

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2008-1205-AIR-E    **TCEQ ID:** RN100225093    **CASE NO.:** 36031

**RESPONDENT NAME:** Vopak Terminal Deer Park, Inc.

<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> Vopak Terminal Deer Park, 2759 Battleground Road, Deer Park, Harris County</p> <p><b>TYPE OF OPERATION:</b> Chemical storage terminal</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 December 29, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768  <b>TCEQ Enforcement Coordinator:</b> Ms. Nadia Hameed, Enforcement Division, Enforcement Team 5, MC R-12, (713) 767-3629;                      Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171  <b>Respondent:</b> Mr. Tony Bundick, Regional Manager-Safety, Health &amp; Environmental, Vopak Terminal Deer Park, Inc., 2759 Battleground Road, Suite C, Deer Park, Texas 77536  <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>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> May 13, 2008</p> <p><b>Date of NOV/NOE Relating to this Case:</b> June 2, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a record review.</p> <p><b>AIR</b></p> <p>1) Failure to prevent unauthorized emissions. Specifically, 1,044.30 pounds ("lbs") of volatile organic compounds were released when the Respondent failed to close the bypass valve on the circulation line at Loading Station 22, leading to the overfilling of the tank truck, resulting in an emissions event which began on February 21, 2008, and lasted for one hour (Incident No: 104029). Since the emissions event was avoidable, the demonstrations in 30 TEX. ADMIN. CODE § 101.222 necessary to present an affirmative defense were not met [30 TEX. ADMIN. CODE § 116.115(c), Air Permit No. 466A, Special Condition No. 1, and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>2) Failure to prevent unauthorized emissions. Specifically, 4,753.50 lbs of Methyl Tertiary Butyl Ether were released when the Respondent failed to close a block valve on the pipeline which is directly connected to Tank 600 at the conclusion of a previous transfer, leading to the overfilling of the tank, resulting in an emissions event which began on March 11, 2008, and lasted for one hour and thirty minutes (Incident No. 104864). Since the emissions event was avoidable, the demonstrations in 30 TEX. ADMIN. CODE § 101.222 necessary to present an affirmative defense were not met. [30 TEX. ADMIN. CODE § 116.115(c), Air</p>	<p><b>Total Assessed:</b> \$11,200</p> <p><b>Total Deferred:</b> \$2,240  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$4,480</p> <p><b>Total Paid to General Revenue:</b> \$4,480</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <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 Respondent has implemented the following corrective measures at the Plant:</p> <p>a. On March 10, 2008, operator training for the truck loading personnel was completed (Incident No. 104029);</p> <p>b. On March 29, 2008, training for all operations personnel managing the filling of tanks was completed and the use of a new checklist to ensure that correct procedures are being followed was implemented (Incident No. 104864);</p> <p>c. On June 27, 2008, training for operations personnel on the use of the control system to monitor tank filling operations was completed (Incident No. 104864); and</p> <p>d. On July 14, 2008, the high level alarm system at Tank 600 was modified to incorporate elements that limit access to personnel for purposes of modifying or disabling the high level devices, and to interlock high level alarms to corresponding tank valves (Incident No. 104864).</p> <p><b>Ordering Provisions:</b></p> <p>1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p> <p>2) The Order will also require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, complete the installation of additional check valves and modification of the loading line's tie-in point to the circulation line at Loading Station No. 22, to provide an extra level of protection from un-metered product being loaded into a tank truck and to prevent recurrence of emissions due to the same cause as the February 21, 2008 emissions event (Incident No. 104029); and</p>

<p>Permit No. 466A, Special Condition No. 1, and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</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 No. 2.a.</p>
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Additional ID No(s): HG0629I



Attachment A  
Docket Number: 2008-1205-AIR-E

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

**Respondent:** Vopak Terminal Deer Park, Inc.  
**Payable Penalty Amount:** Eight Thousand Nine Hundred Sixty Dollars (\$8,960)  
**SEP Amount:** Four Thousand Four Hundred Eighty Dollars (\$4,480)  
**Type of SEP:** Pre-approved  
**Third-Party Recipient:** Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program  
**Location of SEP:** Harris County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

A. Project

The Respondent will contribute to Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program in Harris County. The contribution will be used in accordance with the *Supplemental Environmental Project Agreement between the Houston-Galveston AERCO and the Texas Commission on Environmental Quality*.

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

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



Vopak Terminal Deer Park, Inc.  
Agreed Order – Attachment A,

B. Environmental Benefit

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

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

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

**3. Records and Reporting**

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

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

**4. Failure to Fully Perform**

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

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





Vopak Terminal Deer Park, Inc.  
Agreed Order - Attachment A

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

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

**5. Publicity**

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

**6. Clean Texas Program**

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

**7. Other SEPs by TCEQ or Other Agencies**

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





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

<b>DATES</b>	Assigned	9-Jun-2008	Screening	10-Jun-2008	EPA Due	27-Feb-2009
	PCW	22-Jul-2008				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	Vopak Terminal Deer Park, Inc.
Reg. Ent. Ref. No.	RN100225093
Facility/Site Region	12-Houston
Major/Minor Source	Major

<b>CASE INFORMATION</b>			
Enf./Case ID No.	36031	No. of Violations	2
Docket No.	2008-1205-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Nadia Hameed
		EC's Team	Enforcement Team 5
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: Penalty enhancement due to three NOVs issued for same or similar violations, 12 NOVs issued for dissimilar violations (which includes six self-reported effluent violations), and one agreed order containing a denial of liability. Penalty reduction due to one Notice of Audit letter and one violation disclosure submitted.

**Culpability**   Enhancement **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5**

**Economic Benefit**  Enhancement\* **Subtotal 6**

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

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

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  Adjustment **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

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

Deferral offered for expedited settlement.

**PAYABLE PENALTY** **Final Assessed Penalty**

**Screening Date** 10-Jun-2008

**Docket No.** 2008-1205-AIR-E

**PCW**

**Respondent** Vopak Terminal Deer Park, Inc.

Policy Revision 2 (September 2002)

**Case ID No.** 36031

PCW Revision June 12, 2008

**Reg. Ent. Reference No.** RN100225093

**Media [Statute]** Air

**Enf. Coordinator** Nadia Hameed

### Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	3	15%
	Other written NOVs	12	24%
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 judgements 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)	1	-1%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	1	-2%

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)** 56%

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

No

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

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

Average Performer

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

>> **Compliance History Summary**

**Compliance History Notes**

Penalty enhancement due to three NOVs issued for same or similar violations, 12 NOVs issued for dissimilar violations (which includes six self-reported effluent violations), and one agreed order containing a denial of liability. Penalty reduction due to one Notice of Audit letter and one violation disclosure submitted.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 56%

<b>Screening Date</b> 10-Jun-2008	<b>Docket No.</b> 2008-1205-AIR-E	<b>PCW</b>	
<b>Respondent</b> Vopak Terminal Deer Park, Inc.	<small>Policy Revision 2 (September 2002)</small>		
<b>Case ID No.</b> 36031	<small>PCW Revision June 12, 2008</small>		
<b>Reg. Ent. Reference No.</b> RN100225093			
<b>Media [Statute]</b> Air			
<b>Enf. Coordinator</b> Nadia Hameed			
<b>Violation Number</b> <input type="text" value="1"/>			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 116.115(c), Air Permit No. 466A, Special Condition No. 1 and Tex. Health & Safety Code § 382.085(b)		
<b>Violation Description</b>	Failed to prevent unauthorized emissions. Specifically, 1,044.30 pounds ("lbs") of volatile organic compounds were released when the Respondent failed to close the bypass valve on the circulation line at Loading Station 22, leading to the overfilling of the tank truck, resulting in an emissions event which began on February 21, 2008, and lasted for one hour (Incident No. 104029). Since the emissions event was avoidable, the demonstrations in 30 Tex. Admin. Code § 101.222 necessary to present an affirmative defense were not met.		
<b>Base Penalty</b>		<input type="text" value="\$10,000"/>	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>			
OR	<b>Harm</b>		
	Major	Moderate	Minor
<b>Actual</b>	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>
<b>Potential</b>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<b>Percent</b>			<input type="text" value="25%"/>
<b>&gt;&gt; Programmatic Matrix</b>			
<b>Falsification</b>			
Major	Moderate	Minor	
<input type="text"/>	<input type="text"/>	<input type="text"/>	
<b>Percent</b>			<input type="text" value="0%"/>
<b>Matrix Notes</b>	Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.		
<b>Adjustment</b>			<input type="text" value="\$7,500"/>
			<input type="text" value="\$2,500"/>
<b>Violation Events</b>			
<b>Number of Violation Events</b>		<input type="text" value="1"/>	<b>Number of violation days</b>
		<input type="text" value="1"/>	
<small>mark only one with an x</small>	daily	<input type="text"/>	<b>Violation Base Penalty</b>
	monthly	<input type="text"/>	
	quarterly	<input checked="" type="checkbox"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input type="text"/>	
<input type="text" value="One quarterly event is recommended."/>			<input type="text" value="\$2,500"/>
<b>Good Faith Efforts to Comply</b>			<input type="text" value="0.0% Reduction"/>
			<input type="text" value="\$0"/>
<small>Before NOV    NOV to EDPRP/Settlement Offer</small>			
Extraordinary	<input type="text"/>	<input type="text"/>	
Ordinary	<input type="text"/>	<input type="text"/>	
N/A	<input checked="" type="checkbox"/>	<small>(mark with x)</small>	
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.		
<b>Violation Subtotal</b>			<input type="text" value="\$2,500"/>
<b>Economic Benefit (EB) for this violation</b>			<b>Statutory Limit Test</b>
<b>Estimated EB Amount</b>		<input type="text" value="\$279"/>	<b>Violation Final Penalty Total</b>
			<input type="text" value="\$3,900"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b>			<input type="text" value="\$3,900"/>

## Economic Benefit Worksheet

**Respondent** Vopak Terminal Deer Park, Inc.  
**Case ID No.** 36031  
**Reg. Ent. Reference No.** RN100225093  
**Media** Air  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
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	\$5,000	21-Feb-2008	7-Dec-2008	0.79	\$13	\$265	\$278
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	\$200	21-Feb-2008	10-Mar-2008	0.05	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**  
 Estimated cost for operator training and installation of check valves. Date required based on the date of the emissions event. Final date based on the date the training was completed on March 10, 2008, and the date by which the check valves are expected to be installed.

**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**

<b>Approx. Cost of Compliance</b>	\$5,200	<b>TOTAL</b>	\$279
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<b>Screening Date</b> 10-Jun-2008	<b>Docket No.</b> 2008-1205-AIR-E	<b>PCW</b>		
<b>Respondent</b> Vopak Terminal Deer Park, Inc.	<i>Policy Revision 2 (September 2002)</i>			
<b>Case ID No.</b> 36031	<i>PCW Revision June 12, 2008</i>			
<b>Reg. Ent. Reference No.</b> RN100225093				
<b>Media [Statute]</b> Air				
<b>Enf. Coordinator</b> Nadia Hameed				
<b>Violation Number</b> <input type="text" value="2"/>				
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 116.115(c), Air Permit No. 466A, Special Condition No. 1 and Tex. Health & Safety Code § 382.085(b)			
<b>Violation Description</b>	Failed to prevent unauthorized emissions. Specifically, 4,753.50 lbs of Methyl Tertiary Butyl Ether were released when the Respondent failed to close a block valve on the pipeline which is directly connected to Tank 600 at the conclusion of a previous transfer, leading to the overfilling of the tank, resulting in an emissions event which began on March 11, 2008, and lasted for one hour and thirty minutes (Incident No. 104864). Since the emissions event was avoidable, the demonstrations in 30 Tex. Admin. Code § 101.222 necessary to present an affirmative defense were not met.			
<b>Base Penalty</b>		<input type="text" value="\$10,000"/>		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
<b>OR</b>	<b>Harm</b>			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
<b>Percent</b>		<input type="text" value="50%"/>		
<b>&gt;&gt; Programmatic Matrix</b>				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<b>Percent</b>		<input type="text" value="0%"/>		
<b>Matrix Notes</b>	Human health or the environment in the Houston-Galveston ozone nonattainment area has been exposed to 2.38 tons of ozone precursors, a significant amount of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.			
<b>Adjustment</b>		<input type="text" value="\$5,000"/>		
		<input type="text" value="\$5,000"/>		
<b>Violation Events</b>				
<b>Number of Violation Events</b>		<input type="text" value="1"/>	<b>Number of violation days</b>	
		<input type="text" value="1"/>		
<i>mark only one with an x</i>	daily	<input type="text"/>	<b>Violation Base Penalty</b> <input type="text" value="\$5,000"/>	
	monthly	<input checked="" type="checkbox"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		
One monthly event is recommended.				
<b>Good Faith Efforts to Comply</b>		<input type="text" value="10.0%"/> Reduction	<input type="text" value="\$500"/>	
		Before NOV    NOV to EDPRP/Settlement Offer		
Extraordinary	<input type="text"/>	<input type="text"/>		
Ordinary	<input type="text"/>	<input checked="" type="checkbox"/>		
N/A	<input type="text"/>	(mark with x)		
<b>Notes</b>	The Respondent completed the corrective actions on July 14, 2008.			
<b>Violation Subtotal</b>		<input type="text" value="\$4,500"/>		
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>	<input type="text" value="\$2,031"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$7,300"/>	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>		<input type="text" value="\$7,300"/>		

### Economic Benefit Worksheet

**Respondent** Vopak Terminal Deer Park, Inc.  
**Case ID No.** 38031  
**Reg. Ent. Reference No.** RN100225093  
**Media** Air  
**Violation No.** 2

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

**Delayed Costs**

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$60,000	11-Mar-2008	14-Jul-2008	0.34	\$68	\$1,370	\$1,438
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	\$40,000	11-Mar-2008	27-Jun-2008	0.30	\$592	n/a	\$592
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$200	11-Mar-2008	29-Mar-2008	0.05	\$0	n/a	\$0

**Notes for DELAYED costs**  
 Estimated cost for operator training for the use of a new checklist, control system training and for redesigning the high level alarm system. Date required based on the date of the emissions event. Final date based on the date the corrective actions were completed.

**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				0.00	\$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 \$100,200 **TOTAL** \$2,031





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: 08/07/2005

ADMINORDER 2004-1572-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: TCEQ Air Permit #466A, SC #5A PERMIT

Description: Failed to comply with permitted emission limits during an emissions event that began on November 21, 2003. Specifically, 11,401 pounds of benzene were released during the four hour event while only 9.13 lbs/hr are authorized.

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	06/26/2003	(316242)
2	07/23/2003	(316245)
3	08/22/2003	(316247)
4	09/25/2003	(316249)
5	10/24/2003	(316251)
6	11/20/2003	(316253)
7	12/09/2003	(254527)
8	12/29/2003	(316254)
9	01/26/2004	(316256)
10	02/26/2004	(316234)
11	03/19/2004	(316237)
12	04/23/2004	(360788)
13	05/21/2004	(360789)
14	06/22/2004	(316243)
15	07/26/2004	(360790)
16	08/24/2004	(360791)
17	08/24/2004	(260007)
18	09/27/2004	(360792)
19	10/18/2004	(360793)
20	11/29/2004	(386773)
21	11/30/2004	(340805)
22	12/08/2004	(335798)
23	12/08/2004	(335585)
24	12/22/2004	(386774)
25	01/24/2005	(386775)
26	02/23/2005	(430383)
27	02/25/2005	(348327)
28	03/28/2005	(386772)
29	04/26/2005	(430384)
30	05/19/2005	(430385)
31	06/22/2005	(430386)
32	06/24/2005	(393479)
33	07/22/2005	(445312)
34	08/01/2005	(401981)
35	08/12/2005	(403387)
36	08/12/2005	(403374)
37	08/23/2005	(445313)
38	09/23/2005	(445314)
39	10/18/2005	(476612)
40	11/28/2005	(476613)
41	12/27/2005	(476614)
42	01/19/2006	(497011)
43	01/24/2006	(476615)
44	02/21/2006	(476610)
45	03/21/2006	(476611)
46	04/20/2006	(503575)
47	05/03/2006	(459800)

48 05/15/2006 (460903)  
 49 05/19/2006 (503576)  
 50 06/20/2006 (503577)  
 51 07/20/2006 (503578)  
 52 08/18/2006 (525929)  
 53 08/31/2006 (480011)  
 54 09/20/2006 (525930)  
 55 10/18/2006 (525931)  
 56 11/15/2006 (550347)  
 57 12/18/2006 (550348)  
 58 01/19/2007 (550349)  
 59 02/19/2007 (550346)  
 60 02/22/2007 (534772)  
 61 03/19/2007 (586273)  
 62 04/13/2007 (555739)  
 63 04/19/2007 (586274)  
 64 05/18/2007 (586275)  
 65 06/20/2007 (586276)  
 66 07/20/2007 (586277)  
 67 08/21/2007 (604671)  
 68 08/28/2007 (573195)  
 69 09/06/2007 (571991)  
 70 09/19/2007 (604672)  
 71 10/16/2007 (604673)  
 72 10/17/2007 (597931)  
 73 11/20/2007 (624320)  
 74 12/19/2007 (624321)  
 75 12/20/2007 (609011)  
 76 01/18/2008 (624322)  
 77 01/24/2008 (615834)  
 78 02/01/2008 (612285)  
 79 02/01/2008 (612235)  
 80 02/20/2008 (675262)  
 81 03/20/2008 (675263)  
 82 03/25/2008 (679822)  
 83 04/18/2008 (675264)  
 84 05/22/2008 (610511)  
 85 06/02/2008 (670856)  
 86 06/02/2008 (670843)

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

Date: 09/30/2003 (316251)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)  
 Description: Failure to meet the limit for one or more permit parameter  
 Date: 06/30/2004 (360790)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)  
 Description: Failure to meet the limit for one or more permit parameter  
 Date: 08/31/2004 (360792)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)  
 Description: Failure to meet the limit for one or more permit parameter  
 Date: 09/30/2004 (360793)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)  
 Description: Failure to meet the limit for one or more permit parameter  
 Date: 02/28/2005 (386772)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 03/01/2005 (348327)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
40 CFR Chapter 61, SubChapter C, PT 61, SubPT V 61.242-6(a)

Rqmt Prov: PERMIT Special Condition 4 E

Description: Open ended lines (5)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)  
40 CFR Chapter 61, SubChapter C, PT 61, SubPT V 61.242-1(d)

Description: Failure to tag all equipment in NESHAP service.

Date: 06/24/2005 (393479)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter D 115.356(3)  
30 TAC Chapter 122, SubChapter B 122.143(4)

Rqmt Prov: OP No. O-01068, SC #1

Description: failure to document cumulative emissions from leaking components scheduled to be repaired at the next unit shutdown.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter B 115.112(a)(2)(D)  
30 TAC Chapter 122, SubChapter B 122.143(4)

Rqmt Prov: OP No. O-01068, SC #5

Description: failure to equip the roof drains to the internal floating roof tanks at the terminal with a slotted membrane fabric cover.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)

Rqmt Prov: PERMIT No. 466A, SC #5H  
OP No. O-01068, SC #18

Description: failure to attempt to repair four (4) leaking valves within 15 days of the date the leaks were found.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)

Rqmt Prov: PERMIT No. 466A, SC #9  
OP No. O-01068, SC #18

Description: failure to submit notification of change in service of Storage Tanks T-608 and T-501 within 10 days of the change of service.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 61, SubChapter C, PT 61, SubPT V 61.242-7(a)

Rqmt Prov: PERMIT No. 466A, SC #3  
OP No. O-01068, SC #18

Description: failure to monitor components connected to Storage Tank T-501 for fugitive emissions for the first 30 days the storage vessel and the related components were in benzene service.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.7(a)(1)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.7(a)(3)

Rqmt Prov: PERMIT No. 466A, SC #2  
OP No. O-01068, SC 18

Description: failure to submit notification to the TCEQ of start of construction and start of operation of Storage Tanks T-929 and T-930.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 113, SubChapter C 113.300  
30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT Y 63.567(j)(3)

Rqmt Prov: PERMIT No. 466A, SC #4  
OP No. O-01068, SC #18

Description: failure to submit to the TCEQ the annual report of the HAP control efficiency for

the marine tank vessel loading operations.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter A 101.10(b)(3)  
30 TAC Chapter 122, SubChapter B 122.143(4)

Rqmt Prov: OP No. O-01068, SC # 2E

Description: failure to submit the Emission Inventory Report for 2003 within 90 days of the date the report was requested.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.145(2)(A)

Rqmt Prov: OP No. O-01068, SC# 18

Description: failure to report deviations from NSR Permit No. 466A and Operating Permit No. O-01068 in the deviation report for the period beginning September 26, 2003 and ending March 25, 2004.

Date: 01/19/2006 (497011)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 03/31/2006 (503575)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)  
 Description: Failure to meet the limit for one or more permit parameter  
 Date: 08/30/2006 (480011)  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)  
 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 40 CFR Chapter 61, SubChapter C, PT 61, SubPT V 61.242-6(a)  
 5C THC Chapter 382, SubChapter D 382.085(b)  
 Rqmt Prov: PERMIT No. 466A, SC 3  
 PERMIT No. 466A, SC 5E  
 OP No. O-01068, SC 18A  
 OP No. O-01068, SC 1A  
 Description: failed to equip open ended lines or valves with a cap, plug, blind flange or second valve.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 101, SubChapter H 101.360(a)(1)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 5C THC Chapter 382, SubChapter D 382.085(b)  
 Rqmt Prov: OP No. O-01068, SC 1F(vii)  
 Description: failed to submit a completed Form ECT-3 to the TCEQ.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 101, SubChapter H 101.359(1)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 5C THC Chapter 382, SubChapter D 382.085(b)  
 Rqmt Prov: OP No. O-01068, SC 1F(vi)  
 Description: failed to submit a completed Form ECT-1 to the TCEQ.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 40 CFR Chapter 61, SubChapter C, PT 61, SubPT W 61.272(a)(3)(i)  
 5C THC Chapter 382, SubChapter D 382.085(b)  
 Rqmt Prov: PERMIT No. 466A, SC 3  
 OP No. O-01068, SC 18A  
 Description: failed to provide a 30-day advance written notice for the inspection of the IFR Seal to a storage tank.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT Q 63.424(a)  
 5C THC Chapter 382, SubChapter D 382.085(b)  
 Rqmt Prov: OP No. O-01068, SC 1E  
 Description: failed to monitor components of storage tank in gasoline service for fugitive emissions.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 117, SubChapter E 117.520(c)(2)(A)(ii)(I)  
 5C THC Chapter 382, SubChapter D 382.085(b)  
 Description: failed to submit results of stack test for two (2) boilers within the 60 day deadline.  
 Date: 04/13/2007 (555739)  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 115, SubChapter C 115.214(a)(3)(F)  
 30 TAC Chapter 115, SubChapter D 115.355(1)  
 30 TAC Chapter 116, SubChapter B 116.116(c)  
 5C THC Chapter 382, SubChapter D 382.085(b)  
 Rqmt Prov: PA NSR 466A SC 5F  
 Description: Failed to quarterly monitor all valves in volatile organic compound ("VOC") service in accordance Method 21.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 115, SubChapter C 115.214(a)(3)(F)  
 30 TAC Chapter 115, SubChapter D 115.352(4)  
 5C THC Chapter 382, SubChapter D 382.085(b)  
 Description: Failed to properly seal two open-ended lines. Specifically, two lines (Nos. 367 and 402) were equipped with plugs that were leaking.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 115, SubChapter C 115.214(a)(3)(F)

30 TAC Chapter 115, SubChapter D 115.352(2)  
 30 TAC Chapter 116, SubChapter B 116.115(c)  
 5C THSC Chapter 382, SubChapter D 382.085(b)  
 Rqmt Prov: PA NSR Permit 466A SC 5H  
 Description: Failed to repair components or place components on delay of repair list within 15 calendar days after a leak is discovered.  
 Date: 02/01/2008 (612235)  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 115, SubChapter C 115.215(3)(A)  
 40 CFR Part 60, Subpart A 60.18  
 Description: The RE failed to properly follow method 18 during a reference method stack test by failing to calibrate using three different concentrations of each organic compound expected to be measured in the sample.  
 Date: 02/01/2008 (612285)  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 115, SubChapter C 115.215(3)(A)  
 40 CFR Part 60, Subpart A 60.18  
 Description: The RE failed to properly follow method 18 during a reference method stack test by failing to calibrate using three different concentrations of each organic compound expected to be measured in the sample.  
 Date: 03/25/2008 (679822)  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 30 TAC Chapter 305, SubChapter F 305.125(17)  
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE  
 Date: 05/22/2008 (641387)  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 5C THSC Chapter 382 382.085(b)  
 Rqmt Prov: OP FOP, General Terms and Conditions  
 OP FOP, ST & C 18  
 OP NSR, Special Condition 9  
 Description: Failure to submit notification of service change and revised Storage Tank Table 7 for Tanks 746, 504, 608 within the ten day deadline.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.10(d)(5)(ii)  
 5C THSC Chapter 382 382.085(b)  
 Rqmt Prov: OP FOP, General Terms and Conditions  
 OP FOP, ST & C 1A  
 Description: Failure to report the startup, shutdown, and malfunction reports (SSM) within the required two days by fax or verbally, and submit a letter within seven of the incident.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT WW 63.1066(b)(1)  
 5C THSC Chapter 382 382.085(b)  
 Rqmt Prov: OP FOP, General Terms and Conditions  
 OP FOP, ST & C 1A  
 Description: Failed to submit internal and external floating roof tanks inspection notices for T-921, T-920, T-913, T-776, T-603, and T-510.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 115, SubChapter D 115.352(2)  
 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT TT 63.1005(a)  
 40 CFR Part 61, Subpart V 61.242-7  
 5C THSC Chapter 382 382.085(b)  
 Rqmt Prov: OP FOP, General Terms and Conditions  
 OP FOP, ST & C 18  
 OP FOP, ST & C 1A  
 OP NSR, Special Condition 5H  
 Description: Failure repair leaking components within 15 days.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.145(2)(A)  
5C THSC Chapter 382 382.085(b)  
Rqmt Prov: OP FOP, General Terms and Conditions  
Description: Failure to report scheduled tank cleaning events in the deviation reporting period of September 26, 2006 through March 25, 2007 and March 26, 2007 through September 26, 2007.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 118 118.5  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
Rqmt Prov: OP FOP, General Terms and Conditions  
Description: Failure to maintain an Emission Reduction Plan.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
Rqmt Prov: OP FOP, General Terms and Conditions  
OP FOP, Special Condition 18  
OP NSR, Special Condition 14  
Description: Failure to monitor the AAS-1 Acetic Acid Scrubber water flow rate.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
Rqmt Prov: OP FOP, General Terms and Conditions  
OP FOP, Special Condition 18  
OP FOP, Special Condition 1A  
OP NSR, Special Condition 5E  
Description: Failure to properly seal thirty-three open-ended lines in volatile organic compound (VOC) service. (Category C10)

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
Rqmt Prov: OP FOP, General Terms and Conditions  
OP FOP, ST & C 18  
OP FOP, ST & C 1A  
OP NSR, Special Condition 5F  
Description: Failure to monitor the repair and maintenance of components assisted simultaneously with the use of an approved gas analyzer.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT WW 63.1063(c)(1)(i)(B)  
5C THSC Chapter 382 382.085(b)  
Rqmt Prov: OP FOP, General Terms and Conditions  
OP FOP, ST & C 18  
OP FOP, ST & C 1A  
Description: Failure to verify internal floating roof inspection date for Tank No. T-782.

F. Environmental audits.

Notice of Intent Date: 10/24/2006 (519276)  
Disclosure Date: 10/24/2007  
Viol. Classification: Moderate  
Rqmt Prov: PERMIT 113.880 and 63.2246(a)1-3  
Description: Failure to empty fixed roof tank TK-527 by 02/05/07.  
Viol. Classification: Moderate  
Citation: 30 TAC Chapter 113, SubChapter C 113.540  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT WW 63.1066(b)(1)  
Description: Failure to submit 30 day written or 7 day call tank inspection notices or TK-601, 913, 416, 776, 920, 921, 510, and 603.  
Viol. Classification: Moderate



Citation: 30 TAC Chapter 113, SubChapter C 113.540  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT WW 63.1063(c)(1)(i)(B)

Description: Failure to locate documentation of inspections of certain HAP tanks placed in service after 02/05/07 for TK-748 and TK-782.

Viol. Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)

Description: Failure to locate seal damage and/or roof defect reports for certain Benzene tanks TK-512 and TK-514..

Viol. Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)  
40 CFR Chapter 61, SubChapter C, PT 61, SubPT W 61.272(a)(3)

Description: Failure to locate documentation of inspection of Benzen tank TK-409.

Viol. Classification: Major  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)  
4F TWC Chapter 60, SubChapter A 60.115(b)

Description: Failure to submit damage and/or defect reports to TCEQ within 30 days after visual inspection for TK-927 and 607.

Viol. Classification: Moderate  
Citation: 40 CFR Chapter 60, SubChapter C, PT 60, SubPT K 60.113(b)

Description: Failure to submit a notice of inspection prior to the filling activity. Specifically, 30 day advance or seven day notice for TK-409, 611, 409, 611, 501, 500, 505, 720, and 915.

Viol. Classification: Moderate  
Citation: 30 TAC Chapter 115, SubChapter B 115.114(a)(1)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT K 60.113(b)

Description: Failure to within 45 and 60 days of a visual inspection, to repair or take our of service NSPS IFR tanks where such inspection reveals that the tank seals are detached, or have holes for TK-927 and TK-60 7.

Viol. Classification: Moderate  
Rqmt Prov: PERMIT 466A

Description: Failure to submit to TCEQ a revised storage tank table 7 within 10 days of a change in service.

Viol. Classification: Moderate  
Rqmt Prov: PERMIT 466A, SC6

Description: Failure to comply with permit conditions for acetic acid storage tank water scrubber for tank 929 and 930.

Viol. Classification: Moderate  
Citation: 40 CFR Chapter 63, SubChapter C, PT 63, SubPT SS 63.998(a)(1)

Description: Failure to maintain monitoring records regarding flares FL-STYRENE1 AND FL-STYRENE2.

Viol. Classification: Moderate  
Rqmt Prov: PERMIT 466A SC5F

Description: Failure to monitor leaks simultaneously while making repairs, LDAR 28 MID.

Viol. Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)  
30 TAC Chapter 113, SubChapter C 113.510  
30 TAC Chapter 116; SubChapter B 116.115(c)  
40 CFR Part 61, Subpart V 61.242-7(d)(1)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT TT 63.1005(a)

Rqmt Prov: PERMIT 466A SC5F

Description: Failure to repair leaking componets within 15 days or place on a delay of repair report for Value-Benzene/HAP/VOC3 and HAP/VOC4; pump VOC; Connector-HAP/VOC5 and Connector-benzene/HAP/VOC6.

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	§	BEFORE THE
CONCERNING	§	
VOPAK TERMINAL DEER PARK,	§	TEXAS COMMISSION ON
INC.	§	
RN100225093	§	ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2008-1205-AIR-E

### I. JURISDICTION AND STIPULATIONS

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Vopak Terminal Deer Park, 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 terminal at 2759 Battleground Road in Deer Park, Harris County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and 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 June 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 Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Eleven Thousand Two Hundred Dollars (\$11,200) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Four Thousand Four Hundred Eighty Dollars (\$4,480) of the



administrative penalty and Two Thousand Two Hundred Forty Dollars (\$2,240) 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. Four Thousand Four Hundred Eighty Dollars (\$4,480) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and 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 recognizes that the Respondent has implemented the following corrective measures at the Plant:
  - a. On March 10, 2008, operator training for the truck loading personnel was completed (Incident No. 104029);
  - b. On March 29, 2008, training for all operations personnel managing the filling of tanks was completed and the use of a new checklist to ensure that correct procedures are being followed was implemented (Incident No. 104864);
  - c. On June 27, 2008, training for operations personnel on the use of the control system to monitor tank filling operations was completed (Incident No. 104864); and
  - d. On July 14, 2008, the high level alarm system at Tank 600 was modified to incorporate elements that limit access to personnel for purposes of modifying or disabling the high level devices, and to interlock high level alarms to corresponding tank valves (Incident No. 104864).
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:



1. Failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE § 116.115(c), Air Permit No. 466A, Special Condition No. 1 and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on May 13, 2008. Specifically, 1,044.30 pounds ("lbs") of volatile organic compounds were released when the Respondent failed to close the bypass valve on the circulation line at Loading Station 22, leading to the overfilling of the tank truck, resulting in an emissions event which began on February 21, 2008, and lasted for one hour (Incident No. 104029). Since the emissions event was avoidable, the demonstrations in 30 TEX. ADMIN. CODE § 101.222 necessary to present an affirmative defense were not met.
2. Failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE § 116.115(c), Air Permit No. 466A, Special Condition No. 1 and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on May 13, 2008. Specifically, 4,753.50 lbs of Methyl Tertiary Butyl Ether were released when the Respondent failed to close a block valve on the pipeline which is directly connected to Tank 600 at the conclusion of a previous transfer, leading to the overfilling of the tank, resulting in an emissions event which began on March 11, 2008, and lasted for one hour and thirty minutes (Incident No. 104864). Since the emissions event was avoidable, the demonstrations in 30 TEX. ADMIN. CODE § 101.222 necessary to present an affirmative defense were not met.

### 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: Vopak Terminal Deer Park, Inc., Docket No. 2008-1205-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 Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Four Thousand Four Hundred Eighty Dollars (\$4,480) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.





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

- a. Within 30 days after the effective date of this Agreed Order, complete the installation of additional check valves and modification of the loading line's tie-in point to the circulation line at Loading Station No. 22, to provide an extra level of protection from un-metered product being loaded into a tank truck and to prevent recurrence of emissions due to the same cause as the February 21, 2008 emissions event (Incident No. 104029); 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. 3.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  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Avenue, Suite H  
Houston, Texas 77023-1486

4. 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.
5. If the Respondent 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, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.



6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against 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.
8. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to 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.



Vopak Terminal Deer Park, inc.  
DOCKET NO. 2008-1205-AIR-E  
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### SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

John Sidler  
\_\_\_\_\_  
For the Executive Director

12/15/2008  
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.

Tony Bundick  
\_\_\_\_\_  
Signature

October 14, 2008  
Date

Tony Bundick  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Vopak Terminal Deer Park, Inc.

Regional Manager - SHE  
\_\_\_\_\_  
Title

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



Attachment A  
Docket Number: 2008-1205-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

**Respondent:** Vopak Terminal Deer Park, Inc.  
**Payable Penalty Amount:** Eight Thousand Nine Hundred Sixty Dollars (\$8,960)  
**SEP Amount:** Four Thousand Four Hundred Eighty Dollars (\$4,480)  
**Type of SEP:** Pre-approved  
**Third-Party Recipient:** Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program  
**Location of SEP:** Harris County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

A. Project

The Respondent will contribute to Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program in Harris County. The contribution will be used in accordance with the *Supplemental Environmental Project Agreement between the Houston-Galveston AERCO and the Texas Commission on Environmental Quality*.

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

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





Vopak Terminal Deer Park, Inc.  
Agreed Order – Attachment A

B. Environmental Benefit

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

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

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

**3. Records and Reporting**

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

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

**4. Failure to Fully Perform**

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

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



Vopak Terminal Deer Park, Inc.  
Agreed Order - Attachment A

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

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

**5. Publicity**

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

**6. Clean Texas Program**

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

**7. Other SEPs by TCEQ or Other Agencies**

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

