

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-0905-AIR-E **TCEQ ID:** RN100218767 **CASE NO.:** 35998

RESPONDENT NAME: NuStar Terminals Texas, Inc.

ORDER TYPE:		
<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	
CASE TYPE:		
<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>SITE WHERE VIOLATION(S) OCCURRED: NuStar, 201 Dock Road, Texas City, Galveston County</p> <p>TYPE OF OPERATION: Chemical storage and transfer plant</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</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 November 24, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Terry Murphy, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-5025; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Frank Salinas, Health, Safety, and Environmental Manager, NuStar Terminals Texas, Inc., 201 Dock Road, Texas City, Texas 77592 Mr. Kyle D. Oppliger, General Manager, NuStar Terminals Texas, Inc., 201 Dock Road, Texas City, Texas 77592 Respondent's Attorney: Not represented by counsel on this enforcement matter</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 type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: February 18, 2008</p> <p>Date of NOV/NOE Relating to this Case: April 16, 2008 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>AIR</p> <p>Failed to timely submit a compliance certification. Specifically, the compliance certification for the period August 19, 2006 through August 18, 2007 was not submitted until March 10, 2008, while the due date was September 18, 2007 [30 TEX. ADMIN. CODE § 122.146(2) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$3,625</p> <p>Total Deferred: \$725 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$2,900</p> <p>Site Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director of the TCEQ recognizes that the Respondent submitted the annual compliance certification for the period August 19, 2006 through August 18, 2007 on March 10, 2008.</p>

Additional ID No(s): GB0005J



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

DATES	Assigned	2-Jun-2008			
	PCW	13-Jun-2008	Screening	4-Jun-2008	EPA Due 25-Feb-2009

RESPONDENT/FACILITY INFORMATION			
Respondent	NuStar Terminals Texas, Inc.		
Reg. Ent. Ref. No.	RN100218767		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	35998	No. of Violations	1
Docket No.	2008-0905-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Terry Murphy
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1*

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History *Subtotals 2, 3, & 7*

Notes

Culpability *Subtotal 4*

Notes

Good Faith Effort to Comply Total Adjustments *Subtotal 5*

Economic Benefit *Subtotal 6*

Total EB Amounts *Capped at the Total EB \$ Amount
 Approx. Cost of Compliance

SUM OF SUBTOTALS 1-7 *Final Subtotal*

OTHER FACTORS AS JUSTICE MAY REQUIRE *Adjustment*

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty*

DEFERRAL *Adjustment*

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

Notes

PAYABLE PENALTY

Screening Date 4-Jun-2008

Docket No. 2008-0905-AIR-E

PCW

Respondent NuStar Terminals Texas, Inc.

Policy Revision 2 (September 2002)

Case ID No. 35998

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN100218767

Media [Statute] Air

Enf. Coordinator Terry Murphy

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>	4	20%
	Other written NOVs	5	10%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgments or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i>	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%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 70%

>> **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

The penalty was enhanced by four same or similar NOV's, five dissimilar NOV's, and two 1660-style agreed orders.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 70%

Screening Date 4-Jun-2008	Docket No. 2008-0905-AIR-E	PCW
Respondent NuStar Terminals Texas, Inc.		<i>Policy Revision 2 (September 2002)</i>
Case ID No. 35998		<i>PCW Revision June 12, 2008</i>
Reg. Ent. Reference No. RN100218767		
Media [Statute] Air		
Enf. Coordinator Terry Murphy		
Violation Number <input type="text" value="1"/>		
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 122.146(2) and Tex. Health & Safety Code § 382.085(b)"/>	
Violation Description	<input type="text" value="Failed to timely submit a compliance certification. Specifically, the compliance certification for the period August 19, 2006 through August 18, 2007 was not submitted until March 10, 2008, while the due date was September 18, 2007, as documented during an investigation conducted on February 18, 2008."/>	
	Base Penalty	<input type="text" value="\$10,000"/>
>> Environmental, Property and Human Health Matrix		
OR	Harm	
	Release Major Moderate Minor	
	Actual <input type="text"/> <input type="text"/> <input type="text"/>	Percent <input type="text" value="0%"/>
	Potential <input type="text"/> <input type="text"/> <input type="text"/>	
>> Programmatic Matrix		
	Falsification Major Moderate Minor	
	<input type="text"/> <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	Percent <input type="text" value="25%"/>
Matrix Notes	<input type="text" value="The Respondent failed to comply with 100% of the rule."/>	
	Adjustment	<input type="text" value="\$7,500"/>
		<input type="text" value="\$2,500"/>
Violation Events		
	Number of Violation Events <input type="text" value="1"/>	<input type="text" value="174"/> Number of violation days
<i>mark only one with an x</i>	daily <input type="text"/>	Violation Base Penalty <input type="text" value="\$2,500"/>
	monthly <input type="text"/>	
	quarterly <input type="text"/>	
	semiannual <input type="text"/>	
	annual <input type="text"/>	
	single event <input checked="" type="checkbox"/>	
	<input type="text" value="One single event is recommended."/>	
Good Faith Efforts to Comply		
	<input type="text" value="25.0%"/> Reduction	<input type="text" value="\$625"/>
	Before NOV NOV to EDRP/Settlement Offer	
Extraordinary	<input type="text"/> <input type="text"/>	
Ordinary	<input checked="" type="checkbox"/> <input type="text"/>	
N/A	<input type="text"/> (mark with x)	
Notes	<input type="text" value="The Respondent achieved compliance on March 10, 2008."/>	
	Violation Subtotal	<input type="text" value="\$1,875"/>
Economic Benefit (EB) for this violation		
Statutory Limit Test		
Estimated EB Amount	<input type="text" value="\$2"/>	Violation Final Penalty Total <input type="text" value="\$3,625"/>
		This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$3,625"/>

Economic Benefit Worksheet

Respondent NuStar Terminals Texas, Inc.
Case ID No. 35998
Reg. Ent. Reference No. RN100218767
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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	18-Sep-2007	10-Mar-2008	0.48	\$2	n/a	\$2

Notes for DELAYED costs

Estimated cost to submit an annual compliance certification. The Date Required is the date the report was due, and the Final Date is the date the report was submitted.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$2

Compliance History

Customer/Respondent/Owner-Operator: CN600129860 NuStar Terminals Texas, Inc. Classification: AVERAGE Rating: 5.81
 Regulated Entity: RN100218767 NUSTAR Classification: AVERAGE Site Rating: 11.94

ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	GB0005J
	AIR OPERATING PERMITS	PERMIT	983
	AIR OPERATING PERMITS	PERMIT	2811
	AIR OPERATING PERMITS	ACCOUNT NUMBER	JE0824J
	WASTE WATER GENERAL PERMIT	PERMIT	TXG670055
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD096036561
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	31060
	AIR NEW SOURCE PERMITS	PERMIT	91A
	AIR NEW SOURCE PERMITS	PERMIT	945
	AIR NEW SOURCE PERMITS	PERMIT	1677
	AIR NEW SOURCE PERMITS	PERMIT	2395
	AIR NEW SOURCE PERMITS	PERMIT	3224
	AIR NEW SOURCE PERMITS	PERMIT	6880
	AIR NEW SOURCE PERMITS	PERMIT	45397
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	GB0005J
	AIR NEW SOURCE PERMITS	AFS NUM	4824500011
	AIR NEW SOURCE PERMITS	REGISTRATION	79791
	AIR NEW SOURCE PERMITS	REGISTRATION	81310
	IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	31060

Location: 201 DOCK RD, TEXAS CITY, TX, 77592 Rating Date: September 01 07 Repeat Violator: No

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: June 04, 2008

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: June 04, 2003 to June 04, 2008

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

Name: Terry Murphy Phone: (512) 239-5025

Site Compliance History Components

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

Components (Multimedia) for the Site :

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

Effective Date: 10/24/2005 Admin. Order 2005-0193-AIR-E

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(2)(F)
 30 TAC Chapter 101, SubChapter F 101.201(a)(2)(H)
 30 TAC Chapter 101, SubChapter F 101.201(g)
 5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failed to properly notify the TCEQ of an emissions event that occurred on September 7, 2004. Specifically, the initial notification was not submitted electronically and did not identify the duration of the event or the authorized emissions limit.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)
 5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failed to prevent the unauthorized release of 400 pounds of butadiene from a hose rupture during barge loading at the No. 16 pit during a one hour emissions event on September 7, 2004.

Effective Date: 10/19/2006 Admin. Order 2006-0449-AIR-E

Classification: Major

Citation: 30 TAC Chapter 101, SubChapter A 101.4
 5C THC Chapter 382, SubChapter D 382.085(a)
 5C THC Chapter 382, SubChapter D 382.085(b)

Description: StanTrans is alleged to have emitted into the atmosphere fumes of ethyl acrylate in such concentration and duration as to adversely affect human health or welfare or interfere with the normal use and enjoyment of property.

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

N/A

C. Chronic excessive emissions events.

N/A

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

1	03/17/2004	(262392)	10	07/11/2006	(466002)
			11	11/27/2006	(515178)
2	03/24/2004	(257375)	12	12/29/2006	(535501)
			13	05/10/2007	(559919)
3	05/27/2004	(272513)	14	07/05/2007	(554968)
4	10/13/2004	(336517)	15	07/30/2007	(568454)
5	12/31/2004	(345451)	16	10/05/2007	(572065)
6	01/10/2005	(343555)	17	10/05/2007	(595105)
7	05/24/2005	(341196)	18	02/13/2008	(613547)
8	10/31/2005	(406831)	19	04/16/2008	(597486)
9	06/22/2006	(462108)	20	05/30/2008	(654708)

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

Date: 03/17/2004 (262392)

Self Report? NO

Classification: Minor

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

Description: Failed to submit a notification for a reportable emissions event within 24 hours of discovery.

Self Report? NO

Classification: Minor

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

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

Rqmt Prov: PERMIT TCEQ AIR PERMIT #1677, SC #1

Description: Exceeded permit limits during an emissions event.

Date: 03/24/2004 (257375)

Self Report? NO

Classification: Moderate

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

Description: Failure to update Notice of Registration.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter A 335.13(k)

40 CFR Chapter 262, SubChapter I, PT 262, SubPT D 262.42

Description: Failure to submit an Exception Report within 45 days for an unsigned manifest.

Self Report? NO

Classification: Moderate

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

Description: Failure to appropriately complete hazardous and Class 1 waste manifests.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter A 335.4

30 TAC Chapter 350, SubChapter A 350.2(h)

TWC Chapter 26 26.121

TWC Chapter 26 26.266

Description: Failure to prevent and clean-up spills/discharges of hazardous materials.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter C 335.62

30 TAC Chapter 335, SubChapter R 335.503(a)

30 TAC Chapter 335, SubChapter R 335.503(b)

30 TAC Chapter 335, SubChapter R 335.504

40 CFR Chapter 262, SubChapter I, PT 262, SubPT A 262.11

Description: Failure to perform adequate waste determinations.

Date: 05/26/2005 (341196)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)

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

Description: Failed to prevent the cross connection of hoses, during a loading operation.

Date: 04/28/2006 (458624)

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)

Description: failure to properly document a non-reportable emissions event.

Date: 06/22/2006 (462108)

Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 5C THC Chapter 382, SubChapter D 382.085(b)		
Rqmt Prov:	PA 1677, SC No. 1		
Description:	Exceeded permit limits during an avoidable emissions event.		
Date:	07/11/2006 (466002)		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 122, SubChapter B 122.145(2)(A)		
Description:	Failure to report deviations.		
Self Report?	NO	Classification:	Moderate
Citation:	40 CFR Chapter 61, SubChapter C, PT 61, SubPT W 61.272(a)(3)(i)		
Description:	Failure to provide inspection notification.		
Self Report?	NO	Classification:	Moderate
Citation:	40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(2)		
Description:	Failure to properly design and operate flares		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)(ii)		
Description:	Failure to record flare observations		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 115, SubChapter C 115.212(a)(3)(B)		
Description:	Failure to comply with control requirements.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 115, SubChapter B 115.114(a)(1)		
Description:	Failure to conduct inspections.		
Date:	07/05/2007 (554968)		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 115, SubChapter C 115.212(a)(3)(B)		
Description:	30 Tex. Admin. Code 115.212(a)(3)(B), which states that all land-based VOC transfer to or from transport vessels shall be conducted such that there are no VOC leaks, as defined in §101.1 of this title (relating to Definitions)		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 115, SubChapter B 115.112(a)(2)(E)		
Description:	30 Tex. Admin. Code 115.112(a)(2)(E), which states that there must be no visible holes, tears, or other openings in any seal or seal fabric.		
Date:	08/01/2007 (568454)		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 101, SubChapter A 101.10(e) 5C THC Chapter 382, SubChapter A 382.014 5C THC Chapter 382, SubChapter A 382.085(b)		
Description:	Failure to submit a 2006 Emission Inventory, Category B19(g)(3)		
Date:	11/28/2007 (597053)		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 101, SubChapter A 101.4		
Description:	During the investigation that was conducted on October 1, 2007, it was determined by the investigators that NuStar Energy had created a "nuisance" odor.		

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
NUSTAR TERMINALS TEXAS, INC.
RN100218767

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-0905-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 NuStar Terminals Texas, Inc. ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a chemical storage and transfer plant at 201 Dock Road in Texas City, Galveston County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about April 21, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Three Thousand Six Hundred Twenty-Five Dollars (\$3,625) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Thousand Nine Hundred Dollars (\$2,900) of the administrative penalty and Seven Hundred Twenty-Five Dollars (\$725) is deferred contingent

upon the Respondent'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 Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent 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 Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director of the TCEQ recognizes that the Respondent submitted the annual compliance certification for the period August 19, 2006 through August 18, 2007 on March 10, 2008.
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 Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have failed to timely submit a compliance certification, in violation of 30 TEX. ADMIN. CODE § 122.146(2) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on February 18, 2008. Specifically, the compliance certification for the period August 19, 2006 through August 18, 2007 was not submitted until March 10, 2008, while the due date was September 18, 2007.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent'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: NuStar Terminals Texas, Inc., Docket No. 2008-0905-AIR-E" to:

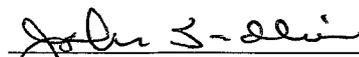
Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this 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. 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.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

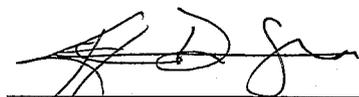
10/16/2008
Date

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.



Signature

08.28.2008
Date

KYLE D. OPPLIGER

Name (Printed or typed)
Authorized Representative of
NuStar Terminals Texas, Inc.

GENERAL MANAGER

Title

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.

