

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 2  
**DOCKET NO.:** 2008-0636-AIR-E **TCEQ ID:** RN100223197 **CASE NO.:** 35746  
**RESPONDENT NAME:** U.S. Department of the Army Corpus Christi Army Depot

|  |   |  |
|--|---|--|
| <b>ORDER TYPE:</b>   |   |  |
| <input checked="" type="checkbox"/> 1660 AGREED ORDER  | <input 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                    |  |
| <b>CASE TYPE:</b>  |   |  |
| <input checked="" type="checkbox"/> AIR  | <input type="checkbox"/> MULTI-MEDIA (check all that apply) | <input 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><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Corpus Christi Army Depot, 308 Crecy Street, Corpus Christi, Nueces County</p> <p><b>TYPE OF OPERATION:</b> Military equipment maintenance and repair plant</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on October 20, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b><br/> <b>TCEQ Attorney/SEP Coordinator:</b> None<br/> <b>TCEQ Enforcement Coordinator:</b> Mr. Samuel Short, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-5363; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171<br/> <b>Respondent:</b> Mr. Joe D. Dunaway, Colonel, Aviation Commanding Officer, U.S. Department of the Army Corpus Christi Army Depot, 308 Crecy Street, Building 8, Corpus Christi, Texas 78419<br/> <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p> |   |  |

**VIOLATION SUMMARY CHART:**

| VIOLATION INFORMATION  | PENALTY CONSIDERATIONS  | CORRECTIVE ACTIONS TAKEN/REQUIRED  |
|--|---|--|
| <p><b>Type of Investigation:</b><br/> <input type="checkbox"/> Complaint<br/> <input type="checkbox"/> Routine<br/> <input type="checkbox"/> Enforcement Follow-up<br/> <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Record Review Relating to this Case:</b> March 19, 2008</p> <p><b>Date of NOE Relating to this Case:</b> April 2, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a record review.</p> <p><b>AIR</b></p> <p>Failure to submit a semi-annual deviation report within 30 days after the reporting period. Specifically, the semi-annual deviation report for the reporting period of October 26, 2006 through April 25, 2007 was due on May 25, 2007 and was not submitted until November 21, 2007, 183 days late [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(C), TEX. HEALTH &amp; SAFETY CODE § 382.085(b), and Federal Operating Permit No. O-1638, General Terms and Conditions].</p> | <p><b>Total Assessed:</b> \$2,425</p> <p><b>Total Deferred:</b> \$485<br/> <input checked="" type="checkbox"/> Expedited Settlement<br/> <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$1,940</p> <p><b>Site Compliance History Classification</b><br/> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b><br/> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> | <p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Corpus Christi Army Depot submitted the semi-annual deviation report for the reporting period of October 26, 2006 through April 25, 2007 on November 21, 2007.</p> |

Additional ID No(s): Air Account No. NE0054S



Policy Revision 2 (September 2002)

## Penalty Calculation Worksheet (PCW)

PCW Revision March 8, 2008

TCEQ

|              |                 |             |                  |             |                |  |
|--------------|-----------------|-------------|------------------|-------------|----------------|--|
| <b>DATES</b> | <b>Assigned</b> | 7-Apr-2008  | <b>Screening</b> | 16-Apr-2008 | <b>EPA Due</b> |  |
|              | <b>PCW</b>      | 29-Apr-2008 |                  |             |                |  |

**RESPONDENT/FACILITY INFORMATION**

|                             |  |                           |       |
|-----------------------------|--|---------------------------|-------|
| <b>Respondent</b>           | U.S. Department of the Army Corps Christi Army Depot |                           |       |
| <b>Reg. Ent. Ref. No.</b>   | RN100223197  |                           |       |
| <b>Facility/Site Region</b> | 14-Corpus Christi                                    | <b>Major/Minor Source</b> | Major |

**CASE INFORMATION**

|  |                 |                          |                    |
|--|-----------------|--------------------------|--------------------|
| <b>Enf./Case ID No.</b>                | 35746           | <b>No. of Violations</b> | 1                  |
| <b>Docket No.</b>                      | 2008-0636-AIR-E | <b>Order Type</b>        | 1660               |
| <b>Media Program(s)</b>                | Air             | <b>Enf. Coordinator</b>  | Samuel Short       |
| <b>Multi-Media</b>                     |                 | <b>EC's Team</b>         | Enforcement Team 3 |
| <b>Admin. Penalty \$ Limit Minimum</b> | \$0             | <b>Maximum</b>           | \$10,000           |

## Penalty Calculation Section

|   |                   |                |
|---|-------------------|----------------|
| <b>TOTAL BASE PENALTY (Sum of violation base penalties)</b> | <b>Subtotal 1</b> | <b>\$2,500</b> |
|---|-------------------|----------------|

**ADJUSTMENTS (+/-) TO SUBTOTAL 1**

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

|                           |                 |                                |              |
|---------------------------|-----------------|--------------------------------|--------------|
| <b>Compliance History</b> | 22% Enhancement | <b>Subtotals 2, 3, &amp; 7</b> | <b>\$550</b> |
|---------------------------|-----------------|--------------------------------|--------------|

Notes

Enhancement recommended for having one NOV for non-similar violations and one Agreed Order with Denial within the last five years.

**Culpability**

No

0% Enhancement

**Subtotal 4****\$0**

Notes

The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply**

25% Reduction

**Subtotal 5****\$625**

Extraordinary

Before NOV

NOV to EDPRP/Settlement Offer

Ordinary

X

N/A

(mark with x)

Notes

The Respondent achieved compliance on November 21, 2007.

0% Enhancement\*

**Subtotal 6****\$0**

Total EB Amounts

\$25

Approx. Cost of Compliance

\$1,000

\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7****Final Subtotal****\$2,425****OTHER FACTORS AS JUSTICE MAY REQUIRE**

0%

**Adjustment****\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

**Final Penalty Amount****\$2,425****STATUTORY LIMIT ADJUSTMENT****Final Assessed Penalty****\$2,425****DEFERRAL**

20%

Reduction

**Adjustment****-\$485**

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

Notes

Deferral offered for expedited settlement.

**PAYABLE PENALTY****\$1,940**

|   |   |            |
|---|---|------------|
| <b>Screening Date</b> 16-Apr-2008                                       | <b>Docket No.</b> 2008-0636-AIR-E         | <b>PCW</b> |
| <b>Respondent</b> U.S. Department of the Army Corpus Christi Army Depot | <i>Policy Revision 2 (September 2002)</i> |            |
| <b>Case ID No.</b> 35746  | <i>PCW Revision March 8, 2008</i>         |            |
| <b>Reg. Ent. Reference No.</b> RN100223197                              |   |            |
| <b>Media [Statute]</b> Air  |   |            |
| <b>Enf. Coordinator</b> Samuel Short                                    |   |            |

### Compliance History Worksheet

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

| Component                     | Number of...   | Enter Number Here | Adjust. |
|-------------------------------|--|-------------------|---------|
| NOVs                          | Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i>   | 0                 | 0%      |
|                               | Other written NOVs   | 1                 | 2%      |
| Orders                        | Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>  | 1                 | 20%     |
|                               | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0                 | 0%      |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgements or consent decrees meeting criteria)</i>                                | 0                 | 0%      |
|                               | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government  | 0                 | 0%      |
| Convictions                   | Any criminal convictions of this state or the federal government <i>(number of counts)</i>   | 0                 | 0%      |
| Emissions                     | Chronic excessive emissions events <i>(number of events)</i>   | 0                 | 0%      |
| Audits                        | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i>       | 0                 | 0%      |
|                               | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>  | 0                 | 0%      |
| <i>Please Enter Yes or No</i> |  |                   |         |
| Other                         | Environmental management systems in place for one year or more   | No                | 0%      |
|                               | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program  | No                | 0%      |
|                               | Participation in a voluntary pollution reduction program   | No                | 0%      |
|                               | Early compliance with, or offer of a product that meets future state or federal government environmental requirements  | No                | 0%      |

**Adjustment Percentage (Subtotal 2)** 22%

>> **Repeat Violator (Subtotal 3)**

No

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

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

Average Performer

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

>> **Compliance History Summary**

**Compliance History Notes**

Enhancement recommended for having one NOV for non-similar violations and one Agreed Order with Denial within the last five years.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 22%

**Screening Date** 16-Apr-2008 **Docket No.** 2008-0636-AIR-E **PCW**  
**Respondent** U.S. Department of the Army Corpus Christi Army Depot *Policy Revision 2 (September 2002)*  
**Case ID No.** 35746 *PCW Revision March 8, 2008*  
**Reg. Ent. Reference No.** RN100223197  
**Media [Statute]** Air  
**Enf. Coordinator** Samuel Short

**Violation Number**   
**Rule Cite(s)** 30 Tex. Admin. Code §§ 122.143(4) and 122.145(2)(C), Tex. Health & Safety Code § 382.085(b), and Federal Operating Permit No. O-1638, General Terms and Conditions  
**Violation Description** Failed to submit a semi-annual deviation report within 30 days after the reporting period. Specifically, the semi-annual deviation report for the reporting period of October 26, 2006 through April 25, 2007 was due on May 25, 2007 and was not submitted until November 21, 2007, 183 days late.

**Base Penalty**

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

|           |                      |                      |                      |   |                      |
|-----------|----------------------|----------------------|----------------------|---|----------------------|
| OR        | <b>Harm</b>          |                      |                      | Percent <input type="text" value="0%"/> |                      |
|           |                      | Major                | Moderate             |   | Minor                |
|           | Release Actual       | <input type="text"/> | <input type="text"/> |   | <input type="text"/> |
| Potential | <input type="text"/> | <input type="text"/> | <input type="text"/> |   |                      |

**>> Programmatic Matrix**

|   |                      |       |                      |                      |  |
|---|----------------------|-------|----------------------|----------------------|--|
| Matrix Notes                              |                      | Major | Moderate             | Minor                | Percent <input type="text" value="25%"/> |
|   | <b>Falsification</b> |       |                      |                      |  |
|   | <input type="text"/> | x     | <input type="text"/> | <input type="text"/> |  |
| 100% of the rule requirement was not met. |                      |       |                      |                      |  |

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

mark only one with an 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**

One single event is recommended.

**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** U.S. Department of the Army Corpus Christi Army Depot  
**Case ID No.** 35746  
**Reg. Ent. Reference No.** RN100223197  
**Media** Air  
**Violation No.** 1

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0              | 15                    |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|

No commas or \$

**Delayed Costs**

| Item Description         | Item Cost | Date Required | Final Date  | Yrs | Interest Saved | Onetime Costs | EB Amount |
|--------------------------|-----------|---------------|-------------|-----|----------------|---------------|-----------|
| 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    | \$1,000   | 25-May-2007   | 21-Nov-2007 | 0.5 | \$25           | n/a           | \$25      |
| 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 to timely prepare and submit a semi-annual deviation report. Date required is the date that the report was due and the final date is the date that the report was submitted.

**Avoided Costs**

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

| Item Description              | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|-------------------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| Disposal                      |           |               |            | 0.0 | \$0            | \$0           | \$0       |
| Personnel                     |           |               |            | 0.0 | \$0            | \$0           | \$0       |
| Inspection/Reporting/Sampling |           |               |            | 0.0 | \$0            | \$0           | \$0       |
| Supplies/equipment            |           |               |            | 0.0 | \$0            | \$0           | \$0       |
| Financial Assurance [2]       |           |               |            | 0.0 | \$0            | \$0           | \$0       |
| ONE-TIME avoided costs [3]    |           |               |            | 0.0 | \$0            | \$0           | \$0       |
| Other (as needed)             |           |               |            | 0.0 | \$0            | \$0           | \$0       |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

**TOTAL**

\$25

# Compliance History

Customer/Respondent/Owner-Operator: CN600126262 U. S. Department of the Army Classification: AVERAGE Rating: 2.33  
 Regulated Entity: RN100223197 CORPUS CHRISTI ARMY DEPOT Classification: AVERAGE Site Rating: 2.33

|               |                        |                |            |
|---------------|------------------------|----------------|------------|
| ID Number(s): | AIR OPERATING PERMITS  | ACCOUNT NUMBER | NE0054S    |
|               | AIR OPERATING PERMITS  | PERMIT         | 1638       |
|               | AIR NEW SOURCE PERMITS | PERMIT         | 25027      |
|               | AIR NEW SOURCE PERMITS | PERMIT         | 47049      |
|               | AIR NEW SOURCE PERMITS | ACCOUNT NUMBER | NE0054S    |
|               | AIR NEW SOURCE PERMITS | PERMIT         | 18726      |
|               | AIR NEW SOURCE PERMITS | PERMIT         | 53616      |
|               | AIR NEW SOURCE PERMITS | REGISTRATION   | 72403      |
|               | AIR NEW SOURCE PERMITS | REGISTRATION   | 73899      |
|               | AIR NEW SOURCE PERMITS | REGISTRATION   | 73900      |
|               | AIR NEW SOURCE PERMITS | REGISTRATION   | 73901      |
|               | AIR NEW SOURCE PERMITS | REGISTRATION   | 76975      |
|               | AIR NEW SOURCE PERMITS | REGISTRATION   | 78279      |
|               | AIR NEW SOURCE PERMITS | REGISTRATION   | 78597      |
|               | AIR NEW SOURCE PERMITS | REGISTRATION   | 78892      |
|               | AIR NEW SOURCE PERMITS | REGISTRATION   | 79493      |
|               | AIR NEW SOURCE PERMITS | REGISTRATION   | 47049      |
|               | AIR NEW SOURCE PERMITS | REGISTRATION   | 3907       |
|               | AIR NEW SOURCE PERMITS | AFS NUM        | 4835500057 |

Location: 308 CRECY ST, CORPUS CHRISTI, TX, 78419 Rating Date: 9/1/2007 Repeat Violator: NO

TCEQ Region: REGION 14 - CORPUS CHRISTI

Date Compliance History Prepared: April 10, 2008

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: April 10, 2003 to April 10, 2008

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

Name: Samuel Short Phone: (512) 239-5363

### Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

#### Components (Multimedia) for the Site :

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

N/A Effective Date: 02/05/2007 ADMINORDER 2006-0514-AIR-E  
 Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(B)  
 30 TAC Chapter 122, SubChapter B 122.146(5)(D)

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

Description: Failure to comply with the Federal Operating Permit (FOP) reporting terms and conditions for FOP No. O-01638. The regulated entity failed to submit a Deviation Report for the six-month period which began on October 26, 2004 through April 26, 2005 in which deviations occurred and failed to submit an accurate Title V, a

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

N/A

C. Chronic excessive emissions events.

N/A

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

|    |            |          |
|----|------------|----------|
| 1  | 02/12/2004 | (250584) |
| 2  | 04/13/2004 | (250585) |
| 3  | 04/13/2004 | (268011) |
| 4  | 07/20/2005 | (396945) |
| 5  | 08/26/2005 | (404777) |
| 6  | 02/12/2006 | (454781) |
| 7  | 05/03/2006 | (463732) |
| 8  | 03/16/2007 | (533449) |
| 9  | 10/08/2007 | (596964) |
| 10 | 02/20/2008 | (618900) |
| 11 | 04/02/2008 | (639806) |

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

Date 08/26/2005 (404777)

Self Report? NO

Classification Moderate

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

Rqmt Prov: PERMIT General Condition No. 8

Description: Failure to satisfy all demonstrations criteria and gain regulatory authority for an emissions event that occurred December 28, 2004.

Self Report? NO

Classification Moderate

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)

30 TAC Chapter 101, SubChapter F 101.201(g)

Description: Failure to submit an emission event notification electronically within 24 hours of the event.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
U.S. DEPARTMENT OF THE ARMY  
CORPUS CHRISTI ARMY DEPOT  
RN100223197**

§  
§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2008-0636-AIR-E**

### **I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding U.S. Department of the Army Corpus Christi Army Depot ("Corpus Christi Army Depot") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Corpus Christi Army Depot appear before the Commission and together stipulate that:

1. The Corpus Christi Army Depot is an installation owned and operated by the United States Department of the Army and is regulated by the TCEQ, RN100223197 and TCEQ Air Account Number NE-0054-S. The Corpus Christi Army Depot performs overhauls, repairs, modifications, retrofits, and modernization on rotary wing aircraft, engines, and components for military services at the Corpus Christi Army Depot located at 308 Crecy Street in Corpus Christi, Nueces County, Texas (the "Site").
2. The Site consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Corpus Christi Army Depot agree that the Commission has jurisdiction to enter this Agreed Order, and that the Corpus Christi Army Depot is subject to the Commission's jurisdiction.
4. The Corpus Christi Army Depot received notice of the violations alleged in Section II ("Allegations") on or about April 7, 2008.



5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Corpus Christi Army Depot of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Two Thousand Four Hundred Twenty-Five Dollars (\$2,425) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Corpus Christi Army Depot has paid One Thousand Nine Hundred Forty Dollars (\$1,940) of the administrative penalty and Four Hundred Eighty-Five Dollars (\$485) is deferred contingent upon the Corpus Christi Army Depot's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Corpus Christi Army Depot fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Corpus Christi Army Depot to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Corpus Christi Army Depot have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Corpus Christi Army Depot submitted the semi-annual deviation report for the reporting period of October 26, 2006 through April 25, 2007 on November 21, 2007.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Corpus Christi Army Depot has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Site, the Corpus Christi Army Depot is alleged to have failed to submit a semi-annual deviation report within 30 days after the reporting period, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(C), TEX. HEALTH & SAFETY CODE § 382.085(b), and Federal Operating Permit No. O-1638, General Terms and Conditions, as documented during a record review conducted on March 19, 2008. Specifically, the semi-annual deviation report for the reporting period of October 26, 2006 through April 25, 2007 was due on May 25, 2007 and was not submitted until November 21, 2007, 183 days late.



### III. DENIALS

The Corpus Christi Army Depot generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Corpus Christi Army Depot pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Corpus Christi Army Depot's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: U.S. Department of the Army Corpus Christi Army Depot, Docket No. 2008-0636-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. The provisions of this Agreed Order shall apply to and be binding upon the Corpus Christi Army Depot. The Corpus Christi Army Depot is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against the Corpus Christi Army Depot 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.
4. Settlement of this matter shall not constitute an admission of liability in any administrative or judicial proceeding. Settlement of this matter, to include our remitting of the penalty payment, shall not constitute or be considered a waiver of federal sovereign immunity, or an admission of such a waiver, or an admission that the United States is liable to pay administrative or civil penalties of fines assessed by the TCEQ for this enforcement action.
5. It is the expectation of the parties to this Order that all obligations of the Corpus Christi Army Depot arising under this Order will be fully funded. The Corpus Christi Army Depot agrees, in good faith, to seek funding to fulfill its obligations under this Order. However, any requirement for the payment or obligation of funds by the Corpus Christi Army Depot established by the terms of this Order shall be subject to the availability of funds, and no provision herein shall be interpreted to require obligation or payment of funds in violation of the Antideficiency Act U.S.C. § 1341. In cases where payment or obligation of funds would constitute a violation of the Antideficiency Act, the dates established requiring the payment or obligation of such funds shall be appropriately adjusted. The Corpus Christi Army Depot shall provide TCEQ all necessary



documentation to demonstrate how and why the original dates established in this Order would violate the Antideficiency Act.

6. 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.
7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Corpus Christi Army Depot, or three days after the date on which the Commission mails notice of the Order to the Corpus Christi Army Depot, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



U.S. Department of the Army  
 Corpus Christi Army Depot  
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## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
 For the Commission

John D. Dunaway  
 For the Executive Director

10/10/2008  
 Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

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

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

Joe D. Dunaway  
 Signature

26 Sep 08  
 Date

JOE D. DUNAWAY  
Colonel, Aviation  
Commanding  
 Name (Printed or typed)

Commander  
 Title

Authorized Representative of  
 U.S. Department of the Army  
 Corpus Christi Army Depot

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

