FOP No. O1412, General Terms and Conditions].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

Respondent has implemented the following corrective measures:

a. On June 15, 2012, implemented measures to prevent recurrence of emissions events due to similar causes as Incident No. 166969; and

b. On November 12, 2012, submitted the PCC for the July 1, 2011 through June 30, 2012 certification period.

**Technical Requirements:**

N/A

**Executive Summary – Enforcement Matter – Case No. 45169**

**MEMC PASADENA, INC.**

**RN101062099**

**Docket No. 2012-2036-AIR-E**

***Litigation Information***

**Date Petition(s) Filed:** N/A

**Date Answer(s) Filed:** N/A

**SOAH Referral Date:** N/A

**Hearing Date(s):** N/A

**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Roshondra Lowe, Enforcement Division,  
Enforcement Team 5, MC R-12, (713) 767-3553; Debra Barber, Enforcement Division,  
MC 219, (512) 239-0412

**TCEQ SEP Coordinator:** N/A

**Respondent:** Robin K. Prokop, Site Manager, MEMC PASADENA, INC., 3000 North  
South Street, Pasadena, Texas 77501

Edgardo Colon, ESH Manager, MEMC PASADENA, INC., 3000 North South Street,  
Pasadena, Texas 77501

**Respondent's Attorney:** N/A





# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

<b>DATES</b>	<b>Assigned</b>	23-Jan-2013	<b>Screening</b>	5-Feb-2013	<b>EPA Due</b>	12-Oct-2013
	<b>PCW</b>	11-Feb-2013				

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

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	45169	<b>No. of Violations</b>	2
<b>Docket No.</b>	2012-2036-AIR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Roshondra Lowe
		<b>EC's Team</b>	Enforcement Team 5
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$7,500</b>
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	<b>77.0%</b> Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$5,775</b>
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Notes: Enhancement for two NOV's with same/similar violations, two agreed orders with denial of liability, and one court order with denial of liability. Reduction for one notice of intent to conduct an audit and one disclosure of violations submitted.

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>\$1,874</b>
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<b>Economic Benefit</b>	<b>0.0%</b> Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts: \$39  
 Approx. Cost of Compliance: \$4,000  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$11,401</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>0.0%</b>	<b>Adjustment</b>	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: [Empty box]

<b>Final Penalty Amount</b>	<b>\$11,401</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$11,401</b>
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<b>DEFERRAL</b>	<b>20.0%</b> Reduction	<b>Adjustment</b>	<b>-\$2,280</b>
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	<b>\$9,121</b>
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Screening Date 5-Feb-2013

Docket No. 2012-2036-AIR-E

PCW

Respondent MEMC PASADENA, INC.

Policy Revision 3 (September 2011)

Case ID No. 45169

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101062099

Media [Statute] Air

Enf. Coordinator Roshondra Lowe

### 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 ( <i>number of NOVs meeting criteria</i> )	2	10%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	1	30%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	1	-1%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	1	-2%
<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)** 77%

>> Repeat Violator (Subtotal 3)

No

**Adjustment Percentage (Subtotal 3)** 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

**Adjustment Percentage (Subtotal 7)** 0%

>> Compliance History Summary

**Compliance History Notes**

Enhancement for two NOVs with same/similar violations, two agreed orders with denial of liability, and one court order with denial of liability. Reduction for one notice of intent to conduct an audit and one disclosure of violations submitted.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 77%

>> Final Compliance History Adjustment

**Final Adjustment Percentage \*capped at 100%** 77%

Screening Date 5-Feb-2013

Docket No. 2012-2036-AIR-E

PCW

Respondent MEMC PASADENA, INC.

Policy Revision 3 (September 2011)

Case ID No. 45169

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101062099

Media [Statute] Air

Enf. Coordinator Roshondra Lowe

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), Tex. Health & Safety Code § 382.085(b), Air Permit No. 9597, Special Conditions No. 1, and Federal Operating Permit No. O1412, Special Terms and Conditions No. 12

Violation Description Failed to prevent unauthorized emissions. Specifically, the Respondent released 2,700 pounds of silicon tetrafluoride during an emissions event (Incident No. 166969) that began on April 9, 2012 and lasted three minutes. The release occurred in the Silanes Production Unit when a Joint Industry Council fitting in the Silicon Tetrafluoride feed system failed due to erosion-corrosion. Since the emissions event could have been prevented by better operational or maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 Tex. Admin. Code § 101.222.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	15.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

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 this violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1 Number of violation days 1

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

Violation Base Penalty \$3,750

One quarterly event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$937

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

Notes The Respondent completed corrective actions on June 15, 2012, prior to the July 12, 2012 NOE.

Violation Subtotal \$2,813

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$32

Violation Final Penalty Total \$5,701

This violation Final Assessed Penalty (adjusted for limits) \$5,701

## Economic Benefit Worksheet

**Respondent** MEMC PASADENA, INC.  
**Case ID No.** 45169  
**Reg. Ent. Reference No.** RN101062099  
**Media** Air  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$3,500	9-Apr-2012	15-Jun-2012	0.18	\$32	n/a	\$32

**Notes for DELAYED costs**

Estimated cost to implement measures to prevent the recurrence of emissions events due to the same cause as Incident No. 166969. The date required is the date of the emissions event and the final date is the date compliance was achieved.

### Avoided Costs

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

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

**Notes for AVOIDED costs**

Approx. Cost of Compliance

\$3,500

**TOTAL**

\$32

**Screening Date** 5-Feb-2013  
**Respondent** MEMC PASADENA, INC.  
**Case ID No.** 45169  
**Reg. Ent. Reference No.** RN101062099  
**Media [Statute]** Air  
**Enf. Coordinator** Roshondra Lowe

**Docket No.** 2012-2036-AIR-E

**PCW**

Policy Revision 3 (September 2011)  
 PCW Revision August 3, 2011

**Violation Number** 2

**Rule Cite(s)** 30 Tex. Admin. Code §§ 122.143(4) and 122.146(2), Tex. Health & Safety Code § 382.085(b), and Federal Operating Permit No. O1412, General Terms and Conditions

**Violation Description**

Failed to submit a Permit Compliance Certification ("PCC") within 30 days of the end of the certification period. Specifically, the PCC for the certification period from July 1, 2011 through June 30, 2012 was due on July 30, 2012, but was not submitted until November 12, 2012.

**Base Penalty** \$25,000

>> **Environmental, Property and Human Health Matrix**

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
	x			15.0%

Matrix Notes

100% of the rule requirement was not met.

**Adjustment** \$21,250

\$3,750

**Violation Events**

Number of Violation Events 1      105 Number of violation days

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

**Violation Base Penalty** \$3,750

One single event is recommended.

**Good Faith Efforts to Comply**

25.0% Reduction

\$937

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

Notes

The Respondent completed corrective actions on November 12, 2012, prior to the January 10, 2013 NOE.

**Violation Subtotal** \$2,813

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$7

**Violation Final Penalty Total** \$5,701

**This violation Final Assessed Penalty (adjusted for limits)** \$5,701

## Economic Benefit Worksheet

**Respondent** MEMC PASADENA, INC.  
**Case ID No.** 45169  
**Reg. Ent. Reference No.** RN101062099  
**Media** Air  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

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

### 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)	\$500	30-Jul-2012	12-Nov-2012	0.29	\$7	n/a	\$7

**Notes for DELAYED costs**

Estimated cost to submit the PCC. The date required is the date the PCC was due and the final date is the date the PCC was submitted.

### 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

\$500

**TOTAL**

\$7

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



## TCEQ Compliance History Report

**PUBLISHED** Compliance History Report for CN600619415, RN101062099, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

**Customer, Respondent, or Owner/Operator:** CN600619415, MEMC Pasadena, Inc.      **Classification:** SATISFACTORY      **Rating:** 9.57

**Regulated Entity:** RN101062099, MEMC PASADENA      **Classification:** SATISFACTORY      **Rating:** 9.57

**Complexity Points:** 10      **Repeat Violator:** NO

**CH Group:** 05 - Chemical Manufacturing

**Location:** 3000 N SOUTH STREET PASADENA, TX 77503, HARRIS COUNTY

**TCEQ Region:** REGION 12 - HOUSTON

### ID Number(s):

**AIR OPERATING PERMITS PERMIT 1412**

**AIR OPERATING PERMITS ACCOUNT NUMBER HX0029W**

**AIR NEW SOURCE PERMITS PERMIT 9597**

**AIR NEW SOURCE PERMITS ACCOUNT NUMBER HX0029W**

**AIR NEW SOURCE PERMITS REGISTRATION 55246**

**AIR NEW SOURCE PERMITS AFS NUM 4820101473**

**AIR NEW SOURCE PERMITS REGISTRATION 95822**

**AIR NEW SOURCE PERMITS REGISTRATION 106728**

**INDUSTRIAL AND HAZARDOUS WASTE EPA ID**

**INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE**

TXR000007088

REGISTRATION # (SWR) 84039

**AIR EMISSIONS INVENTORY ACCOUNT NUMBER**

**POLLUTION PREVENTION PLANNING ID NUMBER**

HX0029W

P03066

**Compliance History Period:** September 01, 2007 to August 31, 2012      **Rating Year:** 2012      **Rating Date:** 09/01/2012

**Date Compliance History Report Prepared:** February 04, 2013

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** February 04, 2008 to February 04, 2013

### TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

**Name:** Roshondra Lowe      **Phone:** (713) 767-3553

### Site and Owner/Operator History:

- 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 for #2, who is the current owner/operator?      N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)?      N/A
- 5) If YES, when did the change(s) in owner or operator occur?      N/A

### Components (Multimedia) for the Site Are Listed in Sections A - J

#### **A. Final Orders, court judgments, and consent decrees:**

- 1      **Effective Date:** 04/05/2009      **ADMINORDER 2008-1378-AIR-E (1660 Order-Agreed Order With Denial)**  
    **Classification:** Moderate  
    **Citation:** 30 TAC Chapter 116, SubChapter B 116.115(c)  
            5C THSC Chapter 382 382.085(b)  
    **Rqmt Prov:**9597, Special Condition 1. PERMIT  
    **Description:** Failed to prevent unauthorized emissions during Incident No. 109377.  
    **Classification:** Minor  
    **Citation:** 30 TAC Chapter 101, SubChapter F 101.201(c)

5C THSC Chapter 382 382.085(b)

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

2 Effective Date: 12/21/2009 COURTORDER (Final Judgement-Agreed Order With Denial)

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter A 101.4  
30 TAC Chapter 101, SubChapter F 101.201(b)(2)(F)  
30 TAC Chapter 101, SubChapter F 101.201(b)(2)(G)  
30 TAC Chapter 101, SubChapter F 101.201(b)(2)(H)  
5C THSC Chapter 382 382.002

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

3 Effective Date: 02/05/2011 ADMINORDER 2010-1078-AIR-E (1660 Order-Agreed Order With Denial)

Classification: Minor

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

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

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

Special Condition 6 PERMIT

Description: Failed to prevent an unauthorized emissions. Specifically, the Respondent released 1,959 pounds of silica which resulted in 30% opacity from the Inorganic Flare in the PA-21 Process Unit during an emissions event that began on March 24, 2010 and lasted 36 minutes (Incident No. 137503) when Storage Tank D-9344 was overfilled during a silane transfer, causing the relief valve to lift.

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

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

Item 1	April 07, 2008	(640627)
Item 2	April 21, 2008	(640075)
Item 3	June 10, 2008	(671582)
Item 4	December 15, 2008	(707786)
Item 5	April 03, 2009	(735687)
Item 6	April 08, 2009	(737712)
Item 7	May 12, 2009	(745311)
Item 8	September 08, 2010	(829437)
Item 9	September 21, 2010	(841831)
Item 10	November 19, 2010	(873741)
Item 11	March 01, 2011	(900873)
Item 12	July 05, 2011	(924142)
Item 13	October 24, 2011	(951206)
Item 14	October 15, 2012	(1036759)
Item 15	December 21, 2012	(1044344)

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1 Date: 02/27/2012 (982940) CN600619415

Self Report? NO Classification: Major  
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 during an emissions event that occurred  
on October 13, 2011. (Category B14)

2

Date: 01/10/2013 (1029206) CN600619415  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
Special Condition 1 PERMIT  
Special Terms and Conditions 11 OP  
Special Terms and Conditions 7(a)(i) OP  
Description: Failure to operate within NOx permitted emission rate. (Category B18)  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
Special Condition 8C PERMIT  
Special Terms and Conditions 11 OP  
Description: Failure to operate flare without visible emissions. (Category C7)  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(B)  
5C THSC Chapter 382 382.085(b)  
Description: Failure to operate scrubber without visible emissions. (Category C7)  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
Special Condition 20A PERMIT  
Special Terms and Conditions 11 OP  
Description: Failure to operate baghouse without visible emissions. (Category C7)  
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 A 60.8(a)  
Special Condition 18C PERMIT  
Special Terms and Conditions 11 OP  
Description: Failure to conduct stack test on scrubber. (Category B1)  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
Special Condition 20C PERMIT  
Special Terms and Conditions 11 OP  
Description: Failure to record visible emission observations for baghouse units. (Category C3)  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)(ii)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
Special Terms and Conditions 1A OP  
Description: Failure to record visible emission observations for flare units. (Category C3)  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 122, SubChapter C 122.221(a)(2)  
5C THSC Chapter 382 382.085(b)  
Description: Failure to authorize all emission points. (Category B3)  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
Special Condition 1 PERMIT  
Special Terms and Conditions 11 OP  
Description: Failure to operate within permitted silane emission rate. (Category B18)  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 122, SubChapter B 122.132(e)(4)(C)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT Kb 60.115b(d)(1)  
5C THSC Chapter 382 382.085(b)

Special Terms and Conditions 15 OP  
Description: Failure to conduct sampling on flare units. (Category B1)  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)

5C THSC Chapter 382 382.085(b)  
Special Condition 9A PERMIT  
Special Terms and Conditions 11 OP  
Description: Failure to route waste gas through scrubber units. (Category B19)  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.145(2)(C)

5C THSC Chapter 382 382.085(b)  
General Terms and Conditions OP  
Description: Failure to submit Semiannual Deviation Report (DR) within 30 days of the end of the reporting period. (Category B3)

#### **F. Environmental audits:**

Notice of Intent Date: 08/12/2010 (850871)

Disclosure Date: 02/01/2011

Viol. Classification: Minor

Citation: 40 CFR Chapter 265, SubChapter I, PT 265, SubPT I 265.173  
30 TAC Chapter 335, SubChapter A 335.2  
30 TAC Chapter 335, SubChapter C 335.69  
30 TAC Chapter 335, SubChapter C 335.69(a)(1)(A)  
30 TAC Chapter 335, SubChapter C 335.69(a)(2)  
30 TAC Chapter 335, SubChapter C 335.69(a)(3)

Description: Failed to level hazardous waste drums properly, failed to close three drums during storage, failed to label one drum, and also had one drum on site past the 90 day storage time limit.

Viol. Classification: Minor

Citation: 30 TAC Chapter 335, SubChapter A 335.13  
30 TAC Chapter 335, SubChapter A 335.13(j)  
30 TAC Chapter 335, SubChapter A 335.13(k)

Description: Failed to include the "Designated Facility to Generator" copy of the manifest as part of the record to show that the hazardous shipment had been received by the treatment, storage, and disposal facility on many waste manifests prior to April 2008.

Disclosure Date: 06/24/2011

Viol. Classification: Minor

Citation: 40 CFR Chapter 265, SubChapter I, PT 265, SubPT I 265.173  
30 TAC Chapter 335, SubChapter A 335.2  
30 TAC Chapter 335, SubChapter C 335.69  
30 TAC Chapter 335, SubChapter C 335.69(a)(1)(A)  
30 TAC Chapter 335, SubChapter C 335.69(a)(2)  
30 TAC Chapter 335, SubChapter C 335.69(a)(3)

Description: Failed to level hazardous waste drums properly, failed to close three drums during storage, failed to label one drum, and also had one drum on site past the 90 day storage time limit.

Viol. Classification: Minor

Citation: 30 TAC Chapter 335, SubChapter A 335.13  
30 TAC Chapter 335, SubChapter A 335.13(j)  
30 TAC Chapter 335, SubChapter A 335.13(k)

Description: Failed to include the "Designated Facility to Generator" copy of the manifest as part of the record to show that the hazardous shipment had been received by the treatment, storage, and disposal facility on many waste manifests prior to April 2008.

#### **G. Type of environmental management systems (EMSs):**

N/A

#### **H. Voluntary on-site compliance assessment dates:**

N/A

#### **I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



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

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

**AGREED ORDER  
DOCKET NO. 2012-2036-AIR-E**

**I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding MEMC PASADENA, INC. ("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 together stipulate that:

1. The Respondent owns and operates a chemical manufacturing plant at 3000 North South Street in Pasadena, Harris County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Executive Director 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 notices of the violations alleged in Section II ("Allegations") on or about July 17, 2012 and January 15, 2013.
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 Eleven Thousand Four Hundred One Dollars (\$11,401) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Nine Thousand One Hundred Twenty-One Dollars (\$9,121) of the administrative penalty and Two Thousand Two Hundred Eighty

Dollars (\$2,280) 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.

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 and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:
  - a. On June 15, 2012, implemented measures to prevent recurrence of emissions events due to similar causes as Incident No. 166969; and
  - b. On November 12, 2012, submitted the Permit Compliance Certification ("PCC") for the July 1, 2011 through June 30, 2012 certification period.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

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

1. Failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), Air Permit No. 9597, Special Conditions No. 1, and Federal Operating Permit No. O1412, Special Terms and Conditions No. 12, as documented during an investigation conducted on May 7, 2012. Specifically, the Respondent released 2,700 pounds of silicon tetrafluoride during an emissions event (Incident No. 166969) that began on April 9, 2012 and lasted three minutes. The release occurred in the Silanes Production Unit when a Joint Industry Council fitting in the Silicon Tetrafluoride feed system failed due to erosion-corrosion. Since the emissions event could have been prevented by better operational or maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.

2. Failed to submit a PCC within 30 days of the end of the certification period, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.146(2), TEX. HEALTH & SAFETY CODE § 382.085(b), and Federal Operating Permit No. O1412, General Terms and Conditions, as documented during a record review conducted on November 12, 2012. Specifically, the PCC for the certification period from July 1, 2011 through June 30, 2012 was due on July 30, 2012, but was not submitted until November 12, 2012.

### III. DENIALS

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

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: MEMC PASADENA, INC., Docket No. 2012-2036-AIR-E" to:

Financial Administration Division, Revenue Operations Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This 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.

5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

Barbara Davis  
For the Executive Director

7/1/13  
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.

Robin K. Prokop  
Signature

4-25-13  
Date

ROBIN K. PROKOP  
Name (Printed or typed)  
Authorized Representative of  
MEMC PASADENA, INC.

SITE MANAGER  
Title

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