

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

**DOCKET NOS.: 1997-0180-AIR-E, 1997-0222-AIR-E, 1997-0440-IHW-E, 1998-0114-AIR-E, AND
2000-0543-AIR-E TCEQ ID Nos.: RN101995611 AND RN102591955 CASE NO.: 30672
RESPONDENT NAME: SOUTH HAMPTON RESOURCES, INC. FORMERLY KNOWN AS SOUTH
HAMPTON REFINING COMPANY**

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input checked="" type="checkbox"/> AIR	<input checked="" type="checkbox"/> MULTI-MEDIA (check all that apply)	<input checked="" type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: FM 418 West, west of Silsbee, Hardin County and Highway 92 in Silsbee, Hardin County</p> <p>TYPE OF OPERATION: Petroleum product refinery and bulk loading terminal</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There were no complaints. There is no record of additional pending enforcement actions regarding this facility.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on May 13, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Ms. Kathleen C. Decker, Litigation Division, MC175, (512) 239-6500 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873 SEP Coordinator: Ms. Sharon Blue, Litigation Division, MC 175, (512) 239-2223 TCEQ Enforcement Coordinator: Ms. Miriam Hall, Air Enforcement Section, MC 128, (512) 239-1044 TCEQ Regional Contact: Ms. Heather Ross, Beaumont Regional Office, MC R-10 (409) 898-3838 and Mr. Derek Eades, Beaumont Regional Office, MC R-10 (409) 899-8705 Respondent: Mr. Nick Carter, President, South Hampton Resources, Inc., P.O. Box 1636, Silsbee, TX 77656 Respondent's Attorney: Mr. John. B. Turney, Richards Rodriguez & Skeith, L.L.P., 816 Congress Avenue, Suite 1200, Austin, Texas 78701</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input checked="" type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaints Relating to this Case: None</p> <p>Dates of Investigations Relating to this Case: November 6, 1996; December 20-23, 1996; May 30-31, 1996; June 11, 1996; October 31, 1996; November 5, 1996; September 18, 1996; March 12, 1997; March 19-21, 1997; April 11, 1998; April 8, 1998; April 22, 1998; May 11, 1998; May 21, 1998; February 8, 2000; April 23, 2001; and May 3-4, 2001</p> <p>Dates of NOEs Relating to this Case: September 11, 1996; October 14, 1996; October 24, 1996; November 14, 1996; November 19, 1996; January 2, 1997; February 6, 1997; April 11, 1997; June 16, 1998; March 27, 2000 and June 25, 2001</p> <p>Background Facts: An EDRP was filed on August 18, 1997. An EDFARP was filed on February 2, 2000. An EDSARP was filed on April 11, 2003. An EDTARP was filed on May 22, 2007. The case was referred to SOAH on August 9, 2007 and a signed Agreed Order was received on March 6, 2008.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>AIR and IHW:</p> <ol style="list-style-type: none"> 1. Stored, processed, and/or disposed of hazardous waste in the Surface Impoundment without permit or other authorization from the TCEQ [30 TEX. ADMIN. CODE § 335.2 and 335.43; and 40 C.F.R. §§ 268.4(a)(3) and 270.1(b) and (c). 2. Failed to notify the TCEQ of its storage, processing, and disposal of hazardous waste in the Surface Impoundment [30 TEX. ADMIN. CODE § 335.6]. 	<p>Total Assessed: \$274,433</p> <p>Total Deferred: \$0</p> <p>SEP Conditional Offset: \$137,216</p> <p>Total Paid/Due to General Revenue: \$45,747/\$91,470</p> <p>The Respondent has paid \$45,747 of the administrative penalty. The amount of \$91,470 of the administrative penalty shall be payable in two monthly payments of \$45,735 each.</p> <p>The remaining amount of \$137,216 of the administrative penalty shall be conditionally offset by the completion of a Supplemental Environmental Project (SEP).</p> <p>Site Compliance History Classification N/A</p> <p>Person Compliance History Classification N/A</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policies: October 1, 1997 January 1, 1999</p> <p>Findings Order Justification: The violations are a gross deviation from a standard of conduct common to a given industry defined as an absence of management practices designed to ensure compliance.</p>	<p>Corrective Actions Taken The Executive Director recognizes that the Respondent:</p> <ol style="list-style-type: none"> 1. As of January 23, 1997, re-routed wastewater from remediation activities away from Tank No. 7, and instead collected the recovered hydrocarbons in two 200-gallon dedication polyethylene tanks for shipment offsite. 2. On January 15, 1997, installed a system for free-phase hydrocarbons recovery. Well MW-1 was modified by the use of a flexible axial peristaltic pump which replaced a locally fabricated pump, and that MW-1 and MW-2 were equipped with the same type and size pump that had a floating intake to recover free-phase hydrocarbons only, which was designed to eliminate the possibility of contaminated ground water with a high concentration of benzene from entering the facility wastewater treatment lagoons. 3. In 1997, the sediment in Tank No. 7 was removed as a source control measure to prevent any future contribution of benzene in the wastewater treatment lagoons. 4. Took samples of ground water and effluent placed in the Surface Impoundment pursuant to remedial ordering provisions of Agreed Order Docket No. 1994-0578-IHW-E. 5. That the LDR form for the shipment of ignitable waste (EPA Hazardous waste ID No. D001 that was sent on July 19, 1996 to Pure Solve, Inc. in Port Allan, Louisiana) was sent on May 19, 1997. 6. The installation of secondary seals on Tank Nos. 1, 40, and 65 was completed by June 1, 1997. 7. Installed secondary seals on Tank Nos. 4, 41, 48 and 64 were completed by June 1, 1997. 8. Conducted a visual inspection of the secondary seal on Tank No. 57 by June 3, 1997. 9. Valve Nos. 4155, 4153 and 4154 on the slop oil tank; Valve No. 2403 near Heater H103; and Valve Nos. XV-069, 1823, 1830, and 1286A were sealed on May 31, 1996.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>3. Failed to properly determine whether contaminated ground water was hazardous [30 TEX. ADMIN. CODE § 335.62 and TCEQ Agreed Order Docket No. 1994-0578-IHW-E, Ordering Provision No. 1.a].</p> <p>4. Failed to keep records of all hazardous and industrial solid waste activities regarding the quantities generated, stored, processed, and disposed of on-site or shipped off-site for storage, processing, or disposal [30 TEX. ADMIN. CODE § 335.9(a)(1)].</p> <p>5. Failed to conduct hazardous waste determinations and further classify the effluent from Tank No. 7 that was conveyed and placed in the Surface Impoundment [30 TEX. ADMIN. CODE §§ 335.62 and 335.503(a) and (b); and Agreed Order Docket No. 1994-0578-IHW-E, Ordering Provision No. 1.e.].</p> <p>6. Failed to provide the required land disposal restriction notice for a shipment of hazardous waste sent on July 19, 1996, to Pure Solve, Inc. in Port Allan, Louisiana [30 TEX. ADMIN. CODE § 335.431, which incorporates 40 C.F.R. § 268.7(a)(1) (subsequently repealed)].</p> <p>7. Failed to equip floating roof tank Nos. 1, 4, 40, 41, 48, 64, 65, and 66 with an approved seal system prior to storing material with a vapor pressure at or above 0.5 pounds psia at maximum storage temperature [30 TEX. ADMIN. CODE §§ 115.112(a)(2)(F) and 116.115(a) (currently 30 TEX. ADMIN. CODE § 116.115(c)); TEX. HEALTH & SAFETY CODE § 382.085(b); and TCEQ Permit No. 3295, Special Condition No. 10].</p> <p>8. Operated eight open-ended valves on VOC lines (Valve Nos. 4155, 4153, 4154, on the slop oil tank; Valve No. 2403 near Heater H103; and Valve Nos. XV-069, 1823, 1830, and 1286(A) that were not sealed with a second valve, a blind flange, a cap, or a plug and by failing to properly seal all valves in VOC service [30 TEX. ADMIN. CODE § 101.20(1), which incorporates 40 C.F.R. § 60.482-6(a)(1); 30 TEX. ADMIN. CODE § 115.322(a)(4) (currently 30 TEX. ADMIN. CODE § 115.352(4)); and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>9. Failed to monitor emissions from the T-8 Unit process drain with an HGA [30 TEX. ADMIN. CODE § 115.324(a)(1)(A) (currently 30 TEX. ADMIN. CODE § 115.354(1)(A)); and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>		<p>10. During the last quarter of 1996, conducted measurements (with hydrocarbon gas analyzer) of emissions on the process drain at the T-8 unit.</p> <p>11. Conducted a certification of the H₂S CEMS unit on April 7, 1998.</p> <p>12. Pressure gauges were installed between the pressure relief valves and the rupture discs on Tank Nos. 72, 74, 75, 76 and 77 on October 30, 1996.</p> <p>13. Automatic valves were installed on Tanks Nos. 72, 74, 75, 76 and 77 and emissions from these valves were directed to a flare on November 6, 1996.</p> <p>14. Eight open-ended valves in the area of Tank Nos. 72, 74, 75, 76 and 77 were sealed with plugs on October 31, 1996.</p> <p>15. Pneumatic recorder was installed on February 20, 1997, to address the failure to properly operate and record CEMS data on January 3, 11, and 30, 1996; February 3, 15, and 16, 1996; March 15, 16, and 31, 1996 and April 6, 9, 17, 23, and 30, 1996.</p> <p>16. In order to correct the violations regarding failure to have proper control equipment that was capable of preventing vapor or gas loss to the atmosphere, the Respondent stopped sending the water from the remediation project to the pond by December 12, 1996, and the benzene level fell below regulated levels in the wastewater treatment ponds.</p> <p>17. Conducted an inspection of the internal floating roof for Tank No. 2 on December 31, 1996, and began to maintain records of inspection after March 7, 1997.</p> <p>18. Installed a supplemental fuel system to ensure adequate combustion of its flare at the Terminal and that training was provided to operators for monitoring the flare as of June 11, 1997.</p> <p>19. In November 1997, installed automatic shut-off valves for the liquid and vapor lines to ensure control of VOC emissions during loading and unloading activities.</p>

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>10. Exceeded the VOC emissions limits from Tank Nos. 41, 48, and 66, as specified in the MAERT [30 TEX. ADMIN. CODE § 116.115(a) (currently 30 TEX. ADMIN. CODE § 116.115(c)); TEX. HEALTH & SAFETY CODE § 382.085(b); and TCEQ Permit No. 3295, Special Condition No. 1].</p> <p>11. Failed to properly certify its CEMS for the H₂S concentration of the refinery fuel gas [30 TEX. ADMIN. CODE § 116.115(a) (currently 30 TEX. ADMIN. CODE § 116.115(c)); TEX. HEALTH & SAFETY CODE § 382.085(b); 40 C.F.R. § 60.105(a)(4)(iii); and TCEQ Permit No. 3295, Special Condition No. 9A.].</p> <p>12. Stored material with a vapor pressure greater than 11.0 psia (later reported by Respondent to be mostly a mixed aldehyde and alcohol stream) in pressurized tanks (Tanks Nos. 72, 74, 75, 76, and 77) that did not have pressure gauges between the relief valves and rupture discs [30 TEX. ADMIN. CODE § 116.115(a) (currently 30 TEX. ADMIN. CODE § 116.115(c)); TEX. HEALTH & SAFETY CODE § 382.085(b); and TCEQ Permit No. 3295, Special Condition No. 13].</p> <p>13. Stored material with a vapor pressure greater than 11.0 psia in pressurized tanks (Tanks Nos. 72, 74, 75, 76, and 77), and the relief valves were not vented to a flare [30 TEX. ADMIN. CODE § 116.115(a) (currently 30 TEX. ADMIN. CODE § 116.115(c)); TEX. HEALTH & SAFETY CODE § 382.085(b); and TCEQ Permit No. 3295, Special Condition Nos. 13 and 20].</p> <p>14. Failed to properly operate and record CEMS data on January 3, 22 and 30, 1996; February 3, 15, and 16, 1996; March 15, 16, and 31, 1996; and April 6, 9, 17, 23, and 30, 1996 [30 TEX. ADMIN. CODE § 101.20(1) incorporating 40 C.F.R. § 60.105(a)(11); and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>15. Failed to properly seal valves in VOC service and operated eight open-ended valves on VOC lines that were not sealed with a second valve, a blind flange, a cap, or a plug [30 TEX. ADMIN. CODE § 101.20(1), incorporating 40 C.F.R. § 60.482-6(a)(1); 30 TEX. ADMIN. CODE § 115.322(a)(4) (currently 30 TEX. ADMIN. CODE § 115.352(4)); and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>		<p>20. In response to the events allowing the H₂S concentration in its fuel gas to exceed 230 mg/dscm, the Respondent revamped its scrubber system as of March 1997, so that the facility heating units operated in a series rather than in a parallel manner while combusting fuel gas.</p> <p>21. Installed a secondary seal on Tank No. 66 as of June 1, 1997.</p> <p>22. Began monitoring emissions with an HGA on the process drains on November 18, 1998.</p> <p>23. Repaired Valve No. 275 on October 30, 1996, and that Valve No. 1578 was repaired on January 7, 1997.</p> <p>24. Submitted information concerning the emissions released during an upset event that occurred on February 23, 1997, when Tank No. 71 was over-pressurized.</p> <p>25. Tagged and repaired Valve No. 2166 on April 14, 1998, and Valve No. 266 was re-monitored and not repaired on April 22, 1998, and found to be under 500 ppm.</p> <p>26. De-gassed Tank No. 57 on August 15, 1998.</p> <p>27. Created forms by June 12, 1998, to maintain records of the chemical name and estimated liquid quantity contained in and removed from each transport vessel, which was degassed or cleaned.</p> <p>28. Completed a cylinder gas audit on the CEMS used to measure and record the H₂S concentration of the refinery fuel gas on April 7, 1998.</p> <p>29. Notified the Executive Director via letter dated May 25, 2000, that it had revised the records for the upset events of May 28, 1999 and June 29, 1999, and also revised the records for the unauthorized emissions of May 27, June 21, June 28, and October 19-20, 1999 and January 1, 2000, to include the information that was required by Commission rules.</p> <p>30. Submitted supplemental information to the Executive Director on May 25, 2000, to provide the start and end times and contaminants released during the June 29, 1999, upset emissions event and to provide the emission rate for the May 28, 1999, upset emissions event.</p>

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>16. Stored VOCs in tanks and reservoirs that did not have proper control equipment and that were incapable of preventing vapor or gas loss to the atmosphere. Specifically, stored the VOCs in a sump that was not equipped with either a cover or floating seal device; rather, it had only a metal grating over the top of it [30 TEX. ADMIN. CODE § 115.112(a)(1) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>17. Failed to conduct the required inspections and maintain records for the internal floating roof storage tanks to document whether these inspections did occur [30 TEX. ADMIN. CODE §§ 101.20(1), 115.114(a)(1), 115.116(a)(2), and 116.115(a) (currently 30 TEX. ADMIN. CODE § 116.115(c)) and (b); 40 C.F.R. § 60.110b; and TEX. HEALTH & SAFETY CODE § 382.085(b); TCEQ Permit No. 3102, General Provision No. 5].</p> <p>18. Failed to operate its flare in a manner that ensures adequate combustion and failed to monitor the flare during operation [30 TEX. ADMIN. CODE § 116.115(a) (currently 30 TEX. ADMIN. CODE § 116.115(c)); TEX. HEALTH & SAFETY CODE § 382.085(b); 40 C.F.R. § 60.18; and TCEQ Permit No. 3102, Special Conditions No. 4].</p> <p>19. Stored VOCs in tanks and reservoirs that did not have control equipment and that were incapable of preventing vapor or gas loss to the atmosphere [30 TEX. ADMIN. CODE § 115.112(a)(1) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>20. Failed to have emission controls on Tank No. 7, Specifically, the investigator documented that Tank No. 7, which received wastewater from the sump, received effluent as a VOC water separator, but it was not controlled [30 TEX. ADMIN. CODE § 115.112(a)(1), (a)(2) and (a)(3); and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>21. Failed to conduct all VOC loading and unloading in such a manner that all liquid and vapor lines were either equipped with fittings which made vapor-tight connections that closed automatically when disconnected or equipped to permit the discharge of residual VOC into a vapor recovery or vapor balance system [30 TEX. ADMIN. CODE § 115.212(a)(3)(A)(i) and (A)(ii); and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>		<p>31. Installed a new knockout drum with an alarm on the vacuum pump exhaust line on July 29, 2000.</p> <p>32. Submitted supplemental information to the Executive Director on May 25, 2000, to provide the required information for the maintenance events occurring on May 27, June 21, and June 28, 1999, and January 1, 2000.</p> <p>33. Submitted supplemental information to the Executive Director on May 25, 2000, to provide the required information for the excess emissions event, which occurred on October 19-20, 1999, due to a maintenance event on Boiler EPN B-1.</p> <p>34. Repaired Pump Nos. 3944-P-139A, 3945-P-139B, 3947-P-7B and 3965-P-204 A in the Penhex Unit on March 17, 2000.</p> <p>35. Implemented measures on April 23, 2001, to prevent the same or similar cause of the unauthorized emission of tetralin/naphthalene mixture on April 23, 2001.</p> <p>36. Implemented measures on October 10, 2000, to prevent the same or similar cause of the upset emission of VOCs from Tank No. 41 on October 10, 2000.</p> <p>37. That as of August 23, 2007, there were no outstanding unresolved AIR violations at the Plant from investigations that were conducted beginning in 1996 through 2001 or that were conducted at various times from 2001 through May 2007.</p> <p>38. Subsequent follow-up waste investigations occurred between October 14, 2003 and May 3, 2006, at the Plant and there were no outstanding unresolved waste violations from these investigations.</p> <p>Ordering Provision:</p> <p>The Respondent shall implement and complete a Supplemental Environmental Project (SEP) (See Attachment A).</p>

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FORMERLY KNOWN AS SOUTH HAMPTON REFINING COMPANY**

DOCKET NOS.: 1997-0180-AIR-E, 1997-0222-AIR-E, 1997-0440-IHW-E, 1998-0114-AIR-E, AND 2000-0543-AIR-E

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>22. Combusted fuel gas that contained H₂S in excess of 0.1 gr/dscf (230 mg/dscm) in the facility heaters [30 TEX. ADMIN. CODE §§ 101.20(1) incorporating 40 C.F.R. 60.104(a)(1); 116.115(a) (currently 30 TEX. ADMIN. CODE § 116.115(c)); and TEX. HEALTH & SAFETY CODE § 382.085(b); and TCEQ Permit No. 3295, Special Condition Nos. 2, 4, and 9C].</p> <p>23. Failed to equip Tank Nos. 1, 4, and 66 with secondary seals, or otherwise meet the requirements of Special Condition No. 10 [30 TEX. ADMIN. CODE § 116.115(a) (currently 30 TEX. ADMIN. CODE § 116.115(c)); TEX. HEALTH & SAFETY CODE § 382.085(b); and TCEQ Permit No. 3295, Special Condition No. 10].</p> <p>24. Stored a VOL with a vapor pressure in excess of 5.2 kPa in Tank No. 66 which did not have double vapor-mounted seals [30 TEX. ADMIN. CODE §§ 101.201(1) incorporating 40 C.F.R. § 60.112(b)(1)(ii)(B), 115.112(a)(1); and TEX. HEALTH & SAFETY Code § 382.085(b);</p> <p>25. Failed to monitor emissions from 11 separate process drains with an HGA [30 TEX. ADMIN. CODE § 115.324(a)(1)(A) (currently 30 TEX. ADMIN. CODE § 115.354(1)(A)); and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>26. Failed to repair a leak from valves (Valve Nos. 1578 and 275) as soon as practicable after it detected leaks, but no later than 15 calendar days after the leaks were discovered, except in the case of an allowable repair delay [30 TEX. ADMIN. CODE §§ 101.20(1) incorporating 40 C.F.R. § 61.242-7(d)(1); 115.322(a)(2) (currently 30 TEX. ADMIN. CODE § 115.352(2); and 116.115(a) (currently 30 TEX. ADMIN. CODE § 116.115(c)); TEX. HEALTH & SAFETY CODE § 382.085(b); and TCEQ Permit No. 3295, Special Condition No. 5].</p> <p>27. Failed to create, within two weeks of an incident, complete records of the emissions released during an upset that occurred February 23, 1997, when Tank No. 71 was over-pressurized [30 TEX. ADMIN. CODE § 101.6(b)(5) and (6) (currently 30 TEX. ADMIN. CODE § 101.201(b)); and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>		

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VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>28. Failed to properly tag and attempt to repair and/or repair two leaking valves (Valves Nos. 2166 and 266) in VOC service [30 TEX. ADMIN. CODE § 115.352(2) and (3); and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>29. Failed to properly empty and degas Tank No. 57 when it was taken out of service [30 TEX. ADMIN. CODE §§ 101.20(1) incorporating 40 C.F.R. § 60.112b(a)(2)(iii); 115.541(a) and 115.542(a); and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>30. Failed to maintain records of the chemical name and estimated liquid quantity contained in and removed from each transport vessel which was degassed or cleaned [30 TEX. ADMIN. CODE § 115.546(1)(A), (B), and (C); and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>31. Failed to conduct a CGA for the first quarter of 1998 on the CEMS used to measure and record the H₂S concentration of the refinery fuel gas [30 TEX. ADMIN. CODE § 116.115(a) (currently 30 TEX. ADMIN. CODE § 116.115(c)); TEX. HEALTH & SAFETY CODE § 382.085(b); 40 C.F.R. 60, Appendix F, § 5.12; and TCEQ Permit No. 3295, Special Condition Nos. 2 and 9B].</p> <p>32. Failed to create complete records of all non-reportable upsets, maintenance, start-ups, and shutdowns with unauthorized emissions as soon as practicable, but no later than two weeks after upset/events occurred [30 TEX. ADMIN. CODE §§ 101.6(b) (currently 30 TEX. ADMIN. CODE § 101.201(b) and 101.7(c) (currently 30 TEX. ADMIN. CODE § 101.211(b))); and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>33. Failed to report the upset emissions from the flare (EPN F-2) and/or flare area on May 28, 1999, and June 29, 1999. The emissions were not exempt from compliance; and therefore, were unauthorized. Specifically, records from the June event were incomplete in that they lacked start and end times and the contaminants were not speciated. The records from the May event lacked an emission rate and the event was avoidable with better maintenance on the knockout drum [30 TEX. ADMIN. CODE § 101.6(a) (currently 30 TEX. ADMIN. CODE § 101.201); and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>		

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VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>34. Failed to properly report unauthorized emissions from a maintenance, start-up, and/or shut down activities [30 TEX. ADMIN. CODE § 101.7(a) (currently 30 TEX. ADMIN. CODE § 101.211(a)); and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>35. Failed to properly report the unauthorized emissions from the flare (EPN F-2) from 0600 hours on October 19, 1999, to 2400 hours on October 20, 1999, that occurred due to a maintenance event on Boiler EPN B-1. Since the event was not reported, it was unauthorized and did not meet the exemption in 30 TEX. ADMIN. CODE § 101.11(a) [30 TEX. ADMIN. CODE §§ 101.7(a) (currently 30 TEX. ADMIN. CODE § 101.211(a)); and 116.115(c); TEX. HEALTH & SAFETY CODE § 382.085(b); TCEQ Permit No. 3295, Special Condition No. 1].</p> <p>36. Failed to repair VOC leaks greater than 10,000 ppm on four pumps (3944-P-139A, 3945-P-139B, 3947-P-7B, and 3965-P-204A) in the Penhex Unit within 15 calendar days after the leaks were found, or tagged and repaired during a unit shutdown, if repair would create more emissions than the repair would eliminate. On November 30, 1999, the pumps were found to be leaking but were not tagged and were not repaired during the next unit shut down during the first week in January 2000 [30 TEX. ADMIN. CODE §§ 115.352(1)(B) and 115.352(2) and (3); and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>37. Failed to prevent the unauthorized emission of 64 pounds of tetralin (70%) naphthalene (30%) mixture over an eight hour period on April 23, 2001 [TEX. HEALTH & SAFETY CODE § 382.085(a)].</p> <p>38. Failed to maintain an emission rate below the allowable emission limit. Special Condition No. 1 of Permit No. 3295 limits the VOC emission rate at Tank 41 (EPN TK-41) to 0.36 pounds/hour [30 TEX. ADMIN. CODE § 116.115(c); TEX. HEALTH & SAFETY CODE § 382.085(b); and TCEQ Permit No. 3295, Special Condition No. 1].</p>		

Attachment A

Docket No.: 1997-0180-AIR-E

Docket No.: 1997-0222-AIR-E

Docket No.: 1997-0440-IHW-E

Docket No.: 1998-0114-AIR-E

Docket No.: 2000-0543-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: South Hampton Resources, Inc. formerly known as South Hampton Refining Company

Penalty Amount: Two hundred seventy-four thousand four hundred thirty-three dollars (\$274,433)

Type of SEP: Pre-approved SEP

Third-Party Recipient: Texas Association of Resource Conservation & Development Areas, Inc. ("RC&D") *Water or Wastewater Assistance*

SEP Amount: One hundred thirty-seven thousand two hundred sixteen dollars (\$137,216)

Location of SEP: Hardin County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative Penalty Amount assessed in this Agreed Order for 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

Respondent shall contribute the SEP Amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be to the **Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")** for the *Water or Wastewater Assistance* program in Hardin County. Specifically, SEP monies for the *Water or Wastewater Assistance* program will pay for the labor and disposal costs associated with assistance to low-income residents with failing wastewater systems, shallow improperly designed or contaminated drinking water wells, or plugging of abandoned wells.

The project will be administered in accordance with federal, state, and local environmental laws and regulations. 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.

South Hampton Resources, Inc.
Agreed Order – Attachment A Docket Nos.
1997-0180-AIR-E
1997-0222-AIR-E
1997-0440-AHW-E
1998-0114-AIR-E
2000-0543-AIR-E

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by preventing the release of sewage into the environment. Raw sewage can carry bacteria, viruses, protozoa (parasitic organisms), helminthes (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis (causing stomach cramps and diarrhea) to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis. People can be exposed through:

- Sewage in drinking water sources.
- Direct contact in areas of public access such as in lawns or streets, or waters used for recreation.
- Shellfish harvested from areas contaminated by raw sewage.
- Inhalation and skin absorption.

Sewage overflows may cause damage to the environment. A key concern with sewage overflows is the effect on rivers, lakes, streams, or aquifer systems. In addition to potential spread of disease, sewage in the environment contributes excess nutrients, metals, and toxic pollutants that contaminate water quality, cause excess algae blooms, and kill fish and other organisms in aquatic habitats.

The drinking water portion of this project would protect water sources for drinking, recreation and wildlife from contamination from the failing treatment systems, and protect public health from contaminated drinking water supplies.

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, Respondent shall contribute \$45,746 to the Third-Party Recipient. Within 60 days of the effective date of the Agreed Order, Respondent shall contribute \$45,735 to the Third-Party Recipient. Within 90 days of the effective date of this Agreed Order, Respondent shall contribute the third contribution, in the amount of \$45,735, to the Third-Party Recipient. Respondent shall mail the contributions with a copy of the Agreed Order, to:

Texas Association of Resource Conservation
and Development Areas, Inc. (RC&D)
Attention: Eddi Darilek
1716 Briarcrest Drive Suite 510
Bryan, Texas 77802-2700

South Hampton Resources, Inc.
Agreed Order – Attachment A Docket Nos.
1997-0180-AIR-E
1997-0222-AIR-E
1997-0440-AHW-E
1998-0114-AIR-E
2000-0543-AIR-E

3. Records and Reporting

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

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

4. Failure to Fully Perform

If 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.

In the event of incomplete performance, the Respondent shall submit a check for the remaining amount due made payable to "Texas Commission on Environmental Quality" with the notation "SEP Refund" and the docket number of the case, and shall send it to:

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

5. Publicity

Any public statements concerning this SEP made by or on behalf of 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

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

South Hampton Resources, Inc.
Agreed Order – Attachment A Docket Nos.
1997-0180-AIR-E
1997-0222-AIR-E
1997-0440-AHW-E
1998-0114-AIR-E
2000-0543-AIR-E

7. Other SEPs by TCEQ or Other Agencies

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

South Hampton Refining Company
Solid Waste Registration No. 30672
EPA ID No. TXD02120340; Enf. ID No. 1176
Penalty Computation Worksheet

VIOLATION NO. 1

Citation of Noncompliance: 30 TEX. ADMIN. CODE §§ 335.2 and 335.43; 40 C. F. R. §§ 268.4(a)(3) and 270.1(b) and (c)

Description of Noncompliance: Failure to obtain a hazardous waste permit and treatment of hazardous waste which is prohibited from land disposal in the onsite aeration lagoons.

Part I - Recommended Penalty Range Based on Violation

1. **Level of Extent & Gravity of Violation:** Major

South Hampton failed to obtain a permit or other authorization from the Commission to dispose of hazardous waste in the onsite aeration lagoons. South Hampton also disposed of hazardous waste which is prohibited from land disposal, in the onsite aeration lagoons. Such activities constitute a major deviation from the rules.

2. **Level of Impact or Hazard of Violation:** Major

This violation resulted or has the potential to cause a substantial exposure of waste which could compromise the health or safety of the public or compromise the quality of a receiving stream or groundwater.

3. **Recommended Penalty Range for Violation:** \$8,000 - \$10,000

Part II - Penalty Range Adjustments

1. **History of Noncompliance:** No adjustment

2. **Degree of Culpability:** Upward adjustment of 20%

Justification: South Hampton had substantial control over whether this violation should have occurred and could have reasonably anticipated and avoided this violation. In addition, South Hampton, as a registered generator of industrial solid waste, should have known of the hazards associated with this violation.

3. **Good Faith Efforts to Comply/Remedy:** No adjustment

4. **Economic Benefit of Noncompliance:** Upward adjustment of 20%

Justification: South Hampton received an economic benefit by avoiding the cost associated with obtaining a hazardous waste permit. South Hampton also saved capital by not determining if its hazardous wastes were restricted from land disposal, and if those restricted hazardous wastes met treatment standards prior to their land disposal. This cost could potentially include expenses for proper laboratory analyses and/or disposal at an authorized facility.

5. **Enhanced Penalty Needed to Deter Future Violation:** Upward adjustment of 20%

Justification: An enhanced penalty is necessary and justified to deter future violations of 30 TEX. ADMIN. CODE §§ 335.2 and 335.431 based on the Commission's appraisal that, without deterrence, these violations may recur.

Total Penalty Range Adjustments: Upward 60%

Part III - Recommended Total Penalty Calculation (Part 1 = Part 11)

$$\$8,000 + [(\$10,000 - \$8,000) \times .60] = \$9,200$$

Total Penalty Amount Per Event: \$9,200

Total Number of Penalty Events: 8 penalty events are being assessed. The penalty events were calculated quarterly beginning with the first documented TC exceedence for benzene during a sampling event conducted by South Hampton on March 20, 1995 and ending on January 15, 1997 when South Hampton installed an alternate free phase hydrocarbon recovery system.

TOTAL PENALTY AMOUNT: \$9,200 x 8 events = \$73,600

VIOLATION NO. 2

Citation of Noncompliance: 30 TEX. ADMIN. CODE § 335.6 - Notification Required

Description of Noncompliance: Failure to notify the TCEQ concerning changes in waste

Part I - Recommended Penalty Range Based on Violation

1. **Level of Extent & Gravity of Violation:** Moderate

Any person who generates, stores, processes or disposes of hazardous or industrial solid waste shall notify the TCEQ concerning the waste generated and the waste management facilities utilized in the handling of such waste. Further, the person has the continuing obligation to notify the TCEQ concerning any changes in waste handling activities to those previously reported.

South Hampton failed to notify the TCEQ regarding the use of the onsite aeration lagoons for the disposal of hazardous waste. South Hampton also failed to notify the TCEQ regarding the generation of the waste stream being discharged into the onsite aeration lagoons. Such activities constitute a deviation from the rules.

2. **Level of Impact or Hazard of Violation:** Minor

South Hampton's failure to provide the required notification information on its solid waste management activities has not directly caused an exposure or release of waste or waste constituents to environmental or human receptors. However, by not providing this information, South Hampton has limited the Commission's ability to track and monitor the waste management activities at the facility.

3. **Recommended Penalty Range for Violation:** \$200 - \$599

Part II - Penalty Range Adjustments

1. **History of Noncompliance:** No adjustment

2. **Degree of Cupability:** Upward adjustment of 20%

Justification: As a generator of industrial solid waste, South Hampton should have been aware of the solid waste regulations requiring it to provide the TCEQ the notification information required pursuant to 30 TEX. ADMIN. CODE § 335.6.

3. **Good Faith Efforts to Comply/Remedy:** No adjustment

4. **Economic Benefit of Noncompliance:** No adjustment
5. **Enhanced Penalty Needed to Deter Future Violation:** Upward adjustment of 20%

Justification: An enhanced penalty is necessary and justified to deter future violations of 30 TEX. ADMIN. CODE §§ 335.6 based on the Commission's appraisal that, without deterrence, this violation may recur.

Total Penalty Range Adjustments: Upward 40%

Part III - Recommended Total Penalty Calculation (Part 1 = Part 11)

$$\$200 + [(\$599 - \$200) \times .40] = \$360$$

Total Penalty Amount Per Event: \$360

Total Number of Penalty Events: 1 penalty events is being assessed based on the December 20, 1996 inspection.

TOTAL PENALTY AMOUNT: \$360 x 1 event = \$360

VIOLATION NO. 3

Citation of Noncompliance: 30 TEX. ADMIN. CODE § 335.62-Hazardous Waste Determination and Agreed Order Docket No. 94-0578-IHW-E, Ordering Provision No. 1.a.

Description of Noncompliance: Failure to perform hazardous waste determination.

Part I - Recommended Penalty Range Based on Violation

1. **Level of Extent & Gravity of Violation:** Moderate

South Hampton failed to perform a hazardous waste determination on the contaminated ground water.

South Hampton also violated Ordering Provision (1)(a) of Agreed Order Docket No. 94-0578-IHW-E, dated October 26, 1994 which required that South Hampton perform a hazardous waste determination on any contaminated groundwater.

2. **Level of Impact or Hazard of Violation:** Minor

Hazardous waste which are not identified may not be handled in accordance with more stringent requirements applied to hazardous wastes. These unidentified hazardous wastes have an increased likelihood of being mismanaged such that the wastes or their constituents could be released to the environment and adversely affect the environment and/or human health.

3. **Recommended Penalty Range for Violation:** \$200 - \$599

Part II - Penalty Range Adjustments

1. **History of Noncompliance:** No adjustment

2. **Degree of Cupability:** Upward adjustment of 20%

Justification: As a generator of industrial solid waste, South Hampton should have been aware of the solid waste regulations requiring it to conduct the determination required pursuant to 30 TEX. ADMIN. CODE § 335.62.

3. **Good Faith Efforts to Comply/Remedy:** No adjustment

4. **Economic Benefit of Noncompliance:** No adjustment

5. **Enhanced Penalty Needed to Deter Future Violation:** Upward adjustment of 20%

Justification: An enhanced penalty is necessary and justified to deter future violations of 30 TEX. ADMIN. CODE §§ 335.62 based on the Commission's appraisal that, without deterrence, this violation may recur.

Total Penalty Range Adjustments: Upward 40%

Part III - Recommended Total Penalty Calculation (Part 1 = Part 11)

$$\$200 + [(\$599 - \$200) \times .40] = \$360$$

Total Penalty Amount Per Event: \$360 .

Total Number of Penalty Events: 1 penalty events is being assessed based on the December 20, 1996 inspection.

TOTAL PENALTY AMOUNT: \$360 x 1 event = \$360

VIOLATION NO. 4

Citation of Noncompliance: 30 TEX. ADMIN. CODE § 335.9(a)(1) - Record keeping and Annual Reporting Procedures Applicable to Generators

Description of Noncompliance: Failure to keep records of the volumes of (1) hazardous wastes that are generated and disposed of in the onsite aeration lagoons.

Part I - Recommended Penalty Range Based on Violation

1. **Level of Extent & Gravity of Violation:** Major

South Hampton failed to keep records of the volumes of hazardous wastes that are generated and disposed of in the onsite aeration lagoons. Such activity constitutes a major deviation from the rules.

2. **Level of Impact or Hazard of Violation:** Minor

While the failure to keep records does not directly increase the probability that the environment or human health will be adversely impacted by waste/or waste constituents, it could allow a potentially adverse condition or practice to go undetected and uncorrected.

3. **Recommended Penalty Range for Violation:** \$600 - \$1,199

Part II - Penalty Range Adjustments

1. **History of Noncompliance:** No adjustment

2. **Degree of Cupability:** Upward adjustment of 20%

Justification: As a generator of industrial solid waste, South Hampton should have been aware of the solid waste regulations requiring it to maintain records on its solid waste ID management activities pursuant to 30 TEX. ADMIN. CODE § 335.9.

3. **Good Faith Efforts to Comply/Remedy:** No adjustment

4. **Economic Benefit of Noncompliance:** No adjustment

5. **Enhanced Penalty Needed to Deter Future Violation:** Upward adjustment of 20%

Justification: An enhanced penalty is necessary and justified to deter future

violations of 30 TEX. ADMIN. CODE §§ 335.9 based on the Commission's appraisal that, without deterrence, this violation may recur.

Total Penalty Range Adjustments: Upward 40%

Part III - Recommended Total Penalty Calculation (Part 1 = Part 11)

$$\$600 + [(\$1199 - \$600) \times .40] = \$840$$

Total Penalty Amount Per Event: \$840

Total Number of Penalty Events: 8 penalty events are being assessed. The penalty events were calculated quarterly beginning with the first documented TC exceedence for benzene during a sampling event conducted by South Hampton on March 20, 1995 and ending on January 15, 1997 when South Hampton installed an alternate free phase hydrocarbon recovery system.

TOTAL PENALTY AMOUNT: **\$840 x 8 events = \$6,720**

VIOLATION NO. 5

Citation of Noncompliance: 30 TEX. ADMIN. CODE § 335.62 and 503(a) and (b)-Hazardous Waste Determination, Waste Classification and Waste Coding Requirement; Agreed Order Docket No. 94-0578-IHW-E, Ordering Provision No. 1.e.

Description of Noncompliance: Failure to perform hazardous waste determination, failure to classify waste and failure to code waste.

Part I - Recommended Penalty Range Based on Violation

1. **Level of Extent & Gravity of Violation:** Major

South Hampton failed to perform a hazardous waste determination on the effluent from Tank No. 7 which is conveyed to the onsite aeration lagoons. South Hampton failed to classify a hazardous waste stream according to the rules; and South Hampton failed to code a hazardous waste stream according to the requirements of the rules.

South Hampton also violated Ordering Provision (1)(e) of Agreed Order Docket No. 94-0578-IHW-E, Ordering Provision No. 1.e. dated October 26, 1994, which required that South Hampton perform a hazardous waste determination on any phase-separated hydrocarbons, contaminated groundwater, soils or other debris and wastes upon generation during site cleanup efforts.

Such activities constitute a major deviation from the rules.

2. **Level of Impact or Hazard of Violation:** Moderate

Hazardous waste which are not identified may not be handled in accordance with more stringent requirements applied to hazardous wastes. These unidentified hazardous wastes have an increased likelihood of being mismanaged such that the wastes or their constituents could be released to the environment and adversely affect the environment and/or human health.

3. **Recommended Penalty Range for Violation:** \$3,200 - \$4,399

Part II - Penalty Range Adjustments

1. **History of Noncompliance:** No adjustment

2. **Degree of Cupability:** Upward adjustment of 20%

Justification:

South Hampton had substantial control over whether this violation should have occurred and could have reasonably avoided this violation. In addition, South Hampton knew or should have known of the requirements to complete hazardous waste determinations, to classify wastes and to code wastes.

3. **Good Faith Efforts to Comply/Remedy:** No adjustment

4. **Economic Benefit of Noncompliance:** Upward adjustment of 20%

Justification: South Hampton received an economic benefit by not having its staff and/or outside personnel conduct hazardous waste determinations for all the wastes it generates.

5. **Enhanced Penalty Needed to Deter Future Violation:** Upward adjustment of 20%

Justification: An enhanced penalty is necessary and justified to deter future violations of these rules based on the Commission's appraisal that, without deterrence, this violation may recur.

Total Penalty Range Adjustments: Upward 60%

Part III - Recommended Total Penalty Calculation (Part 1 = Part 11)

$$\$3,200 + [(\$4,399 - \$3,200) \times .60] = \$3,919$$

Total Penalty Amount Per Event: \$3,919

Total Number of Penalty Events: 2 penalty events are being assessed. The penalty events were based on 2 waste streams that were documented during the December 12, 1996 inspection that had not had the proper hazardous waste determination, waste classification or waste coding conducted.

TOTAL PENALTY AMOUNT: **\$3,919 x 2 events = \$7,838**

VIOLATION NO. 6

Citation of Noncompliance: 30 TEX. ADMIN. CODE § 335.431 and 40 C.F.R. §268.7(a)(1) - Notification of Land Disposal Restriction Waste

Description of Noncompliance: Failure to notify of restricted waste.

Part I - Recommended Penalty Range Based on Violation

1. **Level of Extent & Gravity of Violation:** Major

South Hampton failed to notify the designated treatment facility regarding land disposal restrictions on a restricted waste shipped with manifest No. LAA6408383. South Hampton made a shipment of an ignitable waste (D001) which did not include the Land Disposal Restriction attachment, to Pure Solve, Inc. in Port Allen, Louisiana on July 19, 1996.

2. **Level of Impact or Hazard of Violation:** Moderate

The requirement that generators determine whether or not hazardous wastes are restricted from land disposal and if the restricted wastes meet or have been excluded from treatment standards is intended to protect the well being of human health and the environment. Since South Hampton did not notify Pure Solve that the incoming waste was restricted for land disposal, there is an increased risk that the waste will not be handled properly posing an increased risk to human health and the environment.

3. **Recommended Penalty Range for Violation:** \$3,300 - \$4,399

Part II - Penalty Range Adjustments

1. **History of Noncompliance:** No adjustment

2. **Degree of Cupability:** Upward adjustment of 20%

Justification: South Hampton had substantial control over whether this violation should have occurred and could have reasonably avoided this violation. In addition, South Hampton knew or should have known of the requirements of the land disposal restrictions.

3. **Good Faith Efforts to Comply/Remedy:** No adjustment

4. **Economic Benefit of Noncompliance:** No adjustment

5. **Enhanced Penalty Needed to Deter Future Violation:** Upward adjustment of 20%

Justification: An enhanced penalty is necessary and justified to deter future violations of this nature based on the Commission's appraisal that, without deterrence, this violation may recur.

Total Penalty Range Adjustments: Upward 0%

Part III - Recommended Total Penalty Calculation (Part 1 = Part 11)

$$\$3,200 + [(\$4,399 - \$3,200) \times .40] = \$3,680$$

Total Penalty Amount Per Event: \$3,680

Total Number of Penalty Events: 1 penalty event is being assessed based on the December 20, 1996 inspection where South Hampton could not provide documentation of notification of Land Disposal Restriction requirements for one shipment of ignitable waste to Pure Solve on July 19, 1996.

TOTAL PENALTY AMOUNT: **\$3,680 x 1 event = \$3,680**

ADDENDUM TO WORKSHEETS

Revised Date May 18, 2007

SOUTH HAMPTON RESOURCES, INC. FORMERLY
KNOWN AS SOUTH HAMPTON REFINING COMPANY

Air Account No. HF-0017-K

Enforcement ID No. 435, Case 3

Worksheet No. 97051

The Administrative Penalty recommendation approved by the Enforcement Division Director on April 3, 1997 is amended to reflect the following:

Rule Violated:

- (3) 30 TEX. ADMIN. CODE §§ 115.112(a)(2)(F) and 116.115(a); TEX. HEALTH & SAFETY CODE § 382.085(b); and TCEQ Permit No. 3295, Special Condition No. 10, by failing to equip floating roof tank Nos. 1, 4, 40, 41, 48, 64, 65, and 66 with an approved seal system prior to storing material with a vapor pressure at or above 0.5 pounds per square inch absolute ("psia") at maximum storage temperature.

Original penalty recommendation for this Violation: \$100,900

Revised penalty recommendation for this Violation: \$ 40,000

Reduced penalty based on changing from 22 monthly events to 8 quarterly events

- (4) 30 TEX. ADMIN. CODE §§ 115.114(a)(3), 116.115(a)(2) and (b)(6) and (b)(9); and TEX. HEALTH & SAFETY CODE § 382.085(b), by failing to have records of visual inspections of the secondary seal gap for Tank No. 57 available for review.

Original penalty recommendation for this Violation: \$2,500

This violation is being dropped.

- (6) 30 TEX. ADMIN. CODE §101.20(1) which incorporates 40 C.F.R. § 60.482-6(a)(1); § 115.352(4) [formerly 30 TEX. ADMIN. CODE § 115.322(a)(4)]; and TEX. HEALTH & SAFETY CODE § 382.085(b), by operating eight open-ended valves on VOC lines (Valve Nos. 4155, 4153, 4154 on the slop oil tank; Valve No. 2403 near Heater H103; and Valve Nos. XV-069, 1823, 1830, and 1286A) that were not sealed with a second valve, a blind flange, a cap, or a plug and by failing to properly seal all valves in VOC service.

- (9) 30 TEX. ADMIN. CODE § 115.324(a)(1)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b), by failing to monitor emissions from the T-8 Unit process drain with an hydrocarbon gas analyzer.

(10) 30 TEX. ADMIN. CODE §§ 116.115(a); TEX. HEALTH & SAFETY CODE § 382.085(b); and TCEQ Permit No. 3295, Special Condition No.1, by exceeding the VOC emissions limits from Tank Nos. 41, 48, and 66, as specified in the MAERT, by emitting 1.91 tpy, 1.63 tpy, and 3.12 tpy, respectively. The MAERT for South Hampton limits VOC emissions from Tank Nos. 41, 48, and 66, to 1.56, 1.41, and 1.49 tons per year (“tpy”), respectively.

(11) 30 TEX. ADMIN. CODE § 116.115(a); TEX. HEALTH & SAFETY CODE § 382.085(b); 40 C.F.R. § 60.105(a)(4)(iii); and TCEQ Permit No. 3295, Special Condition No. 9A, by failing to properly certify its CEMS for the H₂S concentration of the refinery fuel gas.

Original penalty recommendation for this Violation: \$5,000

Revised penalty recommendation for this Violation: \$ 500

(14) 30 TEX. ADMIN. CODE § 116.115(a); TEX. HEALTH & SAFETY CODE § 382.085(b); and TCEQ Permit 3295, Special Condition No. 13, by storing material with a vapor pressure greater than 11.0 psia in pressurized tanks (Tank Nos. 72, 74, 75, 76, and 77) that did not have pressure gauges between the relief valves and rupture discs.

(16) 30 TEX. ADMIN. CODE § 116.115(a); TEX. HEALTH & SAFETY CODE § 382.085(b); and TCEQ Permit 3295, Special Condition Nos.13 and 20, by storing material with a vapor pressure greater than 11.0 psia in pressurized tanks (Tank Nos. 72, 74, 75, 76, and 77) and the relief valves were not vented to a flare.

Original penalty recommendation for this Violation: \$5,000

Revised penalty recommendation for this Violation: \$2,000

Further investigation revealed that only 2 rather than 5 tanks were involved.

(19) 30 TEX. ADMIN. CODE § 101.20(1); 40 C.F.R. § 60.105(a)(11); and TEX. HEALTH & SAFETY CODE § 382.085(b), by failing to properly operate and record CEMS data on January 3, 11, and 30, 1996; February 3, 15, and 16, 1996; March 15, 16, and 31, 1996; and April 6, 9, 17, 23, and 30, 1996.

(20) 30 TEX. ADMIN. CODE §§ 101.20(1), incorporating 40 C.F.R. § 60.482-6(a)(1); 30 TEX. ADMIN. CODE § 115.352(4) [formerly 30 TEX. ADMIN. CODE § 115.322(a)(4)]; and TEX. HEALTH & SAFETY CODE § 382.085(b), by failing to properly seal valves in VOC service and by operating eight open-ended valves on VOC lines that were not sealed with a second valve, a blind flange, a cap, or a plug.

Revised penalty recommendation dated April 8, 2003: \$53,750

ADDENDUM TO WORKSHEETS

Revised date April 8, 2003

SOUTH HAMPTON REFINING COMPANY

Air Account No. HF-0017-K

Enforcement ID No. 435, Case 3

Worksheet No. 97051

The Administrative Penalty recommendation approved by the Enforcement Division Director on April 3, 1997 is amended to reflect the following:

Violation No. 2, 30 TAC § 115.112(a)(2)(A) is being dropped per opinion of the Litigation Division. 30 TAC § 115.112(a)(2) applies to floating roof tanks. Tank 12 is a fixed roof tank and therefore subject to § 115.112(a)(1). Although there was liquid in the tank at the time of the inspection, it is not known what the liquid was. The tank probably had § 115.112(a)(1) controls. The violation would be hard to support at this time.

Original penalty recommendation for this Worksheet:	\$125,650
Less penalty from violation dropped:	\$ 1,000
Revised penalty recommendation for Worksheet 97051:	\$124,650

SOUTH HAMPTON REFINING COMPANY

Air Account No. HF-0017-K

Enforcement ID No. 435, Case 4

Worksheet No. None

The Administrative Penalty recommendation approved by the Enforcement Division Director on August 10, 1999 is amended to reflect the following:

Violation No. 9, 30 TAC § 101.20(1), 40 CFR 60, Subpart DC is being dropped. A later investigation determined that the boiler is not subject to the rule. Therefore the violation is not valid.

No penalty has been recommended for this violation on the original penalty worksheet because it had been included in a later worksheet.

No change in original penalty recommendation for this Worksheet: \$130,625

Summary of Enforcement Situation:

On May 30, 31 and June 11, 1996 the annual SIP investigation was conducted. NSPS, Regulation V, and VI violations were documented concerning VOC monitoring, record keeping, and controls in an Ozone nonattainment area. A follow up investigation was conducted on October 31, 1996 and additional, similar violations were documented. A Findings Order is being recommended because this facility has a history of violations which could have been prevented--this represents an absence of management practices designed to ensure compliance. Additionally, five enforcement referrals from the Regional Office in the last six years demonstrates a pattern of disregard for environmental laws.

Some of the violations were corrected immediately; others are on schedule to be corrected, and are detailed in the attachment.

Less than 100 employees? Yes No
 If yes, why does it not qualify for Small Business Order Policy? South Hampton is classified as a major source of air pollutants

Has company provided notice of environmental audit? No Yes, what is the audit period(s)(date(s)). _____

Date considered by committee: February 25, 1997. Significant Violator according to EPA MOU? Yes No

Seriousness/Impact Matrix. Select appropriate grid and describe recommended penalty amount within grid.

SERIOUSNESS OF THE VIOLATION

	MINOR	MODERATE	MAJOR
IMPACT	MINOR	Up to \$250	Up to \$500
OF THE	MODERATE	Up to \$2000	Up to \$3000
VIOLATION	MAJOR	Up to \$6000	Up to \$10,000

Rule Violated	Amount per Day/Incident	Number of Days/Incidents	Total Penalty Per Rule	Violation Description
(1) 101.10(e)			Admin. Rslvd.	Submitted emission report late (clerical)
(2) 115.112(a)(2)(A)	\$1,000	1	\$1,000	Open hatch
(3) 115.112(a)(1)	\$50 & \$100	103 & 167 days	\$100,900	Secondary storage tank seals (8 tanks in violation)

LARGE TANKS				SMALL TANKS			
167 days	x 4 tanks	x \$100	= \$66,800	103 days	x 1 tank	x \$50	= \$5,150
103 days	x 2 tanks	x \$100	= \$20,600	167 days	x 1 tank	x \$50	= \$8,350
(4) 115.114(a)(3)	\$2,500	1	\$2,500				Annual visual seal inspection
(5) 115.132(a)	Under tech. Review/will be included in new EAR						Water Separator not enclosed
(6) 115.322(a)(4)	\$250	8	\$2,000				Open-ended valves not sealed
(7) 115.322(a)(1)			Admin. Rslvd.				Leaking components (Not viable)
(8) 115.324(a)(4)			Admin. Rslvd.				Leaking components not tagged (Not viable)
(9) 115.324(a)(1)(A)	\$500	1	\$500				Fugitive emission monitoring
(10) 116.115(a)	\$1,000	3	\$3,000				Excess VOC emissions
(11) 60.105(a)(4)(iii)	\$5,000	1	\$5,000				H2S CEMS certification
(12) 116.115(a)			Admin. Rslvd.				CEMS downtime (Violation to be deleted)
(13) 116.115(a)	(Within margin of error for test)						Storage Tank w/material >0.5 psia
(14) 116.115(a)	\$250	5	\$1,250				No pressure gauges
(15) 116.115(a)	(Corrected < 30 days)						No records kept for manual valves
(16) 116.115(a)	\$1,000	5	\$5,000				Pressurized tanks not vented to a flare
(17) 60.105(a)(4)	(Monitoring was conducted)						CEMS data not kept in hourly averages (clerical)
(18) 60.104(a)(1)			Admin. Rslvd.				H2S concentration in fuel gas (Approved upsets)
(19) 60.105(a)(11)	\$500	1	\$500				H2S CEMS data loss
(20) 60.482-6(a)(1)	\$500	8	\$4,000				Open-ended valves not sealed [repeat of Violation No. 6 above; penalty enhanced]

Total Penalty Recommendation \$125,650. With 30% deferral NA. If deferral is not warranted, explain why
 A penalty deferral is not being offered because the most serious violation (No. 3 above) was not corrected within 180 days of the
 date of issuance of the NOV (Although the per-day penalty was only calculated up to the date that the case was reviewed by the
 meeting, the violation is still continuing.) Other violations could have been avoided if South Hampton had made an effort to

Enforcement Action Referral Form, p. 5
Non-116.110 Violations

Company Name South Hampton Refining Company
Account/Situation/EAR No. HF-0017-K/016/97051

Explain Grid Determination: See attachment.

Penalty Assessment Comments: Violations 9, 19: seriousness is moderate because violations were preventable; impact is minor because violations did not result in a release of emissions. Violations 2, 10: seriousness is moderate violations were preventable and impact is moderate since there were VOC emissions in an Ozone nonattainment area. Violations 4, 6, 14: seriousness and impact considered moderate because a release of emissions was not documented but these violations could have resulted in a release. Violations *11, 16, 20: seriousness considered major because violations continued for extended period of time or were easily preventable; impact considered moderate because there were no emissions or release of emissions was minimal. Violation 3: seriousness and impact considered major because the violation occurred over an extended period of time, and could have been prevented; impact considered moderate because of VOC emissions in an Ozone nonattainment area.

* For Violation No. 11: A single-event penalty was used instead of a per-day penalty. If the number of days of violation is considered, the amount is within the matrix limit.

Region's Concurrence Date February 24, 1997 LSD Concurrence Date _____ Attorney's Name _____
Enforcement Coordinator/Date Laura King 13-12-97
Air Section Team Leader/Date David Herjich 13/12/97
Air Section Manager/Date Yvonne Arizumi 13/12/97
Enforcement Division Director/Date Wendy [Signature] for A. McGowan 14/3/97
Draft Agreed Order Mailed 4-3-97

cc: Air Program Manager
Worksheet Notebook File
Small Business Advocate

Enforcement Coordinator
File Room(Administrative Penalty)

ATTACHMENT TO THE WORKSHEET FOR PROPOSED ADMINISTRATIVE SETTLEMENT

Non-Rule 116.110 Violations
Attachment

Company Name South Hampton Refinery
Account/Situation/WSH No. HF-0017-K/016/97051

VIOLATION #1: NOV DATE: 09-11-96 : 30 TAC 101.10(e) requires that Annual Emissions Inventory Updates (AEIU) be submitted by March 31 each year. The 1994 AEIU was submitted May 8, 1995; the 1995 AEIU was submitted April 17, 1996. A January 26, 1995 letter from the Emissions Inventory Section gives South Hampton until April 26, 1995 to submit the 1994 AEIU.

DURATION: < 30 days

EMISSIONS: NA

PENALTY RECOMMENDATION COMMENTS: This violation is clerical (did not result in a release of emissions), did not continue for more than 30 days. Emissions Inventory stated that this late submittal was not unusual compared to other companies. It is recommended that this violation be administratively resolved.

VIOLATION #2: NOV DATE: 09-11-96 : 30 TAC 115.112(a)(1), relating to control requirements for VOC storage tanks, requires openings in a floating roof to be closed or covered. The annual SIP inspection conducted May 30, 31 and June 11, 1996 revealed that a hatch on Tank 12 was propped open during the investigation.

DURATION: Hatch closed immediately.

EMISSIONS: VOCs

Comments on this specific violation, if any: Company states that Tank 12 is not in service, and is being used to bioremediate tank bottoms. Permit 3295 lists this tank as being in VOC service and limits it to 0.4 tpy of VOC emissions.

COMPLIANCE PLAN/STIPULATIONS:

1. The hatch was closed on May 31, 1996. During the inspection.

PENALTY RECOMMENDATION COMMENTS:

A per-day penalty was used. The investigation only confirmed the tank open for one day. The material in the tank had a low vapor pressure. A \$1,000 penalty is recommended.

VIOLATION #3: NOV DATE: 09-11-96 : 30 TAC 115.112(a)(2)(F), relating to control requirements for VOC storage tanks, requires storage tanks with capacities greater than 40,000 gals., and holding materials with vapor pressures between 1.5 and 11 psia to be equipped with internal roofs, external roofs with secondary seals, or a vapor recovery system. The annual SIP inspection conducted May 30, 31 and June 11, 1996 revealed that Tanks 1, 4, 40, 41, 48, 64, 65, and 66 had exterior floating roofs and no secondary seals.

DURATION:

EMISSIONS: VOCs

Comments on this specific violation, if any: South Hampton self-reported this violation approximately two weeks before the investigation. In 1995, emissions from these eight tanks were reported to be 14.34 tons, slightly below the permitted amount of 15.23 tpy. Tanks 1, 40, 41, and 64-66 have capacities of 200,000 gals.; tanks 4, and 65 have capacities of 84,000 gals.

COMPLIANCE PLAN/STIPULATIONS:

Secondary seals were installed on Tank Nos. 41, 48, and 64 on December 23, 1996. Secondary seals will be installed on the remaining tanks by June 1997.

ORDERING PROVISIONS:

Immediately upon the effective date of this agreed order, South Hampton shall install secondary seals on Tanks 40, 65, and 66.

PENALTY RECOMMENDATION COMMENTS:

LARGE TANKS	SMALL TANKS
167 days x 4 tanks x \$100 = \$66,800	103 days x 1 tank x \$50 = \$5,150
103 days x 2 tanks x \$100 = \$20,600	167 days x 1 tank x \$50 = \$8,350

The lower per-day penalty was recommended since materials stored in these tanks were primarily waste water at the time of the investigation, and have relatively low vapor pressures. The tanks were in violation for an extended period of time. The penalty is recommended.

VIOLATION #4: NOV DATE: 09-11-96: 30 TAC 115.114(a)(3), relating to inspection requirements for VOC storage tanks, require that visual inspections be made of secondary seal gaps every 12 months for storage tanks with mechanical shoe primary seals. 30 TAC 115.116(a)(2) requires that a record be maintained of the visual inspections. The annual inspection conducted May 30, 31 and June 11, 1996 revealed that there was no record of the 1995 inspection.
DURATION: One annual inspection was not recorded.
EMISSIONS: NA

PENALTY RECOMMENDATION COMMENTS:

A \$2,500 penalty is recommended for this violation.

VIOLATION #5: NOV DATE: 09-11-96: 30 TAC 115.132(a), relating to control requirements for water separators, requires that water separators in Ozone nonattainment areas be enclosed. The annual SIP inspection conducted May 30, 31 and June 11, 1996 revealed that a water separator was open to the atmosphere.

EMISSIONS: VOCs

Comments on this specific violation: South Hampton maintains that this process is not a water separator, but is collection basin not covered by this rule. This violation was referred to the Engineering Services Section for review.

PENALTY RECOMMENDATION COMMENTS:

It is recommended that this violation be attached to the next enforcement action referred by the Regional Office which was received February 1997. A determination by ESS indicates that the process is an oil/water separator; however, additional development is necessary before making a penalty recommendation.

VIOLATION #6: NOV DATE: 09-11-96: 30 TAC 115.322(a)(4), relating to fugitive emission control requirements at petroleum refineries, requires that valves at the end of VOC lines be sealed with a second valve, a blind flange, a cap or plug. During the annual SIP inspection conducted May 30, 31 and June 11, 1996, eight valves (Valves 4155, 4153, 4154 on the slop oil tank; valve 2403 near Heater H103; and valves XV-069, 1823, 1830 and 1286A) were in violation of this rule.

DURATION: The valves were sealed on May 31, 1996 during the investigation.

EMISSIONS: VOCs

COMPLIANCE PLAN/STIPULATIONS:

1. Valves 4155, 4153, and 4154 on the slop-oil tank; valve 2403 near Heater H103; and valves XV-069, 1823, 1830 and 1286A were sealed May 31, 1996.

PENALTY RECOMMENDATION COMMENTS:

A penalty of \$250 per valve is recommended. $250 \times 8 = \$2,000$

VIOLATIONS #7&8: NOV DATE: 09-11-96 : 30 TAC 115.322(a)(1), relating to fugitive emission control requirements at petroleum refineries, states that no component shall be allowed to have a VOC leak. During the annual SIP inspection five leaks were discovered:

1. A seal leak on the East Reformer Compressor
2. Valve No. 3834
3. T-8 level controller M/V3837 leaking aldehyde/alcohol product
4. Pipes and unions connecting Valves Nos. 3836, 3838, 3835A, 3835B, and 3835
5. Aromax Compressor M/V1874

30 TAC 115.324(a)(4) and (7) require that, whenever a potential leak is detected that it be measured and tagged. The above referenced leaks were not measured or tagged.

EMISSIONS: VOCs

Comments on this specific violation, if any: Leaks 2-5 above were documented when the investigator detected an accumulation of product on the ground beneath certain connectors. South Hampton states that the product accumulation was historical. The connectors or valves were not leaking at the time of the inspection. Additionally, South Hampton states that the compressor leak was lubrication oil.

PENALTY RECOMMENDATION COMMENTS:

It is recommended that these two violations be administratively resolved since no actual leaks were observed or sampled at the time of the investigation.

VIOLATION #9: NOV DATE: 09-11-96 : 30 TAC 115.324(a)(1)(A), relating to inspection requirements for fugitive emission controls at petroleum refineries, requires that annual measurements be made with a hydrocarbon gas analyzer of process drains. The May 30 and 31, 1996 SIP investigation revealed that the process drain from the T-8 Unit had been monitored. South Hampton began conducting the required monitoring during the fourth quarter of 1996. When monitored a concentration of 3,383 ppm was measured. The threshold for a leak at this facility is defined as 10,000 ppm.

DURATION: One annual monitoring report.

EMISSIONS: VOCs

COMPLIANCE PLAN/STIPULATIONS:

1. South Hampton began conducting the required monitoring during the fourth quarter of 1996.

PENALTY RECOMMENDATION COMMENTS:

A lower penalty is recommended since the process drain was the only component in the entire unit that was not monitored. A penalty of \$500 is recommended for this violation.

VIOLATION #10: NOV DATE: 09-11-96 : 30 TAC 116.115(a) for violating Permit 3295 Special Condition 1 by exceeding the VOC emission limits for three storage tanks.

VOC Emissions

Tank No.	Allowable	Estimated
Tank 41	1.56 tpy	1.91 tpy
Tank 48	1.41 tpy	1.63 tpy
Tank 66	1.49 tpy	3.12 tpy

DURATION: One year

EMISSIONS: VOCs

Comments on this specific violation, if any: South Hampton points out that total annual emissions for all storage tanks were below permitted limits.

COMPLIANCE PLAN/STIPULATIONS: 1. Immediately upon the effective date of this agreed order South Hampton shall apply for an amendment to Permit 3295 so that the maximum allowable emission rates for all storage tanks are accurate up to date.

PENALTY RECOMMENDATION COMMENTS: The penalty for this violation is partially reflected in Violation No. 3 above. (Violation No. 3 covered the missing secondary seal, while this rule covers annual VOC emissions.)

VIOLATION #11: NOV DATE: 09-11-96: 30 TAC 116.115(a) for violating Permit 3295 Special Condition 9(A) by failing to conduct initial NSPS certification for the H2S CEM. According to documentation provided by letter dated October 21, 1996, the certification was conducted on January 15, 1993 at the same time that the monitor was installed. This certification does not satisfy federal requirements.

DURATION: Four years
EMISSIONS: VOCs

COMPLIANCE PLAN/STIPULATIONS:

Immediately upon the effective date of this agreed order, South Hampton shall certify that the H2S CEM meets Performance Specification No. 7, 40 CFR 60, Appendix B.

PENALTY RECOMMENDATION COMMENTS:

A penalty of \$5,000 is recommended.

VIOLATION #12: NOV DATE: 09-11-96: 30 TAC 116.115(a) for violating Permit 3295 Special Condition 9(E) which states that any CEMs downtime shall be reported and necessary corrective action shall be taken. The CEMS was down twice for extended periods of time during the previous year. The corrective actions taken by South Hampton are documented in its October 21, 1996 letter.

DURATION: NA
EMISSIONS: NA

COMPLIANCE PLAN/STIPULATIONS:

South Hampton appears to have met the requirements of this permit condition. It is recommended that this violation be removed from the computer data base.

PENALTY RECOMMENDATION COMMENTS: It is recommended that this violation be administratively resolved.

VIOLATION #13: NOV DATE: 09-11-96: 30 TAC 116.115(a) for violating Permit 3295 Special Condition 11 which limits the vapor pressure of the material stored in fixed roof tanks to below 0.5 psia. The annual SIP inspection revealed that Tanks 55 and 56 stored material with vapor pressures between 0.6 and 0.9 psia on a few occasions.
EMISSIONS: VOCs

Comments on this specific violation:

ESS states that the margin of error in the testing procedure is too wide to insure that these excess vapor pressure readings are valid violations.

PENALTY RECOMMENDATION COMMENTS:

It is recommended that this violation be administratively resolved.

VIOLATION #14: NOV DATE: 09-11-96: 30 TAC 116.115(a) for violating Permit 3295 Special Condition 13 which requires that materials with a vapor pressure of 11.0 psia or higher at maximum storage temperature must be stored in a pressure vessel with a relief valve equipped with a rupture disc, and a pressure gauge between the relief valve and the rupture disc to monitor disc integrity. The annual SIP inspection conducted May 30, 31 and June 11, 1996 revealed that Tanks 72, 74, 75, 76, and 77 did not have pressure gauges between the relief valves and the rupture discs. The pressure gauges were installed October 30, 1996.
EMISSIONS: No emissions were documented.

COMPLIANCE PLAN/STIPULATIONS:

1. A penalty of \$250 per tank is recommended for this violation. $\$250 \times 5 = \$1,250$ Combined w/ violation #11.

SO EWRP

VIOLATION #15: NOV DATE: 09-11-96: 30 TAC 116.115(a) for violating Permit 3295 Special Condition 22. Special Condition 14 requires that all pressurized storage tanks be equipped with either an automatic valve or a manual valve that vents to a flare. Special condition 22 requires that, if a manual valve is used to comply with SC.14, records must be maintained of the date and time that the manual valve is vented to the flare. The annual SIP inspection conducted May 30, 31 and June 11, 1996 revealed that no such records were kept for Tanks 72, 74, 75, 76, and 77, all of which had manual valves. Automatic valves were installed August 15, 1996.

EMISSIONS: VOCs

COMPLIANCE PLAN/STIPULATIONS: Automatic valves were installed on August 15, 1996. Since the automatic valves are not recorded there is little benefit in having recorded the manual valve releases.

PENALTY RECOMMENDATION COMMENTS:

This violation was corrected in less than 30 days of the date of issuance of an NOV. It is recommended that this violation be administratively resolved.

VIOLATION #16: NOV DATE: 09-11-96: 30 TAC 116.115(a) for violating Permit 3295 Special Condition 20 which requires that the mixed aldehyde and alcohol stream must be stored in a floating-roof tank or a pressure vessel with a relief valve equipped with a rupture disc and operated in accordance with SC 13. SC 13 requires that, if the vapor pressure of material stored is >11 psia, then the relief valve must be vented to a flare. The May 30, 31 and June 11, 1996 investigation revealed that Tanks Nos. 72, 74, 75, 76, and 77 not only had no pressure gauges between the relief valves and the rupture discs (Violation 14), but also that the relief valves were not vented to a flare. Corrected August 15, 1996.

EMISSIONS: VOCs

COMPLIANCE PLAN/STIPULATIONS:

1. The newly installed automatic valves were vented to a flare on November 6, 1996.

PENALTY RECOMMENDATION COMMENTS:

A penalty of \$1,000 per tank is recommended. $\$1,000 \times 5 = \$5,000$

VIOLATION #17: NOV DATE: 09-11-96: 40 CFR Part 60 (NSPS) Subpart J, Section 60.105(a)(4), relating to the monitoring of emissions at petroleum refineries, requires continuous monitoring and recording of H2S concentrations in fuel gas before being burned in fuel gas combustion devices. Section 60.13(c), relating to performance evaluations for H2S monitors, requires that the data be recorded in hourly averages. The May 30, 31 and June 11, 1996 investigation revealed that, although H2S concentrations were being monitored and recorded, the data was not present in hourly averages.

EMISSIONS: No emissions associated with this violation.

COMPLIANCE PLAN/STIPULATIONS:

1. On October 8, 1996 South Hampton began maintaining a record with the one-hour averages of H2S concentrations in the fuel gas.

PENALTY RECOMMENDATION COMMENTS:

This violation is clerical and was corrected within 30 days of the date of issuance of the NOV. It is recommended that this violation be informally resolved.

VIOLATION #18: NOV DATE: 09-11-96 : 40 CFR Part 60 (NSPS) Subpart J, Section 60.104(a)(1), relating to standards for H₂S concentrations in fuel gas, limits H₂S concentrations in fuel gas to 0.10 grains/dry standard cubic foot (162 ppm except for the combustion in a flare of process upset gases. The investigation revealed that this standard was exceeded on thirteen occasions in 1996: January 13 and 17, March 6 and 7, April 3, and May 1, 2, and 6 through 11

DURATION: 1 one-hour period per day
EMISSIONS: Sulfur dioxides

Comments on this specific violation: South Hampton states that on January 12 and 17 the sensing tape in the CEMS was replaced causing false readings on January 13 and 17; scrubber breakthroughs on March 6, April 2, and April 3 caused the excess H₂S concentrations recorded March 6, April 3, and May 1--these three incidents were reported as upsets; and the facility was not in operation on May 6-11, 1996.

PENALTY RECOMMENDATION COMMENTS: The explanations are considered valid and it is recommended that this violation be administratively resolved.

VIOLATION #19: NOV DATE: 09-11-96 : 40 CFR Part 60 (NSPS) Subpart J, Section 60.105(a)(11), relating to the monitoring of emissions at petroleum refineries, states that all required CEMS shall be operated during periods of start-up, shutdown, or malfunction. Records indicate that data was not recorded on January 3, 11 and 30, February 3, 15 and 16, March 15, 16 and 31, and April 6, 9, 17, 23 and 30. Records state that on all but three days (January 11, March 16, and March 31) the data loss was caused by a keyboard locking. The rule allows exceptions during periods when the continuous monitoring system is not operating properly. South Hampton states, in an October 3, 1996 letter, that the January 11, and March 16, 1996 incidents were also caused by the keyboard locking. The data loss for March 31, 1996 resulted from an operator neglecting to print a report before deleting data from the system. The scrubber was operating normally during these periods.

DURATION: One incident--seven hours of data were lost.

COMPLIANCE PLAN/STIPULATIONS:

1. Immediately upon the effective date of this agreed order, South Hampton shall install a strip chart recorder or other paper recording device to replace the keyboard.

PENALTY RECOMMENDATION COMMENTS:

A penalty of \$500 is recommended for the one incident in which operator error led to the loss of monitoring data.

#20: NOV DATE: 11-14-96 : 40 CFR Part 60 (NSPS) Subpart VV, Section 60.482-6(a)(1), relating to equipment leaks of VOC, requires that open-ended valves or lines be equipped with a cap, plug, or secondary valve. During a follow up investigation conducted on October 31, 1996, investigators observed eight valves which were open-ended and not sealed with a second valve, a cap, or a plug.

EMISSIONS: VOCs

Comments on this specific violation: These are not the same valves cited during the May/June inspection.

COMPLIANCE PLAN/STIPULATIONS:

1. South Hampton states, in a November 22, 1996 letter, that the valves were sealed with a plug on October 31, 1996.

PENALTY RECOMMENDATION COMMENTS:

A penalty of \$500 per valve is recommended. $\$500 \times 8 = \$4,000$

ORDER REQUIREMENTS:

ADDENDUM TO WORKSHEET

Revised Date May 18, 2007

SOUTH HAMPTON RESOURCES, INC. FORMERLY
KNOWN AS SOUTH HAMPTON REFINING COMPANY

Air Account No. HF-0017-K

Enforcement ID No. 435, Case 3

Worksheet No. 97108

The Administrative Penalty recommendation approved by the Enforcement Division Director on June 12, 1997 is amended to reflect the following:

Rule Violated:

- (1) 30 TEX. ADMIN. CODE § 115.112(a)(1) and TEX. HEALTH & SAFETY CODE § 382.085(b), by storing VOCs in tanks and reservoirs that did not have proper control equipment and that were incapable of preventing vapor or gas loss to the atmosphere.
-

Revised penalty recommendation dated June 12, 1997: \$9,250

Revised amount based on (\$250.00 [Minor/Minor] x 37 days beginning from date of inspection November 5, 1996 to date of compliance December 12, 1996) = \$9,250

Summary of Enforcement Situation:

During a November 5, 1996 investigation, which was a follow up to the 1996 SIP inspection, the following violation was documented:

Violation No. 2: 30 TAC §115.112(a)(1), relating to emission control requirements for VOC storage tanks or reservoirs. [The violation originally cited was §115.132, for failure to control emissions from a water separator. After reviewing additional information provided by South Hampton, it was decided that the process in question was actually a storage reservoir, which still, however, had no emission controls. ESS confers with the definition of the process and the rule citation.]

This violation occurred while South Hampton was conducting a groundwater remediation project. Emissions (strong fumes) from this process were first detected by a TNRCC investigator during the SIP inspection of June 3, 1996. By December 12, 1996 the VOC/benzene streams from the remediation project were directed into storage tanks, and the VOC/benzene content of the water in the reservoir fell below regulated levels. [Benzene levels were high enough to trigger NESHAP requirements, had the VOC streams not been redirected.] The problem has been corrected and no technical requirements are recommended.

The Administrative Penalty Committee recommended (February 25, 1997) a Findings Order for the violations documented during the 1996 SIP inspection (due to absence of management practices designed to insure compliance, and a demonstrated pattern of disregard for environmental laws), and, the Quality Control Review Committee recommended (May 17, 1997) that this violation be added to that enforcement action, since it was a follow-up investigation to the 1996 SIP inspection. (Refer to EAR 97051 .)

Violations Administratively Resolved:

Violation No. 1: This violation was added to the first EAR (97051) referred to the Enforcement Division October 30, 1996.
Violation Nos. 3 & 4: The benzene in the waste streams was determined to be from the ground water remediation project. When these streams were diverted to storage tanks, the benzene levels dropped below regulated levels. NESHAP Subpart FF provides an exemption for remediation projects of this nature [40 CFR 61.342(a)(3)].

Less than 100 employees? Yes No
 If yes, why does it not qualify for Small Business Order Policy? South Hampton is classified as a major source of air pollution.

Has company provided notice of environmental audit? No If yes, what is the audit period(s)(dates). _____

Date considered by committee: June 11, 1997 Significant Violator according to EPA MOU? Yes No

Seriousness/Impact Matrix. Select appropriate grid and describe recommended penalty amount within grid.

SERIOUSNESS OF THE VIOLATION

		MINOR	MODERATE	MAJOR
IMPACT OF THE VIOLATION	MINOR	Up to \$250	Up to \$500	Up to \$1000
	MODERATE	Up to \$2000	Up to \$3000	Up to \$4000
	MAJOR	Up to \$6000	Up to \$8000	Up to \$10,000

Rule Violated	Amount per Day/Incident	Number of Days/Incidents	Total Penalty Per Rule	Violation Description
(1)115.112(a)(1)	\$500	192	\$96,000	Emission controls for VOC storage tank

Total Penalty Recommendation \$96,000 With 20% deferral NA If deferral is not warranted, explain why.
This violation will be added to EAR 97051 for which a Findings Order has been recommended (See above or EAR 97051).

(Also refer to EAR No. 97051 .)

Explain Grid Determination: Seriousness is considered moderate because South Hampton had knowledge of VOC regulations and control requirements and could easily have avoided this violation. Impact is considered moderate because of benzene emissions as well as other VOC emissions in an ozone nonattainment area.

Penalty Assessment Comments: This is a per-day penalty from the date of a June 3, 1996 inspection until December 12, 1996 when South Hampton reported that the violation had been corrected.

Region's Concurrence Date June 10, 1997 LSD Concurrence Date NA Attorney's Name NA
 Enforcement Coordinator/Date Louise King 6-12-97
 Air Section Team Leader/Date Daniel Henriquez 6/12/97
 Air Section Manager/Date Daniel Henriquez for Jeannette Philgrint 6/12/97
 Enforcement Division Director/Date Ann McLaughlin 6/12/97
 Draft Agreed Order Mailed _____

ADDENDUM TO WORKSHEET

Revised Date May 18, 2007

SOUTH HAMPTON RESOURCES, INC. FORMERLY
KNOWN AS SOUTH HAMPTON REFINING COMPANY

Air Account No. HF-0017-K

Enforcement ID No. 435, Case 1

Worksheet No. 97073

The Administrative Penalty recommendation approved by the Enforcement Division Director on June 12, 1997 is amended to reflect the following:

Rule Violated:

- (1) 30 TEX. ADMIN. CODE §§ 101.20(1), 115.114(a)(1), 115.116(a)(2), and 116.115(a) and (b); 40 CFR § 60.110b; and TEX. HEALTH & SAFETY CODE § 382.085(b); TCEQ Permit No. 3102, General Provision No. 5, by failing to conduct the required inspections and maintain records for the internal floating roof storage tanks to document whether these inspections did occur.
- (3) 30 TEX. ADMIN. CODE § 116.115(a); TEX. HEALTH & SAFETY CODE § 382.085(b); 40 CFR § 60.18; and TCEQ Permit No. 3102, Special Condition No. 4, by failing to operate its flare in a manner that ensures adequate combustion and by failing to monitor the flare during operation. Specifically, the flare went out during a rail car unloading.

Original penalty recommendation for this Violation: \$14,900

Revised penalty recommendation for this Violation: \$10,000

Original penalty \$10,000 was increased to \$14,900 on June 10, 1997 to account for a continuing violation from 180 days to 229. This current revision returns to the original assessment of one event at \$10,000.

Revised penalty recommendation dated April 8, 2003: \$15,000

PCW #4

ADDENDUM TO WORKSHEET

Revised date April 8, 2003

SOUTH HAMPTON REFINING COMPANY

Air Account No. HF-0027-K

Enforcement ID No. 436, Case 1

Worksheet No. 97073

The Administrative Penalty recommendation approved by the Enforcement Division Director on June 23, 1997 is amended to reflect the following:

Violation No. 2, 30 TAC § 115.212(a)(5)(A) is being dropped per opinion of the Litigation Division. This violation was based on two primary facts: 1) that once the lines were disconnected there was still exposed hardware that could contain product, and 2) the nitrogen (N₂) purge system was not seen as effective. The respondent's primary argument is that the N₂ system is effective. The respondent has an N₂ system that it is routed to the flare. As for the possibility of product in the lines, 30 TAC § 112(a)(3)(A)(ii) was amended to include the following language: "After VOC transfer, if necessary to empty a liquid line, the contents may be placed in a portable container, which is then closed vapor-tight and disposed of properly." This activity is consistent with what the investigator said the company was doing. It would be difficult to proceed with a violation where the rule has been changed to specifically authorize what the company was doing.

Last penalty recommendation for this Worksheet:	\$52,600
Less penalty from violation dropped:	\$32,700
Revised penalty recommendation for Worksheet 97073:	\$19,900

ADDENDUM TO WORKSHEET

SOUTH HAMPTON REFINING COMPANY

(Bulk Terminal)

Silsbee, Hardin County

Account No. HF-0027-H

Worksheet No. 97073

The Administrative Penalty recommendation approved by the Enforcement Division Director on April 9, 1997 is amended to reflect the following:

The original penalty recommendation of \$47,700 is increased by \$4,900 to \$52,600.

30 TAC §116.115(a), concerning operation of the flare (Permit No. 3102, Special Condition No. 4), cited in an October 24, 1996 NOV, and listed on Enforcement Action Referral (EAR) No. 97073 as Violation No. 5, is a continuing violation. The penalty recommendation, therefore, has been increased to reflect the increased period of noncompliance. After 180 days the continuing violation is increased by \$100 per day from October 24, 1996, the date of the NOV, until June 10, 1997, when the case was last reviewed by the Administrative Penalty Committee.

Original penalty recommendation for this violation: \$10,000 (180 days in violation)
Amount of increase: \$ 4,900

Revised penalty recommendation for this violation: \$14,900 (229 days in violation)

Revised penalty recommendation for EAR No. 97073: \$52,600

Date Considered by Administrative Penalty Committee June 10, 1997

Lawrence King
Lawrence King, Enforcement Coordinator

6-12-97
Date

David Henrichs
David Henrichs, Team Leader

6/12/97
Date

David Henrichs for Jeanne Philquist
Jeanne Philquist, Manager, Air Section

6/12/97
Date

Ann McGinley
Ann McGinley, Director,
Enforcement Division

6/23/97
Date

Attachment

cc: Air Program Manager,
Worksheet Notebook File
Small Bus. Advocate

Enforcement Coordinator
File Room (Administrative Penalty)

Summary of Enforcement Situation:

During an annual inspection conducted on September 18, 1996 the following violations were documented: §115.212 (relating to emission controls at VOC loading facilities), §116.115(Permit 3102, SC4 relating to the operation of a flare), and §115.114 and NSPS 60.110b Subpart Kb, relating to VOC storage tanks. The §115.212 violation was documented previously during an inspection on November 21, 1995.

All violations have been corrected, with the exception of the operation of the flare. The Order has technical requirements that address flare operations.

Less than 100 employees? Yes No

If yes, why does it not qualify for Small Business Order Policy? South Hampton was cited twice for the same violation, did not commit to achieving compliance as soon as possible, and did not employ interim control measures--one violation continued for 11 months after issuance of the initial NOV.

Has company provided notice of environmental audit? No Yes. If yes, what is the audit period(s)(dates). _____

Date considered by committee: 3-11-97 Significant Violator according to EPA MOU? Yes No

Seriousness/Impact Matrix. Select appropriate grid and describe recommended penalty amount within grid.

SERIOUSNESS OF THE VIOLATION

		MINOR	MODERATE	MAJOR
IMPACT OF THE VIOLATION	MINOR	Up to \$250	Up to \$500	Up to \$1000
	MODERATE	Up to \$2000	Up to \$3000	Up to \$4000
	MAJOR	Up to \$6000	Up to \$8000	Up to \$10,000

Rule Violated	Amount per Day/Incident	Number of Days/Incidents	Total Penalty Per Rule	Violation Description
<u>(1)115.114(a)(1)</u>	<u>\$2,500</u>	<u>2</u>	<u>\$ 5,000</u>	<u>Visual inspection of storage tank seal</u>
<u>(2)115.212(a)(5)(A)</u>	<u>\$100</u>	<u>327 days</u>	<u>\$32,700</u>	<u>Lines not equipped w/vapor-tight connectors</u>
<u>(3)116.115(a)</u>	<u>\$10,000</u>	<u>1</u>	<u>\$10,000</u>	<u>Flare outage; and failure to observe flare</u>
<u>(4)60.110b</u>	<u>Penalty included in Violation No.1 above.</u>			<u>Storage tank seal inspection & record keeping</u>

Total Penalty Recommendation \$47,700 With 20% deferral NA. If deferral is not warranted, explain why. No deferral is being offered because one of the violations was not corrected until well over 180 days and was a repeat violation from a 1995 investigation.

Explain Grid Determination: Violation 1: For each incident, the seriousness is considered moderate because this violation was easily avoidable; the impact is moderate because of potential VOC emissions in an Ozone nonattainment area. Violation 2: Seriousness is major because South Hampton did not fulfill a commitment to correct the violation until after issuance of the second NOV; impact is moderate because of VOC emissions in an Ozone nonattainment area. Violation 3: Seriousness is considered major because these requirements are clearly stated in the permit, yet the violation was not corrected after issuance of the NOV. Impact is moderate because there were actual releases of VOCs for an extended period of time in an Ozone nonattainment area. Violation 4 is included in the penalty recommended for Violation No. 1.

Penalty Assessment Comments: For Violation 3, the investigation only documented one incident when the flare was allowed to go out. In addition, it was not being monitored by the operator. It is assumed that this same violation occurs during each unloading operation; for that reason a \$10,000 penalty is recommended for the documented incident.

Region's Concurrence Date March 7, 1997 LSD Concurrence Date March 7, 1997 Attorney's Name Lisa Dyar
 Enforcement Coordinator/Date [Signature] 4-04-97
 Air Section Team Leader/Date [Signature] 4/4/97
 Air Section Manager/Date [Signature] 4/4/97
 Enforcement Division Director/Date [Signature] 4/4/97
 Draft Agreed Order Mailed 4-10-97

ATTACHMENT TO THE WORKSHEET FOR PROPOSED ADMINISTRATIVE SETTLEMENT

Non-Rule 116.110 Violations
Attachment

Company Name South Hampton Refining Company
Account/Situation/WSN No. HF-0027-H/003/97073

VIOLATION #1: NOV DATE: October 24, 1996: 30 TAC 115.114(a)(1), relating to inspection requirements for VOC storage tanks, requires that a visual inspection be made of the internal floating roof, the primary seal, and the secondary seal (if one is present) at least once every 12 months for storage tanks with internal floating roofs. The annual sit investigation conducted September 18, 1996 revealed that there was no record that such an inspection had been mad for Tank No. 2. A company representative states that the tank inspections were made but no records were kept.

DURATION: Records are required to be kept for two years.

EMISSIONS: VOC (hexane)

COMPLIANCE PLAN:

1. On December 31, 1996, a visual inspection of the internal floating roof, and seal of Tank No. 2 was made.

PENALTY RECOMMENDATION COMMENTS:

A penalty of \$2,500 is recommended for each missed inspection.

$\$2,500 \times 2 = \$5,000$

VIOLATION #2: NOV DATE: December 21, 1995, & October 24, 1996: 30 TAC 115.212(a)(5)(A)(i) and (ii), relating to control requirements for VOC loading and unloading facilities, requires that all lines be equipped with fittings that mak vapor-tight connections that close automatically when disconnected, or be equipped in such a manner as to permit residual VOC in loading lines to discharge into a recovery or disposal system which routes all emissions to a vap recovery system or a vapor balance system. The annual inspection conducted September 18, 1996 revealed connection that were not vapor tight and fittings that did not close automatically when disconnected.

DURATION: (327 days) December 21, 1995 through November 12, 1996

EMISSIONS: VOC (hexane)

Comments on this specific violation, if any:

This facility was exempt from this rule until 1995 when the amount of VOC loaded exceeded 20,000 gallons per day averaged over a 30-day period.

COMPLIANCE PLAN:

1. On November 12, 1996 all vapor and liquid lines at the loading and unloading facility were equipped with fittin which make vapor tight connections, and that close automatically when disconnected.

PENALTY RECOMMENDATION COMMENTS:

A \$100 per day penalty is recommended.

$\$100 \times 327 = \$32,700$

VIOLATION #3: NOV DATE: October 24, 1996 : 30 TAC 116.115(a), requires compliance with permit conditions; Permit No. 3102 Special Condition 4 requires that the flare be operated in accordance with 40 CFR 60.18. Section 60.18(c)(3) specifies that the flare only be used when the net heating value of the gas being combusted remains high enough to insure adequate combustion. During the annual inspection conducted September 18, 1996 it was observed that the flare went out during a rail car unloading. The flare is utilized during unloading operations. Afterwards, the lines are cleared of all hexane by running nitrogen through them. As the concentration of VOCs decrease, the flare eventually goes out. It is during this time that some VOCs, mixed with the nitrogen, escape to the atmosphere.

Special Condition 4 also requires that the flare be monitored by the operator whenever it is in operation. The operator is not located in a position where the pilot flame of the flare can be observed.

DURATION: One incident was documented.
EMISSIONS: VOCs

ORDERING PROVISIONS:

1. South Hampton shall increase the Btu value of the waste gases directed to the flare when necessary to insure adequate combustion.
2. South Hampton shall monitor the presence of the flare pilot flame by using a thermocouple, or any other equivalent device.
3. Amend Permit 3102.

PENALTY RECOMMENDATION COMMENTS:

A \$10,000 penalty is recommended for these two violations. Although the investigation only documented one incident when the flare was allowed to go out and when it was not being monitored by the operator, it is assumed that the same violation occurs during each unloading operation.
\$10,000

VIOLATION #4: NOV DATE: October 24, 1996 : 30 TAC §101.20(1), and 40 CFR Part 60 Subpart Kb Section 60.110b, relating to standards of performance for VOC storage tanks built or modified after July 23, 1984 requires initial and subsequent visual inspections [60.113b(a)(1) and (4)] be made of the internal floating roof, the primary seal and the secondary seal (if one is in service); and initial and subsequent record keeping [60.115b(a)(1) and (2)]. The visual inspections are required each time the tank is emptied and degassed, but not less than once every five years. Tank No. 2 lost its grandfathered status and became subject to this rule in 1988 when it went from gaso to hexane service.

DURATION: (Eight years) From 1988 to 1996
EMISSIONS: VOC (hexane)

COMPLIANCE PLAN/STIPULATIONS:

On December 31, 1996, a visual inspection of the internal floating roof, and seal of Tank No. 2 was made. A written record of the results of the inspection was made which contained the date of the inspection and the observed condition of each component of the air emission control equipment.

PENALTY RECOMMENDATION COMMENTS:

The penalty for this violation is included in Violation No. 1 above. An additional penalty was not recommended since the tank was found in compliance when inspected.

ADDENDUM TO WORKSHEET

Revised Date May 18, 2007

SOUTH HAMPTON RESOURCES, INC. FORMERLY
KNOWN AS SOUTH HAMPTON REFINING COMPANY

Air Account No. HF-0017-K

Enforcement ID No. 435

The Administrative Penalty recommendation approved by the Enforcement Division Director on August 10, 1997 is amended to reflect the following:

Rule Violated:

- (1) 30 TEX. ADMIN. CODE § 115.112(a)(1) and TEX. HEALTH & SAFETY CODE § 382.085(b), by storing VOCs in tanks and reservoirs that did not have control equipment and that were incapable of preventing vapor or gas loss to the atmosphere.

Original penalty recommendation for this Violation: \$50,750

Revised penalty recommendation for this Violation: \$10,100

Original penalty recommendation was based upon \$250.00 x 203 days out of compliance. Revised penalty recommendation is based upon \$50.00 x 202 days (corrected) out of compliance so that it will be more reflective of current policy.

- (2) 30 TEX. ADMIN. CODE § 115.112(a)(1), (a)(2) and (a)(3); and TEX. HEALTH & SAFETY CODE § 382.085(b), by failing to have emission controls on Tank 7. Specifically, the investigator documented that Tank No. 7, which received wastewater from the sump, received effluent as a VOC water separator but was not controlled as required.

Original penalty recommendation for this Violation: \$50,750

Revised penalty recommendation for this Violation: \$10,100

Original penalty recommendation was based upon \$250.00 x 203 days out of compliance. Revised penalty recommendation is based upon \$50.00 x 202 days (corrected) out of compliance so that it will be more reflective of current policy.

- (3) 30 TEX. ADMIN. CODE §§ 115.212(a)(3)(A)(i) and (A)(ii) and TEX. HEALTH & SAFETY CODE § 382.085(b), by failing to conduct all VOC loading and unloading in such a manner that all liquid and vapor lines were either equipped with fittings which made vapor-tight connections that closed automatically when disconnected or equipped to permit the discharge of residual VOC into a vapor recovery or vapor balance system. Specifically, the loading rack connections were not vapor tight and the fittings did not close automatically when hoses were disconnected.

Original penalty recommendation for this Violation: \$50,750
Revised penalty recommendation for this Violation: \$10,100

Original penalty recommendation was based upon \$250.00 x 203 days out of compliance. Revised penalty recommendation is based upon \$50.00 x 202 days (corrected) out of compliance so that it will be more reflective of current policy.

- (4) 30 TEX. ADMIN. CODE §§ 101.20(1) and 116.115(a); 40 C.F.R. §§ 60.104(a)(1); and TEX. HEALTH & SAFETY CODE § 382.085(b); and TCEQ Permit 3295, Special Condition Nos. 2, 4, and 9C, by combusting fuel gas that contained H₂S in excess of 0.1 gr/dscf (230 mg/dscm) in the facility heaters. Specifically, for approximately 18 hours on November 11 and 12, 1996, and December 7, 1996, South Hampton allowed the H₂S concentration in its fuel gas to exceed 230 mg/dscm.
- (7) 30 TEX. ADMIN. CODE § 115.324(a)(1)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b), by failing to monitor emissions with an HGA from 11 separate process drains.

Original penalty recommendation for this Violation: \$5,500
Revised penalty recommendation for this Violation: \$2,750

Original penalty recommendation was based upon \$500.00 x 11 events. Revised penalty is based upon \$250.00 x 11 events.

- (8) 30 TEX. ADMIN. CODE §§ 101.20(1), 115.352(2) [formerly 30 TEX. ADMIN. CODE § 115.322(a)(2)] and 116.115(a); TEX. HEALTH & SAFETY CODE § 382.085(b); 40 C.F.R. § 61.242-7(d)(1); and TCEQ Permit No. 3295, Special Condition No. 5 by failing to repair a leak from a valve as soon as practicable after it detected the leak, but no later than 15 calendar days after the leak was discovered, except in the case of an allowable repair delay.

Revised penalty recommended dated August 10, 1999: \$36,375

SUMMARY OF ENFORCEMENT SITUATION:
Summary:

Compliance History: AO #96-1858-AIR-E: 1660 Order, \$50,000; H2S monitoring requirements, NESHAP & NSPS leaking components. Other THRCC enforcement cases pending: Referrals in Litigation Division for air violations from 1996 and 1998 SIP inspections, air violations from 1996 SIP at bulk terminal (HF-0027-H), and IHW violations from 1996.

Violations Resolved: There were 4 additional violations resolved by the NOV and which were not referred for formal action.

Note: The violations from the 1997 Investigation on this worksheet should have been referred for enforcement during the Summer 1997. The referral was either lost or not sent to Austin by the Region. Therefore the penalty recommendation for the violations not included in the other penalty calculation worksheets should be calculated under the Penalty Policy prior to 10/01/97.

Date considered by committee: 8/9/99 Significant Violator according to EPA MOU? Yes No

Seriousness/Impact Matrix. Select appropriate grid and describe recommended penalty amount within grid.

SERIOUSNESS OF THE VIOLATION

	MINOR	MODERATE	MAJOR
IMPACT OF THE VIOLATION	MINOR	MODERATE	MAJOR
	Up to \$250	Up to \$500	Up to \$1000
	Up to \$2000	Up to \$3000	Up to \$4000
	Up to \$6000	Up to \$8000	Up to \$10,000

Rule Violated	Day/Incident	Amount per Days/Incidents	Number of Per Rule	Total Penalty Violation Description
(1) 115.112(a)(1)	\$250	203	\$50,750	No emission controls on wastewater sump
(2) 115.132(a)(1-3)	\$250	203	\$50,750	No emission controls on Tank 7
(3) 115.212(a)(3)(A)(i)&(ii)	\$100	203	\$20,300	Loading rack connections not vapor tight
(4) 116.115(a), 101.20(1)	\$500	2	\$ 1,000	Exceeding H2S limit in fuel gas
(5) 101.20(1)/60.112b(a)(1)(ii)(B) &	\$0	*	\$0	Tanks 1, 4 & 66 not equipped with seals
(6) 115.112(a)(1), 116.115(a)	\$0	*	\$0	Tanks 1, 4 & 66 not equipped with seals
(7) 115.354(1)(A)	\$500	11	\$ 5,500	Not monitoring process drains
(8) 116.115(a), 115.322(a)(2)	\$ 25	93	\$ 2,325	Did not fix leaking valves in 15 days
(9) 101.20(1)/ 40 CFR 60, Subpart Dc	\$0	*	\$0	Boiler not in compliance with Subpart Dc

Total Penalty Recommendation \$130,625. May be reduced to NA. No deferral because prior similar violations. (SEE ASSOCIATED WORKSHEET. WSN 97051, 97073, 97108).

Explain Grid Determination: Seriousness is major on Violations (VL) 1, 3, and 7 because prior similar violation and moderate for VL 2, 4, 8 because the violations were preventable. Impact is moderate because of VOC emissions in an ozone nonattainment area.

Penalty Assessment Comments: There is no penalty on VL 5, 6, and 9 because the penalties were included on other worksheets.

Region's Concurrence Date 8/6/99 LD Concurrence Date _____ Attorney _____
 Enforcement Coordinator/Date Marian Hill 1 8/5/99
 Team Leader/Date David Hennrich 1 8/8/99
 Section Manager/Date _____ 1 8/9/99
 Enforcement Division Director/Date Ann M. [Signature] 1 8/10/99

cc: Air Program Manager Board File Enforcement Coordinator

ATTACHMENT TO THE WORKSHEET

Non-Rule 116.110 Violations
Attachment

Company Name South Hampton Refinery
Account/Situation HF-0017-K/017 #2

A. Violations

VIOLATION #1: NOV DATE: 04/11/97: 30 TAC § 115.112(a)(1) [115.132(a) in NOV] for failing to have proper emission controls on the wastewater collection sump.

DURATION: 03/11/97(date of inspection)through 09/30/97(last day of old penalty policy) - 203 days

EMISSIONS: Volatile Organic Compound (VOC) emissions

Comments on this specific violation: This same violation was documented during the 1996 SIP investigation and was included on Worksheet 97108. The penalty was calculated from 06/03/96 (inspection date) through 12/12/96 when South Hampton had reported the violation corrected. During that time a groundwater remediation project (VOC/benzene) was going into the sump but the streams were redirected into storage tanks. However, during the investigation, the sump was still uncovered and the inspector detected an aromatic odor from the sump. During the time of the 1998 SIP inspection, the sump had been covered with a plywood cover and an odor could only be detected when the cover was removed.

COMPLIANCE PLAN/STIPULATIONS:

Certify that the wastewater sump is in compliance with § 115.112(a)(1).

PENALTY RECOMMENDATION COMMENTS:

1. Seriousness is major because this is a repeat violation and could have been prevented. Impact is moderate because of VOC emissions in an ozone nonattainment area.
2. A \$500/day penalty was recommended on Worksheet 97108 because benzene from a remediation project was going into the sump.
3. A penalty of \$50,750 is recommended (\$250/day x 203 days).

VIOLATION #2: NOV DATE: 04/11/97: 30 TAC § 115.132(a)(1-3) for failing to have proper emission controls on Tank 7 which receives effluent as VOC water separator.

DURATION: 03/11/97(date of inspection)through 09/30/97(last day of old penalty policy) - 203 days

EMISSIONS: VOC (<1 tpy)

Comments on this specific violation: Tank 7 is a fixed roof tank with no controls.

COMPLIANCE PLAN/STIPULATIONS:

Certify that Tank 7 is in compliance with § 115.132(a)(1-3)

PENALTY RECOMMENDATION COMMENTS:

1. Seriousness is considered moderate because this violation was preventable. Impact is moderate because of VOC emissions in an ozone nonattainment area.
2. A penalty of \$50,750 is recommended (\$250/day x 203 days).

VIOLATION #3: NOV DATE: 04/11/97: 30 TAC § 115.212(a)(3)(A)(i) and (ii) for failing to have vapor tight loading rack connections.

DURATION: 03/11/97(date of inspection)through 09/30/97(last day of old penalty policy) - 203 days

EMISSIONS: VOCs

Comments on this specific violation: According to the company's 04/30/97 and 08/12/98 letters, South Hampton is using a nitrogen purging system which meets clause (ii). According to the investigator, the company has not demonstrated that it meets (ii). On Penalty Calculation Worksheet (PCW) for 1998 SIP, a penalty of \$5,000 was recommended for one single event. (On the 1998 inspection date during loading a hose was leaking, a vapor recovery port was open to the atmosphere, and the vapor recovery line was not hooked up to a truck.)

COMPLIANCE PLAN/STIPULATIONS:

The company needs to submit documentation to show that the current nitrogen purging system meets 30 TAC § 115.212(a)(3)(A)(ii) or certify that it is in compliance with § 115.212(a)(3)(A)(i) and/or (ii).

PENALTY RECOMMENDATION COMMENTS:

1. Seriousness is considered major because the fittings used are the same that were used at the Respondent's terminal which was referred for enforcement from a prior inspection. Impact is moderate because of VOC emissions in an ozone nonattainment area.
2. The penalty was calculated at \$100/day on Worksheet #97073 (South Hampton Loading Terminal).
3. A penalty of \$20,300 is recommended (203 days x \$100/day). However, this penalty and violation may be dropped if the company demonstrates that the current nitrogen purging system meets the rule requirement.

VIOLATION #4: NOV DATE: 04/11/97: 30 TAC §§ 116.115(a)/Permit R-3295, Special Conditions 2,4, and 9(c) and 101.20(1)/ 40 CFR § 60.104(a)(1), Subpart J for exceeding the 230 milligrams per dry standard cubic meters (mg/dscm) [0.10 grains per dry standard cubic feet (gr/dscf)] hydrogen sulfide (H₂S) limit in fuel gas from approximately 9:00 p.m. on November 11 to 3:20 a.m. on November 12, 1996 and from 11:00 a.m. to 5:00 p.m. on December 7, 1996.

DURATION:

November 11-12, 1996 9:00 p.m. to 3:20 a.m. (according to upset notice or Nov. 12 and 13 according to strip chart)

December 7, 1996 11:00 a.m. to 5:00 p.m.

EMISSIONS: 4 lb./hr. SO₂ (~50 lbs. total)

Comments on this specific violation: The violation was initially reported as an upset by the company; but on January 22, 1997, the Region sent a letter to the company denying the exemption because the violation was due to operator error.

COMPLIANCE PLAN/STIPULATIONS:

1. South Hampton revamped its scrubber system so that the units operate in series rather than in parallel, and the new system was put into operation in early March 1997. (02/07/97 company letter)
2. The operator was disciplined for not responding sooner. (04/30/97 company letter)

PENALTY RECOMMENDATION COMMENTS:

1. Seriousness is considered moderate because this violation was preventable. Impact is moderate because of the nuisance potential H₂S and/or SO₂ emissions.
2. A penalty of \$1,000 is recommended (\$500/incident).

VIOLATION #5: NOV DATE: 04/11/97: 30 TAC § 101.20(1)/40 CFR § 60.112b(a)(1)(ii)(B) for failing to equip Tank No. 66, which stores isohexane (cyclocharge), with two-vapor mounted seals as required by the New Source Performance Standards (NSPS) Subpart KB.

VIOLATION #6: NOV DATE: 04/11/97: 30 TAC § 115.112(a)(1) and 116.115(a)/Permit No. R-3295, Special Condition 10 for failing to equip Tank Nos. 1, 4, and 66 with two-vapor mounted seals as required.

Comments on this specific violation: Violation #6 was cited in the 09/11/96 NOV and was already included on Worksheet #97051. The original violation had (8) tanks. All but 3 had been fixed by the time of the inspection, and these remaining tanks had been scheduled to be fixed at the time of the 1997 investigation. Violation #5 is the same violation except only one tank, Tank No. 66 is regulated under the Federal Rule.

COMPLIANCE PLAN/STIPULATIONS:

The tanks were repaired by June 1, 1997.

PENALTY RECOMMENDATION COMMENTS:

No penalty is recommended because the penalty was already included on Worksheet #97051 which calculated the penalty from date of NOV through Administrative Penalty Committee date (09/11/97-02/25/97). The penalty was \$33,400 for Tank Nos 1 and 66 (together) and \$8,350 for Tank No. 4. 6

VIOLATION #7: NOV DATE: 04/11/97: 30 TAC § 115.324(a)(1)(A) [Now 115.354(1)(A)] for failing to monitor process drains annually.

DURATION: 1996

EMISSIONS: Potential VOCs

Comments on this specific violation: When the (11) drains were monitored in 11/18/97, 4 had fugitive emissions more than 500 ppm.

COMPLIANCE PLAN/STIPULATIONS:

Company came into compliance 11/18/97

PENALTY RECOMMENDATION COMMENTS:

1. Seriousness is considered major because one process drain in the T-8 Unit was cited for the same violation in 1996. Impact is moderate because of VOC emissions in an ozone nonattainment area.
2. A penalty of \$500 was recommended for this violation (one drain) on Worksheet #97051.
3. A penalty of \$5500 is recommended (\$500/drain x 11 drains).

VIOLATION #8: NOV DATE: 04/11/97: 30 TAC § 116.115(a)/Permit R-3295, Special Condition 5, 115.322(a)(2), 101.20(1)/40 CFR 61.242-7(d)(1) for failing to repair two leaking valves; Valves 275 and 1578, within 15 days of documenting the leak.

DURATION: Both valves were found to be leaking on 10/03/96 + 15 days = 10/18/96
Valve 275: 10/18/96-10/30/96 = 12 days
Valve 1578: 10/18/96-01/07/97 = 81 days

EMISSIONS: VOCs

Comments on this specific violation: After first attempt at repair was made unsuccessfully on both valves on 10/03/96 by tightening packing nuts, both valves were placed on the shutdown list. On 10/30/96 during unit shutdown, valve 1578 was repaired by tightening packing nuts and on January 7, 1997, during unit shutdown, valve 275 was repaired by greasing. Thus, it was technically feasible to make the repairs within 15 days of documenting the leaks. In its 04/30/97 letter, the company claims that these valves are not subject to 40 CFR 61. Sometimes the unit produces cyclohexane, (not regulated by 40 CFR 61) and at other times it produces benzene which is regulated. At the time of the leaks, the investigator did not document what was produced so it is recommended that the Federal cite be dropped.

COMPLIANCE PLAN/STIPULATIONS:

Valves have been repaired.

PENALTY RECOMMENDATION COMMENTS:

1. Seriousness is considered moderate because this violation was preventable. Impact is moderate because of VOC emissions in an ozone nonattainment area.
2. The recommended penalty is \$2,325 (\$25/day x 93 days).

VIOLATION #9: NOV DATE: 04/11/97: 30 TAC § 101.20(1)/40 CFR 60, Subpart Dc for failing to comply/demonstrate compliance with NSPS, Subpart Dc for boiler, EPN No. B-1, Holman, Stock #S-3222, Burner model S-12G050. Subpart Dc applies to boilers rated 10 MMBtu per hour or greater. Respondent has a 12 MMBtu per hour as indicated on the name plate.

Comments on this specific violation: The company claims the boiler is rated at 6.3 MMBtu/hr so that the Subpart does not apply. However, the investigator copied the information including rating from a plate on the boiler which was later removed by somebody before his next visit.

PENALTY RECOMMENDATION COMMENTS:

The penalty for this violation is already included on the 1998 Inspection PCW.

=====

B. ORDER REQUIREMENTS:

Technical requirements are listed under the individual violations under "COMPLIANCE PLAN/STIPULATIONS"

Penalty Calculation Worksheet

Case Information

Screening Date	03-Aug-98	format: 4/23/97	Case Priority Due Date	01-Dec-98
PCW Date	12-Feb-08	format: 4/23/97	EPA SNC/SV Due Date	12/17/98
Respondent	South Hampton Refining Company			
ID Number(s)	HF-0017-K (20), Enf ID 435:5			
Docket Number	98-1114-AIR-E			
Enf. Coordinator	Miriam Hall	Unit or Region	Air(10)	
Type of Order	Findings	No. of Violations in PCW	5	
Case Priority	3	Enter x for Major Entity	x	

Media-Program

x	Program Name(s)	Admin. Penalty Dollar Limit	
		Min	Max
x	Air	\$0	\$10,000
	Water Rights	\$0	\$5,000
	Public Water Supply	\$50	\$1,000
	Levees	\$0	\$1,000
	Public Water Utilities	\$0	\$500

Adjustments to Subtotal 1

Total Base Penalty forward (subtotal 1) **\$14,500**

Culpability (enhancement)
 Does the respondent meet any of the culpability criteria? Yes No

Notes: Some of the violations are repeat violations. Respondent received similar NOV's for unreported upsets (Violation #1) on 11/17/93, 01/30/95 and 04/11/97; Violation #2 on 01/30/95 and 06/11/96, Violation #3 on 01/30/95.

Adjustment amount (subtotal 2) **\$3,625**

Economic Benefit (enhancement)
 Total of EB Amounts **\$984**
 EB Enhancement (percent) **0%**
 Approx. Cost of Compliance **\$3,350**
 Adjustment amount (subtotal 5) **\$0**

Good Faith Effort to Comply (reduction)
 Timing of Action
 Quality of Action: Before NOV, NOV to EDRP or Order, Extraordinary, Ordinary, Percent **0%**
 None of the above (mark only one; use small x)

Notes: The Respondent is not yet in compliance.

Adjustment amount (subtotal 3) **\$0**

Compliance History (enhancement)
 Enter Percent **0** (enter number only; e.g., 30 for 30%)

Notes: There is no record of previous findings orders, judicial actions or criminal convictions.

Adjustment amount (subtotal 4) **\$0**

Final Subtotal **\$18,125**

Other Factors as justice may require (reduction or enhancement)
 Enter Adjustment Percentage (+/-) **0%** (enter number only; e.g., -30 for -30%)
 Amount **\$0**
 Notes: NA
 Final Penalty Amount **\$18,125**
 Final Assessed Penalty (including any statutory limit adj.) **\$18,125**

Payable Penalty

Final Assessed Penalty forward **\$18,125**
 Enter Deferral Percentage **0%** (enter number only; e.g., 20 for 20%; enter a zero for no deferral)
 Deferral **\$0**
 Notes: There is no deferral with Findings Orders.
 Payable Penalty **\$18,125**

PCW #6

Screening Date 03-Aug-98 Docket Number 98-1114-AIR-E

PCW

Respondent South Hampton Refining Company

SB 1876

ID Number(s) HF-0017-K (20), Enf ID 435:5

Rev. 05/20/98

Media [Statute] Air

Enf. Coordinator Miriam Hall

Violation Number

Primary Rule Cite 30 TAC §101.6(b)(5) and (6)

Secondary Cite(s) TH&SC § 382.085(b)

Violation Description Failed to create, within two weeks of the incident, complete records of the emissions released during an upset that occurred on February 23, 1997 when Tank 71 was overpressurized.

Enter standard penalty (if any)

Statutory Maximum Penalty \$10,000 per violation per day

Base Penalty \$10,000

» Environmental, Property and Human Health Matrix

Harm

Release	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

» Programmatic Matrix

Falsification	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>

Percent 10%

Matrix Notes

The upset record provided to the investigator during the investigation conducted in April and May 1998, showed a release of 100 pounds of only "cyclopentane", which has a reportable quantity of 100 pounds. (This release had not been reported.) The rule requires that the respondent create a record of compound names and estimated quantity of emissions released within 2 weeks of the upset. The upset record was vague and incomplete with only 30-70% of the information available.

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events

mark only one; use small x

daily	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="checkbox"/>

Violation Base Penalty \$1,000

Events Notes

One day - February 23, 1997.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount (\$)

Violation Final Penalty total \$1,250

This Violation Final Assessed Penalty (adjusted for limits) \$1,250

Economic Benefit Worksheet

Respondent South Hampton Refining Company
ID Number(s) HF-0017-K (20), Enf ID 435:5
Media [Statute] Air
Violation Number 1

Percent Interest	Years of Depreciation
5.0	15

Item	Item Cost	Date Required	Final Date	Years Avoided	Interest Saved	Onetime Costs	TOTAL EB
	No commas	00/00/00	00/00/00				

Delayed Costs: capital cost

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0

Engineering/construction (Omit if included above)				0.0	\$0	\$0	\$0
--	--	--	--	-----	-----	-----	-----

Notes for capital costs

Delayed Costs: nondepreciable cost

Land				0.0	\$0	NA	\$0
Record Keeping System	\$50	02/23/97	05/28/98	1.3	\$3	NA	\$3
Training/Sampling (Initial)				0.0	\$0	NA	\$0
Remediation				0.0	\$0	NA	\$0
Permit Costs				0.0	\$0	NA	\$0
Other (As Needed)				0.0	\$0	NA	\$0

Notes for nondeprec. costs

Estimated labor cost for preparing record of upset.

Avoided Costs: misc avoided **annualize all avoided costs before entering dollar figure ***

Disposal				0.0	\$0	\$0	\$0
----------	--	--	--	-----	-----	-----	-----

Maintenance/Operating

Personnel				0.0	\$0	\$0	\$0
Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for avoided costs

Avoided Costs: financial assurance **annualize all avoided costs before entering dollar figure ***

Policy				0.0	\$0	\$0	\$0
Fund				0.0	\$0	NA	\$0

Notes for fin. assurance

Approx Cost of Compliance \$50

TOTAL \$3

Screening Date 03-Aug-98 Docket Number 98-1114-AIR-E

PCW
SB 1876

Respondent South Hampton Refining Company

Rev. 05/20/98

ID Number(s) HF-0017-K (20), Enf ID 435:5

Media [Statute] Air

Enf. Coordinator Miriam Hall

Violation Number

Primary Rule Cite 30 TAC §115.352(2) and (3)

Secondary Cite(s) TH&SC § 382.085(b)

Violation Description Failure to tag and repair leaking valves in VOC service. Two leaking valves were found not to be tagged during the investigation on April 1, 1998. Valve #2166 was already listed in the leaking valve log and Valve 266 was found to be leaking by the investigator. Valve 2166 was fixed on April 14, 1998. Valve #266 was only remonitored (not repaired) on April 22, 1998 and found to be under 500 ppm.

Enter standard penalty (if any)

Statutory Maximum Penalty per violation per day

Base Penalty

» Environmental, Property and Human Health Matrix

Harm

Release	Major	Moderate	Minor
Actual			x
Potential			

Percent

» Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes

Valve #266 is in the PenHex Unit feed line (pentane/hexane) and Valve #2116 is fuel oil, both in VOC Service. The VOC emissions were insignificant from the two valves and did not exceed levels protective of human health.

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one; use small x

daily	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	x

Violation Base Penalty

Events Notes

Two valves were considered single events to make the penalty commensurate with the violation.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount (\$)

Violation Final Penalty total

This Violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent South Hampton Refining Company
 ID Number(s) HF-0017-K (20), Enf ID 435:5
 Media [Statute] Air
 Violation Number 2

Percent Interest	Years of Depreciation
5.0	15

Item	Item Cost	Date Required	Final Date	Years Avoided	Interest Saved	Onetime Costs	TOTAL EB
	No commas	00/00/00	00/00/00				

Delayed Costs: capital cost

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0

Engineering/construction (Omit if included above)				0.0	\$0	\$0	\$0
--	--	--	--	-----	-----	-----	-----

Notes for capital costs

Delayed Costs: nondepreciable cost

Land				0.0	\$0	NA	\$0
Record Keeping System				0.0	\$0	NA	\$0
Training/Sampling (Initial)				0.0	\$0	NA	\$0
Remediation				0.0	\$0	NA	\$0
Permit Costs				0.0	\$0	NA	\$0
Other (As Needed)	\$200	04/01/98	04/14/98	0.0	\$0	NA	\$0

Notes for nondeprec. costs

Cost of tags and repairing valve.

Avoided Costs: misc avoided **annualize all avoided costs before entering dollar figure ***

Disposal				0.0	\$0	\$0	\$0
----------	--	--	--	-----	-----	-----	-----

Maintenance/Operating

Personnel				0.0	\$0	\$0	\$0
Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for avoided costs

Avoided Costs: financial assurance **annualize all avoided costs before entering dollar figure ***

Policy				0.0	\$0	\$0	\$0
Fund				0.0	\$0	NA	\$0

Notes for fin. assurance

Approx Cost of Compliance

TOTAL

Screening Date 03-Aug-98 Docket Number 98-1114-AIR-E

PCW

Respondent South Hampton Refining Company

SB 1876

ID Number(s) HF-0017-K (20), Enf ID 435:5

Rev. 05/20/98

Media [Statute] Air

Enf. Coordinator Miriam Hall

Violation Number

Primary Rule Cite 30 TAC §101.20(1)/ 40 CFR §60.112b(a)(2)(iii)

Secondary Cite(s) 30 TAC §115.541(a) and §115.542(a), TH&SC § 382.085(b)

Violation Description Failure to properly empty and degas Tank 57 when it was taken out of service. Tank contained hexane and pentane from the Penhex unit.

Enter standard penalty (if any)

Statutory Maximum Penalty \$10,000 per violation per day

Base Penalty \$10,000

» Environmental, Property and Human Health Matrix

Harm

Release	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

» Programmatic Matrix

Falsification	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

Matrix Notes

The tank containing hexane and pentane was out of service but was not empty and the floating roof was resting on the leg supports. The amount of VOC emissions were considered insignificant and did not exceed levels protective of human health.

Adjustment -\$7,500

Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events

mark only one; use small x

daily	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input checked="" type="checkbox"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty \$5,000

Events Notes

Events calculated from inspection date (April 1, 1998) to screening date (August 3, 1998).

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount (\$)

Violation Final Penalty total \$6,250

This Violation Final Assessed Penalty (adjusted for limits) \$6,250

Economic Benefit Worksheet

Respondent South Hampton Refining Company
 ID Number(s) HF-0017-K (20), Enf ID 435:5
 Media [Statute] Air
 Violation Number 3

Percent Interest	Years of Depreciation
5.0	15

Item	Item Cost	Date Required	Final Date	Years Avoided	Interest Saved	Onetime Costs	TOTAL EB
------	-----------	---------------	------------	---------------	----------------	---------------	----------

No commas 00/00/00 00/00/00

Delayed Costs: capital cost

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0

Engineering/construction (Omit if included above)				0.0	\$0	\$0	\$0
--	--	--	--	-----	-----	-----	-----

Notes for capital costs

Delayed Costs: nondepreciable cost

Land				0.0	\$0	NA	\$0
Record Keeping System				0.0	\$0	NA	\$0
Training/Sampling (Initial)				0.0	\$0	NA	\$0
Remediation				0.0	\$0	NA	\$0
Permit Costs				0.0	\$0	NA	\$0
Other (As Needed)	\$2,000	04/01/98	08/15/98	0.4	\$37	NA	\$37

Notes for nondeprec. costs

Cost of emptying and cleaning tank

Avoided Costs: misc avoided **annualize all avoided costs before entering dollar figure ***

Disposal				0.0	\$0	\$0	\$0
----------	--	--	--	-----	-----	-----	-----

Maintenance/Operating

Personnel				0.0	\$0	\$0	\$0
Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for avoided costs

Avoided Costs: financial assurance **annualize all avoided costs before entering dollar figure ***

Policy				0.0	\$0	\$0	\$0
Fund				0.0	\$0	NA	\$0

Notes for fin. assurance

Approx Cost of Compliance \$2,000

TOTAL \$37

Screening Date 03-Aug-98 Docket Number 98-1114-AIR-E

PCW
SB 1876
Rev. 05/20/98

Respondent South Hampton Refining Company

ID Number(s) HF-0017-K (20), Enf ID 435:5

Media [Statute] Air

Enf. Coordinator Miriam Hall

Violation Number

Primary Rule Cite 30 TAC § 115.546(1)(A-C)

Secondary Cite(s) TH&SC § 382.085(b)

Violation Description Failure to keep the required records for transport vessels which were degassed or cleaned.

Enter standard penalty (if any)

Statutory Maximum Penalty per violation per day

Base Penalty

» Environmental, Property and Human Health Matrix

Harm

Release	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

» Programmatic Matrix

Falsification	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>

Percent

Matrix Notes

The Respondent claims only about one truck per month is degassed and cleaned. Except for the estimated quantity of material removed from the truck, which ranges from one to three gallons, the required information can be derived from South Hampton's business records. The violation is moderate since 30-70% of the data required by the regulation is available at the site.

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one; use small x

daily	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input checked="" type="checkbox"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

Events Notes

Violation documented on May 11, 1998. Forms were prepared by June 12, 1998 to include all the required information.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount (\$)

Violation Final Penalty total

This Violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent South Hampton Refining Company
ID Number(s) HF-0017-K (20), Enf ID 435:5
Media [Statute] Air
Violation Number 4

Percent Interest	Years of Depreciation
5.0	15

Item	Item Cost	Date Required	Final Date	Years Avoided	Interest Saved	Onetime Costs	TOTAL EB
	No commas	00/00/00	00/00/00				

Delayed Costs: capital cost

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0

Engineering/construction (Omit if included above)				0.0	\$0	\$0	\$0
--	--	--	--	-----	-----	-----	-----

Notes for capital costs

Delayed Costs: nondepreciable cost

Land				0.0	\$0	NA	\$0
Record Keeping System	\$250	05/21/97	06/12/98	1.1	\$13	NA	\$13
Training/Sampling (Initial)				0.0	\$0	NA	\$0
Remediation				0.0	\$0	NA	\$0
Permit Costs				0.0	\$0	NA	\$0
Other (As Needed)				0.0	\$0	NA	\$0

Notes for nondeprec. costs

Cost for developing form and setting up record keeping system.

Avoided Costs: misc avoided **annualize all avoided costs before entering dollar figure ***

Disposal				0.0	\$0	\$0	\$0
----------	--	--	--	-----	-----	-----	-----

Maintenance/Operating

Personnel				0.0	\$0	\$0	\$0
Reporting/Sampling	\$600	05/21/97	06/12/98	1.1	\$32	\$636	\$668
Supplies/equip				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for avoided costs

Yearly cost for maintaining records for about one truck a month.

Avoided Costs: financial assurance **annualize all avoided costs before entering dollar figure ***

Policy				0.0	\$0	\$0	\$0
Fund				0.0	\$0	NA	\$0

Notes for fin. assurance

Approx Cost of Compliance \$850

TOTAL \$681

Screening Date 03-Aug-98 Docket Number 98-1114-AIR-E

PCW

Respondent South Hampton Refining Company

SB 1876

ID Number(s) HF-0017-K (20), Enf ID 435:5

Rev. 05/20/98

Media [Statute] Air

Enf. Coordinator Miriam Hall

Violation Number

Primary Rule Cite 30 TAC § 116.115(a), Permit No. 3295, Special Condition (SC) 9(B)

Secondary Cite(s) 40 CFR 60 Appendix F, § 5.1.2, 30 TAC § 116.115(a), Permit No. 3295, SC 2, TH&SC § 382.085(b)

Violation Description Failure to conduct a Cylinder Gas Audit (CGA) for the first Quarter 1998 on the continuous emission monitoring system (CEMS) used to measure and record the hydrogen sulfide (H2S) concentration of the refinery fuel gas.

Enter standard penalty (if any)

Statutory Maximum Penalty per violation per day

Base Penalty

» Environmental, Property and Human Health Matrix

Harm

Release	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>

Percent

» Programmatic Matrix

Falsification	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

Matrix Notes

When the CGA was conducted on April 7, 1998, it was above the ± 15% accuracy limit. Some of the readings were less than 0. Therefore, the CEMS may have been undercounting the H2S emissions.

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one; use small x

daily	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="checkbox"/>

Violation Base Penalty

Events Notes

One CGA was required for the first quarter.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount (\$)

Violation Final Penalty total

This Violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent South Hampton Refining Company
 ID Number(s) HF-0017-K (20), Enf ID 435:5
 Media [Statute] Air
 Violation Number 5

Percent Interest	Years of Depreciation
5.0	15

Item	Item Cost	Date Required	Final Date	Years Avoided	Interest Saved	Onetime Costs	TOTAL EB
------	-----------	---------------	------------	---------------	----------------	---------------	----------

No commas 00/00/00 00/00/00

Delayed Costs: capital cost

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0

Engineering/construction (Omit if included above)				0.0	\$0	\$0	\$0
--	--	--	--	-----	-----	-----	-----

Notes for capital costs

Delayed Costs: nondepreciable cost

Land				0.0	\$0	NA	\$0
Record Keeping System				0.0	\$0	NA	\$0
Training/Sampling (Initial)				0.0	\$0	NA	\$0
Remediation				0.0	\$0	NA	\$0
Permit Costs				0.0	\$0	NA	\$0
Other (As Needed)				0.0	\$0	NA	\$0

Notes for nondeprec. costs

Avoided Costs: misc avoided annualize all avoided costs before entering dollar figure *

Disposal				0.0	\$0	\$0	\$0
----------	--	--	--	-----	-----	-----	-----

Maintenance/Operating

Personnel				0.0	\$0	\$0	\$0
Reporting/Sampling	\$250	01/01/98	03/31/98	1.0	\$13	\$250	\$263
Supplies/equip				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for avoided costs

Labor and material cost for performing one CGA.

Avoided Costs: financial assurance annualize all avoided costs before entering dollar figure *

Policy				0.0	\$0	\$0	\$0
Fund				0.0	\$0	NA	\$0

Notes for fin. assurance

Approx Cost of Compliance \$250

TOTAL \$263



TNRCC

Penalty Calculation Worksheet

Pfey. rev. 1 (SB 1876)

PCW rev. 11/22/1999



Revised

Case Information

Screening Date	20-Apr-2000	format: 4/23/97	Case Priority Due Date	19-Jul-2000
PCW Date	8-Apr-2003	format: 4/23/97	EPA SNC/SV Due Date	18-Nov-2000
Respondent	South Hampton Refining Co.			
ID Number(s)	Enf. ID No. 435:6, Air Account HF-0017-K			
Docket Number	2000-0543-AIR-E	Facility/Site Region	10	
Enf. Coordinator	Miriam Hall	EC's Unit or Region	Team 1	
Type of Order	Findings	No. of Violations in PCW	5	
Case Priority	6	Enter x for Major Source (as defined in PP)	x	

Media-Program

x	Program Name(s)	Admin. Penalty Dollar Limit	
		Min	Max
x	Air	\$0	\$10,000
	Water Rights	\$0	\$5,000
		\$0	\$2,500
	Public Water Supply	\$50	\$1,000
	Levees	\$0	\$1,000
	Public Water Utilities	\$0	\$500

Adjustments to Subtotal 1 Total Base Penalty forward (subtotal 1) \$34,500

Culpability (enhancement)

Does the respondent meet any of the culpability criteria? Yes No

Notes: The Respondent has received prior NOV's for similar violations on 04/11/97 (not repairing leaking valves) and on 06/16/98 (incomplete upset records and not tagging and repairing leaking valves).

Adjustment amount (subtotal 2) \$8,625

Economic Benefit (enhancement)

Total of EB Amounts \$5,501
 EB Enhancement (percent) 0%
 Adjustment amount (subtotal 5) \$0
 Approx. Cost of Compliance \$10,550

Good Faith Effort to Comply (reduction)

Timing of Action

Quality of Action	Before NOV	NOV to EDPRP or Order	Percent
Extraordinary			
Ordinary			0%
None of the above	x (mark only one; use small x)		

Notes: Some of the violations are past events with no opportunity for future compliance.

Adjustment amount (subtotal 3) \$0

Compliance History (enhancement)

Enter Percent 0 (enter number only; e.g., 30 for 30%)

Notes: There is no record of previous findings orders, judicial actions or criminal convictions.

Adjustment amount (subtotal 4) \$0

Final Subtotal \$43,125

Other Factors as justice may require

Enter Adjustment Percentage (+/-) 0% (enter number only; e.g., -30 for -30%) Amount \$0

Notes: NA

Final Penalty Amount \$43,125

Final Assessed Penalty (including any statutory limit adj.) \$43,125

Payable Penalty

Enter Deferral Percentage 0% (enter number only; e.g., 20 for 20%) Deferral \$0

Notes: There is no deferral with Findings Orders.

PCW # 7

Screening Date	20-Apr-00	Docket Number	2000-0543-AIR-E	PCW
Respondent	South Hampton Refining Co.			Plcy. rev. 1 (SB 1876)
ID Number(s)	Enf. ID No. 435:6, Air Account HF-0017-K			PCW rev. 11/22/1999
Media [Statute]	Air			
Enf. Coordinator	Miriam Hall			
Violation Number	1			
Primary Rule Cite	30 TAC §§ 101.6(b) and 101.7(c)			
Secondary Cite(s)	THSC § 382.085(b)			
Violation Description	Failed to create complete records of non-reportable upsets, maintenance, start-ups, and shutdowns with unauthorized emissions as soon as practicable, but no later than two weeks after upsets/events occurred.			
	Base Penalty	\$10,000		

Environmental, Property, and Human Health Matrix				
	Harm			
	Release	Major	Moderate	Minor
OR	Actual			
	Potential			
				Percent
Programmatic Matrix				
	Falsification	Major	Moderate	Minor
			X	
				Percent
				10%
Matrix Notes	Respondent met 30-70% of the rule requirement.			
	Adjustment	-\$9,000		
	Base Penalty Subtotal	\$1,000		

Violation Events				
	Number of Violation Events	7		
	mark only one; use small x	daily		
		monthly		
		quarterly		
		semiannual		
		annual		
		single event	X	
	Violation Base Penalty	\$7,000		
Events Notes	Seven events were documented: 05/27/99, 05/28/99, 06/21/99, 06/28/99, 06/29/99, 10/19-10/20/99, 01/01/00.			

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount (\$) \$335	Violation Final Penalty total \$8,750
This Violation Final Assessed Penalty (adjusted for limits) \$8,750	

1280 GA

Economic Benefit Worksheet

Respondent South Hampton Refining Co.

ID Number(s) Enf. ID No. 435:6, Air Account HF-0017-K

Media [Statute] Air

Violation Number 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas	Date Required 00/00/00	Final Date 00/00/00	Yrs	Interest Saved	Onetime Costs	IEB Amount
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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				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

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	\$500	27-May-1999	15-Jan-2000	0.6	\$16	\$319	\$335
Supplies/equip				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

The estimated cost for keeping the additional required information in the upset records is \$500/year calculated from date of first upset to 14 days from last upset.

Approx Cost of Compliance \$500

TOTAL \$335

Screening Date	20-Apr-00	Docket Number	2000-0543-AIR-E	PCW
Respondent	South Hampton Refining Co.			Plcy. rev. 1 (SB 1876)
ID Number(s)	Enf. ID No. 435:6, Air Account HF-0017-K			PCW rev. 11/22/1999
Media (Statute)	Air			
Enf. Coordinator	Miriam Hall			
Violation Number	2			
Primary Rule Cite	THSC § 382.085(b)			
Secondary Cite(s)	30 TAC § 101.6(a)			
Violation Description	Unauthorized emissions from flare (EPN F-2) and/or flare area on May 28 and June 29, 1999. The events do not meet the exemption in 30 TAC § 101.11(a) because the records from the June 29, 1999 event are incomplete (lack start and end times and emissions are not speciated) and the May 28, 1999 event lacks emission rate and was avoidable had the knockout drum been better maintained.			

Base Penalty \$10,000

Environmental, Property and Human Health Matrix

OR	Harm				
	Release	Major	Moderate	Minor	
	Actual			X	
	Potential				
				Percent	25%

Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent	
	Human health or the environment has been exposed to insignificant emissions which do not exceed levels that are protective of human health or environmental receptors as a result of this violation.					
					Adjustment	-\$7,500
					Base Penalty Subtotal	\$2,500

Violation Events

Number of Violation Events

mark only one; use small x	daily	<input type="checkbox"/>
	monthly	<input type="checkbox"/>
	quarterly	<input type="checkbox"/>
	semiannual	<input type="checkbox"/>
	annual	<input type="checkbox"/>
	single event	X

Violation Base Penalty

Events Notes

Economic Benefit (EB) for this violation	Statutory Limit (ies)
Estimated EB Amount (\$) <input type="text" value="\$149"/>	Violation Final Penalty total <input type="text" value="\$6,250"/>
This Violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$6,250"/>	

Economic Benefit Worksheet

Respondent South Hampton Refining Co.

ID Number(s) Enf. ID No. 435:6, Air Account HF-0017-K

Media [Statute] Air

Violation Number 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas</small>	Date Required <small>00/00/00</small>	Final Date <small>00/00/00</small>	Yrs.	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment	\$5,000	28-May-1999	29-Jul-1999	0.2	\$42	\$57	\$99
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				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

The estimated cost of installing additional high level alarm on knockout drum that overflowed and installing new knockout drum with alarm on vacuum pump exhaust line. Penalty calculated from date of first upset (05/28/00) to approximate date equipment installed (07/29/00).

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/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$50	28-May-1999	28-May-1999	0.0	\$0	\$50	\$50
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

The estimated cost for additional maintenance is \$50 to have avoided the 05/28/99 event.

Approx Cost of Compliance \$5,050

TOTAL \$149

Screening Date	20-Apr-00	Docket Number	2000-0543-AIR-E	PCW
Respondent	South Hampton Refining Co.			Plcy. rev. 1 (SB 1876)
ID Number(s)	Enf. ID No. 435:6, Air Account HF-0017-K			PCW rev. 11/22/1999
Media (Statute)	Air			
Enf. Coordinator	Miriam Hall			
Violation Number	3			
Primary Rule Cite	THSC § 382.085(b)			
Secondary Cite(s)				
Violation Description	<p>Unauthorized emissions from maintenance, start-up, and shutdown events. The following events do not meet the exemption in 30 TAC § 101.11(a) because the records were incomplete: On May 27, 1999, several bullet tanks (not identified in the records) were taken out of service to be re-piped, on June 21, 1999, the T-8 Unit was depressurized in order to install a rack on the reflux line, on June 28, 1999, the Penhex and Reformer Units were depressurized and purged to conduct maintenance activities, and on January 1, 2000, the Penhex, Aromax, and Reformer Units were taken out of service to conduct maintenance activities. None of these records give actual emissions of the individual chemical compounds involved and some lack end times, duration of the events, and/or other required information.</p>			
		Base Penalty	\$10,000	

Environmental, Property and Human Health Matrix				
	Harm			
	Release	Major	Moderate	Minor
OR	Actual			X
	Potential			
				Percent 25%
Programmatic Matrix				
	Falsification	Major	Moderate	Minor
				Percent
Matrix Notes	Human health or the environment has been exposed to insignificant emissions which do not exceed levels that are protective of human health or environmental receptors as a result of this violation.			
				Adjustment -\$7,500
				Base Penalty Subtotal \$2,500

Violation Events				
	Number of Violation Events	4		
mark only one; use small x	daily			
	monthly			
	quarterly			
	semiannual			
	annual			
	single event		X	
				Violation Base Penalty \$10,000
Events Notes	There were unauthorized emissions from 4 maintenance events on 5/27/99, 06/21/99, 06/28/99, and 01/01/00.			

Economic Benefit (EB) for this violation		Statutory Limit Test	
Estimated EB Amount (\$)	\$0	Violation Final Penalty total	\$12,500
This Violation Final Assessed Penalty (adjusted for limits)		\$12,500	

Economic Benefit Worksheet

Respondent South Hampton Refining Co.
 ID Number(s) Enf. ID No. 435:6, Air Account HF-0017-K
 Media [Statute] Air
 Violation Number 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas	Date Required 00/00/00	Final Date 00/00/00	Yrs	Interest Saved	Overtime Costs	EB Amount
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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				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs:

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/equip				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:

No economic benefit was documented.

Approx Cost of Compliance

TOTAL

Screening Date	20-Apr-00	Docket Number	2000-0543-AIR-E	PCW
Respondent	South Hampton Refining Co.			Plcy. rev. 1 (SB 1876)
ID Number(s)	Enf. ID No. 435:6, Air Account HF-0017-K			PCW rev. 11/22/1999
Media (Statute)	Air			
Enf. Coordinator	Miriam Hall			
Violation Number	4			
Primary Rule Cite	30 TAC §§ 101.7(a) and 116.115(c), Air Permit No. 3295, Special Condition 1			
Secondary Cite(s)	THSC § 382.085(b)			
Violation Description	Unauthorized emissions from flare (EPN:F-2) on October 19, 1999, at 0600 hours to October 20, 1999, at 2400 hours during a maintenance event on Boiler (EPN B-1). The records for this event are incomplete and proper action to minimize the emissions was not taken (i.e., renting a portable boiler to send steam to the flare during a planned maintenance activity).			
	Base Penalty	\$10,000		

» Environmental Property and Human Health Matrix

	Harm			
Release	Major	Moderate	Minor	
Actual			x	
Potential				
	Percent			25%

» Programmatic Matrix

	Falsification	Major	Moderate	Minor	
					Percent
Matrix Notes	Human health or the environment has been exposed to insignificant emissions which do not exceed levels that are protective of human health or environmental receptors as a result of this violation.				
	Adjustment				-\$7,500
	Base Penalty Subtotal				\$2,500

Violation Events

Number of Violation Events

mark only one; use small x	daily	<input type="checkbox"/>
	monthly	<input type="checkbox"/>
	quarterly	<input type="checkbox"/>
	semiannual	<input type="checkbox"/>
	annual	<input type="checkbox"/>
	single event	<input checked="" type="checkbox"/>

Violation Base Penalty

Events Notes

One event was documented: 10/19-10/20/99.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount (\$)	<input type="text" value="\$5,000"/>
Violation Final Penalty total	<input type="text" value="\$3,125"/>
This Violation Final Assessed Penalty (adjusted for limits)	<input type="text" value="\$3,125"/>

Economic Benefit Worksheet

Respondent South Hampton Refining Co.
 ID Number(s) Enf. ID No. 435:6, Air Account HF-0017-K
 Media [Statute] Air
 Violation Number 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas</small>	Date Required <small>00/00/00</small>	Final Date <small>00/00/00</small>	Yrs.	Interest Saved	Onetime Costs	EB Amount
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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				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

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/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$5,000	19-Oct-1999	20-Oct-1999	0.0	\$0	\$5,000	\$5,000
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

The estimated cost for renting a portable boiler during the maintenance event.

Approx Cost of Compliance

TOTAL

Screening Date	20-Apr-00	Docket Number	2000-0543-AIR-E	PCW
Respondent	South Hampton Refining Co.			Plcy. rev. 1 (SB 1876)
ID Number(s)	Enf. ID No. 435:6, Air Account HF-0017-K			PCW rev. 11/22/1999
Media (Statute)	Air			
Enf. Coordinator	Miriam Hall			
Violation Number	5			
Primary Rule Cite	30 TAC §§ 115.352(1)(B) and 115.352(2) and (3)			
Secondary Cite(s)	THSC § 382.085(b)			
Violation Description	Failed to repair volatile organic compound (VOC) leaks greater than 10,000 ppm on four pumps (3944-P-139A, 3945-P-139B, 3947-P-7B, 3965-P-204A) at the Penhex Unit within 15 calendar days after the leaks were found, or tag and repair during a unit shutdown if repair would create more emissions than the repair would eliminate. On November 30, 1999, the pumps were found to be leaking but were not tagged and were not repaired during unit shutdown during the first week of January 2000.			
		Base Penalty	\$10,000	

Environmental, Property and Human Health Matrix				
	Harm			
	Release	Major	Moderate	Minor
OR	Actual			X
	Potential			
				Percent 25%
Programmatic Matrix				
	Falsification	Major	Moderate	Minor
				Percent
Matrix Notes	Human health or the environment has been exposed to insignificant emissions which do not exceed levels that are protective of human health or environmental receptors as a result of this violation.			
				Adjustment -\$7,500
				Base Penalty Subtotal \$2,500

Violation Events				
	Number of Violation Events	4		
mark only one; use small x	daily			
	monthly			
	quarterly		X	
	semiannual			
	annual			
	single event			
				Violation Base Penalty \$10,000
Events Notes	Quarterly events from date repairs required (01/00) to date of repair (03/17/00) are recommended for each pump (4).			

Economic Benefit (EB) for this violation		Statutory Limit Test	
Estimated EB Amount (\$)	\$17	Violation Final Penalty total	\$12,500
This Violation Final Assessed Penalty (adjusted for limits)		\$12,500	

Economic Benefit Worksheet

Respondent South Hampton Refining Co.
 ID Number(s) Enf. ID No. 435:6, Air Account HF-0017-K
 Media (Statute) Air
 Violation Number 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas</small>	Date Required <small>00/00/00</small>	Final Date <small>00/00/00</small>	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)	\$500	30-Nov-1999	17-Mar-2000	0.3	\$7	\$10	\$17
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

The estimated cost of tagging and repairing the leaking pump is \$500 for labor an materials, calculated from date leaks detected to date repaired.

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/equip				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

TOTAL



TNRCC

Penalty Calculation Worksheet

Plcy. rev. 1 (01/99)

PCW rev. 03/28/2001



Case Information

Screening Date	10-Aug-2001	Case Priority Due Date	8-Nov-2001
PCW Date	7-Sep-2001	EPA SNC/SY Due Date	15-Mar-2002
Respondent	South Hampton Refining Company		
ID Number(s)	Air Account No. HF-0017-K, Enf. ID. No. 435		
Docket Number	2000-0543-AIR-E	Facility/Site Region	10
Enf. Coordinator	Carl Schnitz	EC's Unit or Region	Team 1
Type of Order	1660	No. of Violations in PCW	2
Case Priority	6	Enter x for Major Source (as defined in PP)	x

Media-Program

x	Program Name(s)	Admin. Penalty Dollar Limit	
		Min	Max
x	Air	\$0	\$10,000
	Water Rights	\$0	\$5,000
		\$0	\$2,500
	Public Water Supply	\$50	\$1,000
	Levees	\$0	\$1,000
	Public Water Utilities	\$0	\$500

Adjustments to Subtotal 1

Total Base Penalty forward (subtotal 1) \$5,000

Culpability (enhancement)

Does the respondent meet any of the culpability criteria? Yes No

Notes: The Respondent received a NOV for same or similar violations on April 11, 1997.

Adjustment amount (subtotal 2) \$1,250

Economic Benefit (enhancement)

Total of EB Amounts \$0
 EB Enhancement (percent) 0%
 Adjustment amount (subtotal 5) \$0
 Approx. Cost of Compliance \$2,000

Good Faith Effort to Comply (reduction)

Timing of Action

Quality of Action	Before NOV	NOV to EDPRP or Order	Percent
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>	
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>	0%
None of the above	<input checked="" type="checkbox"/>	<input type="checkbox"/>	(mark only one; use small x)

Notes: The violations are past events with no opportunity for compliance.

Adjustment amount (subtotal 3) \$0

Compliance History (enhancement)

Enter Percent 0 (enter number only; e.g., 30 for 30%)

Notes: There is no record of previous findings, orders, judicial actions or criminal convictions.

Adjustment amount (subtotal 4) \$0

Final Subtotal \$6,250

Other Factors as justice may require

Enter Adjustment Percentage (+/-) 0% (enter number only; e.g., -30 for -30%)

Amount \$0

Notes: (if more space is needed, increase row height)

Final Penalty Amount \$6,250

Final Assessed Penalty (including any statutory limit adj.) \$6,250

Payable Penalty

Enter Deferral Percentage (enter number only; e.g., 20 for 20%)

Deferral \$0

Notes: No deferral due to previous NOV's for same or similar violations.

Payable Penalty \$6,250

PCW #8

Screening Date 10-Aug-01 Docket Number 2000-0543-AIR-E

PCW

Respondent South Hampton Refining Company

Plcy. rev. 1 (01/99)

ID Number(s) Air Account No. HF-0017-K, Enf. ID. No. 435

PCW rev. 03/28/2001

Media [Statute] Air

Enf. Coordinator Carl Schnitz

Violation Number

Primary Rule Cite

Secondary Cite(s)

Violation Description

Base Penalty

» Environmental, Property and Human Health Matrix

Harm

Release	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="text" value="x"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

» Programmatic Matrix

Falsification Major Moderate Minor

Percent

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one; use small x

daily	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="text" value="x"/>

Violation Base Penalty

Events Notes

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount (\$)

Violation Final Penalty total

This Violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent South Hampton Refining Company
 ID Number(s) Air Account No. HF-0017-K, Enf. ID. No. 435
 Media [Statute] Air
 Violation Number 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	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	\$1,000	23-Apr-2001	24-Apr-2001	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 train personnel.

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/equip				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

TOTAL

Screening Date 10-Aug-01 Docket Number 2000-0543-AIR-E

PCW

Respondent South Hampton Refining Company

Plcy. rev. 1 (01/99)

ID Number(s) Air Account No. HF-0017-K, Enf. ID. No. 435

PCW rev. 03/28/2001

Media [Statute] Air

Enf. Coordinator Carl Schnitz

Violation Number

2

Primary Rule Cite

30 TAC § 116.115(c) and Permit No. 3295, SC 1

Secondary Cite(s)

TH&SC § 382.085(b)

Violation Description

Failure to maintain an emission rate below the allowable emission limit. SC 1 of Permit No. 3295 limits the VOC emission rate at tank 41 (EPN TK-41) to 0.36 lb/hr. A release of 95 pounds of VOCs from tank 41 occurred over a 9.5 hour period on October 10, 2000

Base Penalty \$10,000

» Environmental, Property and Human Health Matrix

Harm

Release	Major	Moderate	Minor
Actual			x
Potential			

Percent 25%

» Programmatic Matrix

Falsification Major Moderate Minor

Falsification	Major	Moderate	Minor

Percent

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do 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

mark only one; use small x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$2,500

Events Notes

One single event recommended for the upset that occurred on October 10 - 11, 2000.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount (\$) \$0

Violation Final Penalty total \$3,125

This Violation Final Assessed Penalty (adjusted for limits) \$3,125

Economic Benefit Worksheet

Respondent South Hampton Refining Company

ID Number(s) Air Account No. HF-0017-K, Enf. ID. No. 435

Media [Statute] Air

Violation Number 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				0.0	\$0	n/a	\$0
Training/Sampling	\$1,000	10-Oct-2000	11-Oct-2000	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 train personnel.

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/equip				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

TOTAL

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	§	
AGAINST	§	
SOUTH HAMPTON RESOURCES,	§	TEXAS COMMISSION ON
INC. formerly known as SOUTH	§	
HAMPTON REFINING COMPANY	§	
RN101995611 and RN102591955	§	ENVIRONMENTAL QUALITY

AGREED ORDER

DOCKET NO. 1997-0180-AIR-E
DOCKET NO. 1997-0222-AIR-E
DOCKET NO. 1997-0440-IHW-E
DOCKET NO. 1998-0114-AIR-E
DOCKET NO. 2000-0543-AIR-E

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding South Hampton Resources, Inc. formerly known as South Hampton Refining Company ("South Hampton ") under the authority of TEX. WATER CODE ch. 7, and TEX. HEALTH & SAFETY CODE chs. 361 and 382. The Executive Director of the TCEQ, represented by the Litigation Division, and South Hampton, represented by Mr. John B. Turney , of the law firm of Hilgers, Bell & Richards, LLP, presented this agreement to the Commission.

South Hampton understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, South Hampton agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon South Hampton.

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

FINDINGS OF FACT

1. South Hampton owns and operates a petroleum product refinery located at FM 418 West, west of Silsbee, Hardin County, Texas ("the Refinery"). South Hampton also owns and operates a bulk loading terminal located at Highway 92 in Silsbee, Hardin County, Texas ("the Bulk Terminal"), hereinafter when referred together, the Refinery and the Bulk Terminal shall be called the "Plants."
2. The Plants consist of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Plants involve the management and/or the disposal of industrial hazardous waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
4. During investigations conducted on November 6, 1996 and December 20 through 23, 1996, a TCEQ Beaumont Regional Investigator documented that South Hampton stored, processed and/or disposed of hazardous waste in the Surface Impoundment without a permit or other authorization from the TCEQ. Specifically, TCEQ Beaumont Regional Office Investigators documented that South Hampton directed, and thereby managed, its wastewater, including wastewater from ground-water remediation activities, to an oil-water collection and wash-out area covered with a metal grating, which flowed into what was described as an oil-water separator (formerly Tank No. 7), and which then flowed to a surface impoundment that was part of the wastewater treatment system (the "Surface Impoundment") (comprised in part of multiple surface impoundments that were also called the aeration lagoons or wastewater treatment lagoons).

South Hampton placed hazardous waste in the Surface Impoundment. Samples of the hazardous wastewater in the Surface Impoundment, taken by the investigator during the inspection, confirmed that the hazardous wastewater contained a benzene level of 367 milligrams per liter ("mg/l"), which significantly exceeded the hazardous waste regulatory limit of 0.5 mg/l. Benzene is classified as EPA Hazardous Waste No. D018. South Hampton sampled the Surface Impoundment influent wastewater from Tank No. 7 several times. The results of these sampling events, from March of 1995 through January 1997, show that the surface impoundment influent wastewater is a hazardous waste because it displayed the toxicity characteristic for benzene.

5. During an inspection conducted on December 20 through 23, 1996, a TCEQ Beaumont Regional Office Investigator documented that South Hampton:

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- a. Failed to notify the TCEQ of its storage, processing, and disposal of hazardous waste in the Surface Impoundment.
 - b. Failed to properly determine whether contaminated ground water was hazardous.
 - c. Failed to keep records of all hazardous and industrial solid waste activities regarding the quantities generated, stored, processed, and disposed of on-site or shipped off-site for storage, processing, or disposal. Specifically, South Hampton failed to produce, upon request by the investigator, records concerning the volume of hazardous waste generated and managed in the Surface Impoundment beginning on March 20, 1995, when South Hampton first documented that hazardous waste was being placed in the Surface Impoundment.
 - d. Failed to conduct hazardous waste determinations and further classify the effluent from Tank No. 7 that was conveyed and placed in the Surface Impoundment.
 - e. Failed to provide the required land disposal restriction ("LDR") notice for a shipment of hazardous waste. Specifically, a shipment of ignitable waste (EPA hazardous waste ID No. D001 was sent on July 19, 1996 to Pure Solve, Inc. in Port Allan, Louisiana without an LDR form).
6. During inspections conducted on May 30-31 and June 11, 1996, a TCEQ Beaumont Regional Office Investigator documented that South Hampton:
- a. Failed to equip floating roof Tank Nos. 1, 4, 40, 41, 48, 64, 65, and 66 with an approved seal system prior to storing material with a vapor pressure at or above 0.5 pounds per square inch absolute ("psia") at maximum storage temperature.
 - b. Operated eight open-ended valves on volatile organic compound ("VOC") lines (Valve Nos. 4155, 4153, 4154 on the slop oil tank; Valve No. 2403 near Heater H103; and Valve Nos. XV-069, 1823, 1830, and 1286A) that were not sealed with a second valve, a blind flange, a cap, or a plug and by failing to properly seal all valves in VOC service.

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- c. Failed to monitor emissions from the T-8 Unit process drain with an hydrocarbon gas analyzer ("HGA").
 - d. Exceeded the VOC emissions limits from Tank Nos. 41, 48, and 66, as specified in the Maximum Allowable Emission Table ("MAERT"), by emitting 1.91 tons per year ("tpy"), 1.63 tpy, and 3.12 tpy, respectively. The MAERT for South Hampton limits VOC emissions from Tank Nos. 41, 48, and 66, to 1.56, 1.41, and 1.49 tpy, respectively.
 - e. Failed to properly certify its continuous emission monitoring system ("CEMS") for the hydrogen sulfide ("H₂S") concentration of the refinery fuel gas.
 - f. Stored material with a vapor pressure greater than 11.0 psia (reported by South Hampton to be mostly a mixed aldehyde and alcohol stream) in pressurized tanks (Tank Nos. 72, 74, 75, 76, and 77) that did not have pressure gauges between the relief valves and rupture discs.
 - g. Stored material with a vapor pressure greater than 11.0 psia (later reported by South Hampton to be mostly a mixed aldehyde and alcohol stream) in pressurized tanks (Tank Nos. 72, 74, 75, 76, and 77) and the relief valves were not vented to a flare.
 - h. Failed to properly operate and record CEMS data on January 3, 11, and 30, 1996; February 3, 15, and 16, 1996; March 15, 16, and 31, 1996; and April 6, 9, 17, 23, and 30, 1996. Specifically, South Hampton attributed these failures to the CEMS not operating properly, such as keyboard locking, except for March 31, 1996, which was due to avoidable operator error.
7. During an inspection conducted on October 31, 1996, a TCEQ Beaumont Regional Office Investigator documented that South Hampton failed to properly seal valves in VOC service and operated eight open-ended valves on VOC lines (in the area of Tank Nos. 72, 74, 75, 76 and 77) that were not sealed with a second valve, a blind flange, a cap, or a plug. The valves documented during this inspection were different from those valves cited in Violation No. 6.b. above.
 8. During an inspection conducted on November 5, 1996, which was a follow up to the prior 1996 inspections, a TCEQ Beaumont Regional Office Investigator documented that South Hampton stored VOCs in tanks and reservoirs that did not have proper control equipment

and that were incapable of preventing vapor or gas loss to the atmosphere. Specifically, South Hampton stored the VOCs in a sump. This sump was not equipped with either a cover or floating seal device; rather, it had only a metal grating over the top of it. This practice included the storage and routing of VOCs from the sump to a wastewater treatment pond, neither of which had control equipment. TCEQ sample results of wastewater taken from numerous locations confirmed high levels of VOCs, including benzene. The materials managed in the sump and wastewater treatment pond included waste streams from a ground-water remediation project.

9. During an inspection conducted on September 18, 1996, a TCEQ Beaumont Regional Office Investigator documented that at the Bulk Terminal, South Hampton:
 - a. Failed to conduct the required inspections and maintain records for the internal floating roof storage tanks to document whether these inspections did occur. Specifically, no records existed that would document the required annual inspections of the seal on Tank No. 2. Tank No. 2 had a storage capacity of 210,000 gallons which is equivalent to approximately 795 m³, and it had been modified in 1988 by placing the tank in hexane service.
 - b. Failed to operate its flare in a manner that ensures adequate combustion and failed to monitor the flare during operation. Specifically, the flare went out during a rail car unloading. The investigator additionally observed that South Hampton cleared the VOC lines of hexane by running nitrogen through them, a practice that allowed VOCs to escape to the atmosphere as the VOC level in the VOC/nitrogen mixture diminished and the flare went out.
10. During inspections conducted on March 12, 19, 20 and 21, 1997, a TCEQ Beaumont Regional Office Investigator documented that South Hampton:
 - a. Stored VOCs in tanks and reservoirs that did not have control equipment and that were incapable of preventing vapor or gas loss to the atmosphere. Specifically, South Hampton continued to store VOCs in the sump and water separator. The sump only had a metal grating over the top of it rather than an appropriate cover or floating seal device. The TCEQ Beaumont Regional Office Investigator documented that South Hampton stored and routed VOCs from the sump to a wastewater treatment pond, neither of which had control equipment.

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- b. Failed to have emission controls on Tank No. 7. Specifically, the investigator documented that Tank No. 7, which received wastewater from the sump, received effluent as a VOC water separator but was not controlled as required.
- c. Failed to conduct all VOC loading and unloading in such a manner that all liquid and vapor lines were either equipped with fittings which made vapor-tight connections that closed automatically when disconnected or equipped to permit the discharge of residual VOC into a vapor recovery or vapor balance system. Specifically, the loading rack connections were not vapor tight and the fittings did not close automatically when hoses were disconnected.
- d. Combusted fuel gas that contained H₂S in excess of 0.1 grams per dry standard cubic feet ("gr/dscf") [230 milligrams per dry standard cubic meter ("mg/dscm")] in the facility heaters. Specifically, for approximately 18 hours on November 11 and 12, 1996, and December 7, 1996, South Hampton allowed the H₂S concentration in its fuel gas to exceed 230 mg/dscm.
- e. Failed to equip Tank Nos. 1, 4, and 66 with secondary seals, or otherwise meet the requirements of Special Condition No. 10.
- f. Stored a volatile organic liquid ("VOL") with a vapor pressure in excess of 5.2 kilopascals ("kPa") in Tank No. 66, which did not have double vapor-mounted seals. Specifically, Tank No. 66 had a storage capacity of approximately 230,000 gallons and the tank contained isohexane, which has a vapor pressure in excess of 5.2 kPa (equivalent to approximately 0.754 psi).
- g. Failed to monitor emissions from 11 separate process drains with an HGA.
- h. Failed to repair leaks in Valve Nos. 1578 and 275 as soon as practicable after the leaks were detected, but no later than 15 calendar days after the leaks were discovered, except in the case of an allowable repair delay. Specifically, Valve Nos. 275 and 1578 were leaking during fugitive monitoring at the T-14 and T-17 Units. South Hampton first attempted repair of the valves on October 3, 1996, but the first attempt at repair failed and South Hampton placed both units on the shutdown list. During a T-17 Unit shutdown on October 30, 1996, South Hampton repaired Valve No. 1578. During a T-14 Unit shutdown on January 7, 1997, South Hampton repaired Valve No. 275.

11. During inspections conducted on April 1, 8, and 22, 1998 and May 11 and 21, 1998, a TCEQ Beaumont Regional Office Investigator documented that South Hampton:
 - a. Failed to create, within two weeks of an incident, complete records of the emissions released during an upset that occurred on February 23, 1997 when Tank No. 71 was over-pressurized. Specifically, 100 pounds of cyclopentane were released which was not reported.
 - b. Failed to properly tag and attempt to repair and/or repair two leaking valves in VOC service. Specifically, two leaking valves were found not to be tagged during the investigation on April 1, 1998. Valve No. 2166 was already listed in the leaking valve log and Valve No. 266 was found to be leaking by the investigator.
 - c. Failed to properly empty and degas Tank No. 57 when it was taken out of service. Tank No. 57, which had a nominal storage capacity greater than 1,000,000 gallons, was out-of-service, yet still contained residual product (hexane and pentane from the Penhex unit).
 - d. Failed to maintain records of the chemical name and estimated liquid quantity contained in and removed from each transport vessel which was degassed or cleaned.
 - e. Failed to conduct a cylinder gas audit ("CGA") for the first quarter of 1998 on the CEMS used to measure and record the H₂S concentration of the refinery fuel gas.

12. During an inspection conducted on February 8, 2000, a TCEQ Beaumont Regional Office Investigator documented that South Hampton:
 - a. Failed to create complete records of all non-reportable upsets, maintenance, start-ups, and shutdowns with unauthorized emissions as soon as practicable, but no later than two weeks after upset/events occurred. Specifically, South Hampton failed to create complete records of upsets events on the following days: May 28, 1999 and June 29, 1999 and, South Hampton failed to create complete records of all maintenance, start-ups, and shutdowns with unauthorized emissions on the following days: May 27, 1999; June 21, 1999; June 28, 1999, October 19-20, 1999; and January 1, 2000.

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- b. Failed to report the upset emissions from the flare (EPNF-2) and/or flare area on May 28, 1999 and June 29, 1999. The emissions were not exempt from compliance and therefore, were unauthorized. Specifically, records from the June event were incomplete in that they lacked start and end times and the contaminants were not speciated. The records from the May event lacked an emission rate and the event was avoidable with better maintenance on the knockout drum.
 - c. Failed to properly report unauthorized emissions from a maintenance, start-up, and/or shut down activities. Specifically, on May 27, 1999, several bullet tanks were removed from service for re-piping; on June 21, 1999, the T-8 Unit was depressurized to install a rack on the reflux line; on June 28, 1999, the Penhex and Reformer Units were depressurized and purged to conduct maintenance activities; and on January 1, 2000, the Penhex, Aromax, and Reformer Units were taken out of service to conduct maintenance activities. Records of these activities failed to include actual emissions of the individual chemical compounds involved and some of the records failed to include end times, event durations, and/or other required information. Since the activities were not reported they were unauthorized and did not meet the exemption in 30 TEX. ADMIN. CODE §101.11(a).
 - d. Failed to properly report the unauthorized emissions from the flare (EPNF-2) from 0600 hours on October 19, 1999 to 2400 hours on October 20, 1999 that occurred due to a maintenance event on Boiler EPN B-1. The emissions were in excess of the VOC limitations in the MAERT for TCEQ Permit No. 3295. Specifically, the records for this event were incomplete and proper action to minimize the emissions was not taken (i.e., renting a portable boiler to send steam to the flare during a planned maintenance activity).
 - e. Failed to repair VOC leaks greater than 10,000 pounds per minute ("ppm") on four pumps (3944-P-139A, 3945-P-139B, 3947-P-7B, and 3965-P-204A) in the Penhex Unit within 15 calendar days after the leaks were found, or tagged and repaired during a unit shutdown if repair would create more emissions than the repair would eliminate. On November 30, 1999 the pumps were found to be leaking but were not tagged and were not repaired during the next unit shut down during the first week in January 2000.
13. During an investigation conducted on April 23, May 3, and May 4, 2001, a TCEQ Beaumont Regional Office Investigator documented that South Hampton:

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- a. Failed to prevent the unauthorized emission of 64 pounds of a tetralin (70%) naphthalene (30%) mixture over an eight hour period on April 23, 2001.
 - b. Failed to maintain an emission rate below the allowable emission limit. Special Condition No. 1 of Permit No. 3295 limits the VOC emission rate at tank 41 (EPN TK-41) to 0.36 pounds/hour. A release of 95 pounds of VOCs from Tank No. 41 occurred over a 9.5 hour period on October 10, 2000.
14. South Hampton received notice of the violations on or about September 16, 1996; October 19, 1996; October 29, 1996; November 19, 1996; November 24, 1996; January 7, 1997; February 11, 1997, April 16, 1997; June 21, 1998; April 1, 2000, and June 30, 2001.
15. The Executive Director recognizes that South Hampton implemented the following corrective measures:
- a. The Executive Director recognizes that as of January 23, 1997, South Hampton re-routed wastewater from remediation activities away from Tank No. 7, and instead collected the recovered hydrocarbons in two 200-gallon dedicated polyethylene tanks for shipment offsite.
 - b. The Executive Director recognizes that on January 15, 1997 South Hampton installed a system for free-phase hydrocarbon recovery. Well MW-1 was modified by the use of a flexible axial peristaltic pump which replaced a locally fabricated pump, and that MW-1 and MW-2 were equipped with the same type and size pump that had a floating intake to recover free-phase hydrocarbons only, which was designed to eliminate the possibility of contaminated ground water with a high concentration of benzene from entering the facility wastewater treatment lagoons.
 - c. The Executive Director recognizes that in 1997 the sediment in Tank No. 7 was removed as a source control measure to prevent any future contribution of benzene in the wastewater treatment lagoons.
 - d. The Executive Director recognizes that in 1997 South Hampton took samples of ground water and effluent placed in the Surface Impoundment pursuant to remedial ordering provisions of Agreed Order Docket No. 94-0578-IHW-E.

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- e. The Executive Director recognizes that the LDR form for the shipment of ignitable waste (EPA hazardous waste ID No. D001 that was sent on July 19, 1996 to Pure Solve, Inc. in Port Allan, Louisiana) was sent on May 19, 1997.
- f. The Executive Director recognizes that the installation of secondary seals on Tank Nos. 1, 40, and 65 was completed by June 1, 1997.
- g. The Executive Director recognizes that South Hampton installed secondary seals on Tank Nos. 4, 41, 48 and 64 was completed by June 1, 1997.
- h. The Executive Director recognizes that South Hampton had conducted a visual inspection of the secondary seal on Tank No. 57 by June 3, 1997.
- i. The Executive Director recognizes that Valve Nos. 4155, 4153 and 4154 on the slop oil tank; Valve No. 2403 near Heater H103; and Valve Nos. XV-069, 1823, 1830 and 1286A were sealed on May 31, 1996.
- j. The Executive Director recognizes that during the last quarter of 1996, South Hampton conducted measurements (with a hydrocarbon gas analyzer) of emissions on the process drain at the T-8 unit.
- k. The Executive Director recognizes that South Hampton conducted a certification of the H₂S CEMS unit on April 7, 1998.
- l. The Executive Director recognizes that pressure gauges were installed between the pressure relief valves and the rupture discs on Tank Nos. 72, 74, 75, 76 and 77 on October 30, 1996.
- m. The Executive Director recognizes that automatic valves were installed on Tank Nos. 72, 74, 75, 76 and 77 and emissions from these valves were directed to a flare on November 6, 1996.
- n. The Executive Director recognizes that eight open-ended valves in the area of Tank Nos. 72, 74, 75, 76 and 77 were sealed with plugs on October 31, 1996.
- o. The Executive Director recognizes that a pneumatic recorder was installed on February 20, 1997 to address the failure to properly operate and record

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CEMS data on January 3, 11, and 30, 1996; February 3, 15, and 16, 1996; March 15, 16, and 31, 1996; and April 6, 9, 17, 23, and 30, 1996.

- p. The Executive Director recognizes that in order to correct the violations regarding failure to have proper control equipment that was capable of preventing vapor or gas loss to the atmosphere, South Hampton stopped sending the water from the remediation project to the pond by December 12, 1996 and the benzene level fell below regulated levels in the wastewater treatment ponds.
- q. The Executive Director recognizes that South Hampton conducted an inspection of the internal floating roof for Tank No. 2 on December 31, 1996 and began to maintain records of inspection after March 7, 1997.
- r. The Executive Director recognizes that South Hampton installed a supplemental fuel system to ensure adequate combustion of its flare at the Terminal and that training was provided to operators for monitoring the flare as of June 11, 1997.
- s. The Executive Director recognizes that in November 1997 South Hampton installed automatic shut-off valves for the liquid and vapor lines to ensure control of VOC emissions during loading and unloading activities.
- t. The Executive Director recognizes that in response to the events allowing the H₂S concentration in its fuel gas to exceed 230 mg/dscm, South Hampton revamped its scrubber system as of March 1997 so that the facility heating units operated in a series rather than in a parallel manner while combusting fuel gas.
- u. The Executive Director recognizes that South Hampton installed a secondary seal on Tank No. 66 as of June 1, 1997.
- v. The Executive Director recognizes that South Hampton began monitoring emissions with an HGA on the process drains on November 18, 1998.
- w. The Executive Director recognizes that South Hampton repaired Valve No. 275 on October 30, 1996 and that Valve No. 1578 was repaired on January 7, 1997.

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- x. The Executive Director recognizes that on May 28, 1998 South Hampton submitted information concerning the emissions released during an upset event that occurred on February 23, 1997 when Tank No. 71 was over-pressurized.
- y. The Executive Director recognizes that South Hampton tagged and repaired Valve No. 2166 on April 14, 1998 and Valve No. 266 was re-monitored and not repaired on April 22, 1998 and found to be under 500 ppm.
- z. The Executive Director recognizes that South Hampton de-gassed Tank No. 57 on August 15, 1998.
- aa. The Executive Director recognizes that South Hampton had created forms by June 12, 1998 to maintain records of the chemical name and estimated liquid quantity contained in and removed from each transport vessel which was degassed or cleaned.
- bb. The Executive Director recognizes that South Hampton completed a cylinder gas audit on the CEMS used to measure and record the H₂S concentration of the refinery fuel gas on April 7, 1998.
- cc. The Executive Director recognizes that South Hampton notified the Executive Director via letter dated May 25, 2000 that it had revised the records for the upset events of May 28, 1999 and June 29, 1999 and also revised the records for the unauthorized emissions of May 27, June 21, June 28 and October 19-20, 1999 and January 1, 2000 to include the information that was required by Commission rules.
- dd. The Executive Director recognizes that South Hampton submitted supplemental information to the Executive Director on May 25, 2000 to provide the start and end times and contaminants released during the June 29, 1999 upset emissions event and to provide the emission rate for the May 28, 1999 upset emissions event.
- ee. The Executive Director recognizes that South Hampton installed a new knockout drum with an alarm on the vacuum pump exhaust line on July 29, 2000.

- ff. The Executive Director recognizes that South Hampton submitted supplemental information to the Executive Director on May 25, 2000 to provide the required information for the maintenance events occurring on May 27, June 21, and June 28, 1999 and January 1, 2000.
 - gg. The Executive Director recognizes that South Hampton submitted supplemental information to the Executive Director on May 25, 2000 to provide the required information for the excess emissions event which occurred on October 19-20, 1999 due to a maintenance event on Boiler EPN B-1.
 - hh. The Executive Director recognizes that South Hampton repaired Pump Nos. 3944-P-139A, 3945-P-139B, 3947-P-7B and 3965-P-204 A in the Penhex Unit on March 17, 2000.
 - ii. The Executive Director recognizes that South Hampton implemented measures on April 23, 2001 to prevent the same or similar cause of the unauthorized emission of tetralin/naphthalene mixture on April 23, 2001.
 - jj. The Executive Director recognizes that South Hampton implemented measures on October 10, 2000 to prevent the same or similar cause of the upset emission of VOCs from Tank No. 41 on October 10, 2000.
16. The Executive Director recognizes that as of August 23, 2007, there were no outstanding unresolved AIR violations at the Plant from investigations that were conducted beginning in 1996 through 2001 or that were conducted at various times from 2001 through May 2007.
17. The Executive Director recognizes that subsequent follow-up waste investigations occurred between October 14, 2003 and May 3, 2006 at the Plant and there are no outstanding unresolved waste violations from these investigations.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1, 2 and 3, South Hampton is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE § 7.002; TEX. HEALTH & SAFETY CODE chs. 361 and 382; and the rules of the Commission.
2. As evidenced by Finding of Fact No. 4, South Hampton stored, processed, and/or disposed of hazardous waste in the Surface Impoundment without a permit or other authorization from

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the TCEQ, in violation of 30 TEX. ADMIN. CODE § 335.2 and 335.43; and 40 C.F.R. §§ 268.4(a)(3) and 270.1(b) and (c).

3. As evidenced by Finding of Fact No. 5.a., South Hampton failed to notify the TCEQ of its storage, processing, and disposal of hazardous waste in the Surface Impoundment, in violation of 30 TEX. ADMIN. CODE § 335.6.
4. As evidenced by Finding of Fact No. 5.b., South Hampton failed to properly determine whether contaminated ground water was hazardous, in violation of 30 TEX. ADMIN. CODE § 335.62 and TCEQ Agreed Order Docket No. 94-0578-IHW-E, Ordering Provision No. 1.a.
5. As evidenced by Finding of Fact No. 5.c., South Hampton failed to keep records of all hazardous and industrial solid waste activities regarding the quantities generated, stored, processed, and disposed of on-site or shipped off-site for storage, processing, or disposal, in violation of 30 TEX. ADMIN. CODE § 335.9(a)(1).
6. As evidenced by Finding of Fact No. 5.d., South Hampton failed to conduct hazardous waste determinations and further classify the effluent from Tank No. 7 that was conveyed and placed in the Surface Impoundment, in violation of 30 TEX. ADMIN. CODE §§ 335.62 and 335.503(a) and (b); and Agreed Order Docket No. 1994-0578-IHW-E, Ordering Provision No. 1.e.
7. As evidenced by Finding of Fact No. 5.e., South Hampton failed to provide the required land disposal restriction notice for a shipment of hazardous waste sent on July 19, 1996 to Pure Solve, Inc. in Port Allan, Louisiana, in violation of 30 TEX. ADMIN. CODE § 335.431, which incorporates 40 C.F.R. § 268.7(a)(1)¹.
8. As evidenced by Finding of Fact No. 6.a., South Hampton failed to equip floating roof tank Nos. 1, 4, 40, 41, 48, 64, 65, and 66 with an approved seal system prior to storing material with a vapor pressure at or above 0.5 pounds psia at maximum storage temperature, in violation of 30 TEX. ADMIN. CODE §§ 115.112(a)(2)(F) and 116.115(a)²; TEX. HEALTH & SAFETY CODE § 382.085(b); and TCEQ Permit No. 3295, Special Condition No. 10.
9. As evidenced by Finding of Fact No. 6.b., South Hampton operated eight open-ended valves on VOC lines (Valve Nos. 4155, 4153, 4154 on the slop oil tank; Valve No. 2403 near

¹ 40 C.F.R. § 286.7(a)(1) has subsequently been repealed.

² Currently 30 TEX. ADMIN. CODE § 116.115(c).

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Heater H103; and Valve Nos. XV-069, 1823, 1830, and 1286A) that were not sealed with a second valve, a blind flange, a cap, or a plug and by failing to properly seal all valves in VOC service, in violation of 30 TEX. ADMIN. CODE § 101.20(1) which incorporates 40 C.F.R. § 60.482-6(a)(1); 30 TEX. ADMIN. CODE § 115.322(a)(4)³; and TEX. HEALTH & SAFETY CODE § 382.085(b).

10. As evidenced by Finding of Fact No. 6.c., South Hampton failed to monitor emissions from the T-8 Unit process drain with an HGA, in violation of 30 TEX. ADMIN. CODE § 115.324(a)(1)(A)⁴ and TEX. HEALTH & SAFETY CODE § 382.085(b).
11. As evidenced by Finding of Fact No. 6.d., South Hampton exceeded the VOC emissions limits from Tank Nos. 41, 48, and 66, as specified in the MAERT, in violation of 30 TEX. ADMIN. CODE § 116.115(a)⁵; TEX. HEALTH & SAFETY CODE § 382.085(b); and TCEQ Permit No. 3295, Special Condition No.1.
12. As evidenced by Finding of Fact No. 6.e., South Hampton failed to properly certify its CEMS for the H₂S concentration of the refinery fuel gas, in violation of 30 TEX. ADMIN. CODE § 116.115(a)⁶; TEX. HEALTH & SAFETY CODE § 382.085(b); 40 C.F.R. § 60.105(a)(4)(iii); and TCEQ Permit No. 3295, Special Condition No. 9A.
13. As evidenced by Finding of Fact No. 6.f., South Hampton stored material with a vapor pressure greater than 11.0 psia (later reported by South Hampton to be mostly a mixed aldehyde and alcohol stream) in pressurized tanks (Tank Nos. 72, 74, 75, 76, and 77) that did not have pressure gauges between the relief valves and rupture discs, in violation of 30 TEX. ADMIN. CODE § 116.115(a)⁷; TEX. HEALTH & SAFETY CODE § 382.085(b); and TCEQ Permit 3295, Special Condition No. 13.
14. As evidenced by Finding of Fact No. 6.g., South Hampton stored material with a vapor pressure greater than 11.0 psia in pressurized tanks (Tank Nos. 72, 74, 75, 76, and 77), and the relief valves were not vented to a flare, in violation of 30 TEX. ADMIN. CODE §

³ Currently 30 TEX. ADMIN. CODE § 115.352(4).

⁴ Currently 30 TEX. ADMIN. CODE § 115.354(1)(A).

⁵ Currently found at 30 TEX. ADMIN. CODE § 116.115(c).

⁶ See Footnote 5.

⁷ See Footnote 5.

116.115(a)⁸; TEX. HEALTH & SAFETY CODE § 382.085(b); and TCEQ Permit 3295, Special Condition Nos. 13 and 20.

15. As evidenced by Finding of Fact No. 6.h., South Hampton failed to properly operate and record CEMS data on January 3, 11, and 30, 1996; February 3, 15, and 16, 1996; March 15, 16, and 31, 1996; and April 6, 9, 17, 23, and 30, 1996, in violation of 30 TEX. ADMIN. CODE § 101.20(1) incorporating 40 C.F.R. § 60.105(a)(11); and TEX. HEALTH & SAFETY CODE § 382.085(b).
16. As evidenced by Finding of Fact No. 7, South Hampton failed to properly seal valves in VOC service and operated eight open-ended valves on VOC lines that were not sealed with a second valve, a blind flange, a cap, or a plug in violation of 30 TEX. ADMIN. CODE §§ 101.20(1), incorporating 40 C.F.R. § 60.482-6(a)(1); 30 TEX. ADMIN. CODE § 115.322(a)(4)⁹ and TEX. HEALTH & SAFETY CODE § 382.085(b).
17. As evidenced by Finding of Fact No. 8, South Hampton stored VOCs in tanks and reservoirs that did not have proper control equipment and that were incapable of preventing vapor or gas loss to the atmosphere. Specifically, South Hampton stored the VOCs in a sump that was not equipped with either a cover or floating seal device; rather, it had only a metal grating over the top of it, in violation of 30 TEX. ADMIN. CODE § 115.112(a)(1) and TEX. HEALTH & SAFETY CODE § 382.085(b).
18. As evidenced by Finding of Fact No. 9.a., South Hampton failed to conduct the required inspections and maintain records for the internal floating roof storage tanks to document whether these inspections did occur, in violation of 30 TEX. ADMIN. CODE §§ 101.20(1), 115.114(a)(1), 115.116(a)(2), and 116.115(a)¹⁰ and (b); 40 C.F.R. § 60.110b; and TEX. HEALTH & SAFETY CODE § 382.085(b); TCEQ Permit No. 3102, General Provision No. 5.
19. As evidenced by Finding of Fact No. 9.b., South Hampton failed to operate its flare in a manner that ensures adequate combustion and failed to monitor the flare during operation

⁸ See Footnote 5.

⁹ See Footnote 3.

¹⁰ See Footnote 5.

in violation of 30 TEX. ADMIN. CODE § 116.115(a)¹¹; TEX. HEALTH & SAFETY CODE § 382.085(b); 40 C.F.R. § 60.18; and TCEQ Permit No. 3102, Special Condition No. 4.

20. As evidenced by Finding of Fact No.10.a., South Hampton stored VOCs in tanks and reservoirs that did not have control equipment and that were incapable of preventing vapor or gas loss to the atmosphere, in violation of TEX. ADMIN. CODE § 115.112(a)(1) and TEX. HEALTH & SAFETY CODE § 382.085(b).
21. As evidenced by Finding of Fact No.10.b., South Hampton failed to have emission controls on Tank No. 7. Specifically, the investigator documented that Tank No. 7, which received wastewater from the sump; received effluent as a VOC water separator, but ~~it~~ was not controlled as required in violation of 30 TEX. ADMIN. CODE § 115.112(a)(1), (a)(2) and (a)(3); and TEX. HEALTH & SAFETY CODE § 382.085(b).
22. As evidenced by Finding of Fact No.10.c., South Hampton failed to conduct all VOC loading and unloading in such a manner that all liquid and vapor lines were either equipped with fittings which made vapor-tight connections that closed automatically when disconnected or equipped to permit the discharge of residual VOC into a vapor recovery or vapor balance system, in violation of 30 TEX. ADMIN. CODE § 115.212(a)(3)(A)(i) and (A)(ii) and TEX. HEALTH & SAFETY CODE § 382.085(b).
23. As evidenced by Finding of Fact No.10.d., South Hampton combusted fuel gas that contained H₂S in excess of 0.1 gr/dscf (230 mg/dscm) in the facility heaters, in violation of 30 TEX. ADMIN. CODE §§ 101.20(1) incorporating 40 C.F.R. 60.104(a)(1); 116.115(a)¹² and TEX. HEALTH & SAFETY CODE § 382.085(b); and TCEQ Permit 3295, Special Condition Nos. 2, 4, and 9C.
24. As evidenced by Finding of Fact No. 10.e., South Hampton failed to equip Tank Nos. 1, 4, and 66 with secondary seals, or otherwise meet the requirements of Special Condition No. 10, in violation of 30 TEX. ADMIN. CODE §116.115(a)¹³; TEX. HEALTH & SAFETY CODE § 382.085(b); and TCEQ Permit No. 3295, Special Condition No. 10.

¹¹ See Footnote 5.

¹² See Footnote 5.

¹³ See Footnote 5.

25. As evidenced by Finding of Fact No. 10.f., South Hampton stored a VOL with a vapor pressure in excess of 5.2 kPa in Tank No. 66 which did not have double vapor-mounted seals, in violation of 30 TEX. ADMIN. CODE § 30 TEX. ADMIN. CODE § 101.20(1) incorporating 40 C.F.R. § 60.112b(a)(1)(ii)(B); 115.112(a)(1) and TEX. HEALTH & SAFETY CODE § 382.085(b).
26. As evidenced by Finding of Fact No. 10.g., South Hampton failed to monitor emissions from 11 separate process drains with an HGA, in violation of 30 TEX. ADMIN. CODE § 115.324(a)(1)(A)¹⁴ and TEX. HEALTH & SAFETY CODE § 382.085(b),
27. As evidenced by Finding of Fact No. 10.h., South Hampton failed to repair a leak from valves (Valve Nos. 1578 and 275) as soon as practicable after it detected the leaks, but no later than 15 calendar days after the leak were discovered, except in the case of an allowable repair delay, in violation of 30 TEX. ADMIN. CODE §§ 101.20(1) incorporating 40 C.F.R. § 61.242-7(d)(1); 115.322(a)(2)¹⁵ and 116.115(a)¹⁶; TEX. HEALTH & SAFETY CODE § 382.085(b); and TCEQ Permit No. 3295, Special Condition No. 5.
28. As evidenced by Finding of Fact No. 11.a., South Hampton failed to create, within two weeks of an incident, complete records of the emissions released during an upset¹⁷ that occurred on February 23, 1997 when Tank No. 71 was over-pressurized, in violation of 30 TEX. ADMIN. CODE § 101.6(b)(5) and (6)¹⁸; and TEX. HEALTH & SAFETY CODE § 382.085(b).
29. As evidenced by Finding of Fact No. 11.b., South Hampton failed to properly tag and attempt to repair and/or repair two leaking valves (Valve Nos. 2166 and 266) in VOC service, in violation of 30 TEX. ADMIN. CODE § 115.352(2) and (3); and TEX. HEALTH & SAFETY CODE § 382.085(b).

¹⁴ Currently 30 TEX. ADMIN. CODE § 115.354(1)(A).

¹⁵ Currently 30 TEX. ADMIN. CODE § 115.352(2).

¹⁶ See Footnote 5.

¹⁷ "Upsets" are now called "emission events" and are currently at 30 TEX. ADMIN. CODE § 101.201(b)(1)(G) and (H).

¹⁸ Currently 30 TEX. ADMIN. CODE § 101.201(b).

30. As evidenced by Finding of Fact No. 11.c., South Hampton failed to properly empty and degas Tank No. 57 when it was taken out of service, in violation of 30 TEX. ADMIN. CODE §§ 101.20(1) incorporating 40 C.F.R. § 60.112b(a)(2)(iii); 115.541(a) and 115.542(a); and TEX. HEALTH & SAFETY CODE § 382.085(b).
31. As evidenced by Finding of Fact No. 11.d., South Hampton failed to maintain records of the chemical name and estimated liquid quantity contained in and removed from each transport vessel which was degassed or cleaned, in violation of 30 TEX. ADMIN. CODE § 115.546(1)(A), (B) and (C); and TEX. HEALTH & SAFETY CODE § 382.085(b).
32. As evidenced by Finding of Fact No. 11.e., South Hampton failed to conduct a ~~CEMS~~ for the first quarter of 1998 on the CEMS used to measure and record the H₂S concentration of the refinery fuel gas, in violation of 30 TEX. ADMIN. CODE § 116.115(a)¹⁹; TEX. HEALTH & SAFETY CODE § 382.085(b); 40 C.F.R. 60, Appendix F, § 5.12; and TCEQ Permit No. 3295, Special Condition Nos. 2 and 9B.
33. As evidenced by Finding of Fact No. 12.a., South Hampton failed to create complete records of all non-reportable upsets, maintenance, start-ups, and shutdowns with unauthorized emissions as soon as practicable, but no later than two weeks after upset/events occurred, in violation of 30 TEX. ADMIN. CODE §§ 101.6(b)²⁰ and 101.7(c)²¹; and TEX. HEALTH & SAFETY CODE § 382.085(b).
34. As evidenced by Finding of Fact No. 12.b., South Hampton failed to report the upset emissions from the flare (EPN F-2) and/or flare area on May 28, 1999 and June 29, 1999. The emissions were not exempt from compliance and therefore, were unauthorized. Specifically, records from the June event were incomplete in that they lacked start and end times and the contaminants were not speciated. The records from the May event lacked an emission rate and the event was avoidable with better maintenance on the knockout drum, in violation of 30 TEX. ADMIN. CODE § 101.6(a)²² and TEX. HEALTH & SAFETY CODE § 382.085(b).

¹⁹ See Footnote 5.

²⁰ See Footnote 18.

²¹ Currently 30 TEX. ADMIN. CODE § 101.211(b).

²² Currently 30 TEX. ADMIN. CODE § 101.201.

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35. As evidenced by Finding of Fact No. 12.c., South Hampton failed to properly report unauthorized emissions from a maintenance, start-up, and/or shut down activities, in violation of 30 TEX. ADMIN. CODE § 101.7(a)²³ and TEX. HEALTH & SAFETY CODE § 382.085(b).
36. As evidenced by Finding of Fact No. 12.d., South Hampton failed to properly report the unauthorized emissions from the flare (EPN F-2) from 0600 hours on October 19, 1999 to 2400 hours on October 20, 1999 that occurred due to a maintenance event on Boiler EPN B-1, in violation of 30 TEX. ADMIN. CODE §§ 101.7(a)²⁴ and 116.115(c); TEX. HEALTH & SAFETY CODE § 382.085(b); TCEQ Permit No. 3295, Special Condition No. 1. Since the event was not reported it was unauthorized and did not meet the exemption in 30 TEX. ADMIN. CODE § 101.11(a)²⁵.
37. As evidenced by Finding of Fact No. 12.e., South Hampton failed to repair VOC leaks greater than 10,000 ppm on four pumps (3944-P-139A, 3945-P-139B, 3947-P-7B, and 3965-P-204A) in the Penhex Unit within 15 calendar days after the leaks were found, or tagged and repaired during a unit shutdown if repair would create more emissions than the repair would eliminate. On November 30, 1999 the pumps were found to be leaking but were not tagged and were not repaired during the next unit shut down during the first week in January 2000, in violation of 30 TEX. ADMIN. CODE §§ 115.352(1)(B) and 115.352(2) and (3); and TEX. HEALTH & SAFETY CODE § 382.085(b).
38. As evidenced by Finding of Fact No. 13. a., South Hampton failed to prevent the unauthorized emission of 64 pounds of a tetralin (70%) naphthalene (30%) mixture over an eight hour period on April 23, 2001, in violation of TEX. HEALTH & SAFETY CODE § 382.085(a).
39. As evidenced by Finding of Fact No. 13.b., South Hampton failed to maintain an emission rate below the allowable emission limit. Special Condition No. 1 of Permit No. 3295 limits the VOC emission rate at tank 41 (EPN TK-41) to 0.36 pounds/hour, in violation of 30 TEX. ADMIN. CODE § 116.115(c); TEX. HEALTH & SAFETY CODE § 382.085(b); and TCEQ Permit No. 3295, Special Condition No. 1.

²³ Currently 30 TEX. ADMIN. CODE § 101.211(a).

²⁴ See Footnote 23.

²⁵ Currently 30 TEX. ADMIN. CODE § 101.222(b).

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40. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against South Hampton for violations of the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statute; or for violations of orders or permits issued under such statute.

41. An administrative penalty in the amount of two hundred seventy-four thousand four hundred thirty-three dollars (\$274,433.00) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. South Hampton has paid forty-five thousand seven hundred forty-seven dollars (\$45,747.00) of the administrative penalty. The amount of ninety-one thousand four hundred seventy dollars (\$91,470.00) of the remaining administrative penalty shall be payable in two monthly payments of forty-five thousand seven hundred thirty-five dollars (\$45,735.00) each. The second monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The third payment shall be paid not later than 30 days following the due date of the second payment. If South Hampton fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of South Hampton to meet the payment schedule of this Agreed Order constitutes the failure of South Hampton to timely and satisfactorily comply with all of the terms of this Agreed Order.

The remaining amount of one hundred thirty-seven thousand two hundred sixteen dollars (\$137,216.00) of the administrative penalty shall be conditionally offset by South Hampton's completion of a Supplemental Environmental Project ("SEP") as defined in Attachment A and incorporated herein by reference. South Hampton'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.

ORDERING PROVISIONS

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

1. South Hampton is assessed an administrative penalty in the amount of two hundred seventy-four thousand four hundred thirty-three dollars (\$274,433.00) as set forth in Conclusion of Law No. 41 for violations of TCEQ rules and state statutes. The payment of this administrative penalty and South Hampton's compliance with all the terms and conditions

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set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: South Hampton Resources, Inc. formerly known as South Hampton Refining Company; Docket Nos. 1997-0180-AIR-E, 1997-0222-AIR-E, 1997-0440-AHW-E, and 1998-0114-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. South Hampton shall implement and complete a Supplemental Environmental Project in accordance with TEX. WATER CODE § 7.067. One hundred thirty-seven thousand two hundred sixteen dollars (\$137,216.00) of the assessed administrative penalty shall be conditionally offset by South Hampton's completion of a SEP as defined in "Attachment A." South Hampton's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all portions of the SEP agreement.
3. The provisions of this Agreed Order shall apply to and be binding upon South Hampton.
4. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to South Hampton if the Executive Director determines that South Hampton has not complied with one or more of the terms or conditions in this Agreed Order.
5. 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.
6. This Agreed Order, issued by the Commission, shall not be admissible against South Hampton 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.

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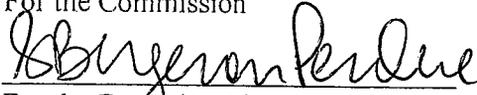
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

8. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date is the date of hand-delivery of the Order to South Hampton, or three days after the date on which the Commission mails notice of the Order to South Hampton, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

4/29/2008

Date

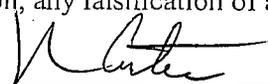
I, the undersigned, have read and understand the attached Agreed Order in the matter of South Hampton. I represent that I am authorized to agree to the attached Agreed Order on behalf of South Hampton, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting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

I understand that by entering into this Agreed Order, South Hampton certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order

I also understand that South Hampton's failure to comply with the Ordering Provisions, if any, in this order and/or its failure to timely pay the penalty amount, may result in:

- A negative impact on South Hampton's compliance history;
- Greater scrutiny of any permit applications submitted by South Hampton;
- 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 South Hampton;
- Automatic referral to the Attorney General's Office of any future enforcement actions against South Hampton; and
- TCEQ seeking other relief as authorized by law.

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


Signature

3/10/2008
Date

Nick CARTER
Name (printed or typed)

President
Title

Authorized Representative of South Hampton Resources, Inc.
formerly known as South Hampton Refining Company

Attachment A

Docket No.: 1997-0180-AIR-E
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Docket No.: 1998-0114-AIR-E
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SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: South Hampton Resources, Inc. formerly known as South Hampton Refining Company

Penalty Amount: Two hundred seventy-four thousand four hundred thirty-three dollars (\$274,433)

Type of SEP: Pre-approved SEP

Third-Party Recipient: Texas Association of Resource Conservation & Development Areas, Inc. ("RC&D") *Water or Wastewater Assistance*

SEP Amount: One hundred thirty-seven thousand two hundred sixteen dollars (\$137,216)

Location of SEP: Hardin County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative Penalty Amount assessed in this Agreed Order for 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

Respondent shall contribute the SEP Amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be to the **Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")** for the *Water or Wastewater Assistance* program in Hardin County. Specifically, SEP monies for the *Water or Wastewater Assistance* program will pay for the labor and disposal costs associated with assistance to low-income residents with failing wastewater systems, shallow improperly designed or contaminated drinking water wells, or plugging of abandoned wells.

The project will be administered in accordance with federal, state, and local environmental laws and regulations. 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.

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B. Environmental Benefit

This SEP will provide a discernible environmental benefit by preventing the release of sewage into the environment. Raw sewage can carry bacteria, viruses, protozoa (parasitic organisms), helminthes (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis (causing stomach cramps and diarrhea) to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis. People can be exposed through:

- Sewage in drinking water sources.
- Direct contact in areas of public access such as in lawns or streets, or waters used for recreation.
- Shellfish harvested from areas contaminated by raw sewage.
- Inhalation and skin absorption.

Sewage overflows may cause damage to the environment. A key concern with sewage overflows is the effect on rivers, lakes, streams, or aquifer systems. In addition to potential spread of disease, sewage in the environment contributes excess nutrients, metals, and toxic pollutants that contaminate water quality, cause excess algae blooms, and kill fish and other organisms in aquatic habitats.

The drinking water portion of this project would protect water sources for drinking, recreation and wildlife from contamination from the failing treatment systems, and protect public health from contaminated drinking water supplies.

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, Respondent shall contribute \$45,746 to the Third-Party Recipient. Within 60 days of the effective date of the Agreed Order, Respondent shall contribute \$45,735 to the Third-Party Recipient. Within 90 days of the effective date of this Agreed Order, Respondent shall contribute the third contribution, in the amount of \$45,735, to the Third-Party Recipient. Respondent shall mail the contributions with a copy of the Agreed Order, to:

Texas Association of Resource Conservation
and Development Areas, Inc. (RC&D)
Attention: Eddi Darilek
1716 Briarcrest Drive Suite 510
Bryan, Texas 77802-2700

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3. Records and Reporting

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

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

4. Failure to Fully Perform

If 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.

In the event of incomplete performance, the Respondent shall submit a check for the remaining amount due made payable to "Texas Commission on Environmental Quality" with the notation "SEP Refund" and the docket number of the case, and shall send it to:

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

5. Publicity

Any public statements concerning this SEP made by or on behalf of 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

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

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Agreed Order – Attachment A Docket Nos.
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7. Other SEPs by TCEQ or Other Agencies

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