

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 41874  
Gulf Chemical & Metallurgical Corporation  
RN100210129  
Docket No. 2011-0987-IHW-E

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

Absence of management practices designed to ensure compliance.

**Media:**

IHW

**Small Business:**

No

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

302 Midway Road, Freeport, Brazoria County

**Type of Operation:**

commercial hazardous waste management facility

**Other Significant Matters:**

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

**Texas Register Publication Date:** December 6, 2013

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$300,256

**Total Paid to General Revenue:** \$300,256

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

**SEP Conditional Offset:** N/A

**Compliance History Classifications:**

Person/CN – Average  
Site/RN – Poor

**Major Source:** Yes

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** September 2002

**Investigation Information**

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

**Date(s) of Investigation:** January 6, 2011 to February 28, 2011

**Date(s) of NOV(s):** May 23, 2006; May 30, 2006

**Date(s) of NOE(s):** March 28, 2011

**Gulf Chemical & Metallurgical Corporation****RN100210129****Docket No. 2011-0987-IHW-E****Violation Information**

1. Failed to update the Facility's NOR for waste streams and WMUs [30 TEX. ADMIN. CODE §§ 305.125(1) and 335.6(c), and Permit No. HW-50204-001 PPs II.C.1.e. and II.C.1.h].
2. Failed to record in the county deed records prior to disposal of industrial solid waste in a landfill [30 TEX. ADMIN. CODE §§ 305.125(1) and 335.5, and Permit No. HW-50204-001 PPs II.C.1.e. and II.C.1.h].
3. Failed to submit a complete and correct AWS [30 TEX. ADMIN. CODE §§ 305.125(1) and 335.9(a)(2), and Permit No. HW-50204-001 PPs II.C.1.e. and II.C.1.h].
4. Failed to prevent the discharge or threat of discharge of industrial solid waste into or adjacent to water in the state [TEX. WATER CODE § 26.121(a)(1); 30 TEX. ADMIN. CODE §§ 305.125(1), 335.2(a) and 335.4; and Permit No. HW-50204-001 PPs II.C.1.e. and II.C.1.h].
5. Failed to prevent the unauthorized discharge of industrial solid waste (Pond 4 turnaround) [TEX. WATER CODE § 26.121(a)(1); 30 TEX. ADMIN. CODE §§ 305.125(1), 335.2(a) and 335.4; and Permit No. HW-50204-001 PPs II.C.1.e. and II.C.1.h].
6. Failed to submit a complete written notice to the TCEQ within 14 days of detection of a condition leading to a release of hazardous waste from a primary barrier in CB2, and failed to submit a timely GNF [30 TEX. ADMIN. CODE §§ 305.125(1), 335.6(h) and 335.152(a)(20); 40 C.F.R. § 264.1101(c)(3)(i)(D); and Permit No. HW-50204-001 PPs II.C.1.e., II.C.1.h., and V.K].
7. Failed to conduct a hazardous waste determination and classification for one waste stream and failing to conduct a timely and accurate hazardous waste determination for another waste stream [30 TEX. ADMIN. CODE §§ 335.62 and 335.503(a), and 40 C.F.R. § 262.11].
8. Failed to prevent the unauthorized discharge of industrial solid waste (roaster stacks) [TEX. WATER CODE § 26.121(a)(1); 30 TEX. ADMIN. CODE §§ 305.125(1), 335.2(a) and 335.4; and Permit No. HW-50204-001 PPs II.C.1.e. and II.C.1.h].
9. Failed to design and/or construct CB2 to prevent collapse or other failure; failed to have a primary barrier designed to withstand the movement of personnel, waste, and handling equipment in the unit during the operating life of the unit and appropriate for the characteristics of the waste being managed; failed to maintain the primary barrier to be free of significant cracks, gaps, corrosion, or deterioration that could cause hazardous waste to be released from the primary barrier; and failed to maintain a secondary containment system [30 TEX. ADMIN. CODE §§ 305.125(1) and 335.152(a)(20); 40 C.F.R. § 264.1101(a)(2), (a)(4), (b)(3), and (c)(1)(i); and Permit No. HW-50204-001 PPs II.C.1.e., II.C.1.h. and V.K].
10. Failed to design and/or construct CB2 to prevent collapse or other failure and failed to prevent the unauthorized discharge of industrial and/or hazardous waste from CB2 [TEX. WATER CODE § 26.121(a)(1); 30 TEX. ADMIN. CODE §§ 305.125(1), 335.2(a), 335.4, and 335.152(a)(20); 40 C.F.R. § 264.1101(a)(2); and Permit No. HW-50204-001 PPs II.C.1.e., II.C.1.h. and V.K].

**Corrective Actions/Technical Requirements****Corrective Action(s) Completed:**

1. Updated the NOR to add waste stream 0026119H for the water from the oil/water separator adjacent to CB2, NOR unit 037, as of May 24, 2012 (Violation 1).
2. Updated the WMUs to (Violation 1):
  - i. Identify all units that comprise the WWTPs (NOR units 032 and 042), including unit descriptions and facility identification numbers as of May 24, 2012; and
  - ii. Add the waste stream 0026119H, water from the oil/water separator, to tanks NOR 036, 039 and containers 041 and 043 as of May 24, 2012.
3. Completed installation of a SO<sub>2</sub> scrubber at the Facility to prevent the ejection of solid waste from the roaster stacks as of November 30, 2012 (Violation 8).

4. To assess and address on-site and off-site soil contamination and groundwater contamination (Violation 10):
  - a. Entered into an Agreed Temporary Injunction (“ATI”) issued on September 22, 2011, which requires Respondent to perform and complete soil sampling on-site at the Facility as well as off-site properties adjacent to and in the vicinity of the Facility to determine the extent of soil contamination by chemicals of concern (“COCs”) as identified in the ATI. The ATI provides that the soil sampling is to be conducted pursuant to sampling plans for on-site and off-site soil that are approved by the Executive Director and requires a soil sampling report be submitted to the Executive Director after the sampling is conducted;
  - b. Taken the following actions regarding on-site soil and groundwater contamination:
    - i. Submitted a soil sampling plan regarding on-site soil (“On-Site Soil SAP”) on October 10, 2011;
    - ii. Obtained approval of the On-Site Soil SAP on November 4, 2011;
    - iii. Conducted on-site soil sampling pursuant to the On-Site Soil SAP in November 10, 2011;
    - iv. Submitted a soil sampling report regarding on-site soil on January 10, 2012;
    - v. Submitted a Response Action Plan (“RAP”) regarding on-site soil and groundwater contamination (“On-Site RAP”) pursuant the Texas Risk Reduction Program (“TRRP”) on May 7, 2012; and
    - vi. Submitted a revised On-Site RAP on December 28, 2012; and
  - c. Taken the following actions regarding off-site soil and groundwater contamination:
    - i. Submitted a soil sampling plan regarding off-site soil (“Off-Site Soil SAP”) on January 19, 2012;
    - ii. Obtained approval of the Off-Site Soil SAP on February 3, 2012;
    - iii. Conducted off-site soil sampling pursuant to the Off-Site Soil SAP in June 2012;
    - iv. Submitted a soil sampling report regarding off-site soil on August 17, 2012; and
    - v. Submitted an Affected Property Assessment Report (“APAR”) regarding off-site soil and groundwater contamination (“Off-Site APAR”) on February 13, 2013.

**Technical Requirements:**

1. Within 60 days:
  - a. Update the Facility’s NOR, including (Violation 1):
    - i. Updating the NOR waste streams to:
      - A. Add a replacement waste stream for process wastewater 0038119H; and
      - B. Revise the waste stream 0026119H, water from the oil/water separator, from a waste managed only “on-site” to a waste managed both on-site and offsite to accurately reflect that the waste stream is either recycled or disposed of off-site at an authorized facility.
    - ii. Updating the WMUs to:
      - A. Indicate the functions, descriptions and capacities for all units that comprise the WWTPs (NOR units 032 and 042); and
      - B. Add the replacement waste stream for process wastewater 0038119H managed in each surface impoundment for NOR units 019 and 020, and each WWTP for NOR units 032 and 042.

**Gulf Chemical & Metallurgical Corporation****RN100210129****Docket No. 2011-0987-IHW-E**

- b. Provide complete, current and accurate process and instrumentation diagram drawings and as-built drawings to the TCEQ Houston Regional Office (Violation 1);
- c. Deed record all required information, including the burial of alumina concentrate in the Brazoria County deed records office (Violation 2);
- d. Establish and implement procedures to ensure compliance with submitting written notices to the TCEQ in a timely manner (Violation 6);
- e. Implement procedures to include, in the AWS, individual amounts generated for each active waste stream and begin submitting AWSs that include individual amounts generated for each active waste stream (Violation 3);
- f. Prevent the discharge of solid waste that originates as an ejection of material from roaster stacks, and assess the impact to onsite/offsite soils, surface waters, and groundwater owing to release of this material to the environment (Violation 8); and
- g. Implement procedures to ensure that if there are any future ejections of material from the roaster stacks resulting in solid waste, that the Respondent will do a complete hazardous waste determination and classification, submit the waste determination analytical to the TCEQ Houston Regional Office, identify the waste in Respondent's NOR, and clean up the material and any contamination, (Violations 1 and 7).

**2. Within 150 days:**

- a. Complete all necessary repairs of CB2 and submit documentation demonstrating that CB2, the extension of CB2 and subsequent repairs and modifications after June 16, 2006, have been constructed, designed and maintained in accordance with 30 TEX. ADMIN. CODE § 335.152 and 40 C.F.R. § 264.1101. Include documentation demonstrating either that a permit modification is not required for any repair, change or construction to CB2 that has occurred after June 16, 2006, or that is necessary for CB2 to be constructed, designed and maintained; or include a copy of a filed application for permit modification (Violations 9 and 10); and
- b. Take the following actions regarding assessment and remediation for off-site, on-site, and Pond 4 contamination:
  - i. Regarding remediation for off-site contamination, if Respondent has not complied with this provision prior to the effective date of this Agreed Order (Violation 9):
    - A. Submit an APAR regarding off-site soil and groundwater contamination ("Off-Site APAR") documenting the results of an affected property assessment. The Off-Site APAR shall document the results and findings of the soil sampling performed under the ATI, Section 4.2, and shall include any additional sampling of soils or groundwater required to complete the Off-Site APAR. If response actions are necessary, Respondent shall comply with all applicable requirements of TRRP, which may include: plans, reports, and notices under Subchapter E (30 TEX. ADMIN. CODE §§ 350.92 to 350.96); financial assurance (30 TEX. ADMIN. CODE § 350.33(I)); and Institutional Controls under Subchapter F;
    - B. The Off-Site APAR shall define the horizontal and vertical extent of COCs; and
    - C. The Off-Site APAR shall include a schedule with specific completion dates for any remaining assessment and a RAP regarding off-site soil and groundwater contamination ("Off-Site RAP").
  - ii. Regarding remediation for on-site contamination, obtain approval from the Executive Director of the On-Site RAP which shall include a schedule with specific completion dates for the corrective action, and a Response Action Completion Report ("RACR") (Violations 1,4, and 5); and

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- iii. Submit an APAR regarding Pond 4 ("Pond 4 APAR") documenting the results of an affected property assessment. If response actions are necessary, Respondent shall comply with all applicable requirements of TRRP which may include: plans, reports, and notices under Subchapter E (30 Tex. Admin. Code §§ 350.92 to 350.96); financial assurance (30 Tex. Admin. Code § 350.33(l)); and Institutional Controls under Subchapter F. The Pond 4 APAR shall include a schedule with specific completion dates for any remaining assessment, and a RAP regarding Pond 4 ("Pond 4 RAP").
3. Within 180, submit written certification to demonstrate compliance with Technical Requirements Nos. 1 and 2.a.
  4. Within 240 days:
    - a. Obtain approval from the Executive Director of the Off-Site APAR which includes a schedule with specific completion dates for any remaining assessment, and the Off-Site APAR; and
    - b. Obtain approval from the Executive Director of the Pond 4 APAR which includes a schedule with specific completion dates for the remaining assessment and the Pond 4 RAP.
  5. By the specified completion date in the approved Off-Site APAR, obtain approval from the Executive Director of the Off-Site RAP which shall include a schedule with specific completion dates for corrective action and submittal of a RACR.
  6. By the specified completion date in the approved Pond 4 APAR, obtain approval from the Executive Director of the Pond 4 RAP which shall include a schedule with specific completion dates for corrective action, closure and submittal of a RACR.
  7. Implement the approved On-Site RAP and perform in accordance with the schedule of completion dates.
  8. Implement the approved Off-Site RAP and perform in accordance with the schedule of completion dates
  9. Implement the approved Pond 4 RAP and perform in accordance with the schedule of completion dates.
  10. Upon completion of all remedial activities and approval of completion by the TCEQ Remediation Division, Respondent shall submit written certification, in accordance with Ordering Provision No. 2.m., below, to demonstrate compliance with Technical Requirements Nos. 2.b. and 4 through 9.

**Litigation Information**

<b>Date Petition(s) Filed:</b>	August 8, 2011
<b>Date Answer(s) Filed:</b>	August 30, 2011
<b>SOAH Referral Date:</b>	October 4, 2011
<b>Hearing Date(s):</b>	
Preliminary Hearing:	December 15, 2011
Evidentiary Hearing:	October 29-November 2, 2012 (scheduled)
<b>Settlement Date:</b>	October 23, 2013

**Gulf Chemical & Metallurgical Corporation**

**RN100210129**

**Docket No. 2011-0987-IHW-E**

**Contact Information**

**TCEQ Attorneys:** Jennifer Cook, Litigation Division, (512) 239-3400  
Lena Roberts, Litigation Division, (512) 239-3400  
Blas Coy, Public Interest Counsel, (512) 239-6363

**TCEQ Enforcement Coordinator:** Michael Meyer, Enforcement Division, (512) 239-4492

**TCEQ Regional Contact:** Jason Ybarra, Houston Regional Office, (713) 767-3615

**Respondent Contact:** Robert Stephan, Vice-President of Operations, P.O. Box 2290, 302 Midway Road, Freeport Texas 77542-2290

**Respondent's Attorney:** Joseph R. Knight, BAKER BOTTS, L.L.P., 98 San Jacinto Blvd., Suite 1500, Austin, Texas 78701



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

<b>DATES</b>	<b>Assigned</b>	16-May-2011		
	<b>PCW</b>	27-Sep-2012	<b>Screening</b>	27-May-2011
			<b>EPA Due</b>	

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Gulf Chemical & Metallurgical Corporation
<b>Reg. Ent. Ref. No.</b>	RN100210129
<b>Facility/Site Region</b>	12-Houston
<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	41874	<b>No. of Violations</b>	8
<b>Docket No.</b>	2011-0987-IHW-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Industrial and Hazardous Waste	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Michael Meyer
		<b>EC's Team</b>	Enforcement Team 6
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$35,200
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<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>	
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.	
<b>Compliance History</b>	753.0% Enhancement <b>Subtotals 2, 3, &amp; 7</b> \$265,056

Notes: Enhancement for repeat violator classification, two NOVs with same/similar violations, 42 NOVs with dissimilar violations, three orders containing a denial of liability, one order without a denial of liability, and 11 counts of criminal convictions. Reduction for one notice of intended audit.

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
Total EB Amounts	\$8,220	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$136,250		

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$300,256
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

<b>Final Penalty Amount</b>	\$300,256
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$300,256
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<b>DEFERRAL</b>	0.0%	Reduction <b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral is recommended for Findings Orders.

<b>PAYABLE PENALTY</b>	\$300,256
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Screening Date 27-May-2011

Docket No. 2011-0987-IHW-E

PCW

Respondent Gulf Chemical & Metallurgical Corporation

Case ID No. 41874

Policy Revision 2 (September 2002)

Reg. Ent. Reference No. RN100210129

PCW Revision October 30, 2008

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Michael Meyer

### 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	42	84%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	3	60%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
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> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	11	550%
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> )	0	0%

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) 728%

#### >> Repeat Violator (Subtotal 3)

Yes

Adjustment Percentage (Subtotal 3) 25%

#### >> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

#### >> Compliance History Summary

Compliance History Notes

Enhancement for repeat violator classification, two NOVs with same/similar violations, 42 NOVs with dissimilar violations, three orders containing a denial of liability, one order without a denial of liability, and 11 counts of criminal convictions. Reduction for one notice of intended audit.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 753%

Screening Date 27-May-2011 Docket No. 2011-0987-IHW-E

PCW

Respondent Gulf Chemical & Metallurgical Corporation

Policy Revision 2 (September 2002)

Case ID No. 41874

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100210129

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Michael Meyer

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1), 335.5,335.6(c) and 335.9(a)(2), and Permit No. HW-50204-001 PPs II.C.1.e. and II.C.1.h.

Violation Description

Failed to update the Facility's Notice of Registration ("NOR") for waste streams and waste management units ("WMUs") as indicated in Attachment A. Failed to record in the county deed records prior to disposal of industrial solid waste in a landfill. Specifically, Respondent did not deed record the burial of approximately four million cubic feet of alumina concentrate in NOR unit 004 ("Pond 4") for the years of 1994 to 2006, prior to obtaining a variance on December 27, 2006. Failed to submit a complete and correct Annual Waste Summary ("AWS"). Specifically, AWSs for the years 2003, 2004, and 2005 did not include the generation of individual amounts of storm water for waste streams 0026119H and 00371191 and rinse water for waste streams 0030101H and 00341011.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 3

141 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$7,500

Three single events are 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 \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$216

Violation Final Penalty Total \$63,975

This violation Final Assessed Penalty (adjusted for limits) \$63,975

PCW Attachment A – NOR updates needed (Violation 1)

Respondent failed to update the NOR to:

- 1) Add a waste stream for the solid waste originating as a molten material ejected from roaster stacks;
- 2) Add a replacement waste stream for process wastewater 0038119H;
- 3) Add active and accurate waste streams for WMU NOR unit 004; and
- 4) Add a waste stream for the water from the oil/water separator adjacent to Containment Building 2 ("CB2"), NOR unit 037.

Respondent failed to update the WMUs to:

- 1) Indicate all units that comprise the wastewater treatment plants ("WWTPs"), including unit descriptions, functions, capacities, and facility identification numbers for NOR units 032 and 042;
- 2) Add the replacement waste stream for process wastewater 0038119H managed in each surface impoundment for NOR units 019 and 020, and each WWTP for NOR units 032 and 042;
- 3) Add replacement waste streams that are accurate and active for NOR unit 004; and
- 4) Add the waste stream to tank NOR 039 and the appropriate WWTPs (NOR units 032 and/or 042) for the water from the oil/water separator that is routed to the tank and then to a Facility WWTP.

## Economic Benefit Worksheet

**Respondent** Gulf Chemical & Metallurgical Corporation  
**Case ID No.** 41874  
**Reg. Ent. Reference No.** RN100210129  
**Media Violation No.** Industrial and Hazardous Waste  
 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$100	6-Jan-2011	27-Jan-2012	1.06	\$5	n/a	\$5
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$250	6-Jan-2011	27-Jan-2012	1.06	\$13	n/a	\$13
Other (as needed)	\$500	2-Mar-2004	27-Jan-2012	7.91	\$198	n/a	\$198

Notes for DELAYED costs

Estimated cost to update the Facility's NOR, including: 1) Updating the NOR to: 1. Add a waste stream for a molten material originating from roaster stacks, referred to by Respondent as "magma"; 2. Add a replacement waste stream for process wastewater 0038119H; 3. Add active and accurate waste streams for WMU NOR unit 004; and 4. Add a waste stream for the water from the oil/water separator adjacent to Containment Building 2 ("CB2"), NOR unit 037. 2) Updating the WMUs to: 1. Indicate all units that comprise the wastewater treatment plants ("WWTPs"), including unit descriptions, functions, capacities, and facility identification numbers for NOR units 032 and 042; 2. Add the replacement waste stream for process wastewater 0038119H managed in each surface impoundment for NOR units 019 and 020, and each WWTP for NOR units 032 and 042; 3. Add replacement waste streams that are accurate and active for NOR unit 004; and 4. Add the waste stream to tank NOR 039 and the appropriate WWTPs (NOR units 032 and/or 042) for the water from the oil/water separator that is routed to the tank and then to a Facility WWTP. The Date Required is the record review date and the Final Date is the expected date of compliance. Estimated cost to add record all required information, including the burial of alumina concentrate in the Brazoria County deed records office. The Date Required is the record review date and the Final Date is the expected date of compliance. Estimated cost to submit amended AWSs for the years 2003, 2004, and 2005 to include the generation of individual amounts of storm water for waste streams 0026119H and 00371191 and rise water for waste streams 0030101H and 00341011. The Date Required is the date the 2003 report was past due and the Final Date is the expected date of compliance.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$850

**TOTAL** \$216

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Screening Date 27-May-2011

Docket No. 2011-0987-IHW-E

PCW

Respondent Gulf Chemical & Metallurgical Corporation

Policy Revision 2 (September 2002)

Case ID No. 41874

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100210129

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Michael Meyer

Violation Number 2

Rule Cite(s) Tex. Water Code § 26.121(a)(1); 30 Tex. Admin. Code §§ 305.125(1), 335.2(a) and 335.4; and Permit No. HW-50204-001 PPs II.C.1.e. and II.C.1.h.

Violation Description Failed to prevent the discharge or threat of discharge of industrial solid waste into or adjacent to water in the state. Specifically, Respondent failed to prevent an unauthorized release of contaminants to groundwater from Pond 4. Analyses from groundwater samples collected by Respondent during years prior to 2006 indicated that the concentrations of molybdenum, nickel, and vanadium exceeded their Method Quantitation Limits ("MQLs"). Analyses from groundwater samples collected by Respondent on July 20, 2006 indicated that the concentrations of molybdenum (.0077-.113 milligrams per kilogram "mg/kg"), nickel (.00527-.00648 mg/kg), and vanadium (.00504-.0183 mg/kg) exceeded their MQLs of .005, .005, and .005 respectively.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent
	Major	Moderate	Minor	
	Actual	x		
	Potential			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 1 141 Number of violation days

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

Violation Base Penalty \$5,000

One single 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

Statutory Limit Test

Estimated EB Amount \$6,116

Violation Final Penalty Total \$42,650

This violation Final Assessed Penalty (adjusted for limits) \$42,650

## Economic Benefit Worksheet

**Respondent** Gulf Chemical & Metallurgical Corporation  
**Case ID No.** 41874  
**Reg. Ent. Reference No.** RN100210129  
**Media Violation No.** Industrial and Hazardous Waste  
 2

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$100,000	6-Jan-2011	27-Mar-2012	1.22	\$6,110	n/a	\$6,110
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	6-Jan-2011	27-Mar-2012	1.22	\$6	n/a	\$6

**Notes for DELAYED costs**  
 Estimated costs to conduct an environmental investigation and submit Affected Property Assessment Reports ("APARs") to the Executive Director for approval (\$100,000) and complete closure and obtain TCEQ approval of completed closure of Pond 4 (\$100). The Dates Required are the record review date and the Final Dates are the expected dates of compliance.

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

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

**Notes for AVOIDED costs**

Approx. Cost of Compliance \$100,100

**TOTAL** \$6,116

Screening Date 27-May-2011

Docket No. 2011-0987-IHW-E

PCW

Respondent Gulf Chemical & Metallurgical Corporation

Policy Revision 2 (September 2002)

Case ID No. 41874

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100210129

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Michael Meyer

Violation Number 3

Rule Cite(s) Tex. Water Code § 26.121(a)(1); 30 Tex. Admin. Code §§ 305.125(1), 335.2(a) and 335.4; and Permit No. HW-50204-001 PPs II.C.1.e. and II.C.1.h.

Violation Description

Failed to prevent the unauthorized discharge of industrial solid waste. Specifically, Respondent failed to prevent the unauthorized discharge of cobalt to soil near the base of the Pond 4 truck turnaround. Analyses of soil samples collected on November 14, 2008 by Respondent and the TCEQ indicated the concentration of cobalt (36.5-113 mg/kg) exceeded the Tier 1 Residential Protective Concentration Level ("PCL") of 21 mg/kg.

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

141 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$5,000

One single 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

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$42,650

This violation Final Assessed Penalty (adjusted for limits) \$42,650

# Economic Benefit Worksheet

**Respondent** Gulf Chemical & Metallurgical Corporation  
**Case ID No.** 41874  
**Reg. Ent. Reference No.** RN100210129  
**Media Violation No.** Industrial and Hazardous Waste  
 3

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

See economic benefit for APAR included in violation no. 2.

### 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 \$0

**TOTAL** \$0

Screening Date 27-May-2011

Docket No. 2011-0987-IHW-E

PCW

Respondent Gulf Chemical & Metallurgical Corporation

Policy Revision 2 (September 2002)

Case ID No. 41874

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100210129

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Michael Meyer

Violation Number

4

Rule Cite(s)

30 Tex. Admin. Code §§ 305.125(1), 335.6(h) and 335.152(a)(20); 40 C.F.R. § 264.1101(c)(3)(i)(D); and Permit No. HW-50204-001 PPs II.C.1.e., II.C.1.h., and V.K.

Violation Description

Failed to submit a complete written notice to the TCEQ within 14 days of detection of a condition leading to a release of hazardous waste from a primary barrier in CB2, and failed to submit a timely Generator Notification Form for Recycling Hazardous or Industrial Waste ("GNF"). Specifically, the 14 day notice was due on August 9, 2010; Respondent provided notice on August 13, 2010 and the notice did not identify the date of discovery of the release, whether the portion of CB2 affected from the condition was immediately removed from service, whether and when removal of leakage from the secondary collection system occurred, and did not include a specific schedule for repairs. Additionally, Respondent was required to submit a GNF 90 days in advance of using recycled concrete/gravel/soil material to construct a truck turnaround; construction began on December 15, 2004 and the GNF was submitted on approximately May 26, 2009.

Base Penalty

\$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes

Less than 30% of the rule requirement was not met.

Adjustment

\$9,900

\$100

Violation Events

Number of Violation Events 2

141 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty

\$200

Two single events are 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

\$200

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$5

Violation Final Penalty Total

\$1,706

This violation Final Assessed Penalty (adjusted for limits)

\$1,706

# Economic Benefit Worksheet

**Respondent** Gulf Chemical & Metallurgical Corporation  
**Case ID No.** 41874  
**Reg. Ent. Reference No.** RN100210129  
**Media Violation No.** Industrial and Hazardous Waste 4

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$100	6-Jan-2011	27-Jan-2012	1.06	\$5	n/a	\$5
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to submit a complete written notice to the TCEQ regarding the condition leading to a release of hazardous waste from a primary barrier in CB2, including identification of the date of discovery of the release, whether and when the portion of CB2 affected from the condition was immediately removed from service, whether and when removal of leakage from the secondary collection system occurred, and a specific schedule for repairs. The Date Required is the record review date and the Final Date is the expected date of compliance.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$100

**TOTAL** \$5

**Screening Date** 27-May-2011 **Docket No.** 2011-0987-IHW-E **PCW**  
**Respondent** Gulf Chemical & Metallurgical Corporation *Policy Revision 2 (September 2002)*  
**Case ID No.** 41874 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN100210129  
**Media [Statute]** Industrial and Hazardous Waste  
**Enf. Coordinator** Michael Meyer

**Violation Number** 5  
**Rule Cite(s)** 30 Tex. Admin. Code §§ 335.62 and 335.503(a), and 40 C.F.R. § 262.11  
**Violation Description**  
 Failed to conduct a hazardous waste determination and classification for one waste stream and failed to conduct a timely and accurate hazardous waste determination for another waste stream. Specifically, Respondent did not conduct a hazardous waste determination and classification for a molten material originating from roaster stacks, referred to by Respondent as "magma". Failed to conduct a hazardous waste determination before using a mixed concrete/gravel/soil material to construct a truck turnaround; the construction began in December 2004 and the hazardous waste determination was not completed until after a sampling event on November 14, 2008 in which the material was determined to be Class 2 waste.

**Base Penalty** \$10,000

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

<b>OR</b>	<b>Harm</b>			<b>Percent</b> 25%	
	<b>Release</b>	Major	Moderate		Minor
	<b>Actual</b>				
	<b>Potential</b>		x		

>> **Programmatic Matrix**

<b>Falsification</b>	Major	Moderate	Minor	<b>Percent</b> 0%

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

**Adjustment** \$7,500

\$2,500

**Violation Events**

Number of Violation Events 2 141 Number of violation days

*mark only one with an x*

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

**Violation Base Penalty** \$5,000

Two events are recommended (one for each wastestream).

**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** **Statutory Limit Test**  
 Estimated EB Amount \$222 **Violation Final Penalty Total** \$42,650  
**This violation Final Assessed Penalty (adjusted for limits)** \$42,650

# Economic Benefit Worksheet

**Respondent** Gulf Chemical & Metallurgical Corporation  
**Case ID No.** 41874  
**Reg. Ent. Reference No.** RN100210129  
**Media Violation No.** Industrial and Hazardous Waste  
 5

Percent Interest	Years of Depreciation
5.0	15

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

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$4,200	6-Jan-2011	27-Jan-2012	1.06	\$222	n/a	\$222
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost to conduct a hazardous waste determination and classification for magma. The Date Required is the record review date and the Final Date is the expected date of compliance.

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$4,200

**TOTAL** \$222

Screening Date 27-May-2011

Docket No. 2011-0987-IHW-E

PCW

Respondent Gulf Chemical & Metallurgical Corporation

Policy Revision 2 (September 2002)

Case ID No. 41874

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100210129

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Michael Meyer

Violation Number 6

Rule Cite(s)

30 Tex. Admin. Code §§ 305.125(1), 335.2(a) and 335.4; and Permit No. HW-50204-001 PPs II.C.1.e. and II.C.1.h. and V.K.

Violation Description

Failed to prevent the unauthorized discharge of industrial solid waste. Specifically, the unauthorized release of the molten material was observed being ejected from roaster stacks during a stack test conducted on October 20, 2010. Molten clumps of magma landed on the flame retardant clothing and hard hats of the investigators, Respondent's contracted stack testers, and surfaces near the roaster stacks.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		x	
Potential			

Percent 50%

>> Programmatic Matrix

Falsification	Harm		
	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

141 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$5,000

One single 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

Statutory Limit Test

Estimated EB Amount \$1,586

Violation Final Penalty Total \$42,650

This violation Final Assessed Penalty (adjusted for limits) \$42,650

## Economic Benefit Worksheet

**Respondent** Gulf Chemical & Metallurgical Corporation  
**Case ID No.** 41874  
**Reg. Ent. Reference No.** RN100210129  
**Media Violation No.** Industrial and Hazardous Waste  
 6

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$10,000	6-Jan-2011	27-Jan-2012	1.06	\$529	n/a	\$529
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$20,000	6-Jan-2011	27-Jan-2012	1.06	\$1,058	n/a	\$1,058

**Notes for DELAYED costs**  
 Estimated costs to prevent the ejection of magma from the roaster stacks (\$20,000) and assess the impact to onsite/offsite soils, surface waters, and groundwater owing to release of this material to the environment, and appropriately cleanup the material and resulting contamination (\$10,000). The Dates Required are the record review date and the Final Dates are the expected date of compliance.

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

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

**Notes for AVOIDED costs**

<b>Approx. Cost of Compliance</b>	\$30,000	<b>TOTAL</b>	\$1,586
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Screening Date 27-May-2011

Docket No. 2011-0987-IHW-E

PCW

Respondent Gulf Chemical & Metallurgical Corporation

Policy Revision 2 (September 2002)

Case ID No. 41874

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100210129

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Michael Meyer

Violation Number 7

Rule Cite(s)

30 Tex. Admin. Code §§ 305.125(1) and 335.152(a)(20); 40 C.F.R. § 264.1101(a)(2), (a)(4), (b)(3), and (c)(1)(i); and Permit No. HW-50204-001 PPs II.C.1.e. and V.K.

Violation Description

Failed to design and/or construct CB2 to prevent collapse or other failure; failed to have a primary barrier designed to withstand the movement of personnel, waste, and handling equipment in the unit during the operating life of the unit and appropriate for the characteristics of the waste being managed; failed to maintain the primary barrier to be free of significant cracks, gaps, corrosion, or deterioration that could cause hazardous waste to be released from the primary barrier; and failed to maintain a secondary containment system. Respondent notified the TCEQ on July 26, 2010 of a release of oil and water from the primary barrier of the building to the secondary containment; on August 13, 2010, Respondent indicated oil and water were likely seeping from multiple locations and that repairs would not be performed for months, thereby causing the secondary containment to act as the primary and only containment.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health and the environment could be 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 \$7,500

\$2,500

Violation Events

Number of Violation Events 2

141 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$5,000

Two quarterly events are recommended from the January 6, 2011 record review to May 27, 2011 screening date.

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 \$0

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$74

Violation Final Penalty Total \$37,650

This violation Final Assessed Penalty (adjusted for limits) \$37,650

## Economic Benefit Worksheet

**Respondent** Gulf Chemical & Metallurgical Corporation  
**Case ID No.** 41874  
**Reg. Ent. Reference No.** RN100210129  
**Media Violation No.** Industrial and Hazardous Waste  
 7

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$1,000	6-Jan-2011	27-Jan-2012	1.06	\$4	\$71	\$74
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost to submit documentation demonstrating that CB2, the extension of CB2 and subsequent repairs were constructed and designed in accordance with 30 Tex. Admin. Code § 335.152 and 40 C.F.R. § 264.1101. The Date Required is the record review date and the Final Date is the expected date of compliance.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$1,000

**TOTAL** \$74

Screening Date 27-May-2011

Docket No. 2011-0987-IHW-E

PCW

Respondent Gulf Chemical & Metallurgical Corporation

Policy Revision 2 (September 2002)

Case ID No. 41874

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100210129

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Michael Meyer

Violation Number 8

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1), 335.2(a), 335.4, and 335.152(a)(20); 40 C.F.R. § 264.1101(a)(2); and Permit No. HW-50204-001 PPs II.C.1.e., II.C.1.h. and V.K.

Violation Description Failed to design and/or construct CB2 to prevent collapse or other failure. Specifically, an oily sheen in a storm water ditch was traced to CB2 where it was being discharged to either side of CB2 along an expansion joint; the discharge was approximately 46,940 pounds of waste, manifested as ignitable (D001) and a listed hazardous waste (K171/K172).

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0%

Human health and the environment could be 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 \$7,500

\$2,500

Violation Events

Number of Violation Events 1 1803 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$2,500

One single 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 \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$21,325

This violation Final Assessed Penalty (adjusted for limits) \$21,325

# Economic Benefit Worksheet

**Respondent** Gulf Chemical & Metallurgical Corporation  
**Case ID No.** 41874  
**Reg. Ent. Reference No.** RN100210129  
**Media Violation No.** Industrial and Hazardous Waste  
 8

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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Economic Benefit for APAR included in violation no.7.

### 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

\$0

**TOTAL**

\$0

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.



# Compliance History Report

**PUBLISHED** Compliance History Report for CN600124598, RN100210129, Rating Year 2010 which includes Compliance History (CH) components from September 1, 2005, through August 31, 2010.

**Customer, Respondent, or Owner/Operator:** CN600124598, Gulf Chemical & Metallurgical Corporation      **Classification:** AVERAGE      **Rating:** 42.66

**Regulated Entity:** RN100210129, Gulf Chemical And Metallurgical Freeport      **Classification:** POOR      **Rating:** 82.31

**Repeat Violator:** YES

**Location:** 302 MIDWAY RD FREEPORT, TX 77541, BRAZORIA COUNTY

**TCEQ Region:** REGION 12 - HOUSTON

## ID Number(s):

**AIR OPERATING PERMITS ACCOUNT NUMBER** BL0029V

**POLLUTION PREVENTION PLANNING ID NUMBER** P03244

**AIR NEW SOURCE PERMITS REGISTRATION** 12539

**AIR NEW SOURCE PERMITS PERMIT** 19793

**AIR NEW SOURCE PERMITS ACCOUNT NUMBER** BL0029V

**AIR NEW SOURCE PERMITS PERMIT** 1157C

**AIR NEW SOURCE PERMITS REGISTRATION** 11990

**AIR NEW SOURCE PERMITS AFS NUM** 4803900032

**AIR NEW SOURCE PERMITS REGISTRATION** 74664

**AIR NEW SOURCE PERMITS REGISTRATION** 80922

**AIR NEW SOURCE PERMITS REGISTRATION** 86946

**WASTEWATER EPA ID** TX0034738

**PETROLEUM STORAGE TANK REGISTRATION REGISTRATION** 1565

**INDUSTRIAL AND HAZARDOUS WASTE EPA ID** TXD074195678

**INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR)** 30952

**INDUSTRIAL AND HAZARDOUS WASTE PERMIT** 50204

**IHW CORRECTIVE ACTION SOLID WASTE REGISTRATION # (SWR)** 30952

**AIR EMISSIONS INVENTORY ACCOUNT NUMBER** BL0029V

**AIR OPERATING PERMITS PERMIT** 1337

**AIR NEW SOURCE PERMITS REGISTRATION** 12161

**AIR NEW SOURCE PERMITS REGISTRATION** 12540

**AIR NEW SOURCE PERMITS REGISTRATION** 25593

**AIR NEW SOURCE PERMITS PERMIT** 9803

**AIR NEW SOURCE PERMITS PERMIT** 7723

**AIR NEW SOURCE PERMITS REGISTRATION** 12094

**AIR NEW SOURCE PERMITS REGISTRATION** 73793

**AIR NEW SOURCE PERMITS REGISTRATION** 79434

**AIR NEW SOURCE PERMITS REGISTRATION** 83327

**WASTEWATER PERMIT** WQ0001861000

**Compliance History Period:** September 01, 2005 to August 31, 2010      **Rating Year:** 2010      **Rating Date:** 09/01/2010

**Date Compliance History Report Prepared:** May 10, 2011

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** May 10, 2006 to May 10, 2011

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

**Name:** Cara Windle

**Phone:** (512) 239-2581

## 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:** 10/04/2007      **ADMINORDER** 2004-1389-AIR-E      (1660 Order-Agreed Order With Denial)
  - Classification:** Moderate
  - Citation:** 30 TAC Chapter 116, SubChapter B 116.110(a)  
5C THC Chapter 382, SubChapter A 382.0518(a)  
5C THC Chapter 382, SubChapter D 382.085(b)
  - Description:** Conducting surface coating and dry abrasive cleaning activities at the Plant without authorization for the resultant emissions.
  - Classification:** Major
  - Citation:** 30 TAC Chapter 122, SubChapter B 122.121  
30 TAC Chapter 122, SubChapter B 122.142(b)(2)  
5C THC Chapter 382, SubChapter A 382.054  
5C THC Chapter 382, SubChapter D 382.085(b)
  - Description:** Operating the following emission points and failing to include them in Title V Permit No. O-01337, issued on March 8, 2001: Pond # 2, Pond # 3, Feed Pad Area, Containment Building 1, Containment Building 2, Cooling Tower # 68-14A, Cooling Tower # 68-14B, Cooling Tower # 68-34A, and Cooling Tower # 68-34B
  - Classification:** Moderate
  - Citation:** 30 TAC Chapter 116, SubChapter B 116.116(a)(1)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: 1157C, General Condition No. 1 PA  
 Description: Failing to operate within the representations of NSR Air Permit No. 1157C. Specifically, GCMC no longer uses sulfur dioxide, a compound represented in the permit, in the process of the recovery of molybdc trioxide. There has been a change from the use of this compound to another compound not represented in the permit  
 Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)  
 5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: 1157C, General Condition No. 8 PA  
 Description: Failing to operate within the permit limits for EPN 006 and EPN 007. Specifically, TCEQ NSR Air Permit No. 1157C authorizes 0.63 tons per year (tpy) of carbon monoxide (CO) from EPN 006 and less than 0.01 tpy of hydrochloric acid (HCl) from EPN 007. GCMC reported CO emissions of 0.9628 tpy, 0.7401 tpy, and 0.8511 tpy, for the years 2003, 2002, and 2001, respectively, from EPN006; and HCl emissions of 0.2536 tpy, 0.1375 tpy, and 0.4350 tpy, for the years 2003, 2002, and 2001, respectively  
 Classification: Moderate  
 Citation: 30 TAC Chapter 122, SubChapter B 122.146(5)(C)  
 30 TAC Chapter 122, SubChapter B 122.146(5)(D)  
 5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failing to submit, in the compliance certifications dated March 14, 2003, and March 4, 2004, the deviations for 12 violations that occurred during the annual compliance certification periods of March 7, 2003 to March 2, 2004 and March 8, 2002 to March 7, 2003.  
 Classification: Major  
 Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)  
 5C THC Chapter 382, SubChapter A 382.0518(a)  
 5C THC Chapter 382, SubChapter D 382.085(b)

Description: Allowing the unauthorized emissions from fugitive emissions from Areas 2, 3, 4, 5, 6, 7, and 12; and EPNs Feed Pad Area. Ponds 2, 3, and 4, Tailings Area, Cooling Towers 21-20, 68-34A, 68-34B, 13-36, 68-14A, and 68-14B, 16-8 (organic slope), 24-23 (AM Storage), and 39-01A; and OWS-3 TANK as documented on June 29, 2004, and July 8, 2004.  
 Classification: Major  
 Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)  
 5C THC Chapter 382, SubChapter A 382.0518(a)

Description: Allowing unauthorized emissions.  
 Classification: Moderate  
 Citation: 30 TAC Chapter 101, SubChapter A 101.10(b)(2)  
 5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failing to submit accurate emissions information in the Emissions Inventory Questionnaire for the year 2003.  
 Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(1)  
 30 TAC Chapter 116, SubChapter B 116.116(a)(1)  
 5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: 1157C, General Condition No. 1 PA  
 Description: Failing to operate as represented in the permits.  
 Classification: Major  
 Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)  
 5C THC Chapter 382, SubChapter A 382.0518(a)  
 5C THC Chapter 382, SubChapter D 382.085(b)

Description: Installing low NOx burners in Roaster # 3 and Roaster # 4 without authorization.  
 Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: 19793, Special Condition No. 5 PA  
 Description: Failing to operate the scrubber for the electric arc furnace at the proper pH.  
 Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: 1157C, Special Condition No.2 PA  
 Description: Failing to operate the ammonia scrubber, EPN 006, at the proper pH.

**2 Effective Date: 01/28/2008 ADMINORDER 2006-0583-AIR-E (Findings Order-Agreed Order Without Denial)**

Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Special Condition 1 PERMIT  
 Description: Failed to comply with permitted emissions limits.  
 Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Special Condition 1 PERMIT  
 Description: Failed to comply with permitted emissions limits.  
 Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: Special Condition 1 PERMIT  
 Description: Failed to comply with permitted emissions limits.  
 Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THC Chapter 382, SubChapter D 382.085(b)  
Rqmt Prov: Special Condition 7E PERMIT  
Description: Failed to submit a timely report.

**3 Effective Date: 06/05/2008 ADMINORDER 2007-1520-AIR-E (1660 Order-Agreed Order With Denial)**

Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THC Chapter 382, SubChapter D 382.085(b)  
Rqmt Prov: #19793, Special Condition 1 PERMIT  
Description: Failed to comply with the allowable emission limit of 0.32 pounds per hour ("lbs/hr") for volatile organic compounds ("VOCs").

Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter F 116.615(2)  
5C THC Chapter 382, SubChapter D 382.085(b)  
Rqmt Prov: General Conditions PERMIT  
Description: Failed to comply with the allowable emission limit of 0.51 lbs/hr for particulate matter ("PM").

Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter F 116.615(2)  
5C THC Chapter 382, SubChapter D 382.085(b)  
Rqmt Prov: General Conditions PERMIT  
Description: Failed to comply with the allowable emission limit of 0.51 lbs/hr for particulate matter ("PM").

Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter F 116.615(6)  
5C THC Chapter 382, SubChapter D 382.085(b)  
Rqmt Prov: 36867 PERMIT  
Description: Failed to demonstrate removal efficiency of the Electric Arc Furnace East Scrubber Stacks (EPN 012).

Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter F 116.615(6)  
5C THC Chapter 382, SubChapter D 382.085(b)  
Rqmt Prov: 36867 PERMIT  
Description: Failed to demonstrate removal efficiency of the Electric Arc Furnace West Scrubber Stacks (EPN 013).

**4 Effective Date: 06/19/2008 ADMINORDER 2007-1631-IHW-E (1660 Order-Agreed Order With Denial)**

Classification: Major  
Citation: 30 TAC Chapter 335, SubChapter A 335.2(b)  
Description: Gulf Chemical and Metallurgical failed to prevent the shipment and delivery of hazardous waste to the Seabreeze landfill. Seabreeze landfill is not authorized to receive and dispose of hazardous waste.

**B. Criminal convictions:**

**Conviction Date: 05/28/2010 Type of Action: COURTDORDER**

Classification: Major  
Citation: 2A TWC Chapter 7, SubChapter A 7.145  
Description: CR FY10-016 No. D1-DC-10-900138 In The 167th District Court of Travis County, Texas.  
On May 28, 2010, Gulf Chemical & Metallurgical Corp. pleaded guilty to 11 counts of intention discharging wastewater in violation of TWC 7.145. The charges resulted from Gulf Chemical & Metallurgical Corp. intentionally discharging wastewater which exceeded their permit limits (Count 1 of 11).

Classification: Major  
Citation: 2A TWC Chapter 7, SubChapter A 7.145  
Description: CR FY10-016 No. D1-DC-10-900138 In The 167th District Court of Travis County, Texas  
On May 28, 2010, Gulf Chemical & Metallurgical Corp. pleaded guilty to 11 counts of intention discharging wastewater in violation of TWC 7.145. The charges resulted from Gulf Chemical & Metallurgical Corp. intentionally discharging wastewater which exceeded their permit limits (Count 2 of 11).

Classification: Major  
Citation: 2A TWC Chapter 7, SubChapter A 7.145  
Description: CR FY10-016 No. D1-DC-10-900138 In The 167th District Court of Travis County, Texas.  
On May 28, 2010, Gulf Chemical & Metallurgical Corp. pleaded guilty to 11 counts of intention discharging wastewater in violation of TWC 7.145. The charges resulted from Gulf Chemical & Metallurgical Corp. intentionally discharging wastewater which exceeded their permit limits (Count 3 of 11).

Classification: Major  
Citation: 2A TWC Chapter 7, SubChapter A 7.145  
Description: CR FY10-016 No. D1-DC-10-900138 In The 167th District Court of Travis County, Texas  
On May 28, 2010, Gulf Chemical & Metallurgical Corp. pleaded guilty to 11 counts of intention discharging wastewater in violation of TWC 7.145. The charges resulted from Gulf Chemical & Metallurgical Corp. intentionally discharging wastewater which exceeded their permit limits (Count 4 of 11).

Classification: Major  
Citation: 2A TWC Chapter 7, SubChapter A 7.145  
Description: CR FY10-016 No. D1-DC-10-900138 In The 167th District Court of Travis County, Texas.  
On May 28, 2010, Gulf Chemical & Metallurgical Corp. pleaded guilty to 11 counts of intention discharging wastewater in violation of TWC 7.145. The charges resulted from Gulf Chemical & Metallurgical Corp. intentionally discharging wastewater which exceeded their permit limits (Count 5 of 11).

Classification: Major  
Citation: 2A TWC Chapter 7, SubChapter A 7.145  
Description: CR FY10-016 No. D1-DC-10-900138 In The 167th District Court of Travis County, Texas  
On May 28, 2010, Gulf Chemical & Metallurgical Corp. pleaded guilty to 11 counts of intention discharging wastewater in violation of TWC 7.145. The charges resulted from Gulf Chemical & Metallurgical Corp. intentionally

discharging wastewater which exceeded their permit limits (Count 6 of 11).

Classification: Major

Citation: 2A TWC Chapter 7, SubChapter A 7.145

Description: CR FY10-016 No. D1-DC-10-900138 In The 167th District Court of Travis County, Texas.  
On May 28, 2010, Gulf Chemical & Metallurgical Corp. pleaded guilty to 11 counts of intention discharging wastewater in violation of TWC 7.145. The charges resulted from Gulf Chemical & Metallurgical Corp. intentionally discharging wastewater which exceeded their permit limits (Count 7 of 11).

Classification: Major

Citation: 2A TWC Chapter 7, SubChapter A 7.145

Description: CR FY10-016 No. D1-DC-10-900138 In The 167th District Court of Travis County, Texas  
On May 28, 2010, Gulf Chemical & Metallurgical Corp. pleaded guilty to 11 counts of intention discharging wastewater in violation of TWC 7.145. The charges resulted from Gulf Chemical & Metallurgical Corp. intentionally discharging wastewater which exceeded their permit limits (Count 8 of 11).

Classification: Major

Citation: 2A TWC Chapter 7, SubChapter A 7.145

Description: CR FY10-016 No. D1-DC-10-900138 In The 167th District Court of Travis County, Texas.  
On May 28, 2010, Gulf Chemical & Metallurgical Corp. pleaded guilty to 11 counts of intention discharging wastewater in violation of TWC 7.145. The charges resulted from Gulf Chemical & Metallurgical Corp. intentionally discharging wastewater which exceeded their permit limits (Count 9 of 11).

Classification: Major

Citation: 2A TWC Chapter 7, SubChapter A 7.145

Description: CR FY10-016 No. D1-DC-10-900138 In The 167th District Court of Travis County, Texas  
On May 28, 2010, Gulf Chemical & Metallurgical Corp. pleaded guilty to 11 counts of intention discharging wastewater in violation of TWC 7.145. The charges resulted from Gulf Chemical & Metallurgical Corp. intentionally discharging wastewater which exceeded their permit limits (Count 10 of 11).

Classification: Major

Citation: 2A TWC Chapter 7, SubChapter A 7.145

Description: CR FY10-016 No. D1-DC-10-900138 In The 167th District Court of Travis County, Texas.  
On May 28, 2010, Gulf Chemical & Metallurgical Corp. pleaded guilty to 11 counts of intention discharging wastewater in violation of TWC 7.145. The charges resulted from Gulf Chemical & Metallurgical Corp. intentionally discharging wastewater which exceeded their permit limits (Count 11 of 11).

**C. Chronic excessive emissions events:**

N/A

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

1	05/16/2006	(580014)	33	05/21/2008	(728832)	65	12/17/2009	(808699)
2	05/17/2006	(465609)	34	06/23/2008	(728833)	66	12/11/2009	(784606)
3	05/18/2006	(451345)	35	07/08/2008	(684136)	67	01/21/2010	(808700)
4	05/30/2006	(465204)	36	07/18/2008	(728834)	68	02/10/2010	(808691)
5	06/20/2006	(580017)	37	07/21/2008	(687068)	69	03/22/2010	(832348)
6	07/24/2006	(580020)	38	07/30/2008	(687578)	70	04/06/2010	(795256)
7	08/23/2006	(580023)	39	08/08/2008	(735444)	71	04/19/2010	(832349)
8	09/18/2006	(580025)	40	08/22/2008	(728836)	72	05/14/2010	(802131)
9	10/23/2006	(580027)	41	08/28/2008	(680061)	73	05/21/2010	(832350)
10	11/21/2006	(580029)	42	09/09/2008	(702236)	74	05/28/2010	(801277)
11	12/18/2006	(580031)	43	09/22/2008	(728837)	75	05/28/2010	(848781)
12	01/10/2007	(532191)	44	10/23/2008	(728838)	76	06/21/2010	(846720)
13	01/16/2007	(580033)	45	11/24/2008	(728840)	77	07/22/2010	(861251)
14	02/21/2007	(580007)	46	12/22/2008	(728842)	78	08/20/2010	(867389)
15	03/19/2007	(580009)	47	11/04/2008	(618766)	79	09/17/2010	(874418)
16	04/16/2007	(580012)	48	01/23/2009	(728844)	80	10/22/2010	(881999)
17	05/14/2007	(580015)	49	02/17/2009	(751974)	81	11/22/2010	(896799)
18	06/26/2007	(580018)	50	03/19/2009	(769730)	82	11/24/2010	(872667)
19	07/18/2007	(580021)	51	04/02/2009	(737976)	83	12/17/2010	(872669)
20	08/15/2007	(728835)	52	04/02/2009	(740890)	84	12/20/2010	(896800)
21	08/21/2007	(572032)	53	04/15/2009	(769731)	85	01/18/2011	(902770)
22	08/31/2007	(567030)	54	05/21/2009	(808692)	86	02/16/2011	(893360)
23	09/12/2007	(565966)	55	06/23/2009	(808693)	87	02/17/2011	(909603)
24	09/19/2007	(607990)	56	07/15/2009	(808694)	88	02/22/2011	(899327)
25	10/17/2007	(607991)	57	07/29/2009	(763722)	89	03/03/2011	(893524)
26	11/19/2007	(728839)	58	08/04/2009	(762805)	90	03/07/2011	(900351)
27	01/08/2008	(728841)	59	08/24/2009	(808695)	91	03/18/2011	(916826)
28	01/18/2008	(728843)	60	10/19/2009	(808696)	92	03/20/2011	(884768)
29	02/22/2008	(728829)	61	10/21/2009	(808697)	93	03/28/2011	(760265)
30	03/18/2008	(728830)	62	10/30/2009	(777209)	94	04/05/2011	(897343)
31	04/21/2008	(728831)	63	11/17/2009	(747448)	95	04/07/2011	(907228)
32	04/25/2008	(616941)	64	11/23/2009	(808698)	96	04/29/2011	(906809)

**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: 05/23/2006 (462884) CN600124598**  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 335, SubChapter A 335.4(1)  
Description: Failure to prevent the imminent threat of discharge of industrial solid waste from Pond 3 (NOR 003).
- 2 Date: 05/30/2006 (465204) CN600124598**  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 335, SubChapter A 335.6(c)  
Description: Failure to maintain an up-to-date Notice of Registration.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 335, SubChapter A 335.5  
II.C.1.h. PERMIT  
Description: Failure to deed record the burial of approximately 4 million cubic feet of alumina concentrate in Pond 4 (NOR 004) in 1994.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 335, SubChapter A 335.9(a)(2)  
II.C.1.h. PERMIT  
Description: Failure to report the generation of K171/K172 Process Wastewater, Rinse Water, and Storm Water that mixed with the wastewater on 2003, 2004, and 2005 Annual Waste Summaries.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 335, SubChapter C 335.62  
40 CFR Chapter 262, SubChapter I, PT 262, SubPT A 262.11  
Description: Failure to make complete hazardous waste determinations for Process Wastewater (0038119H), Rinse Water (0030101H), and the waste stream comprised of broken concrete, gravel, and associated soil generated at the Freeport facility and deposited on the Pond 4 property.  
Self Report? NO Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 335, SubChapter A 335.4(1)  
Description: Failure to prevent a release of contaminants to groundwater from Pond 4 (Surface Impoundment NOR 004).
- 3 Date: 08/31/2006 (580025) CN600124598**  
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
- 4 Date: 11/30/2006 (580031) CN600124598**  
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
- 5 Date: 02/28/2007 (580009) CN600124598**  
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
- 6 Date: 07/31/2007 (728835) CN600124598**  
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
- 7 Date: 08/21/2007 (572032) CN600124598**  
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 THC Chapter 382, SubChapter D 382.085(b)  
FOP O-01377 SC 8 OP  
NSR 1157C SC 5 PA  
Description: Failed to maintain the pH of scrubber 35-01 (EPN 007) below 8.0 as required by NSR Permit 1157C (FOP O-01337; NSR 1157C).  
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 THC Chapter 382, SubChapter D 382.085(b)  
FOP O-01337 SC 8 OP  
NSR 19793 SC 6 PA

	Description:	Failed to maintain pH on scrubber 68-03 above 8.0 as required by NSR 19793 (FOP O-01337; NSR 19793).		
	Self Report?	NO	Classification:	Minor
	Citation:	30 TAC Chapter 122, SubChapter B 122.165(a)(7) 5C THC Chapter 382, SubChapter D 382.085(b)		
	Description:	Failed to certify deviation report with Form OP-CRO1 (FOP O-01337).		
<b>8</b>	<b>Date:</b>	<b>09/30/2007</b>	<b>(607991)</b>	<b>CN600124598</b>
	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		
<b>9</b>	<b>Date:</b>	<b>11/30/2007</b>	<b>(728841)</b>	<b>CN600124598</b>
	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		
<b>10</b>	<b>Date:</b>	<b>04/25/2008</b>	<b>(616941)</b>	<b>CN600124598</b>
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 5C THSC Chapter 382 382.085(b) 9803 PERMIT		
	Description:	Failure to meet the Carbon Monoxide and nitrogen oxide allowable emission limit in NSR Permit #9803. 68 69		
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 5C THSC Chapter 382 382.085(b) 9803 PERMIT		
	Description:	Exceeding the maximum catalyst feed rate to Roasters 3 and 4 (EPNs 001/002) during a stack test on September 26th, 2007.		
<b>11</b>	<b>Date:</b>	<b>08/08/2008</b>	<b>(735444)</b>	<b>CN600124598</b>
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
	Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
<b>12</b>	<b>Date:</b>	<b>08/31/2008</b>	<b>(728837)</b>	<b>CN600124598</b>
	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		
<b>13</b>	<b>Date:</b>	<b>09/10/2008</b>	<b>(702236)</b>	<b>CN600124598</b>
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 5C THSC Chapter 382 382.085(b) 9803 - S.C. 11B PERMIT		
	Description:	Failure to meet the emission limitations for nickel, cobalt, arsenic, and vanadium as set forth in Permit #9803 S.C. 11B. 70, 71, 72, 73		
<b>14</b>	<b>Date:</b>	<b>09/30/2008</b>	<b>(728838)</b>	<b>CN600124598</b>
	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		
<b>15</b>	<b>Date:</b>	<b>10/31/2008</b>	<b>(728840)</b>	<b>CN600124598</b>
	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		
<b>16</b>	<b>Date:</b>	<b>11/30/2008</b>	<b>(728842)</b>	<b>CN600124598</b>
	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		
<b>17</b>	<b>Date:</b>	<b>12/31/2008</b>	<b>(728844)</b>	<b>CN600124598</b>
	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		
<b>18</b>	<b>Date:</b>	<b>01/31/2009</b>	<b>(751974)</b>	<b>CN600124598</b>
	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		

<b>19 Date:</b>	<b>03/31/2009</b>	<b>(769731)</b>	<b>CN600124598</b>	
	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		
<b>20 Date:</b>	<b>04/30/2009</b>	<b>(808692)</b>	<b>CN600124598</b>	
	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		
<b>21 Date:</b>	<b>05/31/2009</b>	<b>(808693)</b>	<b>CN600124598</b>	
	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		
<b>22 Date:</b>	<b>06/30/2009</b>	<b>(808694)</b>	<b>CN600124598</b>	
	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		
<b>23 Date:</b>	<b>07/29/2009</b>	<b>(763722)</b>	<b>CN600124598</b>	
	Self Report?	NO	Classification:	Major
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(8)		
	Description:	Failure to obtain authorization from the Texas Commission on Environmental Quality (TCEQ) prior to discharging untreated wastewater.	52	
	Self Report?	NO	Classification:	Major
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)(1)		
	Description:	Failure to prevent the unauthorized discharge of untreated or partially treated wastewater from the process water ponds 5 and 6.	53	
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Effluent Limits & Monitoring Req. # 1 OP		
	Description:	Failure to maintain compliance with effluent permit limits.	54, 55, 57, 58, 59, 60, 61, 62,	
	Self Report?	NO	Classification:	Major
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(9)		
	Description:	Failure to submit noncompliance notification within twenty-four hours of the event.	56	
<b>24 Date:</b>	<b>07/31/2009</b>	<b>(808695)</b>	<b>CN600124598</b>	
	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		
<b>25 Date:</b>	<b>08/31/2009</b>	<b>(808696)</b>	<b>CN600124598</b>	
	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		
<b>26 Date:</b>	<b>09/29/2009</b>	<b>(767077)</b>	<b>CN600124598</b>	
	Self Report?	NO	Classification:	Minor
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Effluent Limits & Monitoring Req. No.1. OP		
	Description:	Failure to maintain compliance with the permit limits for daily average flow.	57	
	Self Report?	NO	Classification:	Major
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Effluent Limits & Monitoring Req. No. 1 OP		
	Description:	Failure to maintain compliance with effluent permit limits for molybdenum (Mo), arsenic (As), nickel (Ni), ammonia nitrogen (NH3-N), total suspended solids (TSS), vanadium (V), and pH.	54, 55, 58, 59, 60, 61, 62	
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 319, SubChapter A 319.11(a) 30 TAC Chapter 319, SubChapter A 319.11(b)		
	Description:	Failure to properly collect effluent sample.	63	
	Self Report?	NO	Classification:	Major
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 319, SubChapter A 319.4		
	Description:	Failure to report the exceedence of vanadium (V) on effluent sample collected on April 24, 2009.	65	
	Self Report?	NO	Classification:	Major
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Monitoring and Reporting Reqs. No. 7(c) OP		
	Description:	Failure to provide noncompliance notification as required by the permit which deviated from the permitted effluent limitation by more than 40%.	66	
	Self Report?	NO	Classification:	Minor
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Definitions & Std. Permit Conditions, #2. OP		

	Description:	Failure to properly collect three part manual composite samples. 64	
	Self Report?	NO	Classification: Minor
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Monitoring & Reporting Req. 3(a) & (c) OP	
	Description:	Failure to properly analyze and report the values of effluent samples collected on April 24, 2009 from outfalls 001 and 002. 67	
	Self Report?	NO	Classification: Major
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Effluent Limits & Monitoring Req. No. 1. OP	
	Description:	Failure to maintain compliance with effluent permit limits for molybdenum (Mo) and arsenic (As).	
<b>27</b>	<b>Date:</b>	<b>09/30/2009</b>	<b>(808697) CN600124598</b>
	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	
<b>28</b>	<b>Date:</b>	<b>10/31/2009</b>	<b>(808698) CN600124598</b>
	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	
<b>29</b>	<b>Date:</b>	<b>11/17/2009</b>	<b>(747448) CN600124598</b>
	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 4 PERMIT Special Term and Condition 8 OP	
	Description:	Failure to maintain the pH to the ammonia scrubber (EPN 006) below 5.0 and failure to maintain records of pH data for a period of two years [Category B18 violation]	48 and 49
	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 5 PERMIT Special Term and Condition 8 OP	
	Description:	Failure to maintain the pH of the scrubber solution to scrubber 35-01 (EPN 007) above 8.0. [Category B18 violation] 50	
<b>30</b>	<b>Date:</b>	<b>12/31/2009</b>	<b>(808700) CN600124598</b>
	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	
<b>31</b>	<b>Date:</b>	<b>02/28/2010</b>	<b>(832348) CN600124598</b>
	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	
<b>32</b>	<b>Date:</b>	<b>03/31/2010</b>	<b>(832349) CN600124598</b>
	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	
<b>33</b>	<b>Date:</b>	<b>04/30/2010</b>	<b>(832350) CN600124598</b>
	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	
<b>34</b>	<b>Date:</b>	<b>06/30/2010</b>	<b>(861251) CN600124598</b>
	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	
<b>35</b>	<b>Date:</b>	<b>07/31/2010</b>	<b>(867389) CN600124598</b>
	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	
<b>36</b>	<b>Date:</b>	<b>08/31/2010</b>	<b>(874418) CN600124598</b>
	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	

<b>37 Date:</b>	<b>09/30/2010</b>	<b>(881999)</b>	<b>CN600124598</b>	
	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		
<b>38 Date:</b>	<b>10/31/2010</b>	<b>(896799)</b>	<b>CN600124598</b>	
	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		
<b>39 Date:</b>	<b>10/31/2010</b>	<b>(850098)</b>	<b>CN600124598</b>	
	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) SC 7 PERMIT ST&C 8 OP		
	Description:	Failure to prevent particulate matter emissions from the Electric Arc Furnace (EAF) Building on July 13, 2010 (Category B14).		
<b>40 Date:</b>	<b>11/29/2010</b>	<b>(872667)</b>	<b>CN600124598</b>	
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 111, SubChapter A 111.111(a)(1)(B) 5C THSC Chapter 382 382.085(b)		
	Description:	Gulf Chemical & Metallurgical Freeport (GCMC) failed to prevent excess opacity. Specifically, GCMC failed to prevent excess opacity from Ammonia Scrubber EPN 006.		
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 101, SubChapter F 101.201(a)(1) 5C THSC Chapter 382 382.085(b)		
	Description:	Gulf Chemical & Metallurgical Freeport (GCMC) failed to submit an initial notification within 24 hours from the discovery of the excess opacity event.		
<b>41 Date:</b>	<b>11/30/2010</b>	<b>(896800)</b>	<b>CN600124598</b>	
	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		
<b>42 Date:</b>	<b>12/31/2010</b>	<b>(902770)</b>	<b>CN600124598</b>	
	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		
<b>43 Date:</b>	<b>01/31/2011</b>	<b>(909603)</b>	<b>CN600124598</b>	
	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		
<b>44 Date:</b>	<b>02/28/2011</b>	<b>(916826)</b>	<b>CN600124598</b>	
	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		

**F. Environmental audits:**

Notice of Intent Date: 09/28/2009 (783116)

No DOV Associated

**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

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# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
GULF CHEMICAL &  
METALLURGICAL CORPORATION;  
RN100210129**

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**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER**

**DOCKET NO. 2011-0987-IHW-E**

At its \_\_\_\_\_ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding Gulf Chemical & Metallurgical Corporation ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26 and TEX. HEALTH & SAFETY CODE ch. 361. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, represented by Joseph R. Knight of the law firm BAKER BOTTS, L.L.P., presented this Agreed Order to the Commission.

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

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

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

### **FINDINGS OF FACT**

1. Respondent owns and operates a commercial hazardous waste management facility located at 302 Midway Road in Freeport, Brazoria County, Texas (the "Facility"). The Facility involves the management and/or the disposal of industrial solid and/or hazardous waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
2. During a record review conducted from January 6, 2011 to February 28, 2011, a TCEQ Houston Regional Office investigator documented that Respondent:
  - a. Failed to update the Facility's Notice of Registration ("NOR") for waste streams and waste management units ("WMUs"). Specifically, Respondent failed to:
    - i. Update the NOR to:
      - 1) Add a waste stream for solid waste originating as a molten material ejected from roaster stacks;

- 2) Add a replacement waste stream for process wastewater 0038119H;
  - 3) Add active and accurate waste streams for WMU NOR unit 004; and
  - 4) Add a waste stream for the water from the oil/water separator adjacent to Containment Building 2 ("CB2"), NOR unit 037; and
- ii. Update the WMUs to:
- 1) Indicate all units that comprise the wastewater treatment plants ("WWTPs"), including unit descriptions, functions, capacities, and facility identification numbers for NOR units 032 and 042;
  - 2) Add the replacement waste stream for process wastewater 0038119H managed in each surface impoundment for NOR units 019 and 020, and each WWTP for NOR units 032 and 042;
  - 3) Add replacement waste streams that are accurate and active for NOR unit 004; and
  - 4) Add the waste stream to tank NOR 039 and the appropriate WWTPs (NOR units 032 and/or 042) for the water from the oil/water separator that is routed to the tank and then to a Facility WWTP;
- b. Failed to record in the county deed records prior to disposal of industrial solid waste in a landfill. Specifically, Respondent did not deed record the burial of approximately four million cubic feet of alumina concentrate in NOR unit 004 ("Pond 4") for the years of 1994 to 2006, prior to obtaining a variance on December 27, 2006;
- c. Failed to submit a complete and correct Annual Waste Summary ("AWS"). Specifically, AWSs for the years 2003, 2004, and 2005 did not include the generation of individual amounts of storm water for waste streams 0026119H and 00371191 and rinse water for waste streams 0030101H and 00341011;
- d. Failed to prevent the discharge or threat of discharge of industrial solid waste into or adjacent to water in the state. Specifically, Respondent failed to prevent an unauthorized release of contaminants to groundwater from Pond 4. Analyses from groundwater samples collected by Respondent during years prior to 2006 indicated that the concentrations of molybdenum, nickel, and vanadium exceeded their Method Quantitation Limits ("MQLs"). Analyses from groundwater samples collected by Respondent on July 20, 2006, indicated that the concentrations of molybdenum (.0077-.113 milligrams per liter ("mg/L")), nickel (.00527-.00648 mg/L), and vanadium (.00504-.0183 mg/L) exceeded their MQLs of .005, .005, and .005 respectively;
- e. Failed to prevent the unauthorized discharge of industrial solid waste. Specifically, Respondent failed to prevent the unauthorized discharge of cobalt to soil near the base of the Pond 4 truck turnaround. Analyses of soil samples collected on November 14, 2008, by Respondent and the TCEQ indicated the concentration of cobalt (36.5-113 milligrams per kilogram ("mg/kg")) exceeded the Tier 1 Residential Protective Concentration Level ("PCL") of 21 mg/kg;
- f. Failed to submit a complete written notice to the TCEQ within 14 days of detection of a condition leading to a release of hazardous waste from a primary barrier in CB2, and failed to submit a timely Generator Notification Form for Recycling Hazardous or Industrial Waste ("GNF"). Specifically, the 14 day notice was due on August 9, 2010; Respondent provided notice on August 13,

2010, and the notice did not identify the date of discovery of the release, whether the portion of CB2 affected from the condition was immediately removed from service, whether and when removal of leakage from the secondary collection system occurred, and did not include a specific schedule for repairs. Additionally, Respondent was required to submit a GNF 90 days in advance of using recycled concrete/gravel/soil material to construct a truck turnaround; construction began on December 15, 2004 and the GNF was submitted on approximately May 26, 2009;

- g. Failed to conduct a hazardous waste determination and classification for one waste stream, and failed to conduct a timely and accurate hazardous waste determination for another waste stream. Specifically, Respondent did not conduct a hazardous waste determination and classification for a solid waste originating as a material ejecting from roaster stacks. Additionally, Respondent did not conduct a hazardous waste determination before using a mixed concrete/gravel/soil material to construct a truck turnaround; the construction began in December 2004 and the hazardous waste determination was not completed until after a sampling event on November 14, 2008, in which the material was determined to be Class 2 waste;
  - h. Failed to prevent the unauthorized discharge of industrial solid waste. Specifically, the unauthorized release of molten material was observed being ejected from roaster stacks during a stack test conducted on October 20, 2010. Molten clumps of solid waste landed on the flame retardant clothing and hard hats of TCEQ investigators, on Respondent's contracted stack testers, and on surfaces near the roaster stacks;
  - i. Failed to design and/or construct CB2 to prevent collapse or other failure; failed to have a primary barrier designed to withstand the movement of personnel, waste, and handling equipment in the unit during the operating life of the unit and appropriate for the characteristics of the waste being managed; failed to maintain the primary barrier to be free of significant cracks, gaps, corrosion, or deterioration that could cause hazardous waste to be released from the primary barrier; and failed to maintain a secondary containment system. Specifically, Respondent notified the TCEQ on July 26, 2010 of a release of oil and water from the primary barrier of the building to the secondary containment; on August 13, 2010, Respondent indicated oil and water were likely seeping from multiple locations and that repairs would not be performed for months, thereby causing the secondary containment to act as the primary and only containment; and
  - j. Failed to design and/or construct CB2 to prevent collapse or other failure. Specifically, an oily sheen in a storm water ditch was traced to CB2 where it was being discharged to either side of CB2 along an expansion joint; the discharge was approximately 46,940 pounds of waste, manifested as ignitable (D001) and a listed hazardous waste (K171/K172).
3. Respondent received notice of the violations on or about April 3, 2011.
4. The Executive Director recognizes that Respondent implemented the following corrective measures at the Facility:
- a. Updated the NOR to:
    - i. Add waste stream 0026119H for the water from the oil/water separator adjacent to CB2, NOR unit 037, as of May 24, 2012; and

ii. Updated the WMUs to:

- 1) Identify all units that comprise the WWTPs (NOR units 032 and 042), including unit descriptions and facility identification numbers as of May 24, 2012; and
- 2) Add the waste stream 0026119H, water from the oil/water separator, to tanks NOR 036, 039 and containers 041 and 043 as of May 24, 2012;

b. Completed installation of a SO<sub>2</sub> scrubber at the Facility to prevent the ejection of solid waste from the roaster stacks as of November 30, 2012; and

c. To assess and address on-site and off-site soil contamination and groundwater contamination, Respondent has:

- i. Entered into an Agreed Temporary Injunction ("ATI") issued on September 22, 2011, which requires Respondent to perform and complete soil sampling on-site at the Facility as well as off-site properties adjacent to and in the vicinity of the Facility to determine the extent of soil contamination by chemicals of concern ("COCs") as identified in the ATI. The ATI provides that the soil sampling is to be conducted pursuant to sampling plans for on-site and off-site soil that are approved by the Executive Director and requires a soil sampling report be submitted to the Executive Director after the sampling is conducted;

ii. Taken the following actions regarding on-site soil and groundwater contamination:

- 1) Submitted a soil sampling plan regarding on-site soil ("On-Site Soil SAP") on October 10, 2011;
- 2) Obtained approval of the On-Site Soil SAP on November 4, 2011;
- 3) Conducted on-site soil sampling pursuant to the On-Site Soil SAP in November 10, 2011;
- 4) Submitted a soil sampling report regarding on-site soil on January 10, 2012;
- 5) Submitted a Response Action Plan ("RAP") regarding on-site soil and groundwater contamination ("On-Site RAP") pursuant to 30 Tex. Admin. Code § 350.94 of the Texas Risk Reduction Program ("TRRP") found in 30 Tex. Admin. Code ch. 350 on May 7, 2012; and
- 6) Submitted a revised On-Site RAP on December 28, 2012; and

iii. Taken the following actions regarding off-site soil and groundwater contamination:

- 1) Submitted a soil sampling plan regarding off-site soil ("Off-Site Soil SAP") on January 19, 2012;
- 2) Obtained approval of the Off-Site Soil SAP on February 3, 2012;
- 3) Conducted off-site soil sampling pursuant to the Off-Site Soil SAP in June 2012;
- 4) Submitted a soil sampling report regarding off-site soil on August 17, 2012; and

- 5) Submitted an Affected Property Assessment Report ("APAR") pursuant to 30 Tex. Admin. Code § 350.91 regarding off-site soil and groundwater contamination ("Off-Site APAR") on February 13, 2013.

#### CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26, TEX. HEALTH & SAFETY CODE ch. 361 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to update the Facility's NOR for waste streams and WMUs, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 335.6(c), and Permit No. HW-50204-001 Permit Provisions ("PPs") II.C.1.e. and II.C.1.h.
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to record in the county deed records prior to disposal of industrial solid waste in a landfill, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 335.5, and Permit No. HW-50204-001 PPs II.C.1.e. and II.C.1.h.
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to submit a complete and correct AWS, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 335.9(a)(2), and Permit No. HW-50204-001 PPs II.C.1.e. and II.C.1.h.
5. As evidenced by Finding of Fact No. 2.d., Respondent failed to prevent the discharge or threat of discharge of industrial solid waste into or adjacent to water in the state, in violation of TEX. WATER CODE § 26.121(a)(1); 30 TEX. ADMIN. CODE §§ 305.125(1), 335.2(a) and 335.4; and Permit No. HW-50204-001 PPs II.C.1.e. and II.C.1.h.
6. As evidenced by Finding of Fact No. 2.e., Respondent failed to prevent the unauthorized discharge of industrial solid waste, in violation of TEX. WATER CODE § 26.121(a)(1); 30 TEX. ADMIN. CODE §§ 305.125(1), 335.2(a) and 335.4; and Permit No. HW-50204-001 PPs II.C.1.e. and II.C.1.h.
7. As evidenced by Finding of Fact No. 2.f., Respondent failed to submit a complete written notice to the TCEQ within 14 days of detection of a condition leading to a release of hazardous waste from a primary barrier in CB2, and failed to submit a timely GNF, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1), 335.6(h) and 335.152(a)(20); 40 C.F.R. § 264.1101(c)(3)(i)(D); and Permit No. HW-50204-001 PPs II.C.1.e., II.C.1.h., and V.K.
8. As evidenced by Finding of Fact No. 2.g., Respondent failed to conduct a hazardous waste determination and classification for one waste stream and failed to conduct a timely and accurate hazardous waste determination for another waste stream, in violation of 30 TEX. ADMIN. CODE §§ 335.62 and 335.503(a), and 40 C.F.R. § 262.11.
9. As evidenced by Finding of Fact No. 2.h., Respondent failed to prevent the unauthorized discharge of industrial solid waste, in violation of TEX. WATER CODE § 26.121(a)(1); 30 TEX. ADMIN. CODE §§ 305.125(1), 335.2(a) and 335.4; and Permit No. HW-50204-001 PPs II.C.1.e., II.C.1.h., and V.K.
10. As evidenced by Finding of Fact No. 2.i., Respondent failed to design and/or construct CB2 to prevent collapse or other failure; failed to have a primary barrier designed to withstand the movement of personnel, waste, and handling equipment in the unit during the operating life of the unit and appropriate for the characteristics of the waste being managed; failed to maintain the primary barrier to be free of significant cracks, gaps, corrosion, or deterioration that could cause hazardous waste

to be released from the primary barrier; and failed to maintain a secondary containment system, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 335.152(a)(20); 40 C.F.R. § 264.1101(a)(2), (a)(4), (b)(3), and (c)(1)(i); and Permit No. HW-50204-001 PPs II.C.1.e. and V.K.

11. As evidenced by Finding of Fact No. 2.j., Respondent failed to design and/or construct CB2 to prevent collapse or other failure, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1), 335.2(a), 335.4, and 335.152(a)(20); 40 C.F.R. § 264.1101(a)(2); and Permit No. HW-50204-001 PPs II.C.1.e., II.C.1.h., and V.K.
12. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
13. An administrative penalty in the amount of three hundred thousand two hundred fifty-six dollars (\$300,256.00) is justified by the facts recited in this Agreed Order and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Respondent paid three hundred thousand two hundred fifty-six dollars (\$300,256.00) of the administrative penalty.

#### ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty as set forth in Conclusion of Law No. 13, above, for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the matters set forth by this Agreed Order in this action. The Commission shall not be constrained in any manner from considering or requiring corrective actions or penalties for violations which are not raised here.
2. Respondent shall undertake the following technical requirements:
  - a. Within 60 days after the effective date of this Agreed Order, Respondent shall:
    - i. Update the Facility's NOR, in accordance with 30 TEX. ADMIN. CODE § 335.6 including:
      - 1) Updating the NOR waste streams to:
        - a) Add a replacement waste stream for process wastewater 0038119H; and
        - b) Revise the waste stream 0026119H, water from the oil/water separator, from a waste managed only "on-site" to a waste managed both on-site and offsite to accurately reflect that the waste stream is either recycled on-site or disposed of off-site at an authorized facility; and
      - 2) Updating the WMUs to:
        - a) Indicate the functions, descriptions and capacities for all units that comprise the WWTPs (NOR units 032 and 042); and
        - b) Add the replacement waste stream for process wastewater 0038119H managed in each surface impoundment for NOR units 019 and 020, and each WWTP for NOR units 032 and 042;

- ii. Provide complete, current and accurate process and instrumentation diagram drawings and as-built drawings to the TCEQ Houston Regional Office at the address identified in Ordering Provision No. 2.k. below;
  - iii. Deed record all required information, including the burial of alumina concentrate in the Brazoria County deed records office, in accordance with 30 TEX. ADMIN. CODE § 335.5;
  - iv. Establish and implement procedures to ensure compliance with submitting written notices to the TCEQ in a timely manner;
  - v. Implement procedures to include, in the AWS, individual amounts generated for each active waste stream and begin submitting AWSs that include individual amounts generated for each active waste stream;
  - vi. Prevent the discharge of solid waste that originates as an ejection of material from roaster stacks, assess the impact to onsite/offsite soils, surface waters, and groundwater owing to release of this material to the environment, in accordance with 30 TEX. ADMIN. CODE §§ 335.2 and 335.4; and
  - vii. Implement procedures to ensure that if there are any future ejections of material from the roaster stacks resulting in solid waste, then Respondent will do a complete hazardous waste determination and classification in accordance with 30 TEX. ADMIN. CODE §§ 335.62, 335.503, and 335.513 and 40 C.F.R. §§ 262.11 and 264.13, submit the waste determination analytical to the TCEQ Houston Regional Office, identify the waste in Respondent's NOR, and clean up the material and any contamination, in accordance with 30 TEX. ADMIN. CODE §§ 335.2 and 335.4.
- b. Within 150 days after the effective date of this Agreed Order, Respondent shall:
- i. Complete all necessary repairs of CB2 and submit documentation demonstrating that CB2, the extension of CB2 and subsequent repairs and modifications after June 16, 2006, have been constructed, designed and maintained, in accordance with 30 TEX. ADMIN. CODE § 335.152 and 40 C.F.R. § 264.1101. Include documentation demonstrating either that a permit modification under 30 TEX. ADMIN. CODE § 305.69(k) (Attached Graphic at N. Containment Buildings) is not required for any repair, change or construction to CB2 that has occurred after June 16, 2006, or that is necessary for CB2 to be constructed, designed and maintained, in accordance with 30 TEX. ADMIN. CODE § 335.152 and 40 C.F.R. § 264.1101, or include a copy of a filed application for permit modification; and
  - ii. Take the following actions regarding assessment and remediation for off-site, on-site, and Pond 4 contamination:
    - 1) Regarding remediation for off-site contamination, if Respondent has not complied with this provision prior to the effective date of this Agreed Order:
      - a) Submit an APAR pursuant to 30 TEX. ADMIN. CODE § 350.91 regarding off-site soil and groundwater contamination ("Off-Site APAR") documenting the results of an affected property assessment conducted in accordance with 30 TEX. ADMIN. CODE ch. 350, subchapter C. The Off-Site APAR shall document the results and findings of the soil sampling performed under the ATI,

Section 4.2, and shall include any additional sampling of soils or groundwater required to complete the Off-Site APAR. If response actions are necessary, Respondent shall comply with all applicable requirements of TRRP, which may include: plans, reports, and notices under Subchapter E (30 TEX. ADMIN. CODE §§ 350.92 to 350.96); financial assurance (30 TEX. ADMIN. CODE § 350.33(l)); and Institutional Controls under Subchapter F;

- b) The Off-Site APAR shall define the horizontal and vertical extent of COCs as required in 30 TEX. ADMIN. CODE § 350.51; and
  - c) The Off-Site APAR shall include a schedule with specific completion dates for any remaining assessment and a RAP regarding off-site soil and groundwater contamination ("Off-Site RAP");
- 2) Regarding remediation for on-site contamination, obtain approval from the Executive Director of the On-Site RAP which shall include a schedule with specific completion dates for the corrective action, and a Response Action Completion Report ("RACR") pursuant to 30 TEX. ADMIN. CODE §§ 335.8, 350.91, 350.95, and Regulatory Guidance RG-366/TRRP-2A; and
  - 3) Submit an APAR regarding Pond 4 ("Pond 4 APAR") documenting the results of an affected property assessment conducted in accordance with 30 TEX. ADMIN. CODE §§ 350.51 -350.55. If response actions are necessary, Respondent shall comply with all applicable requirements of TRRP which may include: plans, reports, and notices under Subchapter E (30 TEX. ADMIN. CODE §§ 350.92 to 350.96); financial assurance (30 TEX. ADMIN. CODE § 350.33(l)); and Institutional Controls under Subchapter F. The Pond 4 APAR shall include a schedule with specific completion dates for any remaining assessment, and a RAP regarding Pond 4 ("Pond 4 RAP").
- c. Within 180 days after the effective date of this Agreed Order, Respondent shall submit written certification, in accordance with Ordering Provision No. 2.m., below, to demonstrate compliance with Ordering Provisions Nos. 2.a. and 2.b.i.
  - d. Within 240 days after the effective date of this Agreed Order, Respondent shall:
    - i. Obtain approval from the Executive Director of the Off-Site APAR which includes a schedule with specific completion dates for any remaining assessment, and the Off-Site RAP; and
    - ii. Obtain approval from the Executive Director of the Pond 4 APAR which includes a schedule with specific completion dates for any remaining assessment and the Pond 4 RAP.
  - e. By the specified completion date in the approved Off-Site APAR, Respondent shall obtain approval from the Executive Director of the Off-Site RAP which shall include a schedule with specific completion dates for corrective action and submittal of a RACR.
  - f. By the specified completion date in the approved Pond 4 APAR, Respondent shall obtain approval from the Executive Director of the Pond 4 RAP which shall include a schedule with specific completion dates for corrective action, closure and submittal of a RACR.

- g. Respondent shall implement the approved On-Site RAP and perform in accordance with the schedule of completion dates.
- h. Respondent shall implement the approved Off-Site RAP and perform in accordance with the schedule of completion dates
- i. Respondent shall implement the approved Pond 4 RAP and perform in accordance with the schedule of completion dates.
- j. Respond completely, adequately, and to the satisfaction of the Executive Director, to all requests for information concerning compliance with Ordering Provisions Nos. 2.b.ii. and 2.d. through 2.i. within 30 days after the date of such requests, or by any other reasonable deadline specified in writing by the Executive Director.
- k. All plans, reports, responses to requests for information, and notices required regarding Ordering Provisions 2.b.ii. and 2.d. through 2.i. shall be sent to:
  - VCP/CA Section  
Remediation Division, MC 127  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087
  - and
  - Order Compliance Team  
Texas Commission on Environmental Quality  
Enforcement Division, MC 149A  
P.O. Box 13087  
Austin, Texas 78711-3087
  - and
  - Jason Ybarra, Waste Section Manager  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk St., Ste. H  
Houston TX 77023-1452
- l. Upon completion of all remedial activities and approval of completion by the TCEQ Remediation Division, Respondent shall submit written certification, in accordance with Ordering Provision No. 2.m., below, to demonstrate compliance with Ordering Provisions Nos. 2.b.ii. and 2.d. through 2.i.
- m. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall include the following certification language:
  - "I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Respondent shall submit the written certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and

Jason Ybarra, Waste Section Manager  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk St., Ste. H  
Houston TX 77023-1452

3. All relief not expressly granted in this Agreed Order is denied.
4. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after 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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director.
7. The determination of what constitutes good cause rests solely with the Executive Director.
8. 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 Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
9. 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.
10. 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.

11. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails notice of this Agreed Order to Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

**S I G N A T U R E   P A G E**

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

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

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

December 14, 2013  
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of Gulf Chemical & Metallurgical Corporation, 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 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;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.

  
\_\_\_\_\_  
Signature  
**E.BURIN des ROZIERS**

\_\_\_\_\_  
Name (Printed or typed)  
Authorized representative of  
Gulf Chemical & Metallurgical Corporation

23.10.13  
\_\_\_\_\_  
Date

CEO  
\_\_\_\_\_  
Title