

**Executive Summary – Enforcement Matter – Case No. 54638**

**Equistar Chemicals, LP**

**RN100224377**

**Docket No. 2017-0880-AIR-E**

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

Unauthorized emissions which are excessive emissions events.

**Media:**

AIR

**Small Business:**

No

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

Mont Belvieu Facility, 11815 Highway 146, Mont Belvieu, Chambers County

**Type of Operation:**

Liquid hydrocarbon products underground storage facility

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: No

**Texas Register Publication Date:** December 15, 2017

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$64,575

**Total Paid to General Revenue:** \$32,325

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

Payment Plan: N/A

**Supplemental Environmental Project ("SEP") Conditional Offset:** \$32,250

Name of SEP: Barber's Hill Independent School District (Third-Party Pre-Approved)

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - Satisfactory

**Major/Minor Source:** Minor

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** April 2014

***Investigation Information***

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

**Complaint Information:** N/A

**Date(s) of Investigation:** June 28, 2016

**Date(s) of NOE(s):** June 1, 2017

**Executive Summary – Enforcement Matter – Case No. 54638**

**Equistar Chemicals, LP**

**RN100224377**

**Docket No. 2017-0880-AIR-E**

***Violation Information***

Failed to prevent unauthorized emissions [30 TEX. ADMIN. CODE § 116.115(b)(2)(F) and (c), TEX. HEALTH & SAFETY CODE § 382.085(b), and New Source Review Permit No. 2129, Special Conditions No. 1].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

1. The Order will require the Respondent to implement and complete a SEP (see SEP Attachment A).
2. The Order will also require the Respondent to:
  - a. Within 30 days, submit a corrective action plan ("CAP") in accordance with TCEQ letter date June 1, 2017 to address the excessive emissions event that occurred on June 26, 2016 (Incident No. 236350);
  - b. Respond completely and adequately, as determined by the Executive Director to all written requests for information concerning the submitted CAP within 15 days after the date of such requests, or by other deadline specified in writing;
  - c. Within 45 days, submit written certification demonstrating compliance with 2.a;
  - d. Upon Executive Director approval of the CAP, implement the CAP in accordance with approved schedule; and
  - e. Within 15 days after completion of the CAP implementation, submit written certification demonstrating compliance.

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Jo Hunsberger, Enforcement Division, Enforcement Team 5, MC 219, (512) 230-1274; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

**TCEQ SEP Coordinator:** Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565

**Respondent:** Matthew Cesarz, Technical & HSE Manager, Equistar Chemicals, LP, 16055 Space Center Boulevard, Suite 350, Houston, Texas 77062

Christopher M. Cain, Site Manager, Equistar Chemicals, LP, 16055 Space Center Boulevard, Suite 350, Houston, Texas 77062

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



# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

**TCEQ**

**DATES**

**Assigned PCW**

5-Jun-2017  
19-Sep-2017

**Screening**

8-Jun-2017

**EPA Due**

## RESPONDENT/FACILITY INFORMATION

**Respondent** Equistar Chemicals, LP

**Reg. Ent. Ref. No.** RN100224377

**Facility/Site Region** 12-Houston

**Major/Minor Source** Minor

## CASE INFORMATION

**Enf./Case ID No.** 54638

**Docket No.** 2017-0880-AIR-E

**Media Program(s)** Air

**Multi-Media**

**No. of Violations** 1

**Order Type** Findings

**Government/Non-Profit** No

**Enf. Coordinator** Jo Hunsberger

**EC's Team** Enforcement Team 5

**Admin. Penalty \$ Limit Minimum** \$0

**Maximum**

\$25,000

## Penalty Calculation Section

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

**Subtotal 1** \$52,500

## ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History**

**23.0%**

**Adjustment**

**Subtotals 2, 3, & 7**

\$12,075

**Notes**

Enhancement for one agreed order without denial. Reduction for two notices of intent to conduct an audit.

**Culpability**

No

**0.0%**

**Enhancement**

**Subtotal 4**

\$0

**Notes**

The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments**

**Subtotal 5**

\$0

**Economic Benefit**

Total EB Amounts \$2,099

Estimated Cost of Compliance \$25,000

**0.0% Enhancement\***

\*Capped at the Total EB \$ Amount

**Subtotal 6**

\$0

**SUM OF SUBTOTALS 1-7**

**Final Subtotal**

\$64,575

**OTHER FACTORS AS JUSTICE MAY REQUIRE**

**0.0%**

**Adjustment**

\$0

Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes**

**Final Penalty Amount**

\$64,575

**STATUTORY LIMIT ADJUSTMENT**

**Final Assessed Penalty**

\$64,575

**DEFERRAL**

**0.0%**

**Reduction**

**Adjustment**

\$0

Reduces the Final Assessed Penalty by the indicated percentage.

**Notes**

No deferral is recommended for Findings Orders.

**PAYABLE PENALTY**

\$64,575

Screening Date 8-Jun-2017

Docket No. 2017-0880-AIR-E

PCW

Respondent Equistar Chemicals, LP

Policy Revision 4 (April 2014)

Case ID No. 54638

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100224377

Media [Statute] Air

Enf. Coordinator Jo Hunsberger

**Compliance History Worksheet**

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	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> )	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	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 judgments 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> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	2	-2%
	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%
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) 23%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

Enhancement for one agreed order without denial. Reduction for two notices of intent to conduct an audit.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, &amp; 7) 23%

## &gt;&gt; Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 23%



Screening Date 8-Jun-2017

Docket No. 2017-0880-AIR-E

PCW

Respondent Equistar Chemicals, LP

Policy Revision 4 (April 2014)

Case ID No. 54638

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100224377

Media [Statute] Air

Enf. Coordinator Jo Hunsberger

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 116.115(b)(2)(F) and (c), Tex. Health & Safety Code § 382.085(b), and New Source Review Permit No. 2129, Special Conditions No. 1

## Violation Description

Failed to prevent unauthorized emissions. Specifically, the Respondent released 4,781.38 pounds ("lbs") of nitrogen oxides from Flare 1, Emission Point Number ("EPN") 90.09, and 24,600 lbs of volatile organic compounds from Fugitives, EPN 90.13, during an emissions event (Incident No. 236350) that began on June 26, 2016 and lasted 1,129 hours and 44 minutes. The emissions event occurred when a dimerization reaction caused pressure increases in Well No. 7, which resulted in flaring and fissuring at ground level. The emissions event was determined to be an excessive emissions event.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	x		
Potential			

Percent 30.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Based on an Air Quality Analysis of the air dispersion modeling provided by the Respondent, human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$17,500

\$7,500

## Violation Events

Number of Violation Events 7

48 Number of violation days

daily	
weekly	x
monthly	
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$52,500

Seven weekly events are recommended.

## Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$52,500

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$2,099

Violation Final Penalty Total \$64,575

This violation Final Assessed Penalty (adjusted for limits) \$64,575

# Economic Benefit Worksheet

**Respondent** Equistar Chemicals, LP

**Case ID No.** 54638

**Reg. Ent. Reference No.** RN100224377

**Media** Air

**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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## 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)	\$25,000	26-Jun-2016	1-Mar-2018	1.68	\$2,099	n/a	\$2,099

**Notes for DELAYED costs**

Estimated cost to implement a corrective action plan designed to prevent the recurrence of emissions events due to the same or similar cause as Incident No. 236350. The Date Required is the date the emissions event began and the Final Date is the estimated date of compliance.

## Avoided Costs

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

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

**Notes for AVOIDED costs**

**Approx. Cost of Compliance**

\$25,000

**TOTAL**

\$2,099



# Compliance History Report

Compliance History Report for CN600124705, RN100224377, Rating Year 2016 which includes Compliance History (CH) components from September 1, 2011, through August 31, 2016.

**Customer, Respondent, or Owner/Operator:** CN600124705, Equistar Chemicals, LP

**Classification:** SATISFACTORY

**Rating:** 5.06

**Regulated Entity:** RN100224377, MONT BELVIEU FACILITY

**Classification:** SATISFACTORY

**Rating:** 14.14

**Complexity Points:** 6

**Repeat Violator:** NO

**CH Group:** 14 - Other

**Location:** 11815 HIGHWAY 146 MONT BELVIEU, TX 77535-6618, CHAMBERS COUNTY

**TCEQ Region:** REGION 12 - HOUSTON

**ID Number(s):**

**AIR NEW SOURCE PERMITS** PERMIT 2129

**AIR NEW SOURCE PERMITS** PERMIT 2934

**AIR NEW SOURCE PERMITS** PERMIT 7570

**AIR NEW SOURCE PERMITS** ACCOUNT NUMBER CI0002G

**AIR NEW SOURCE PERMITS** AFS NUM 4807100032

**AIR NEW SOURCE PERMITS** REGISTRATION 138495

**AIR NEW SOURCE PERMITS** REGISTRATION 146646

**AIR EMISSIONS INVENTORY** ACCOUNT NUMBER CI0002G

**INDUSTRIAL AND HAZARDOUS WASTE** OTS REQUEST 38942

**INDUSTRIAL AND HAZARDOUS WASTE** EPA ID  
TXP490353012

**Compliance History Period:** September 01, 2011 to August 31, 2016

**Rating Year:** 2016

**Rating Date:** 09/01/2016

**Date Compliance History Report Prepared:** June 21, 2017

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** June 21, 2012 to June 21, 2017

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

**Name:** Jo Hunsberger

**Phone:** (512) 239-1274

**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  |

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

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

1 Effective Date: 09/19/2014 ADMINORDER 2014-0179-AIR-E (Findings Order-Agreed Order Without Denial)

Classification: Major

Citation: 30 TAC Chapter 115, SubChapter H 115.722(c)(2)

30 TAC Chapter 116, SubChapter B 116.115(c)

5C THSC Chapter 382 382.085(b)

Rqmt Prov: NSR No. 2129, SC No. 1 PERMIT

Description: Failure to prevent unauthorized emissions and failed to limit HRVOC emissions to 1,200 lbs per one hour block period. Specifically, the Respondent released 105,050.00 lbs of ethylene, which is a HRVOC, from Pressure Safety Valve 90094 and 11.42 lbs of nitrogen oxides, 22.87 lbs of carbon monoxide, and 35.36 lbs of ethylene from Flare 1 (Emission Point Number 90.09) during an emissions event (Incident No. 184440) that occurred on June 19, 2013 and lasted 38 minutes.

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

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

Item 1	September 26, 2012	(1028128)
Item 2	April 11, 2014	(1158527)
Item 3	September 29, 2014	(1197193)

**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.

N/A

**F. Environmental audits:**

Notice of Intent Date: 09/11/2012 (1034833)  
No DOV Associated

Notice of Intent Date: 02/01/2017 (1394786)  
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

## **Component Appendices**

### **Appendix A**

#### **All NOVs Issued During Component Period 6/8/2012 and 6/8/2017**

1      Date:      11/04/2014      (1192610)  
Self Report?      NO      Classification:      Moderate  
Citation:      30 TAC Chapter 116, SubChapter B 116.115(c)  
                 5C THSC Chapter 382 382.085(b)  
                 SC 1 PERMIT  
Description:      Failure to meet the demonstration criteria for an affirmative defense for unauthorized  
                 emissions during an emissions event (Category B13)

\* NOVs applicable for the Compliance History rating period 9/1/2011 to 8/31/2016

### **Appendix B**

#### **All Investigations Conducted During Component Period June 08, 2012 and June 08, 2017**

Item 1	August 09, 2012**	(1023268)
Item 2*	September 26, 2012**	(1028128)
Item 3	January 22, 2014**	(1101388)
Item 4*	April 11, 2014**	(1158527)
Item 5*	September 29, 2014**	(1197193)
Item 6	November 04, 2014**	(1192610)
Item 7	January 20, 2015**	(1216091)
Item 8	March 10, 2015**	(1230265)
Item 9	June 01, 2017	(1343427)

\* No violations documented during this investigation

\*\*Investigation applicable for the Compliance History Rating period between 09/01/2011 and 08/31/2016.





# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
EQUISTAR CHEMICALS, LP  
RN100224377**

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

## **AGREED ORDER DOCKET NO. 2017-0880-AIR-E**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Equistar Chemicals, LP (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this Order to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including 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 Order, the Respondent agrees to waive all notice and procedural rights.

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

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

### **I. FINDINGS OF FACT**

1. The Respondent owns and operates a liquid hydrocarbon products underground storage facility located at 11815 Highway 146 in Mont Belvieu, Chambers County, Texas (the "Site"). The Site consists or consisted of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. During an investigation conducted on June 28, 2016, an investigator documented that the Respondent released 4,781.38 pounds ("lbs") of nitrogen oxides from Flare 1 Emission Point Number ("EPN") 90.09, and 24,600 lbs of volatile organic compounds from Fugitives, EPN 90.13, during an emissions event (Incident No. 236350) that began on June 26, 2016 and lasted 1,129 hours and 44 minutes. The emissions event occurred when a dimerization reaction caused pressure increases in Well No. 7, which resulted in flaring and fissuring at ground level. TCEQ staff determined that the event was an excessive emissions event.

## II. CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, the Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2, the Respondent failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE § 116.115(b)(2)(F) and (c), TEX. HEALTH & SAFETY CODE § 382.085(b), and New Source Review Permit No. 2129, Special Conditions No. 1.
3. Pursuant to TEX. WATER CODE § 7.051, the TCEQ has the authority to assess an administrative penalty against the Respondent for violations of state statutes within the TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of \$64,575 is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent paid \$32,325 of the penalty. Pursuant to TEX. WATER CODE § 7.067, \$32,250 of the penalty shall be conditionally offset by the Respondent's timely and satisfactory completion of a Supplemental Environmental Project ("SEP") as defined in the attached SEP Agreement. ("Attachment A", incorporated herein by reference). The Respondent's obligation to pay the conditionally offset portion of the penalty shall be discharged upon full compliance with all the terms and conditions of this Order, which includes the timely and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director.

## III. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Conclusion of Law No. 4 for violations of state statutes and rules of the TCEQ. The payment of this penalty and the Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations that are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Equistar Chemicals, LP, Docket No. 2017-0880-AIR-E" to:

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

2. The Respondent shall implement and complete an SEP as set forth in Conclusions of Law No. 4. The amount of \$32,250 of the assessed penalty is conditionally offset based

on the Respondent's implementation and completion of the SEP pursuant to the terms of the SEP Agreement, as defined in Attachment A. Penalty payments for any portion of the SEP deemed by the Executive Director as not complete shall be paid within 30 days after the date the Executive Director demands payment.

3. The Respondent shall undertake the following technical requirements:
- a. Within 30 days after the effective date of this Order, submit a corrective action plan ("CAP") in accordance with TCEQ letter date June 1, 2017 to address the excessive emissions event that occurred on June 26, 2016 (Incident No. 236350);
  - b. Respond completely and adequately, as determined by the Executive Director to all written requests for information concerning the submitted CAP within 15 days after the date of such requests, or by other deadline specified in writing;
  - c. Within 45 days after the effective date of this Order, submit written certification as described in Ordering Provision No. 3.e. below, to demonstrate compliance with Ordering Provision No. 3.a;
  - d. Upon Executive Director approval of the CAP, implement the CAP in accordance with approved schedule; and
  - e. Within 15 days after completion of the CAP implementation, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. The certification shall be signed by the Respondent 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 fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Air Section Manager  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Street, Suite H  
Houston, Texas 77023-1452

4. All relief not expressly granted in this Order is denied.
5. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Site operations referenced in this Order.
6. If the 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, the Respondent's failure to comply is not a violation of this Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
7. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Order Compliance Team at the address listed above.
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 the Respondent has not complied with one or more of the terms in this Order.
9. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
10. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
11. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this 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 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.

12. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

  
For the Executive Director


8/27/18  
Date

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

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

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

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

  
Signature

10/9/2017  
Date

Christopher M. Cain  
Name (Printed or typed)  
Authorized Representative of  
Equistar Chemicals, LP

Site Manager  
Title

☐ If mailing address has changed, please check this box and provide the new address below:



**Attachment A**  
**Docket Number: 2017-0880-AIR-E**  
**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>Equistar Chemicals, LP</b>
<b>Payable Penalty Amount:</b>	<b>\$64,575</b>
<b>SEP Offset Amount:</b>	<b>\$32,250</b>
<b>Type of SEP:</b>	<b>Contribution to a Third-Party Pre-Approved SEP</b>
<b>Third-Party Administrator:</b>	<b>Barber's Hill Independent School District</b>
<b>Project Name:</b>	<b><i>Alternative Fuel School Bus Replacement</i></b>
<b>Location of SEP:</b>	<b>Chambers County</b>

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

**1. Project Description**

**a. Project**

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to **Barber's Hill Independent School District** ("Barber's Hill ISD") for the *Alternative Fuel School Bus Replacement* program. The contribution will be used in accordance with the SEP Agreement between the Third-Party Administrator and the TCEQ (the "Project"). Specifically, the SEP Offset Amount shall be used to reduce carbon monoxide, nitrogen oxides, particulate matter, and volatile organic compounds emissions by replacing older school buses with new propane-fueled buses. The Third-Party Administrator shall ensure that each replacement bus purchased has an engine that meets 2010 Environmental Protection Agency standards. The Third-Party Administrator has invested in propane fueling infrastructure to support the operation of new propane-fueled buses. The Third-Party Administrator shall give preference to replacing the oldest, most polluting buses currently in use. Only older buses that are currently in regular use, driven on a regular route on a weekly basis for at least the past two years are eligible for replacement. The SEP Offset Amount will only be used for the purchase of a base model propane-fueled Replacement Bus. The Third-Party Administrator shall own and operate each Replacement Bus for at least five years following the date of purchase. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used for the direct cost of implementing the Project, including but not limited to supplies, materials, and equipment. Any portion of this contribution that is not able to be spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

This SEP will directly benefit air quality by reducing harmful exhaust emissions that contribute to the formation of ozone and may cause or exacerbate a number of respiratory diseases, including asthma. For example, by replacing a 1989 diesel bus with a new 2010 ultra-low emission model, passengers' exposures to nitrogen oxides may be reduced by 98 percent; volatile organic compounds by 93 percent; carbon monoxide by 83 percent; and particulate matter by 99 percent.

c. Minimum Expenditure

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

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Barber's Hill ISD SEP** and shall mail the contribution with a copy of the Agreed Order to:

John Johnson, Consultant  
Carl R. Griffith & Associates, Inc.  
2901 Turtle Creek Drive, Suite 445  
Port Arthur, Texas 77642

### 3. Records and Reporting

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

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

### 4. Failure to Fully Perform

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality"; and shall mail it to:

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087

### 5. Publicity

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

**6. Recognition**

The Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

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

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