

Executive Summary – Enforcement Matter – Case No. 61346
EQUISTAR CHEMICALS, LP
RN100216761
Docket No. 2021-1231-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

Lyondellbasell Bayport Polymers, 12001 Bay Area Boulevard, Pasadena, Harris County

Type of Operation:

Chemical manufacturing plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: April 21, 2023

Comments Received: No

Penalty Information

Total Penalty Assessed: \$11,175

Amount Deferred for Expedited Settlement: \$2,235

Total Paid to General Revenue: \$4,470

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project (“SEP”) Conditional Offset: \$4,470

Name of SEP: Houston-Galveston Area Council-AERCO (Third-Party Pre-Approved)

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: January 2021

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: July 27, 2021

Date(s) of NOE(s): August 30, 2021

**Executive Summary – Enforcement Matter – Case No. 61346
EQUISTAR CHEMICALS, LP
RN100216761
Docket No. 2021-1231-AIR-E**

Violation Information

Failed to prevent unauthorized emissions and failed to operate the flare with no visible emissions except for periods not to exceed a total of five minutes during any two consecutive hours as ensured by the use of steam assist to the flare. Specifically, the Respondent released 487.38 pounds ("lbs") of carbon monoxide, 67.48 lbs of nitrogen oxides, and 829.84 lbs of volatile organic compounds ("VOC") from the Elevated Flare, Emissions Point Number 34, and released 864.39 lbs of VOC as fugitive emissions, during an emissions event (Incident No. 328714) that occurred on January 22, 2020 and lasted one hour and 36 minutes. The emissions event occurred due to tubing that was improperly mated and caused the tubing connection to a flow transmitter to disconnect at a connector fitting in the Bulk Plant D-Line Process Unit, resulting in visible emissions for more than five minutes from the Elevated Flare, in flaring, and in the release to the atmosphere. Since the emissions event was not caused by a sudden unavoidable breakdown of equipment or process beyond the control of the owner or operator and could have been avoided by better design and/or better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN. CODE §§ 101.20(1), 111.111(a)(4)(A), 116.115(c), and 122.143(4), 40 CODE OF FEDERAL REGULATIONS § 60.18(c)(1), New Source Review Permit No. 9423, Special Conditions Nos. 1 and 6.C, Federal Operating Permit No. O1419, General Terms and Conditions and Special Terms and Conditions No. 20, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

By December 31, 2022, the Respondent improved the work permitting process by implementing an Electronic Permit Authorization System that requires more detailed documentation of the project and maintenance work scope in order to prevent installation and repair errors and the recurrence of emissions events due to the same or similar causes as Incident No. 328714.

Technical Requirements:

The Order will require the Respondent to implement and complete a SEP (see SEP Attachment A).

Executive Summary – Enforcement Matter – Case No. 61346
EQUISTAR CHEMICALS, LP
RN100216761
Docket No. 2021-1231-AIR-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Danielle Porras, Enforcement Division, Enforcement Team 2, MC R-12, (713) 767-3682; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

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

SEP Third-Party Administrator: Houston-Galveston Area Council-AERCO, 3555 Timmons Lane, Suite 120, Houston, Texas 77027

Respondent: John C. Beagh, Operations Manager, EQUISTAR CHEMICALS, LP, 12001 Bay Area Boulevard, Pasadena, Texas 77507

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	8-Sep-2021	Screening	15-Sep-2021	EPA Due	
	PCW	27-Feb-2023				

RESPONDENT/FACILITY INFORMATION	
Respondent	EQUISTAR CHEMICALS, LP
Reg. Ent. Ref. No.	RN100216761
Facility/Site Region	12-Houston
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	61346	No. of Violations	1
Docket No.	2021-1231-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Danielle Porras
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$7,500
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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.

Compliance History	59.0%	Adjustment	Subtotals 2, 3, & 7	\$4,425
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Notes: Enhancement due to one NOV with same/similar violations and three orders containing a denial of liability. Reduction for four notices of intent to conduct an audit and one disclosure of violations.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$750
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$221
 Estimated Cost of Compliance: \$1,500
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$11,175
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$11,175
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$11,175
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DEFERRAL	20.0%	Reduction	Adjustment	-\$2,235
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$8,940
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Screening Date 15-Sep-2021

Docket No. 2021-1231-AIR-E

PCW

Respondent EQUICSTAR CHEMICALS, LP

Policy Revision 5 (January 28, 2021)

Case ID No. 61346

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN100216761

Media Air

Enf. Coordinator Danielle Porras

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>)	1	5%
	Other written NOVs	0	0%
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	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>)	4	-4%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	1	-2%
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) 59%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement due to one NOV with same/similar violations and three orders containing a denial of liability. Reduction for four notices of intent to conduct an audit and one disclosure of violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 59%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 59%

Screening Date 15-Sep-2021 **Docket No.** 2021-1231-AIR-E **PCW**
Respondent EQUISTAR CHEMICALS, LP *Policy Revision 5 (January 28, 2021)*
Case ID No. 61346 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN100216761
Media Air
Enf. Coordinator Danielle Porras
Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 101.20(1), 111.111(a)(4)(A), 116.115(c), and 122.143(4), 40 Code of Federal Regulations § 60.18(c)(1), New Source Review Permit No. 9423, Special Conditions Nos. 1 and 6.C, Federal Operating Permit No. O1419, General Terms and Conditions and Special Terms and Conditions No. 20, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to prevent unauthorized emissions and failed to operate the flare with no visible emissions except for periods not to exceed a total of five minutes during any two consecutive hours as ensured by the use of steam assist to the flare. Specifically, the Respondent released 487.38 pounds ("lbs") of carbon monoxide, 67.48 lbs of nitrogen oxides, and 829.84 lbs of volatile organic compounds ("VOC") from the Elevated Flare, Emissions Point Number 34, and released 864.39 lbs of VOC as fugitive emissions, during an emissions event (Incident No. 328714) that occurred on January 22, 2020 and lasted one hour and 36 minutes. The emissions event occurred due to tubing that was improperly mated and caused the tubing connection to a flow transmitter to disconnect at a connector fitting in the Bulk Plant D-Line Process Unit, resulting in visible emissions for more than five minutes from the Elevated Flare, in flaring, and in the release to the atmosphere. Since the emissions event was not caused by a sudden unavoidable breakdown of equipment or process beyond the control of the owner or operator and could have been avoided by better design and/or better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 Tex. Admin. Code § 101.222.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual			x	30.0%
	Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes Human health or the environment has been exposed to insignificant amounts of pollutants that do not 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 1 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$7,500

One monthly event is recommended.

Good Faith Efforts to Comply 10.0% Reduction \$750

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

Notes The Respondent completed the corrective measures by December 31, 2022, after the Notice of Enforcement dated August 30, 2021.

Violation Subtotal \$6,750

Economic Benefit (EB) for this violation **Statutory Limit Test**
Estimated EB Amount \$221 **Violation Final Penalty Total** \$11,175
This violation Final Assessed Penalty (adjusted for limits) \$11,175

Economic Benefit Worksheet

Respondent EQUISTAR CHEMICALS, LP
Case ID No. 61346
Reg. Ent. Reference No. RN100216761
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)	\$1,500	22-Jan-2020	31-Dec-2022	2.94	\$221	n/a	\$221

Notes for DELAYED costs

Estimated cost to improve the work permitting process by implementing an Electronic Permit Authorization System that requires more detailed documentation of the project and maintenance work scope in order to prevent installation and repair errors and the recurrence of emissions events due to the same or similar causes as Incident No. 328714. The Date Required is the date the emissions event occurred 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

\$1,500

TOTAL

\$221



Compliance History Report

Compliance History Report for CN600124705, RN100216761, Rating Year 2022 which includes Compliance History (CH) components from September 1, 2017, through August 31, 2022.

Customer, Respondent, or Owner/Operator: CN600124705, EQUISTAR CHEMICALS, LP **Classification:** SATISFACTORY **Rating:** 6.81
Regulated Entity: RN100216761, Lyondellbasell Bayport Polymers **Classification:** SATISFACTORY **Rating:** 10.24
Complexity Points: 17 **Repeat Violator:** NO
CH Group: 05 - Chemical Manufacturing
Location: 12001 Bay Area Boulevard, Pasadena, Harris County, Texas
TCEQ Region: REGION 12 - HOUSTON

ID Number(s):

AIR OPERATING PERMITS ACCOUNT NUMBER HG0323M
PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1011568

AIR NEW SOURCE PERMITS PERMIT 19546
AIR NEW SOURCE PERMITS REGISTRATION 146105
AIR NEW SOURCE PERMITS AFS NUM 4820100291
AIR NEW SOURCE PERMITS REGISTRATION 110593
AIR NEW SOURCE PERMITS REGISTRATION 153788
AIR NEW SOURCE PERMITS REGISTRATION 164647
AIR NEW SOURCE PERMITS REGISTRATION 163792
AIR NEW SOURCE PERMITS REGISTRATION 166688
AIR NEW SOURCE PERMITS REGISTRATION 151231
AIR NEW SOURCE PERMITS REGISTRATION 157033
AIR NEW SOURCE PERMITS REGISTRATION 160781
AIR NEW SOURCE PERMITS REGISTRATION 168464
AIR NEW SOURCE PERMITS REGISTRATION 171061

STORMWATER PERMIT TXR15446Q

AIR EMISSIONS INVENTORY ACCOUNT NUMBER HG0323M

INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXD077424885

AIR OPERATING PERMITS PERMIT 1419
AIR NEW SOURCE PERMITS PERMIT 9423

AIR NEW SOURCE PERMITS ACCOUNT NUMBER HG0323M
AIR NEW SOURCE PERMITS REGISTRATION 169302
AIR NEW SOURCE PERMITS REGISTRATION 140045
AIR NEW SOURCE PERMITS EPA PERMIT N202
AIR NEW SOURCE PERMITS REGISTRATION 163793
AIR NEW SOURCE PERMITS REGISTRATION 169268
AIR NEW SOURCE PERMITS REGISTRATION 166100
AIR NEW SOURCE PERMITS PERMIT AMOC6
AIR NEW SOURCE PERMITS REGISTRATION 158274
AIR NEW SOURCE PERMITS REGISTRATION 156193
AIR NEW SOURCE PERMITS REGISTRATION 162884
AIR NEW SOURCE PERMITS REGISTRATION 167534
AIR NEW SOURCE PERMITS REGISTRATION 169269

STORMWATER PERMIT TXR05FB62

POLLUTION PREVENTION PLANNING ID NUMBER P00307

INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 30422

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

Date Compliance History Report Prepared: December 21, 2022

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: December 21, 2017 to December 21, 2022

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

Name: Danielle Porras

Phone: (713) 767-3682

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: 07/06/2020 ADMINORDER 2019-1072-AIR-E (1660 Order-Agreed Order With Denial)
Classification: Moderate
Citation: 30 TAC Chapter 115, SubChapter H 115.722(c)(1)
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)
 Rqmt Prov: GTC and STC 15 OP
 Special Condition No. 1 PERMIT
 Description: Failure to prevent unauthorized emissions. (Category A.12.i.6)
 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)
 Rqmt Prov: GTC and STC 15 OP
 Special Condition 1 PERMIT
 Description: Failed to prevent unauthorized emissions.
 Classification: Major
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
 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)
 Rqmt Prov: SC 1 PERMIT
 STC 15 OP
 STC 1A PERMIT
 STC 20 PERMIT
 Description: Failure to prevent a MAERT exceedance for NOx and CO for (EPN:30 and 34). (Category A8 HPV Criterion 2)

2 Effective Date: 08/18/2020 ADMINORDER 2020-0058-AIR-E (1660 Order-Agreed Order With Denial)
 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)
 Rqmt Prov: GTC & STC No. 15 OP
 Special Condition 1 PERMIT
 Special Conditon 1 PERMIT
 Description: Failure to prevent unauthorized emissions. Specifically, the Respondent released 295.22 lbs of carbon monoxide, 71.24 lbs of nitrogen dioxide, and 516.15 lbs of volatile organic compounds from the Elevated Flare, Emissions Point Number ("EPN") 34, during an emissions event (Incident No. 264622) that occurred on August 2, 2017 and lasted one hour and nine minutes. The emissions event occurred due to a level valve being closed too far on the second reactor while trying to stabilize th

3 Effective Date: 10/24/2022 ADMINORDER 2021-0554-AIR-E (1660 Order-Agreed Order With Denial)
 Classification: Major
 Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.0518(a)
 5C THSC Chapter 382 382.085(b)
 Rqmt Prov: FOP, General Terms and Conditions OP
 Description: Failed to obtain authorization prior to constructing or modifying a source of air contaminants. Specifically, the Respondent operated a stationary internal combustion engine from October 1, 2019 through May 29, 2020 without obtaining the proper authorization.
 Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.116(a)(1)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 Rqmt Prov: O1419, GTC and STC No. 20 OP
 Description: Failed to comply with the representations with regard to construction plans and operation procedures in a permit application. Specifically, during a stack test completed on July 31, 2020, the Respondent emitted 0.37 lb/hr of PM from the ELX Pellet Silos but the Respondent did not represent the ELX Pellet Silos as an emissions point and any associated emissions from the ELX Pellet Silos in the permit application for NSR Permit Nos. 9423 and N202, resulting in approximately 2,211.12 lbs of unautho

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	January 31, 2018	(1447727)
Item 2	December 17, 2018	(1531147)
Item 3	August 21, 2020	(1633870)
Item 4	October 05, 2020	(1679166)
Item 5	October 23, 2020	(1679274)
Item 6	November 02, 2020	(1684847)
Item 7	December 12, 2022	(1855162)

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: 06/16/2022 (1776043)
- 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 26(A) PERMIT
Special Term and Condition 17 OP
- Description: Failure to obtain weekly headspace samples for the CLX Cooling Tower (EPN: 150) (Category B1).
- Self Report? NO Classification: Minor
- Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Condition 10(A) PERMIT
Special Term and Condition 17 OP
- Description: Failure to maintain the required differential pressure limit in the ELX Railcar Bagfilter (EPN: 133)(Category C4).
- Self Report? NO Classification: Minor
- Citation: 30 TAC Chapter 115, SubChapter H 115.722(d)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(3)(ii)
5C THSC Chapter 382 382.085(b)
Special Term and Condition 1(A) OP
- Description: Failure to maintain the net heating value for the Elevated Flare (EPN: 34) (Category C4).
- 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 13 PERMIT
Special Condition 14 PERMIT
Special Term and Condition 17 OP
- Description: Failure to install emission control devices in the F-8813 Baghouse (EPN: 85) (Category B15).
- Self Report? NO Classification: Moderate
- Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(A)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP
- Description: Failure to report all deviations in the appropriate timeframe (Category B3).
- Self Report? NO Classification: Moderate
- Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(A)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP
- Description: Failure to report all deviations in the appropriate timeframe (Category B3).
- Self Report? NO Classification: Moderate
- Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(A)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP
- Description: Failure to report all deviations in the appropriate timeframe (Category B3).
- Self Report? NO Classification: Moderate
- Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(A)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP

Description: Failure to report all deviations in the appropriate timeframe (Category B3).
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
 30 TAC Chapter 122, SubChapter B 122.145(2)(A)
 5C THSC Chapter 382 382.085(b)
 General Terms and Conditions OP

Description: Failure to report all deviations in the appropriate timeframe (Category B3).
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
 30 TAC Chapter 122, SubChapter B 122.145(2)(A)
 5C THSC Chapter 382 382.085(b)
 General Terms and Conditions OP

Description: Failure to report all deviations in the appropriate timeframe (Category B3).
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
 30 TAC Chapter 122, SubChapter B 122.145(2)(A)
 5C THSC Chapter 382 382.085(b)
 General Terms and Conditions OP

Description: Failure to report all deviations in the appropriate timeframe (Category B3).
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
 30 TAC Chapter 122, SubChapter B 122.145(2)(A)
 5C THSC Chapter 382 382.085(b)
 General Terms and Conditions OP

Description: Failure to report all deviations in the appropriate timeframe (Category B3).
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
 30 TAC Chapter 122, SubChapter B 122.145(2)(A)
 5C THSC Chapter 382 382.085(b)
 General Terms and Conditions OP

Description: Failure to report all deviations in the appropriate timeframe (Category B3).

F. Environmental audits:

Notice of Intent Date: 12/18/2018 (1537936)
 No DOV Associated

Notice of Intent Date: 10/02/2019 (1603609)
 Disclosure Date: 09/02/2020
 Viol. Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 Rqmt Prov: PERMIT Special Conditions No. 12
 PERMIT Special Conditions No. 9

Description: Failed to have PM filtering equipment for several emission sources in the Bulk Plant and Catalloy process units. Consequently, the current PM BACT emission limit of 0.01 gr/scf may not be met. Does not include ELX pellet silo.
 Viol. Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)(1)
 Rqmt Prov: PERMIT Special Conditions No. 17.B
 PERMIT Special Conditions No. 17.C

Description: Failed to continuously monitor and record the flow rate for the Catalloy MP3 Cooling Tower (EPN CT-8632).
 Viol. Classification: Moderate
 Citation: 30 TAC Chapter 115, SubChapter C 115.212(a)
 30 TAC Chapter 116, SubChapter B 116.110(a)

Description: Failed to update the existing emissions authorization. Specifically, the vapor pressure of the materials loaded from D-66-8 and D-8707 may exceed 0.5 psia and require emission controls.
 Viol. Classification: Moderate
 Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT DDD 60.564
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.8(a)
 Rqmt Prov: PERMIT Special Conditions No. 3

Description: Failed to conduct a performance test of the Elevated Flare (EPN FL-3706) after the installation of the new flare tip and implementation of the production bottleneck project.
 Disclosure Date: 12/01/2020
 Viol. Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)
 30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: PERMIT Special Conditions No. 1

Description: Failed to comply with the MAER. Specifically, emissions for the Elevated Flare (EPN: FL-3706) and Catalloy Flare (EPN: FL-8651) may exceed the current MAERT limits due to increased accuracy measured by the upgraded dual-path flow meters.

Notice of Intent Date: 01/27/2021 (1703549)
No DOV Associated

Notice of Intent Date: 07/28/2022 (1839574)
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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
EQUISTAR CHEMICALS, LP
RN100216761

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§
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§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2021-1231-AIR-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding 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 together stipulate that:

1. The Respondent owns and operates a chemical manufacturing plant located at 12001 Bay Area Boulevard in Pasadena, Harris 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. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$11,175 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$4,470 of the penalty and \$2,235 of the penalty is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order and shall be waived only upon full compliance with all the terms and conditions of this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms and conditions contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.

Pursuant to TEX. WATER CODE § 7.067, \$4,470 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.

5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Order.
7. 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.
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. The Executive Director recognizes that by December 31, 2022, the Respondent improved the work permitting process by implementing an Electronic Permit Authorization System that requires more detailed documentation of the project and maintenance work scope in order to prevent installation and repair errors and the recurrence of emissions events due to the same or similar causes as Incident No. 328714.

II. ALLEGATIONS

During a record review for the Plant conducted on July 27, 2021, an investigator documented that the Respondent failed to prevent unauthorized emissions and failed to operate the flare with no visible emissions except for periods not to exceed a total of five minutes during any two consecutive hours as ensured by the use of steam assist to the flare, in violation of 30 TEX. ADMIN. CODE §§ 101.20(1), 111.111(a)(4)(A), 116.115(c), and 122.143(4), 40 CODE OF FEDERAL REGULATIONS § 60.18(c)(1), New Source Review Permit No. 9423, Special Conditions Nos. 1 and 6.C, Federal Operating Permit No. O1419, General Terms and Conditions and Special Terms and Conditions No. 20, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent released 487.38 pounds ("lbs") of carbon monoxide, 67.48 lbs of nitrogen oxides, and 829.84 lbs of volatile organic compounds ("VOC") from the Elevated Flare, Emissions Point Number 34, and released 864.39 lbs of VOC as fugitive emissions, during an emissions event (Incident No. 328714) that occurred on January 22, 2020 and lasted one hour and 36 minutes. The emissions event occurred due to tubing that was improperly mated and caused the tubing connection to a flow transmitter to disconnect at a connector fitting in the Bulk Plant D-Line Process Unit, resulting in visible emissions for more than five minutes from the Elevated Flare, in flaring, and in the release to the atmosphere. Since the emissions event was not caused by a sudden unavoidable breakdown of equipment or process beyond the control of the owner or operator and could have been avoided by better design and/or better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.

III. DENIALS

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

IV. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: EQUISTAR CHEMICALS, LP, Docket No. 2021-1231-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 the SEP as set forth in Section I, Paragraph No. 4. The amount of \$4,470 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. 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.
7. 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.


8. 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.
9. 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



6/5/2023

For the Executive Director

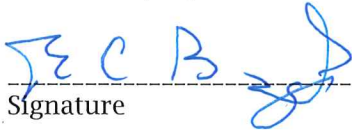
Date

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.



Signature

5/24/2023

Date

John C Beough
Name (Printed or typed)
Authorized Representative of
EQUISTAR CHEMICALS, LP

Operations Manager
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.

Attachment A
Docket Number: 2021-1231-AIR-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	EQUISTAR CHEMICALS, LP
Payable Penalty Amount:	\$8,940
SEP Offset Amount:	\$4,470
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Houston-Galveston Area Council-AERCO
Project Name:	<i>Clean Vehicles Partnership Project</i>
Location of SEP: Angelina, Austin, Brazoria, Chambers, Colorado, Fort Bend, Galveston, Hardin, Harris, Houston, Jasper, Jefferson, Liberty, Matagorda, Montgomery, Nacogdoches, Newton, Orange, Polk, Sabine, San Augustine, San Jacinto, Trinity, Tyler, Walker, Waller, and Wharton Counties	

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP 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 the **Houston-Galveston Area Council-AERCO** for the *Clean Vehicles Partnership Project*. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to replace old, higher emission buses that do not meet 2010 Environmental Protection Agency (“EPA”) emissions standards (“Old Buses”) with new, lower emission buses that meet the most recent EPA emissions standards (“New Buses”) or to retrofit or convert Old Buses with emissions reducing equipment. The Third-Party Administrator shall allocate the SEP Offset Amount to public entities such as school districts, local governments, and public transit authorities (“SEP Administrators”) that apply for replacement, retrofit, or conversion of buses.

The SEP Offset Amount may also be used for retrofit or conversion technology that brings an Old Bus up to current EPA emissions standards. New Buses may be alternative-fueled. The SEP Offset Amount may be used for up to 100% of the replacement, conversion, or retrofit cost. The SEP Offset Amount will be used only for purchase of New Buses or conversion or retrofit equipment and contract labor for installation of equipment. The SEP Offset Amount will not be used for financing such a purchase through a lease-purchase or similar agreement.

Retrofitting means reducing exhaust emissions to current standards by installing devices that are verified or certified by the EPA or the California Air Resources Board as proven retrofit technologies. Converting means replacing an engine system with an alternative fuel engine system to bring the Old Bus within the current EPA emissions standards.

Buses to be replaced, retrofitted, or converted must be in regular use (driven at least five hundred miles per year for at least the past two years) by the SEP Administrator and must not already be scheduled for replacement in the following twenty-four months.

All replaced buses must be fully decommissioned. The Third-Party Administrator shall provide proof of decommissioning to TCEQ for each replaced vehicle by submitting a copy of the TCEQ SEP Vehicle Replacement Disposition Form. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely 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 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 the Respondent has no prior commitment to make this contribution and that it is being contributed to settle this enforcement action. The Respondent shall not profit 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 many respiratory diseases, including asthma. For example, by replacing a 1989 diesel bus with a 2010 ultra-low emission model, passengers' exposure to nitrogen oxides may be reduced by 98 percent; volatile organic compounds by 93 percent; carbon dioxide by 83 percent; and particulate matter by 99 percent. In addition, by encouraging less bus idling, this SEP contributes to public awareness of air pollution and air quality.

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 **Houston-Galveston Area Council-AERCO SEP** and shall mail the contribution with a copy of the Agreed Order to:

Houston-Galveston Area Council-AERCO
Emission Reduction Credit Corporation
Attn: Air Quality Program Manager
3555 Timmons Lane, Suite 120
Houston, Texas 77027

3. **Records and Reporting**

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement 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 the 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 and/or project, 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 Attachment A and in the attached 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.