

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER**

IN THE MATTER OF: EQUISTAR CHEMICALS, LP NPDES Permit #2326112	ADMINISTRATIVE CONSENT ORDER NO. 2013-WW-05
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TO: Melodie Carr
Environmental Engineer
Equistar Chemicals, LP,
3400 Anamosa Road
Clinton, IA 52733

I. SUMMARY

This administrative consent order (Order) is entered into between Equistar Chemicals, LP (Equistar) and the Iowa Department of Natural Resources (DNR) for the purpose of establishing a compliance schedule to implement more stringent effluent limitations. Pursuant to this Order, Equistar shall comply with the compliance schedule contained herein.

Any questions regarding this Order should be directed to:

Relating to technical requirements:

Wendy Hieb
NPDES Permits Section
Iowa Department of Natural Resources
Henry A. Wallace Building
Des Moines, Iowa 50319-0034
Ph. 515-281-7804

Relating to this Order:

Jon C. Tack
Legal Services Bureau
Iowa Department of Natural Resources
Henry A. Wallace Building
Des Moines, Iowa 50319-0034
Ph. 515-281-8889

II. JURISDICTION

This Order is issued pursuant to Iowa Code section 455B.175(1) which authorizes the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division III, Part 1, and the rules promulgated or permits issued pursuant thereto.

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III. STATEMENT OF FACTS

1. Equistar owns and operates a chemical production facility in Clinton, Iowa. The facility produces chemicals such as ethylene, propylene, polyethylene and polymers from feed stocks such as ethane and propane. Equistar operates an activated sludge wastewater treatment facility pursuant to NPDES Permit #2326112. The receiving stream is the Mississippi River.

2. The DNR is prepared to renew NPDES Permit #2326112 for the Equistar facility in Clinton. The renewed NPDES permit will have a more stringent effluent limitation for chromium. The revised effluent limit is necessary because the flow used to calculate the chromium limit is less than the flow used in the previous permit. The new chromium limit will be based on federal effluent guidelines best available technology economically available (BAT). BAT guidelines for the Organic Chemicals, Plastics, and Synthetic Fibers (Subpart I) were promulgated on November 5, 1987 which are adopted by reference at 567 IAC 62.4(14).

3. The facility cannot immediately comply with the new limit for chromium and has requested a schedule that will allow time to construct necessary treatment improvements to comply with the new permit limit for chromium. The DNR has determined that a schedule is both necessary and appropriate and that the recommended schedule will result in compliance as soon as possible. Equistar is required to continue to comply with the prior chromium limit as an interim limit during the term of the compliance schedule.

4. The DNR and Equistar agree that the execution of this Order is the appropriate method to establish the consent order which is required to achieve compliance with the revised chromium limit.

IV. CONCLUSIONS OF LAW

The DNR and Equistar agree that the following Conclusions of Law are applicable to this matter:

1. Iowa Code section 455B.186 prohibits the discharge of pollutants into waters of the state, except for adequately treated pollutants discharged pursuant to a permit.

2. Iowa Code section 455B.173(3) authorizes and requires the Environmental Protection Commission (Commission) to promulgate rules relating to the operation of waste disposal systems, the discharge of pollutants into waters of the state, and the issuance of permits to waste disposal systems. The Commission has done so at 567 IAC 60 through 69. Subrule 64.3(1) prohibits the operation of a waste disposal system without or contrary to the terms of a permit. Subrule 64.6 specifies the conditions that are

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to be included in a permit, including applicable effluent limitations as established in chapters 61 and 62 of the rules.

3. Pursuant to 567 IAC 62.4(14), Iowa has adopted by reference the federal BAT guidelines for the Organic Chemicals, Plastics, and Synthetic Fibers (Subpart D) as found at 40 CFR Part 414. This Order is necessary for Equistar to achieve compliance with these effluent guidelines.

4. Rule 567 IAC 64.7(4) authorizes schedules of compliance in issued NPDES permits. Pursuant to subrule 64.7(4)"b," such schedules shall result in compliance in the shortest, reasonable period of time. The schedule contained herein complies with these provisions but cannot be directly established by the permit.

5. Pursuant to 33 U.S.C. section 1311(b), compliance with technology-based effluent limits such as the federal BAT guidelines for Organic Chemicals, Plastics, and Synthetic Fibers must be achieved by the deadlines set forth therein, the last such deadline being established as March 31, 1989. The DNR has recalculated the technology-based effluent limit for chromium in renewed NPDES Permit #2326112 based upon revised flow information, resulting in a more stringent chromium limit which cannot be immediately achieved. The failure to comply with the revised technology-based limit at the time of issuance of the permit constitutes a violation of 33 U.S.C. 1311(b) and therefore a schedule to achieve compliance must be placed in an administrative order rather than established only through the renewed permit.

V. ORDER

The DNR and Equistar hereby agree, and Equistar is hereby ordered, to make necessary improvements to meet final Chromium limits at internal Outfalls 006 and 007, as contained in renewed NPDES Permit #2326112, according to the following schedule:

1. The DNR will renew NPDES Permit #2326112 by no later than March 1, 2013. The schedule set forth herein is designed to achieve compliance with the effluent limitations established in this renewed permit. The permit shall contain an interim chromium limit consistent with the prior permit's chromium limitation.

2. Equistar shall submit yearly progress reports to the DNR beginning on March 1, 2014 and continuing on each March 1st until compliance with final total chromium limits has been achieved, describing progress toward meeting the effluent limitations established in the renewed permit. If compliance has been achieved prior to March 1st, a progress report is not required.

3. By March 1, 2017, Equistar shall complete construction of wastewater treatment improvements and achieve compliance with final total chromium limits as established in

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renewed NPDES Permit #2326112. Within fourteen (14) days of achieving compliance with final total chromium limits, Equistar shall provide written notice of compliance.

VI. PENALTY

1. Iowa Code section 455B.191 authorizes the assessment of civil penalties of up to \$5,000.00 per day of violation for the violations involved in this matter.

2. Iowa Code section 455B.109 authorizes the Commission to establish by rule a schedule of civil penalties up to \$10,000 that may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties at IAC Chapter 567 - 10. The DNR has determined that a penalty is not appropriate at this time. Equistar will not realize any economic benefit because the compliance schedule has been determined to constitute the shortest reasonable time to achieve compliance. At the time of permit issuance, Equistar is in compliance with the previous permit limit. The DNR finds no gravity or culpability basis for a penalty at this time.

3. The DNR is authorized to issue an administrative order with penalties for noncompliance with this Order or to refer such noncompliance to the Iowa Attorney General for the initiation of a District Court action seeking such penalties and injunctive relief.

VII. WAIVER OF APPEAL RIGHTS

Iowa Code section 455B.175(1) and 561 IAC 7.4(1), as adopted by reference by 567 IAC chapter 7, authorize a written notice of appeal to the Commission. This Order is entered into knowingly by and with the consent of Equistar. By signature to this Order, all rights to appeal this Order are waived.

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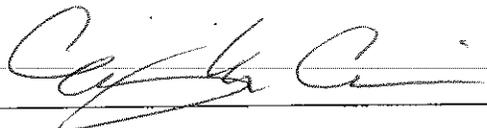
VIII. NONCOMPLIANCE

Compliance with section V of this Order constitutes full satisfaction of all requirements pertaining to the violations described in this Order. Failure to comply with this Order may result in the imposition of administrative penalties pursuant to an administrative order or referral to the Attorney General to obtain injunctive relief and civil penalties pursuant to Iowa Code section 455B.191.



CHUCK GIPP, DIRECTOR
IOWA DEPARTMENT OF NATURAL RESOURCES

Dated this 6th day of
March, 2013



EQUISTAR CHEMICALS, LP

Dated this 21st day of
February, 2013

NPDES #2326112; Field Office #6; Jon Tack; EPA; WES; I.B.2.c