EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-1347-AIR-E **TCEQ ID:** RN100223007 **CASE NO.:** 30852

RESPONDENT NAME: Vopak Logistics Services USA Inc.

ORDER TYPE:

X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__AMENDED ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__SHUTDOWN ORDER	__FINDINGS DEFAULT ORDER	__EMERGENCY ORDER	

CASE TYPE:

__AGRICULTURE	X AIR	__INDUSTRIAL AND HAZARDOUS WASTE	__MUNICIPAL SOLID WASTE
__OCCUPATIONAL CERTIFICATION	__PETROLEUM STORAGE TANKS	__PUBLIC WATER SUPPLY	__RADIOACTIVE WASTE
__MULTI-MEDIA (check all that apply)	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL	__USED OIL
__USED OIL FILTER	__WATER QUALITY		

SITE WHERE VIOLATION(S) OCCURRED: Vopak Logistics Services USA-Deer Park, 2759 Battleground Road, Deer Park, Harris County

TYPE OF OPERATION: Rail car cleaning and waste management

SMALL BUSINESS: ___ Yes __X__ No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on February 26, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Ms. Rebecca Johnson, Enforcement Division, Enforcement Section III, MC R-12, (713) 422-8931; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896

TCEQ Field Investigator: Ms. Kiranmai Valluri, Houston Regional Office, MC R-12, (713) 767-3742

Respondent: Mr. Joey Anslum, General Manager, Vopak Logistics Services USA Inc., P.O. Box 897, Deer Park, Texas 77536
Mr. Jimmy W. Ritter, Facility Manager, Vopak Logistics Services USA Inc., P.O. Box 897, Deer Park, Texas 77536

Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: __ Complaint _X_ Routine __ Enforcement Follow-up __ Records Review **Date of Complaint Relating to this Case:** None **Date of Investigation Relating to this Case:** March 2, 2006 **Date of NOE Relating to this Case:** August 11, 2006 (NOE) **Background Facts:** This was a routine investigation. Seven violations were documented. **AIR** 1) Failed to ensure that all openings on the water separator associated with the centrifuge separation are totally sealed to ensure there are no emissions to the atmosphere. Specifically, during the March 2, 2006 investigation the maintenance hatch on the separator was not sealed and resulted in emissions to the atmosphere that were detected with a toxic vapor analyzer [30 TEX. ADMIN. CODE § 115.132(a)(1) and TEX. HEALTH & SAFETY CODE § 382.085(b)]. 2) Failed to demonstrate continuous compliance with the applicable criteria exempting the water separator from emissions controls. Specifically, during the March 2, 2006 investigation it was documented that Vopak is operating a volatile organic compound water separator without emission controls, however Vopak was not maintaining records of the names and true vapor pressures of all materials stored, processed, and handled to demonstrate compliance with the applicable criteria exempting the water separator from emission control requirements [30 TEX. ADMIN. CODE § 115.136(a)(1) and TEX. HEALTH & SAFETY CODE § 382.085(b)]. 3) Failed to submit semiannual reports detailing the required fugitive monitoring information. Specifically, Vopak is required to submit reports semiannually with the initial semiannual report being due no later than August 23, 2003, however no semiannual reports have been submitted [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), Air Permit No. O-01637, Special Condition Nos. 1.A. and 16, Air Permit No. 6400, Special Condition No. 4.B., 40 CODE OF FEDERAL REGULATIONS § 61.247(b), and TEX. HEALTH & SAFETY CODE § 382.085(b)].	**Total Assessed:** $55,328 **Total Deferred:** $11,066 _X_ Expedited Settlement __ Financial Inability to Pay **SEP Conditional Offset:** $22,131 **Total Paid to General Revenue:** $22,131 **Site Compliance History Classification:** __ High _X_ Avg. __ Poor **Person Compliance History Classification:** __ High _X_ Avg. __ Poor **Major Source:** _X_ Yes __ No **Applicable Penalty Policy:** September 2002	**Corrective Actions Taken:** 1) The Executive Director recognizes that Vopak has implemented the following corrective measures at the Plant: a. Installed a gasket on the maintenance hatch on the water separator associated with the centrifuge separation on March 2, 2006 to ensure there are no emissions to the atmosphere from the opening; and b. Completed employee training on April 11, 2005 which reviewed the record keeping requirements for the flare observation log, the scrubber, and the railcar vacuum system. **Ordering Provisions:** 2) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A). 3) The Order will also require the Respondent to: a. Within 90 days after the effective date of this Agreed Order: i. Represent through the appropriate submittal and to the satisfaction of the TCEQ Air Permits Division the odor removal scrubber for inclusion in the Title V Permit; or ii. Submit a request though the appropriate submittal and to the satisfaction of the TCEQ Air Permits Division to void the Title V Permit. b. Within 105 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 3.a.i. or 3.a.ii.; c. Within 180 days after the effective date of this Agreed Order: i. Submit a semiannual fugitive emissions report, including a reporting schedule stating the months that semiannual reports shall be submitted; and

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
4) Failed to represent all applicable emission sources in the Title V Permit application. Specifically, the odor removal scrubber was not represented in the Title V Permit application submitted on July 19, 1999 or in the Title V permit issued on September 12, 2003 [30 TEX. ADMIN. CODE §§ 122.132(e)(2) and 122.121, and TEX. HEALTH & SAFETY CODE § 382.085(b)]. 5) Failed to record flare observations in the flare operation log each time the flare is operated. Specifically, during the March 2, 2006 investigation it was documented that flare observations were not recorded for four times that Flare 02-FL-2 was operated during the September 12, 2004 to September 12, 2005 deviation reporting periods [30 TEX. ADMIN. CODE §§ 111.111(a)(4)(A)(ii) and 122.143(4), Air Permit No. O-01637, Special Condition No. 1.A., and TEX. HEALTH & SAFETY CODE § 382.085(b)]. 6) Failed to record the pH of the scrubbing liquid each time a railcar is cleaned while utilizing the scrubber as the emission control device. Specifically, during the March 2, 2006 investigation it was documented that there were eight railcars for which the pH of the scrubbing liquid was not recorded during the September 12, 2004 to September 12, 2005 deviation reporting periods [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), Air Permit No. 6400, Special Condition No. 28, Air Permit No. O-01637, Special Condition No. 16, and TEX. HEALTH & SAFETY CODE § 382.085(b)]. 7) Failed to record the vacuum system level during the purging of each railcar. Specifically, during the March 2, 2006 investigation it was documented that there was one instance of railcar purging operations for which the vacuum system level was not recorded during the September 12, 2004 to September 12, 2005 deviation reporting periods [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), Air Permit No. 6400, Special Condition No. 16, Air Permit No. O-01637, Special Condition No. 16, and TEX. HEALTH & SAFETY CODE § 382.085(b)].		ii. Demonstrate that the odor removal scrubber has been incorporated into the Title V Permit, or iii. Demonstrate that the Title V Permit has been voided. d. Within 195 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision Nos. 3.c.i., and 3.c.ii. or 3.c.iii.; e. Within 180 days after the effective date of this Agreed Order: i. Begin maintaining complete and up-to-date records to demonstrate continuous compliance with the applicable criteria exempting the water separator from emission controls, including, but not limited to, the names and true vapor pressures of all such materials stored, processed, or handled at the affected property, and any other necessary operational information; or ii. Install emission controls on the water separator. f. Within 195 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 3.e.i. or 3.e.ii.; and g. The certifications required by Ordering Provision Nos. 3.b., 3.d. and 3.f. shall include documentation demonstrating compliance and shall be notarized by a State of Texas Notary Public.

Attachment A
Docket Number: 2006-1347-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**Vopac Logistics Services USA Inc.**
Payable Penalty Amount:	**Forty-Four Thousand Two Hundred Sixty-Two Dollars ($44,262)**
SEP Amount:	**Twenty-Two Thousand One Hundred Thirty-One Dollars ($22,131)**
Type of SEP:	**Pre-approved**
Third-Party Recipient:	**Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program**
Location of SEP:	**Harris County**

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 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 will contribute to Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program in Harris County. The contribution will be used in accordance with the ***Supplemental Environmental Project Agreement between the Houston-Galveston AERCO and the Texas Commission on Environmental Quality***. SEP monies will be used to aid local school districts and area transit agencies in reaching local match requirements mandated by the Federal Highway Administration's ("FHWA") Congestion Mitigation/Air Quality funding program. SEP monies will be disbursed to school districts and transit agencies in need of funding assistance in the Houston-Galveston non-attainment area. Those SEP monies will be used exclusively by the school districts and transit agencies as supplements to meet the local match requirements of the EPA. SEP monies will be used to pay for the cost of replacing older diesel buses with alternative fueled or clean diesel buses. The old buses will be permanently retired and only sold for scrap. The schools and transit agencies will also use the SEP monies to retrofit more buses to reduce emissions. Houston-Galveston AERCO will send the TCEQ verification in the form of paid invoices and other documentation to show that the retrofits were completed. Retrofit technologies include particulate matter traps, diesel particulate matter filters, NOx reduction catalyst technology in combination with diesel particulate filters, and other emission control technologies that are developed and approved by EPA or the California Air Resources Board.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing particulate emissions on buses by more than 90% below today's level and reducing hydrocarbons below measurement capability.

C. Minimum Expenditure

Respondent shall contribute at least the SEP Amount to the Third-Party Recipient 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 Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Houston-Galveston Area Council
Houston-Galveston AERCO
P.O. Box 22777
Houston, Texas 77227-2777

3. Records and Reporting

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

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

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality
Financial Administration Division, Revenues
Attention: Cashier, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

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

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, 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 identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

TCEQ

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) *PCW Revision April 25, 2006*

DATES					
Assigned	14-Aug-2006				
PCW	30-Oct-2006	Screening	18-Aug-2006	EPA Due	08-May-2007

RESPONDENT/FACILITY INFORMATION			
Respondent	Vopak Logistics Services USA Inc.		
Reg. Ent. Ref. No.	RN100223007		
Facility/Site Region	12-Houston	Major/Minor Source	Major Source

CASE INFORMATION			
Enf./Case ID No.	30852	No. of Violations	7
Docket No.	2006-1347-AIR-E	Order Type	1660
Media Program(s)	Air Quality	Enf. Coordinator	Rebecca Johnson
Multi-Media		EC's Team	Enforcement Team 6
Admin. Penalty $ Limit Minimum	$0	Maximum	$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1* $36,400

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 52% Enhancement *Subtotals 2, 3, & 7* $18,928

Notes: Penalty enhancement due to three NOVs for same or similar violations, four NOVs for unrelated violations, and one Court Order with a denial of liability. Penalty reduction due to one Notice of Audit submitted.

Culpability No 0% Enhancement *Subtotal 4* $0

Notes: The respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction *Subtotal 5* $0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	*(mark with a small x)*

Notes: The respondent does not meet the good faith criteria.

Economic Benefit 0% Enhancement* *Subtotal 6* $0

**Capped at the Total EB $ Amount*

Total EB Amounts	$1,332
Approx. Cost of Compliance	$5,550

SUM OF SUBTOTALS 1-7 Final Subtotal $55,328

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment $0

Reduces or enhances the Final Subtotal by the indicated percentage. *(Enter number only; e.g. -30 for -30%.)*

Notes:

Final Penalty Amount $55,328

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty $55,328

DEFERRAL 20% Reduction Adjustment -$11,066

Reduces the Final Assessed Penalty by the indicted percentage. *(Enter number only; e.g. 20 for 20% reduction.)*

Notes: Deferral recommended for expedited settlement.

PAYABLE PENALTY $44,262

Screening Date	18-Aug-2006	**Docket No.** 2006-1347-AIR-E	**PCW**
Respondent	Vopak Logistics Services USA Inc.		*Policy Revision 2 (September 2002)*
Case ID No.	30852		*PCW Revision April 25, 2006*
Reg. Ent. Reference No.	RN100223007		
Media [Statute]	Air Quality		
Enf. Coordinator	Rebecca Johnson		

Compliance History Worksheet

>> Compliance History *Site* Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action *(number of NOVs meeting criteria)*	3	15%
	Other written NOVs	4	8%
Orders	Any agreed final enforcement orders containing a denial of liability *(number of orders meeting criteria)*	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 *(number of judgements or consent decrees meeting criteria)*	1	30%
	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 *(number of counts)*	0	0%
Emissions	Chronic excessive emissions events (number of events)	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 *(number of audits for which notices were*	1	-1%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which violations were disclosed)*	0	0%
		Please Enter Yes or No	
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) **52%**

>> Repeat Violator (Subtotal 3)

No

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

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

Average Performer

Adjustment Percentage (Subtotal 7) **0%**

>> Compliance History Summary

Compliance History Notes: Penalty enhancement due to three NOVs for same or similar violations, four NOVs for unrelated violations, and one Court Order with a denial of liability. Penalty reduction due to one Notice of Audit submitted.

Total Adjustment Percentage (Subtotals 2, 3, & 7) **52%**

PCW

Policy Revision 2 (September 2002)
PCW Revision April 25, 2006

Screening Date	18-Aug-2006
Docket No.	2006-1347-AIR-E
Respondent	Vopak Logistics Services USA Inc.
Case ID No.	30852
Reg. Ent. Reference No.	RN100223007
Media [Statute]	Air Quality
Enf. Coordinator	Rebecca Johnson
Violation Number	1
Primary Rule Cite(s)	30 Tex. Admin. Code § 115.132(a)(1)
Secondary Rule Cite(s)	Tex. Health & Safety Code § 382.085(b)
Violation Description	Failure to ensure that all openings on the water separator associated with the centrifuge separation are totally sealed to ensure there are no emissions to the atmosphere. Specifically, during the March 2, 2006 investigation the maintenance hatch on the separator was not sealed and resulted in emissions to the atmosphere that were detected with a toxic vapor analyzer.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

Release	Harm: Major	Moderate	Minor
Actual			x
Potential			

OR

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes: Human health or the environment has been exposed to insignificant amounts of pollutants which did not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment -$7,500

Base Penalty Subtotal $2,500

Violation Events

Number of Violation Events: 1

1 Number of violation days

mark only one use a small x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $2,500

One single event is recommended based on the investigation date.

Economic Benefit (EB) for this violation

Estimated EB Amount $0

Statutory Limit Test

Violation Final Penalty Total $3,800

This violation Final Assessed Penalty (adjusted for limits) $3,800

Economic Benefit Worksheet

Respondent Vopak Logistics Services USA Inc.
Case ID No. 30852
Reg. Ent. Reference No. RN100223007
Media [Statute] Air Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs	$1,000	02-Mar-2006	02-Mar-2006	0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0
Notes for DELAYED costs	Estimated cost to properly seal the maintenance hatch on the separator. Date required based on the investigation date. Final date based on the compliance date.						
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Notes for AVOIDED costs							

Approx. Cost of Compliance $1,000

TOTAL $0

Screening Date 18-Aug-2006 **Docket No.** 2006-1347-AIR-E **PCW**

Respondent Vopak Logistics Services USA Inc. *Policy Revision 2 (September 2002)*

Case ID No. 30852 *PCW Revision April 25, 2006*

Reg. Ent. Reference No. RN100223007

Media [Statute] Air Quality

Enf. Coordinator Rebecca Johnson

Violation Number 2

Primary Rule Cite(s) 30 Tex. Admin. Code § 115.136(a)(1)

Secondary Rule Cite(s) Tex. Health & Safety Code § 382.085(b)

Violation Description Failure to demonstrate continuous compliance with the applicable criteria exempting separator O1-C-A from emission controls. Specifically, during the March 2, 2006 investigation it was documented that Vopak is operating a volatile organic compound water separator without emission controls, however Vopak was not maintaining records of the names and true vapor pressures of all materials stored, processed, and handled to demonstrate compliance with the applicable criteria exempting the water separator from emission control requirements.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes: 100% of the rule requirement was not met.

Adjustment -$7,500

Base Penalty Subtotal $2,500

Violation Events

Number of Violation Events: 6 — 169 Number of violation days

mark only one use a small x

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $15,000

Six monthly events are recommended based on the March 2, 2006 investigation date to the August 18, 2006 screening date.

Economic Benefit (EB) for this violation

Estimated EB Amount $24

Statutory Limit Test

Violation Final Penalty Total $22,800

This violation Final Assessed Penalty (adjusted for limits) $22,800

Economic Benefit Worksheet

Respondent	Vopak Logistics Services USA Inc.
Case ID No.	30852
Reg. Ent. Reference No.	RN100223007
Media [Statute]	Air Quality
Violation No.	2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System	$300	02-Mar-2006	08-Oct-2007	1.6	$24	n/a	$24
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0
Notes for DELAYED costs	Estimated cost to implement a record keeping system to maintain records demonstrating compliance with the exemption criteria. Date required based on the investigation date. Final date based on the projected compliance date.						
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Notes for AVOIDED costs							

Approx. Cost of Compliance: $300

TOTAL: $24

PCW

Policy Revision 2 (September 2002)
PCW Revision April 25, 2006

Screening Date	18-Aug-2006
Docket No.	2006-1347-AIR-E
Respondent	Vopak Logistics Services USA Inc.
Case ID No.	30852
Reg. Ent. Reference No.	RN100223007
Media [Statute]	Air Quality
Enf. Coordinator	Rebecca Johnson
Violation Number	3
Primary Rule Cite(s)	Air Permit No. O-01637, Special Condition Nos. 1.A. and 16, Air Permit No. 6400, Special Condition No. 4.B., and 40 Code of Federal Regulations § 61.247(b)
Secondary Rule Cite(s)	30 Tex. Admin. Code §§ 116.115(c), 122.143(4), and Tex. Health & Safety Code § 382.085(b)
Violation Description	Failure to submit semiannual reports detailing the required fugitive monitoring information. Specifically, Vopak is required to submit reports semiannually with the initial semiannual report being due no later than August 23, 2003, however no semiannual reports have been submitted.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes: 100% of the rule requirements were not met.

Adjustment -$7,500

Base Penalty Subtotal $2,500

Violation Events

Number of Violation Events: 7

1091 Number of violation days

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one
use a small x

Violation Base Penalty $17,500

Seven single events are recommended based on the seven reports that were required to be submitted and were not, starting with the semiannual report that should have been submitted by August 23, 2003.

Economic Benefit (EB) for this violation

Estimated EB Amount $408

Statutory Limit Test

Violation Final Penalty Total $26,600

This violation Final Assessed Penalty (adjusted for limits) $26,600

Economic Benefit Worksheet

Respondent: Vopak Logistics Services USA Inc.
Case ID No.: 30852
Reg. Ent. Reference No.: RN100223007
Media [Statute]: Air Quality
Violation No.: 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)	$1,500	23-Aug-2003	10-Jul-2007	3.9	$19	$388	$408
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0
Notes for DELAYED costs	Estimated cost to submit the fugitive monitoring reports semiannually. Date required based on the earliest documentation of non-compliance. Final date based on the projected compliance date.						
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Notes for AVOIDED costs							

Approx. Cost of Compliance: $1,500

TOTAL: $408

PCW

Policy Revision 2 (September 2002)
PCW Revision April 25, 2006

Screening Date	18-Aug-2006
Docket No.	2006-1347-AIR-E
Respondent	Vopak Logistics Services USA Inc.
Case ID No.	30852
Reg. Ent. Reference No.	RN100223007
Media [Statute]	Air Quality
Enf. Coordinator	Rebecca Johnson
Violation Number	4
Primary Rule Cite(s)	30 Tex. Admin. Code §§ 122.132(e)(2) and 122.121
Secondary Rule Cite(s)	Tex. Health & Safety Code § 382.085(b)
Violation Description	Failure to represent all applicable emission sources in the Title V Permit application. Specifically, the odor removal scrubber was not represented in the Title V Permit application submitted on July 19, 1999 or in the Title V permit issued on September 12, 2003.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes: Less than 30% of the required information was not included in the Title V application.

Adjustment -$9,900

Base Penalty Subtotal $100

Violation Events

Number of Violation Events: 1

2587 Number of violation days

mark only one (use a small x)	
daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $100

One single event is recommended based on the one piece of equipment that was not represented.

Economic Benefit (EB) for this violation

Estimated EB Amount $878

Statutory Limit Test

Violation Final Penalty Total $152

This violation Final Assessed Penalty (adjusted for limits) $152

Economic Benefit Worksheet

Respondent Vopak Logistics Services USA Inc.
Case ID No. 30852
Reg. Ent. Reference No. RN100223007
Media [Statute] Air Quality
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs	$2,000	19-Jul-1999	28-Apr-2008	8.8	$878	n/a	$878
Other (as needed)				0.0	$0	n/a	$0
Notes for DELAYED costs	Estimated cost to include odor removal scrubber in the Title V Permit. Date required based on the application submittal date. Final date based on the projected compliance date.						
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Notes for AVOIDED costs							

Approx. Cost of Compliance $2,000

TOTAL $878

PCW

Policy Revision 2 (September 2002)
PCW Revision April 25, 2006

Screening Date	18-Aug-2006
Docket No.	2006-1347-AIR-E
Respondent	Vopak Logistics Services USA Inc.
Case ID No.	30852
Reg. Ent. Reference No.	RN100223007
Media [Statute]	Air Quality
Enf. Coordinator	Rebecca Johnson

Violation Number 5

Primary Rule Cite(s) Air Permit No. O-01637, Special Condition No. 1.A. and 30 Tex. Admin. Code §§ 111.111(a)(4)(A)(ii) and 122.143(4)

Secondary Rule Cite(s) Tex. Health & Safety Code § 382.085(b)

Violation Description Failure to record flare observations in the flare operation log each time the flare is operated. Specifically, during the March 2, 2006 investigation it was documented that flare observations were not recorded for four times that Flare 02-FL-2 was operated during the September 12, 2004 to September 12, 2005 deviation reporting periods.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

OR

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes: Less than 30% of the required flare observations were not recorded.

Adjustment -$9,900

Base Penalty Subtotal $100

Violation Events

Number of Violation Events: 4

4 Number of violation days

mark only one (use a small x)	
daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $400

Four single events are recommended based on the four times the required flare observations were not recorded.

Economic Benefit (EB) for this violation

Estimated EB Amount $7

Statutory Limit Test

Violation Final Penalty Total $608

This violation Final Assessed Penalty (adjusted for limits) $608

Economic Benefit Worksheet

Respondent Vopak Logistics Services USA Inc.
Case ID No. 30852
Reg. Ent. Reference No. RN100223007
Media [Statute] Air Quality
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling	$250	12-Sep-2004	11-Apr-2005	0.6	$7	n/a	$7
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0
Notes for DELAYED costs	Estimated cost to conduct employee training on flare log completion. Date required based on the initial date of the deviation reporting period. Final date based on the compliance date.						
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Notes for AVOIDED costs							

Approx. Cost of Compliance $250

TOTAL $7

Screening Date 18-Aug-2006 **Docket No.** 2006-1347-AIR-E **PCW**

Respondent Vopak Logistics Services USA Inc.

Policy Revision 2 (September 2002)

Case ID No. 30852

PCW Revision April 25, 2006

Reg. Ent. Reference No. RN100223007

Media [Statute] Air Quality

Enf. Coordinator Rebecca Johnson

Violation Number 6

Primary Rule Cite(s) Air Permit No. 6400, Special Condition No. 28 and Air Permit No. O-01637, Special Condition No. 16

Secondary Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(c), 122.143(4), and Tex. Health & Safety Code § 382.085(b)

Violation Description Failure to record the pH of the scrubbing liquid each time a railcar is cleaned while utilizing the scrubber as the emission control device. Specifically, during the March 2, 2006 investigation it was documented that there were eight railcars for which the pH of the scrubbing liquid was not recorded during the September 12, 2004 to September 12, 2005 deviation reporting periods.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

OR

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes: The pH was not recorded less than 30% of the time.

Adjustment -$9,900

Base Penalty Subtotal $100

Violation Events

Number of Violation Events 8

8 Number of violation days

mark only one use a small x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $800

Eight single events are recommended based on the eight times the required information was not recorded.

Economic Benefit (EB) for this violation

Estimated EB Amount $7

Statutory Limit Test

Violation Final Penalty Total $1,216

This violation Final Assessed Penalty (adjusted for limits) $1,216

Economic Benefit Worksheet

Respondent Vopak Logistics Services USA Inc.
Case ID No. 30852
Reg. Ent. Reference No. RN100223007
Media [Statute] Air Quality
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling	$250	12-Sep-2004	11-Apr-2005	0.6	$7	n/a	$7
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0

Notes for DELAYED costs Estimated cost to conduct employee training on the record keeping requirements for the scrubber. Date required based on the initial date of the deviation reporting period. Final date based on the compliance date.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0

Notes for AVOIDED costs

Approx. Cost of Compliance $250

TOTAL $7

PCW

Policy Revision 2 (September 2002)
PCW Revision April 25, 2006

Screening Date	18-Aug-2006
Docket No.	2006-1347-AIR-E
Respondent	Vopak Logistics Services USA Inc.
Case ID No.	30852
Reg. Ent. Reference No.	RN100223007
Media [Statute]	Air Quality
Enf. Coordinator	Rebecca Johnson
Violation Number	7
Primary Rule Cite(s)	Air Permit No. 6400, Special Condition No. 16 and Air Permit No. O-01637, Special Condition No. 16
Secondary Rule Cite(s)	30 Tex. Admin. Code §§ 116.115(c), 122.143(4), and Tex. Health & Safety Code § 382.085(b)
Violation Description	Failure to record the vacuum system level during the purging of each railcar. Specifically, during the March 2, 2006 investigation it was documented that there was one instance of railcar purging operations for which the vacuum system level was not recorded during the September 12, 2004 to September 12, 2005 deviation reporting periods.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes: The vacuum system level was not recorded less than 30% of the time.

Adjustment -$9,900

Base Penalty Subtotal $100

Violation Events

Number of Violation Events: 1

1 Number of violation days

mark only one use a small x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $100

One single event is recommended based on the one time the required information was not recorded.

Economic Benefit (EB) for this violation

Estimated EB Amount $7

Statutory Limit Test

Violation Final Penalty Total $152

This violation Final Assessed Penalty (adjusted for limits) $152

Economic Benefit Worksheet

Respondent	Vopak Logistics Services USA Inc.
Case ID No.	30852
Reg. Ent. Reference No.	RN100223007
Media [Statute]	Air Quality
Violation No.	7

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling	$250	12-Sep-2004	11-Apr-2005	0.6	$7	n/a	$7
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0
Notes for DELAYED costs	Estimated cost to conduct employee training on record keeping requirements for the vacuum system. Date required based on the initial date of the deviation reporting period. Final date based on the compliance date.						
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Notes for AVOIDED costs							

Approx. Cost of Compliance: $250

TOTAL: $7

Compliance History

Customer/Respondent/Owner-Operator:	CN601527955	Vopak Logistics Services USA Inc.	Classification: AVERAGE	Rating: 2.37
Regulated Entity:	RN100223007	VOPAK LOGISTICS SERVICES USA-DEER PARK	Classification: AVERAGE	Site Rating: 4.65

ID Number(s):			
	AIR OPERATING PERMITS	ACCOUNT NUMBER	HG0224P
	AIR OPERATING PERMITS	PERMIT	1637
	AIR NEW SOURCE PERMITS	PERMIT	6400
	AIR NEW SOURCE PERMITS	PERMIT	7569
	AIR NEW SOURCE PERMITS	PERMIT	9081
	AIR NEW SOURCE PERMITS	PERMIT	12082
	AIR NEW SOURCE PERMITS	PERMIT	13169
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG0224P
	AIR NEW SOURCE PERMITS	AFS NUM	0372
	UNDERGROUND INJECTION CONTROL	PERMIT	WDW157
	UNDERGROUND INJECTION CONTROL	PERMIT	WDW407
	WASTEWATER	PERMIT	WQ001731000
	WASTEWATER	EPA ID	TX0030937
	INDUSTRIAL AND HAZARDOUS WASTE STORAGE	EPA ID	TXD097673149
	INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	50025
	INDUSTRIAL AND HAZARDOUS WASTE STORAGE	SOLID WASTE REGISTRATION # (SWR)	30567
	INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	50025
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD097673149
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	30567
	INDUSTRIAL AND HAZARDOUS WASTE PROCESSING	EPA ID	TXD097673149
	INDUSTRIAL AND HAZARDOUS WASTE DISPOSAL	EPA ID	TXD097673149

Location: 2759 BATTLEGROUND ROAD, DEER PARK, TX, 77536 Rating Date: 9/1/2005 Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: August 17, 2006

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: August 14, 2001 to August 14, 2006

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Rebecca Johnson Phone: (713) 422-8931

Site Compliance History Components

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 of the site during the compliance period?	No
3. If Yes, who is the current owner?	N/A
4. if Yes, who was/were the prior owner(s)?	N/A
5. When did the change(s) in ownership occur?	N/A

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 04/23/2003 COURTORDER
Classification: Moderate

Rqmt Prov: Not specified PERMIT
Description: Unauthorized discharge of COD, Arsenic, TSS, Ammonia and nickel.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

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

1	07/30/2003	(146388)
2	10/23/2001	(137195)
3	01/23/2003	(22147)
4	08/17/2001	(137194)
5	12/18/2003	(257368)
6	01/17/2003	(21186)
7	12/06/2004	(342151)
8	12/02/2003	(251456)
9	07/16/2004	(272860)
10	07/09/2003	(11823)
11	12/20/2005	(436825)
12	12/16/2004	(343647)
13	08/30/2005	(404236)
14	01/23/2003	(22133)
15	12/21/2004	(344590)
16	05/12/2006	(464571)
17	10/23/2001	(128798)
18	08/17/2001	(128797)
19	11/08/2005	(433192)
20	05/12/2004	(271567)
21	02/27/2004	(262909)
22	01/23/2003	(22112)
23	02/06/2004	(261373)
24	06/29/2003	(119040)
25	09/19/2003	(249332)
26	09/03/2003	(263175)
27	11/12/2003	(251875)
28	01/24/2006	(440337)
29	08/11/2006	(457193)
30	05/05/2003	(33566)
31	03/11/2004	(262168)
32	11/01/2004	(338366)
33	08/17/2001	(123786)
34	10/23/2001	(123787)
35	02/12/2004	(259993)
36	03/30/2004	(332892)
37	05/12/2004	(271580)
38	11/19/2004	(341462)
39	01/12/2004	(257970)
40	10/23/2001	(121805)
41	08/17/2001	(121804)
42	08/14/2003	(113046)
43	11/12/2003	(254290)
44	04/06/2005	(376371)
45	08/17/2001	(103158)
46	09/30/2003	(249925)
47	07/16/2003	(141121)
48	10/23/2001	(103159)
49	01/14/2005	(345658)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 11/13/2003 (254290)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: PA IA

Description: Failure to meet required 99% removal efficiency for total chlorides as required by TCEQ permit 6400 during compliance testing on June 30, 2003.

Date: 07/31/2003 (146388)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: PERMIT IA

Description: Failure to meet the stack testing extension period for SO2 on the Thermal Oxidizer.

Date: 08/14/2003 (113046)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 335, SubChapter A 335.10(b)(22)

Description: Failure to properly complete waste manifests

Date: 05/12/2004 (271580)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 335, SubChapter A 335.6(c)[G]

Description: Failure to update/correct Notice of Registration to accurately reflect waste stream and waste management unit changes.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter A 335.9(a)(2)[G]

Description: Failure to accurately report waste generation and disposal on Annual Waste Summary for 2003.

Self Report? NO Classification: Moderate

Citation: 40 CFR Chapter 264, SubChapter I, PT 264, SubPT J 264.193(e)(1)(iii)

Rqmt Prov: PERMIT IA

Description: Failure to repair damage to secondary containment wall in a timely manner.

Date: 03/30/2004 (332892)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

30 TAC Chapter 305, SubChapter F 305.125(17)

Description: SPECIFIC NON-RPT VIOLATION

Date: 03/12/2004 (262168)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)

30 TAC Chapter 116, SubChapter B 116.115(c)

5C THC Chapter 382, SubChapter A 382.085(b)

Description: Regulated entity failed to maintain HCL emissions from EPN No. 02-FL-1 below the Maximum Allowable Emission Rate Table (MAER) as described in Permit No. 6400.

Date: 09/03/2003 (263175)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.10(e)

30 TAC Chapter 101, SubChapter A 101.10(f)

Description: The respondent failed to submit an emissions inventory for calendar year 2002 on or before 6/26/2003.

F. Environmental audits.

Notice of Intent Date: 03/06/2006 (459060)

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 VOPAK LOGISTICS SERVICES USA INC. RN100223007	§ § § § §	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2006-1347-AIR-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Vopak Logistics Services USA Inc. ("Vopak") 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 Vopak appear before the Commission and together stipulate that:

1. Vopak owns and operates a rail car cleaning and waste management facility at 2759 Battleground Road in Deer Park, Harris County, Texas (the "Plant").

2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).

3. The Commission and Vopak agree that the Commission has jurisdiction to enter this Agreed Order, and that Vopak is subject to the Commission's jurisdiction.

4. Vopak received notice of the violations alleged in Section II ("Allegations") on or about August 16, 2006.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Vopak of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Fifty-Five Thousand Three Hundred Twenty-Eight Dollars ($55,328) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Vopak has paid Twenty-Two Thousand One Hundred Thirty-One Dollars ($22,131) of the administrative penalty and Eleven Thousand Sixty-Six Dollars ($11,066) is deferred contingent upon Vopak's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If

Vopak fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Vopak to pay all or part of the deferred penalty. Twenty-Two Thousand One Hundred Thirty-One Dollars ($22,131) shall be conditionally offset by Vopak's completion of a Supplemental Environmental Project ("SEP").

7. 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.

8. The Executive Director of the TCEQ and Vopak have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.

9. The Executive Director recognizes that Vopak has implemented the following corrective measures at the Plant:

   a. Installed a gasket on the maintenance hatch on the water separator associated with the centrifuge separation on March 2, 2006 to ensure there are no emissions to the atmosphere from the opening; and

   b. Completed employee training on April 11, 2005 which reviewed the record keeping requirements for the flare observation log, the scrubber, and the railcar vacuum system.

10. 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 Vopak has not complied with one or more of the terms or conditions in this Agreed Order.

11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, Vopak is alleged to have:

1. Failed to ensure that all openings on the water separator associated with the centrifuge separation are totally sealed to ensure there are no emissions to the atmosphere, in violation of 30 TEX. ADMIN. CODE § 115.132(a)(1) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on March 2, 2006. Specifically, during the March 2, 2006 investigation the maintenance hatch on the separator was not sealed and resulted in emissions to the atmosphere that were detected with a toxic vapor analyzer.

2. Failed to demonstrate continuous compliance with the applicable criteria exempting the water separator from emissions controls, in violation of 30 TEX. ADMIN. CODE § 115.136(a)(1) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on March 2, 2006. Specifically, during the March 2, 2006 investigation it was documented that Vopak is operating a volatile organic compound water separator without emission controls, however Vopak was not maintaining records of the names and true vapor pressures of all materials stored, processed, and handled to demonstrate compliance with the applicable criteria exempting the water separator from emission control requirements.

3. Failed to submit semiannual reports detailing the required fugitive monitoring information, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), Air Permit No. O-01637, Special Condition Nos. 1.A. and 16, Air Permit No. 6400, Special Condition No. 4.B., 40 CODE OF FEDERAL REGULATIONS § 61.247(b), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on March 2, 2006. Specifically, Vopak is required to submit reports semiannually with the initial semiannual report being due no later than August 23, 2003, however no semiannual reports have been submitted.

4. Failed to represent all applicable emission sources in the Title V Permit application, in violation of 30 TEX. ADMIN. CODE §§ 122.132(e)(2) and 122.121, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on March 2, 2006. Specifically, the odor removal scrubber was not represented in the Title V Permit application submitted on July 19, 1999 or in the Title V permit issued on September 12, 2003.

5. Failed to record flare observations in the flare operation log each time the flare is operated, in violation of 30 TEX. ADMIN. CODE §§ 111.111(a)(4)(A)(ii) and 122.143(4), Air Permit No. O-01637, Special Condition No. 1.A., and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on March 2, 2006. Specifically, during the March 2, 2006 investigation it was documented that flare observations were not recorded for four times that Flare 02-FL-2 was operated during the September 12, 2004 to September 12, 2005 deviation reporting periods.

6. Failed to record the pH of the scrubbing liquid each time a railcar is cleaned while utilizing the scrubber as the emission control device, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), Air Permit No. 6400, Special Condition No. 28, Air Permit No. O-01637, Special Condition No. 16, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on March 2, 2006. Specifically, during the March 2, 2006 investigation it was documented that there were eight railcars for which the pH of the scrubbing liquid was not recorded during the September 12, 2004 to September 12, 2005 deviation reporting periods.

7. Failed to record the vacuum system level during the purging of each railcar, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), Air Permit No. 6400, Special Condition No. 16, Air Permit No. O-01637, Special Condition No. 16, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on March 2, 2006. Specifically, during the March 2, 2006 investigation it was documented that there was one instance of railcar purging operations for which the vacuum system level was not recorded during the September 12, 2004 to September 12, 2005 deviation reporting periods.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Vopak pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Vopak's compliance with all the terms and conditions set forth in this Agreed 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. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Vopak Logistics Services USA Inc., Docket No. 2006-1347-AIR-E" to:

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

2. Vopak shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Twenty-Two Thousand One Hundred Thirty-One Dollars ($22,131) of the assessed administrative penalty shall be offset with the condition that Vopak implement the SEP defined in Attachment A, incorporated herein by reference. Vopak's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.

3. It is further ordered that Vopak shall undertake the following technical requirements:

   a. Within 90 days after the effective date of this Agreed Order:

      i. Represent through the appropriate submittal and to the satisfaction of the TCEQ Air Permits Division the odor removal scrubber for inclusion in the Title V Permit; or

      ii. Submit a request though the appropriate submittal and to the satisfaction of the TCEQ Air Permits Division to void the Title V Permit.

   b. Within 105 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 3.a.i. or 3.a.ii. The certification should include documentation demonstrating compliance and shall be submitted in accordance with Ordering Provision No. 3.g.;

   c. Within 180 days after the effective date of this Agreed Order:

i. Submit a semiannual fugitive emissions report, as required by 40 CODE OF FEDERAL REGULATIONS § 61.247(b), including a reporting schedule stating the months that semiannual reports shall be submitted, in accordance with 40 CODE OF FEDERAL REGULATIONS § 61.247(c); and

ii. Demonstrate that the odor removal scrubber has been incorporated into the Title V Permit, as required by 30 TEX. ADMIN. CODE §122.121; or

iii. Demonstrate that the Title V Permit has been voided.

d. Within 195 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision Nos. 3.c.i., and 3.c.ii. or 3.c.iii. The certification should include documentation demonstrating compliance and shall be submitted in accordance with Ordering Provision No. 2.g.;

e. Within 180 days after the effective date of this Agreed Order:

i. Begin maintaining complete and up-to-date records to demonstrate continuous compliance with the applicable criteria exempting the water separator from emission controls, including, but not limited to, the names and true vapor pressures of all such materials stored, processed, or handled at the affected property, and any other necessary operational information, as required by 30 TEX. ADMIN. CODE § 115.136(a)(1); or

ii. Install emission controls on the water separator, in accordance with 30 TEX. ADMIN. CODE § 115.132(a).

f. Within 195 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 3.e.i. or 3.e.ii. The certification should include documentation demonstrating compliance and shall be submitted in accordance with Ordering Provision No. 2.g.; and

g. The certifications required by Ordering Provision Nos. 3.b., 3.d. and 3.f. shall include documentation demonstrating compliance and shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify that under the 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 obtained the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

And shall be submitted to:

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

with a copy to:

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

4. The provisions of this Agreed Order shall apply to and be binding upon Vopak. Vopak is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.

5. If Vopak fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Vopak's failure to comply is not a violation of this Agreed Order. Vopak shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Vopak shall notify the Executive Director within seven days after Vopak becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Vopak shall be made in writing to the Executive Director. Extensions are not effective until Vopak receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

7. This Agreed Order, issued by the Commission, shall not be admissible against Vopak in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed 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 agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Vopak, or three days after the date on which the Commission mails notice of the Order to Vopak,

whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

_____ 2/26/07
For the Executive Director Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, 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 my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

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

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

Jimmy W. Ritter 11/10/06
Signature Date

Jimmy W. Ritter Facility Manager - Gulf Coast
Name (Printed or typed) Title
Authorized Representative of
Vopak Logistics Services USA Inc.

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Attachment A
Docket Number: 2006-1347-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**Vopac Logistics Services USA Inc.**
Payable Penalty Amount:	**Forty-Four Thousand Two Hundred Sixty-Two Dollars ($44,262)**
SEP Amount:	**Twenty-Two Thousand One Hundred Thirty-One Dollars ($22,131)**
Type of SEP:	**Pre-approved**
Third-Party Recipient:	**Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program**
Location of SEP:	**Harris County**

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 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 will contribute to Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program in Harris County. The contribution will be used in accordance with the ***Supplemental Environmental Project Agreement between the Houston-Galveston AERCO and the Texas Commission on Environmental Quality***. SEP monies will be used to aid local school districts and area transit agencies in reaching local match requirements mandated by the Federal Highway Administration's ("FHWA") Congestion Mitigation/Air Quality funding program. SEP monies will be disbursed to school districts and transit agencies in need of funding assistance in the Houston-Galveston non-attainment area. Those SEP monies will be used exclusively by the school districts and transit agencies as supplements to meet the local match requirements of the EPA. SEP monies will be used to pay for the cost of replacing older diesel buses with alternative fueled or clean diesel buses. The old buses will be permanently retired and only sold for scrap. The schools and transit agencies will also use the SEP monies to retrofit more buses to reduce emissions. Houston-Galveston AERCO will send the TCEQ verification in the form of paid invoices and other documentation to show that the retrofits were completed. Retrofit technologies include particulate matter traps, diesel particulate matter filters, NOx reduction catalyst technology in combination with diesel particulate filters, and other emission control technologies that are developed and approved by EPA or the California Air Resources Board.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing particulate emissions on buses by more than 90% below today's level and reducing hydrocarbons below measurement capability.

C. Minimum Expenditure

Respondent shall contribute at least the SEP Amount to the Third-Party Recipient 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 Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Houston-Galveston Area Council
Houston-Galveston AERCO
P.O. Box 22777
Houston, Texas 77227-2777

3. Records and Reporting

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

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

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality
Financial Administration Division, Revenues
Attention: Cashier, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

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

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, 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 identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.