

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-1328-AIR-E **TCEQ ID:** RN103940854 and RN100823954 **CASE NO.:** 34444

RESPONDENT NAME: Charles J. Engle

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: Super Stop - San Elizario, 12040 Socorro Road, San Elizario, El Paso County and Super Stop - 16, 429 North Yarbrough Drive, El Paso, El Paso County</p> <p>TYPE OF OPERATION: Fuel dispensing stations</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 these facility locations.</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 January 14, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. James Nolan, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-6634; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Charles J. Engle, Owner, Super Stop - 16 and Super Stop - San Elizario, P.O. Box 577, Fabens, Texas 79838 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: June 2 and June 9, 2007</p> <p>Date of NOV/NOE Relating to this Case: July 13 and 26, 2007 (NOE)</p> <p>Background Facts: These were routine investigations.</p> <p>AIR</p> <p>1) Failed to comply with the maximum 7.0 pounds per square inch absolute ("psia") Reid Vapor Pressure ("RVP") requirements during the control period of June 1 through September 16. Specifically, samples were taken of regular, mid-grade, and premium gasoline dispensed from Pump Number Three of Super Stop - 16. These samples were documented to have RVPs of 7.90 psia, 7.75 psia and 7.31 psia, respectively [30 TEX. ADMIN. CODE § 115.252(2) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>2) Failed to comply with the maximum 7.0 psia RVP requirements for gasoline during the control period of June 1 through September 16. Specifically, a sample was taken of premium grade gasoline dispensed from Pump Number Two at Super Stop - San Elizario and was documented to have an RVP of 7.92 psia [30 TEX. ADMIN. CODE § 115.252(2) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$4,620</p> <p>Total Deferred: \$924 <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: \$3,696</p> <p>RN100823954 and RN103940854 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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, establish and implement a process which will ensure the RVP for gasoline dispensed between June 1 and September 16 of each year shall not exceed 7.0 psia at the Stations; and</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>

Additional ID No(s): EE1006B



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 26, 2007

DATES	Assigned	10-Jul-2007	Screening	25-Jul-2007	EPA Due	
	PCW	25-Jul-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	Charles J. Engle Super Stop - 16
Reg. Ent. Ref. No.	RN100823954
Facility/Site Region	6-El Paso Major/Minor Source Minor

CASE INFORMATION			
Enf./Case ID No.	34444	No. of Violations	1
Docket No.	2007-1328-AIR-E	Order Type	1660
Media Program(s)	Air	Enf. Coordinator	James Nolan
Multi-Media		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 20% Enhancement **Subtotals 2, 3, & 7**

Notes

Culpability No 0% Enhancement **Subtotal 4**

Notes

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

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

Notes

Total EB Amounts **0% Enhancement*** **Subtotal 6**
 Approx. Cost of Compliance *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

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

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL 20% Reduction **Adjustment**

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

Notes

PAYABLE PENALTY

Screening Date 25-Jul-2007

Docket No. 2007-1328-AIR-E

PCW

Respondent Charles J. Engle

Policy Revision 2 (September 2002)

Case ID No. 34444

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN100823954

Media [Statute] Air

Enf. Coordinator James Nolan

Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	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 (number of judgments or consent decrees meeting criteria)	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 (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<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) 20%

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

No

Adjustment Percentage (Subtotal 3) 0%

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

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

Penalty enhancement due to one previous 1660 order.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 20%

<p>Screening Date 25-Jul-2007</p> <p>Respondent Charles J. Engle</p> <p>Case ID No. 34444</p> <p>Reg. Ent. Reference No. RN100823954</p> <p>Media [Statute] Air</p> <p>Enf. Coordinator James Nolan</p> <p>Violation Number <input type="text" value="1"/></p> <p>Rule Cite(s) 30 Tex. Admin. Code § 115.252(2) and Tex. Health & Safety Code § 382.085(b)</p> <p>Violation Description Failed to comply with the maximum 7.0 pounds per square inch absolute ("psia") Reid Vapor Pressure ("RVP") requirements during the control period of June 1 - September 16. Specifically, samples taken of regular, mid-grade, and premium gasoline dispensed from Pump Number Three were documented to have an RVP of 7.90 psia, 7.75 psia, and 7.31 psia, respectively, during an inspection conducted on June 2, 2007.</p>	<p>Docket No. 2007-1328-AIR-E</p> <p style="text-align: right;">PCW <small>Policy Revision 2 (September 2002) PCW Revision June 26, 2007</small></p> <p style="text-align: right;">Base Penalty <input type="text" value="\$10,000"/></p>													
<p>>> Environmental, Property and Human Health Matrix</p>														
<p>OR</p>	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="text-align: center; padding: 2px;">Release</td> <td style="text-align: center; padding: 2px;">Major</td> <td style="text-align: center; padding: 2px;">Moderate</td> <td style="text-align: center; padding: 2px;">Minor</td> <td rowspan="3" style="padding: 5px; vertical-align: middle;">Percent <input type="text" value="10%"/></td> </tr> <tr> <td style="text-align: center; padding: 2px;">Actual</td> <td style="text-align: center; padding: 2px;"><input type="text"/></td> <td style="text-align: center; padding: 2px;"><input type="text"/></td> <td style="text-align: center; padding: 2px;">x</td> </tr> <tr> <td style="text-align: center; padding: 2px;">Potential</td> <td style="text-align: center; padding: 2px;"><input type="text"/></td> <td style="text-align: center; padding: 2px;"><input type="text"/></td> <td style="text-align: center; padding: 2px;"><input type="text"/></td> </tr> </table>	Release	Major	Moderate	Minor	Percent <input type="text" value="10%"/>	Actual	<input type="text"/>	<input type="text"/>	x	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
Release	Major	Moderate	Minor	Percent <input type="text" value="10%"/>										
Actual	<input type="text"/>	<input type="text"/>	x											
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>											
<p>>> Programmatic Matrix</p>														
<p>Matrix Notes</p>	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="text-align: center; padding: 2px;">Falsification</td> <td style="text-align: center; padding: 2px;">Major</td> <td style="text-align: center; padding: 2px;">Moderate</td> <td style="text-align: center; padding: 2px;">Minor</td> <td rowspan="2" style="padding: 5px; vertical-align: middle;">Percent <input type="text" value="0%"/></td> </tr> <tr> <td style="text-align: center; padding: 2px;"><input type="text"/></td> </tr> </table> <p style="border: 1px solid black; padding: 5px; margin-top: 5px;">Human health or the environment was exposed to insignificant amounts of pollutants which did not exceed levels that are protective of human health or the environment.</p> <p style="text-align: right; margin-top: 5px;">Adjustment <input type="text" value="\$9,000"/></p>	Falsification	Major	Moderate	Minor	Percent <input type="text" value="0%"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>				
Falsification	Major	Moderate	Minor	Percent <input type="text" value="0%"/>										
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>											
<p><input type="text" value="\$1,000"/></p>														
<p>Violation Events</p>														
<p>Number of Violation Events <input type="text" value="3"/> <input type="text" value="106"/> Number of violation days</p>	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="padding: 2px;">daily</td> <td style="text-align: center; padding: 2px;"><input type="text"/></td> </tr> <tr> <td style="padding: 2px;">monthly</td> <td style="text-align: center; padding: 2px;"><input type="text"/></td> </tr> <tr> <td style="padding: 2px;">quarterly</td> <td style="text-align: center; padding: 2px;"><input type="text"/></td> </tr> <tr> <td style="padding: 2px;">semiannual</td> <td style="text-align: center; padding: 2px;"><input type="text"/></td> </tr> <tr> <td style="padding: 2px;">annual</td> <td style="text-align: center; padding: 2px;"><input type="text"/></td> </tr> <tr> <td style="padding: 2px;">single event</td> <td style="text-align: center; padding: 2px;">x</td> </tr> </table> <p style="text-align: right; margin-top: 5px;">Violation Base Penalty <input type="text" value="\$3,000"/></p>	daily	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	x	
daily	<input type="text"/>													
monthly	<input type="text"/>													
quarterly	<input type="text"/>													
semiannual	<input type="text"/>													
annual	<input type="text"/>													
single event	x													
<p style="border: 1px solid black; padding: 5px; text-align: center;">Three single events are recommended based upon the violation of three grades of gasoline at Pump Number Three.</p>														
<table style="width:100%;"> <tr> <td style="width:50%;">Economic Benefit (EB) for this violation</td> <td style="width:50%;">Statutory Limit Test</td> </tr> <tr> <td>Estimated EB Amount <input type="text" value="\$4"/></td> <td>Violation Final Penalty Total <input type="text" value="\$3,600"/></td> </tr> <tr> <td colspan="2" style="text-align: right;">This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$3,600"/></td> </tr> </table>		Economic Benefit (EB) for this violation	Statutory Limit Test	Estimated EB Amount <input type="text" value="\$4"/>	Violation Final Penalty Total <input type="text" value="\$3,600"/>	This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$3,600"/>								
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Estimated EB Amount <input type="text" value="\$4"/>	Violation Final Penalty Total <input type="text" value="\$3,600"/>													
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$3,600"/>														

Economic Benefit Worksheet

Respondent Charles J. Engle
Case ID No. 34444
Reg. Ent. Reference No. RN100823954
Media Air
Violation No. 1

Super Stop - 16

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

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	\$100	9-Jun-2007	9-Apr-2008	0.8	\$4	n/a	\$4
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 of implementing procedures to ensure the required RVP is maintained. The Date Required is the date of investigation. The Final Date is the estimated date of compliance.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$100

TOTAL \$4

Compliance History

Customer/Respondent/Owner-Operator: CN603231150 ENGLE, CHARLES J Classification: AVERAGE Rating: 2.23
Regulated Entity: RN100823954 SUPER STOP 16 Classification: AVERAGE Site Rating: 4.09
ID Number(s): AIR NEW SOURCE PERMITS ACCOUNT NUMBER EE1006B
PETROLEUM STORAGE TANK
REGISTRATION
REGISTRATION 7300
Location: 429 N YARBROUGH DR, EL PASO, TX, 79915
Rating Date: September 01 06 Repeat Violator: NO
TCEQ Region: REGION 06 - EL PASO
Date Compliance History Prepared: January 30, 2008
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: August 16, 2002 to August 16, 2007
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: James Nolan Phone: 512/239-6634

Site Compliance History Components

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

Components (Multimedia) for the Site :

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

Effective Date: 04/10/2005 ADMINORDER 2004-0076-AIR-E
Classification: Moderate
Citation: 30 TAC Chapter 115, SubChapter C 115.252(2)
5C THC Chapter 382, SubChapter A 382.085(b)
Description: Failure to comply with the 7.0 psia. Maximum Reid Vapor Pressure requirement during the control period of June 1, 2002 thru September 16, 2002 for El Paso County.

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 09/07/2002 (1487)
2 11/07/2002 (9637)
3 12/05/2002 (13863)
4 08/15/2003 (149953)
5 08/18/2003 (146609)
6 07/13/2004 (281198)
7 12/08/2004 (342724)
8 06/20/2005 (380371)
9 07/29/2005 (402039)
10 11/16/2006 (519727)
11 07/25/2007 (564530)

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

N/A

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participatlon in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 26, 2007

DATES	Assigned PCW	10-Jul-2007	Screening	25-Jul-2007	EPA Due	
		25-Jul-2007				

RESPONDENT/FACILITY INFORMATION			
Respondent	Charles J. Engle Super Stop - San Elizario		
Reg. Ent. Ref. No.	RN103940854		
Facility/Site Region	6-El Paso	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	34444	No. of Violations	1
Docket No.	2007-1328-AIR-E	Order Type	1660
Media Program(s)	Air	Enf. Coordinator	James Nolan
Multi-Media		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 Enhancement **Subtotals 2, 3, & 7**

Notes

Culpability Enhancement **Subtotal 4**

Notes

Good Faith Effort to Comply Reduction **Subtotal 5**

Before NOV NOV to EDRP/Settlement Offer

Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/> X	(mark with x)

Notes

Total EB Amounts **Subtotal 6**
 Approx. Cost of Compliance **0% Enhancement***
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

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

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Notes

PAYABLE PENALTY

Screening Date 25-Jul-2007

Docket No. 2007-1328-AIR-E

PCW

Respondent Charles J. Engle

Policy Revision 2 (September 2002)

Case ID No. 34444

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN103940854

Media [Statute] Air

Enf. Coordinator James Nolan

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

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

Adjustment Percentage (Subtotal 2) 2%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Penalty enhancement due to one previous nonsimilar NOV.

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

Screening Date 25-Jul-2007	Docket No. 2007-1328-AIR-E	PCW
Respondent Charles J. Engle	Sup	<i>Policy Revision 2 (September 2002)</i>
Case ID No. 34444		<i>PCW Revision June 26, 2007</i>
Reg. Ent. Reference No. RN103940854		
Media [Statute] Air		
Enf. Coordinator James Nolan		
Violation Number	1	
Rule Cite(s)	30 Tex. Admin. Code § 115.252(2) and Tex. Health & Safety Code § 382.085(b)	
Violation Description	Failed to comply with the maximum 7.0 pounds per square inch absolute ("psia") Reid Vapor Pressure ("RVP") requirements during the control period of June 1 - September 16. Specifically, a sample taken of premium grade gasoline dispensed from Pump Number Two was documented to have an RVP of 7.92 psia during an inspection conducted on June 9, 2007.	
	Base Penalty	\$10,000

>> Environmental, Property and Human Health Matrix

OR	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 <input type="text" value="10%"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
					Percent <input type="text" value="0%"/>

Matrix Notes Human health or the environment was exposed to insignificant amounts of pollutants which did not exceed levels that are protective of human health or the environment.

Adjustment

\$1,000

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	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

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 Charles J. Engle

Super Stop - San Elizario

Case ID No. 34444

Reg. Ent. Reference No. RN103940854

Media Air

Violation No. 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
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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	\$100	9-Jun-2007	9-Apr-2008	0.8	\$4	n/a	\$4
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 of implementing procedures to ensure the required RVP is maintained. The Date Required is the date of investigation. The Final Date is the estimated date of compliance.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$4

Compliance History

Customer/Respondent/Owner-Operator:	CN603231150 ENGLE, CHARLES J	Classification: AVERAGE	Rating: 2.23
Regulated Entity:	RN103940854 SUPER STOP - SAN ELIZARIO	Classification: AVERAGE	Site Rating: 0.38
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	76017
Location:	12040 SOCORRO RD, SAN ELIZARIO, TX, 79849	Rating Date: September 01 06	Repeat Violator: NO
TCEQ Region:	REGION 06 - EL PASO		
Date Compliance History Prepared:	January 30, 2008		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	August 17, 2002 to August 17, 2007		

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

Name: James Nolan Phone: 512/239-6634

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
- 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	11/20/2003	(255089)
2	07/28/2004	(281190)
3	10/21/2004	(337778)
4	11/30/2004	(339159)
5	06/02/2005	(394474)
6	07/12/2005	(399356)
7	12/09/2005	(439725)
8	07/12/2007	(565693)
9	08/07/2007	(567232)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	11/24/2004	(339159)	
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 115, SubChapter C 115.246(5)		
Description:	Failure to have results of Stage II Vapor Recovery system testing available for review.		
- 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
CHARLES J. ENGLE
RN100823954; RN103940854

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2007-1328-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 Charles J. Engle ("Mr. Engle") 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 Mr. Engle appear before the Commission and together stipulate that:

1. Mr. Engle owns and operates fuel dispensers at the following locations in El Paso County, Texas (the "Stations"):
 - a. 429 North Yarbrough Drive, El Paso, Texas (Super Stop - 16); and
 - b. 12040 Socorro Road, San Elizario, Texas (Super Stop - San Elizario).
2. The Stations consist of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and Mr. Engle agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Engle is subject to the Commission's jurisdiction.
4. Mr. Engle received notice of the violations alleged in Section II ("Allegations") on or about July 18, 2007 and July 31, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Engle of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Four Thousand Six Hundred Twenty Dollars (\$4,620) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. Engle has paid Three Thousand Six Hundred Ninety-Six Dollars (\$3,696) of the administrative penalty and Nine Hundred Twenty-Four Dollars (\$924) is deferred contingent upon Mr. Engle'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 Mr. Engle fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Mr. Engle 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 Mr. Engle have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. 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 Mr. Engle has not complied with one or more of the terms or conditions in this Agreed Order.
10. 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.
11. 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 Stations, Mr. Engle is alleged to have:

1. Failed to comply with the maximum 7.0 pounds per square inch absolute ("psia") Reid Vapor Pressure ("RVP") requirements during the control period of June 1 through September 16, in violation of 30 TEX. ADMIN. CODE § 115.252(2) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented in an investigation conducted on June 2, 2007. Specifically, samples were taken of regular, mid-grade, and premium gasoline dispensed from Pump Number Three of Super Stop - 16. These samples were documented to have RVPs of 7.90 psia, 7.75 psia and 7.31 psia, respectively.
2. Failed to comply with the maximum 7.0 psia RVP requirements for gasoline during the control period of June 1 through September 16, in violation of 30 TEX. ADMIN. CODE § 115.252(2) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented in an investigation conducted on June 9, 2007. Specifically, a sample was taken of premium grade gasoline dispensed from Pump Number Two at Super Stop - San Elizario and was documented to have an RVP of 7.92 psia.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Mr. Engle pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Mr. Engle'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: Charles J. Engle, Docket No. 2007-1328-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. It is further ordered that Mr. Engle shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, establish and implement a process which will ensure the RVP for gasoline dispensed between June 1 and September 16 of each year shall not exceed 7.0 psia at the Stations; and
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Air Section Manager
El Paso Regional Office
Texas Commission on Environmental Quality
401 East Franklin Avenue, Suite 560
El Paso, Texas 79901-1206

3. The provisions of this Agreed Order shall apply to and be binding upon Mr. Engle. Mr. Engle is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Stations' operations referenced in this Agreed Order.
4. If Mr. Engle fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Mr. Engle's failure to comply is not a violation of this Agreed Order. Mr. Engle shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Engle shall notify the Executive Director within seven days after Mr. Engle becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. Engle shall be made in writing to the Executive Director. Extensions are not effective until Mr. Engle receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Mr. Engle 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.
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. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Mr. Engle, or three days after the date on which the Commission mails notice of the Order to Mr. Engle, 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

Date 2/7/2008

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

Date 10/24/07

CHARLES J. ENGLE
Name (Printed or typed)
Authorized Representative of
Charles J. Engle

owner

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.

