

**Executive Summary – Enforcement Matter – Case No. 60550**  
**Western International Gas & Cylinders, Inc.**  
**RN104892633**  
**Docket No. 2021-0481-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:**

Western International Gas Bellville Plant, 7173 Highway 159 East, Bellville, Austin County

**Type of Operation:**

Chemical manufacturing plant

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** June 23, 2023

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$6,913

**Total Paid to General Revenue:** \$6,913

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

Payment Plan: N/A

**Compliance History Classifications:**

Person/CN - High

Site/RN - High

**Major Source:** No

**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:** January 14, 2021 through March 10, 2021

**Date(s) of NOE(s):** March 15, 2021

***Violation Information***

1. Failed to submit an initial notification for a reportable emissions event no later than 24 hours after the discovery of an emissions event [30 TEX. ADMIN. CODE § 101.201(a)(1)(B) and TEX. HEALTH & SAFETY CODE § 382.085(b)].

**Executive Summary – Enforcement Matter – Case No. 60550**  
**Western International Gas & Cylinders, Inc.**  
**RN104892633**  
**Docket No. 2021-0481-AIR-E**

2. Failed to prevent unauthorized emissions and failed to provide sufficient tank pressure at all times to prevent vapor or gas loss to the atmosphere [30 TEX. ADMIN. CODE §§ 101.4, 101.5, 106.6(b), and 106.476 and TEX. HEALTH & SAFETY CODE § 382.085(a) and (b)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

On October 12, 2018, the Respondent submitted the initial notification for Incident No. 294174

**Technical Requirements:**

The Order will require the Respondent to:

- a. Within 30 days, submit a corrective action plan ("CAP") in accordance with the TCEQ letter dated March 15, 2021 to address the excessive emissions event that occurred on July 17, 2018 (Incident No. 294174);
- b. Respond completely and adequately, as determined by the Executive Director, to all written requests for information concerning the CAP submittal in connection with the July 17, 2018 excessive emissions event within 15 days after the date of such requests, or by any other deadline specified in writing;
- c. Within 45 days, submit written certification to demonstrate compliance with a.;
- d. Upon Executive Director approval of the CAP, implement the CAP in accordance with the approved schedule; and
- e. Within 15 days after the completion of the CAP implementation, submit written certification to demonstrate compliance with d.

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Yuliya Dunaway, Enforcement Division, Enforcement Team 2, MC R-13, (210) 403-4077; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

**Respondent:** James Murphree, Environmental Director, Western International Gas & Cylinders, Inc., P.O. Box 668, Bellville, Texas 77418

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



# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

<b>DATES</b>	<b>Assigned</b>	17-Mar-2021	<b>Screening</b>	26-Mar-2021	<b>EPA Due</b>	
	<b>PCW</b>	5-May-2023				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Western International Gas & Cylinders, Inc.
<b>Reg. Ent. Ref. No.</b>	RN104892633
<b>Facility/Site Region</b>	12-Houston
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	60550	<b>No. of Violations</b>	2
<b>Docket No.</b>	2021-0481-AIR-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Yuliya Dunaway
		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$7,750
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	-10.0%	Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	-\$775
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<b>Notes</b>	Reduction for High Performer Classification.
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<b>Culpability</b>	No	0.0%	Enhancement	<b>Subtotal 4</b>	\$0
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<b>Notes</b>	The Respondent does not meet the culpability criteria.
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<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	-\$62
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<b>Economic Benefit</b>	0.0%	Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$2,943	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$10,250	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$6,913
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	
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<b>Final Penalty Amount</b>	\$6,913
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$6,913
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<b>DEFERRAL</b>	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

<b>Notes</b>	No deferral is recommended for Findings Orders.
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<b>PAYABLE PENALTY</b>	\$6,913
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**Screening Date** 26-Mar-2021

**Docket No.** 2021-0481-AIR-E

**PCW**

**Respondent** Western International Gas & Cylinders, Inc.

*Policy Revision 4 (April 2014)*

**Case ID No.** 60550

*PCW Revision March 26, 2014*

**Reg. Ent. Reference No.** RN104892633

**Media** Air

**Enf. Coordinator** Yuliya Dunaway

### Compliance History Worksheet

#### >> 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	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of 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> )	0	0%
	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)** 0%

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

No

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

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

High Performer

**Adjustment Percentage (Subtotal 7)** -10%

#### >> Compliance History Summary

**Compliance History Notes**

Reduction for High Performer Classification.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** -10%

#### >> Final Compliance History Adjustment

**Final Adjustment Percentage \*capped at 100%** -10%

**Screening Date** 26-Mar-2021 **Docket No.** 2021-0481-AIR-E **PCW**  
**Respondent** Western International Gas & Cylinders, Inc. *Policy Revision 4 (April 2014)*  
**Case ID No.** 60550 *PCW Revision March 26, 2014*  
**Reg. Ent. Reference No.** RN104892633  
**Media** Air  
**Enf. Coordinator** Yuliya Dunaway

**Violation Number** 1  
**Rule Cite(s)** 30 Tex. Admin. Code § 101.201(a)(1)(B) and Tex. Health & Safety Code § 382.085(b)  
**Violation Description** Failed to submit an initial notification for a reportable emissions event no later than 24 hours after the discovery of an emissions event. Specifically, the initial notification for Incident No. 294174 was due by July 18, 2018 at 6:00 a.m., but was not submitted until October 12, 2018 at 2:28 p.m.  
**Base Penalty** \$25,000

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

<b>OR</b>		<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor	
	Actual				<b>Percent</b> 0.0%
Potential					

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
				x	<b>Percent</b> 1.0%
<b>Matrix Notes</b>	Less than 30% of the rule requirements were not met.				

**Adjustment** \$24,750  
 \$250

**Violation Events**

Number of Violation Events 1      86 Number of violation days  

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

**Violation Base Penalty** \$250  
 One single event is recommended.

**Good Faith Efforts to Comply** 25.0% Reduction \$62

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

**Notes** The Respondent completed the corrective measures on October 12, 2018, prior to the Notice of Enforcement dated March 15, 2021.

**Violation Subtotal** \$188

**Economic Benefit (EB) for this violation**      **Statutory Limit Test**

**Estimated EB Amount** \$3      **Violation Final Penalty Total** \$163  
**This violation Final Assessed Penalty (adjusted for limits)** \$163

# Economic Benefit Worksheet

**Respondent** Western International Gas & Cylinders, Inc.  
**Case ID No.** 60550  
**Reg. Ent. Reference No.** RN104892633  
**Media** Air  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	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)	\$250	18-Jul-2018	12-Oct-2018	0.24	\$3	n/a	\$3

**Notes for DELAYED costs**

Estimated cost to submit the initial notification for Incident No. 294174. The Date Required is the date the initial notification was due and the Final Date is the date of compliance.

### Avoided Costs

**ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

Approx. Cost of Compliance \$250

**TOTAL** \$3

Screening Date 26-Mar-2021

Docket No. 2021-0481-AIR-E

PCW

Respondent Western International Gas & Cylinders, Inc.

Policy Revision 4 (April 2014)

Case ID No. 60550

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN104892633

Media Air

Enf. Coordinator Yuliya Dunaway

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 101.4, 101.5, 106.6(b), and 106.476 and Tex. Health & Safety Code § 382.085(a) and (b)

Violation Description

Failed to prevent unauthorized emissions and failed to provide sufficient tank pressure at all times to prevent vapor or gas loss to the atmosphere. Specifically, the Respondent released 56,000 pounds of acetylene as fugitive emissions, during an emissions event (Incident No. 294174) that occurred on July 17, 2018 and lasted 15 hours. The emissions event occurred when debris in the line was introduced to a cylinder valve during the fill process and friction from the closing of the cylinder valve caused an ignition, resulting in a deflagration or detonation in the piping, in a fire, in the release to the atmosphere, in the issuance of an evacuation order within a one-mile radius, in the issuance of an voluntary evacuation order within a two-mile radius, in the extension of the evacuation zone to a five-mile radius, and in the closures of State Highway 159 between the Brazos River and the City of Bellville, Walton Road, Lisa Mae Road, Oil Field Road, Ives Creek Road, Ueckert Road East, Witte Road, Jackson Road, and Newson Road. The emissions event was determined to be an excessive emissions event.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	x		
Potential			

Percent 30.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to pollutants that 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 1 Number of violation days 1

daily	x
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$7,500

One daily event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	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 \$2,940

Violation Final Penalty Total \$6,750

This violation Final Assessed Penalty (adjusted for limits) \$6,750

# Economic Benefit Worksheet

**Respondent** Western International Gas & Cylinders, Inc.  
**Case ID No.** 60550  
**Reg. Ent. Reference No.** RN104892633  
**Media** Air  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	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)	\$10,000	17-Jul-2018	1-Jun-2024	5.88	\$2,940	n/a	\$2,940

**Notes for DELAYED costs** Estimated cost to implement an approved corrective action plan to address the excessive emissions event that occurred on July 17, 2018 (Incident No. 294174). The Date Required is the date the emissions event occurred and the Final Date is the estimated date of compliance.

### Avoided Costs

**ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

Approx. Cost of Compliance \$10,000

**TOTAL** \$2,940





# Compliance History Report

Compliance History Report for CN600554885, RN104892633, Rating Year 2022 which includes Compliance History (CH) components from September 1, 2017, through August 31, 2022.

**Customer, Respondent, or Owner/Operator:** CN600554885, Western International Gas & Cylinders, Inc. **Classification:** HIGH **Rating:** 0.00

**Regulated Entity:** RN104892633, Western International Gas Bellville Plant **Classification:** HIGH **Rating:** 0.00

**Complexity Points:** 8 **Repeat Violator:** NO

**CH Group:** 05 - Chemical Manufacturing

**Location:** 7173 Highway 159 East, Bellville, Austin County, Texas 77418-5309

**TCEQ Region:** REGION 12 - HOUSTON

**ID Number(s):**

**AIR NEW SOURCE PERMITS REGISTRATION** 79961

**AIR NEW SOURCE PERMITS PERMIT** 158579

**PETROLEUM STORAGE TANK REGISTRATION**  
REGISTRATION 77807

**INDUSTRIAL AND HAZARDOUS WASTE NONPERMITTED** ID NUMBER F1952

**AIR EMISSIONS INVENTORY ACCOUNT NUMBER** AHA006F

**INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR)** 95588

**AIR NEW SOURCE PERMITS REGISTRATION** 81198

**AIR NEW SOURCE PERMITS AFS NUM** 4801500035

**STORMWATER PERMIT** TXR05FE33

**INDUSTRIAL AND HAZARDOUS WASTE NONPERMITTED** EPA ID TXR000077960

**POLLUTION PREVENTION PLANNING** ID NUMBER P10391

**INDUSTRIAL AND HAZARDOUS WASTE** EPA ID TXR000077960

**Compliance History Period:** September 01, 2017 to August 31, 2022 **Rating Year:** 2022 **Rating Date:** 09/01/2022

**Date Compliance History Report Prepared:** May 01, 2023

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** May 01, 2018 to May 01, 2023

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

**Name:** Yuliya Dunaway

**Phone:** (210) 403-4077

**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:**

N/A

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

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

Item 1	July 25, 2019	(1519632)
Item 2	August 27, 2021	(1738762)
Item 3	March 16, 2023	(1894468)

**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:**

N/A

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

N/A

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

N/A

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

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A

## **Component Appendices**

### **Appendix A**

#### **All NOVs Issued During Component Period 5/1/2018 and 5/1/2023**

N/A

### **Appendix B**

#### **All Investigations Conducted During Component Period May 01, 2018 and May 01, 2023**

Item 1*	July 25, 2019**	(1519632)
Item 2	March 12, 2021**	(1684872)
Item 3*	August 27, 2021**	(1738762)
Item 4*	March 16, 2023	(1894468)

\* No violations documented during this investigation

\*\*Investigation applicable for the Compliance History Rating period between 09/01/2017 and 08/31/2022.

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
WESTERN INTERNATIONAL GAS &  
CYLINDERS, INC.  
RN104892633

§  
§  
§  
§  
§  
§

BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2021-0481-AIR-E

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Western International Gas & Cylinders, Inc. (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 chemical manufacturing plant located at 7173 Highway 159 East in Bellville, Austin County, Texas (the "Plant"). The Plant consists or consisted of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. During a record review for the Plant conducted from January 14, 2021 through March 10, 2021, an investigator documented that:
  - a. The initial notification for Incident No. 294174 was due by July 18, 2018 at 6:00 a.m., but was not submitted until October 12, 2018 at 2:28 p.m.
  - b. The Respondent released 56,000 pounds of acetylene as fugitive emissions, during an emissions event (Incident No. 294174) that occurred on July 17, 2018 and lasted 15 hours. The emissions event occurred when debris in the line was introduced to a cylinder valve during the fill process and friction from the closing of the cylinder valve caused an ignition, resulting in a deflagration or detonation in the piping, in a fire, in the release to the atmosphere, in the

issuance of an evacuation order within a one-mile radius, in the issuance of a voluntary evacuation order within a two-mile radius, in the extension of the evacuation zone to a five-mile radius, and in the closures of State Highway 159 between the Brazos River and the City of Bellville, Walton Road, Lisa Mae Road, Oil Field Road, Ives Creek Road, Ueckert Road East, Witte Road, Jackson Road, and Newson Road. TCEQ staff determined that the emissions event was an excessive emissions event.

3. The Executive Director recognizes that on October 12, 2018, the Respondent submitted the initial notification for Incident No. 294174.

## 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.a, the Respondent failed to submit an initial notification for a reportable emissions event no later than 24 hours after the discovery of an emissions event, in violation of 30 TEX. ADMIN. CODE § 101.201(a)(1)(B) and TEX. HEALTH & SAFETY CODE § 382.085(b).
3. As evidenced by Finding of Fact No. 2.b, the Respondent failed to prevent unauthorized emissions and failed to provide sufficient tank pressure at all times to prevent vapor or gas loss to the atmosphere, in violation of 30 TEX. ADMIN. CODE §§ 101.4, 101.5, 106.6(b), and 106.476 and TEX. HEALTH & SAFETY CODE § 382.085(a) and (b). The emissions event was determined to be an excessive emissions event.
4. 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.
5. An administrative penalty in the amount of \$6,913 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 the \$6,913 penalty.

## 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. 5 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: Western International Gas & Cylinders, Inc., Docket No. 2021-0481-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 undertake the following technical requirements at the Plant:
  - a. Within 30 days after the effective date of this Order, submit a corrective action plan ("CAP") in accordance with the TCEQ letter dated March 15, 2021 to address the excessive emissions event that occurred on July 17, 2018 (Incident No. 294174).
  - b. Respond completely and adequately, as determined by the Executive Director, to all written requests for information concerning the CAP submittal in connection with the July 17, 2018 excessive emissions event within 15 days after the date of such requests, or by any 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. 2.e, to demonstrate compliance with Ordering Provision No. 2.a.
  - d. Upon Executive Director approval of the CAP, implement the CAP in accordance with the approved schedule.
  - e. Within 15 days after the completion of the CAP implementation, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.d. 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:

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

3. All relief not expressly granted in this Order is denied.
4. 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 Plant operations referenced in this Order.
5. 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.
6. 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 Enforcement Division at the address listed above.
7. 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.
8. 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.
9. 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.
10. 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.

11. 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

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For the Commission

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Date

  
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For the Executive Director

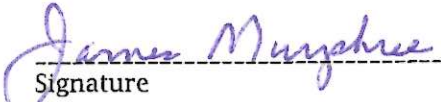
7/7/2023  
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Date

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 OAG 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 OAG 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.

  
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Signature

05/25/2023  
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Date

James Murphree  
-----  
Name (Printed or typed)  
Authorized Representative of  
Western International Gas & Cylinders, Inc.

Director Environmental  
-----  
Title

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

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