

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2008-1545-AIR-E **TCEQ ID:** RN100223007 **CASE NO.:** 36587
RESPONDENT NAME: Vopak Logistics Services USA Inc.

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Vopak Logistics Services USA Deer Park, 2759 Battleground Road, Deer Park, Harris County</p> <p>TYPE OF OPERATION: Waste collection facility</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on March 9, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768] TCEQ Enforcement Coordinator: Ms. Nadia Hameed, Enforcement Division, Enforcement Team 5, MC R-12, (713) 767-3629; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Tony Bundick, Regional Manager, SH&E, Vopak Logistics Services USA Inc., 2759 Battleground Road, Deer Park, Texas 77536 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 type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: August 12, 2008</p> <p>Date of NOV/NOE Relating to this Case: September 2, 2008 (NOE)</p> <p>Background Facts: This was a record review investigation.</p> <p>AIR</p> <p>1) Failure to submit a Permit Compliance Certification within 30 days of the end of the certification period for September 12, 2006 through September 11, 2007 [30 TEX. ADMIN. CODE §§ 122.143(4), 122.146(2), Federal Operating Permit No. O-01637, General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>2) Failure to submit the deviation report within 30 days of the end of the reporting period for March 12, 2007 through September 11, 2007 [30 TEX. ADMIN. CODE §§ 122.143(4), 122.145(2)(C), Federal Operating Permit No. O-01637, General Terms and Conditions and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$5,825</p> <p>Total Deferred: \$1,165 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$2,330</p> <p>Total Paid to General Revenue: \$2,330</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:</p> <p>a. On August 3, 2007, submitted a request to the TCEQ to have the Federal Operating Permit No. O-01637 voided;</p> <p>b. On November 9, 2007, submitted the deviation report for March 12, 2007 through September 11, 2007; and</p> <p>c. On October 7, 2008, submitted the Permit Compliance Certification for September 12, 2006 through September 11, 2007.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p>

Additional ID No(s): Air HG0224P

Attachment A

Docket Number: 2008-1545-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Vopak Logistics Services USA Inc.
Payable Penalty Amount: Four Thousand Six Hundred Sixty Dollars (\$4,660)
SEP Amount: Two Thousand Three Hundred Thirty Dollars (\$2,330)
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.

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 Logistics Services USA 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

TCEQ

DATES	Assigned	2-Sep-2008	Screening	24-Sep-2008	EPA Due	26-May-2009
	PCW	25-Sep-2008				

RESPONDENT/FACILITY INFORMATION

Respondent	Vopak Logistics Services USA Inc.	
Reg. Ent. Ref. No.	RN100223007	
Facility/Site Region	12-Houston	Major/Minor Source Major

CASE INFORMATION

Enf./Case ID No.	36587	No. of Violations	2
Docket No.	2008-1545-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	\$5,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	34.0% Enhancement	Subtotals 2, 3, & 7	\$1,700
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Notes
Penalty enhancement due to one Notice of Violation ("NOV") issued for same or similar violations, five NOV's issued for unrelated violations and one order containing a denial of liability. Penalty reduction for one Notice of Audit letter submitted.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes
The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$875
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$27
Approx. Cost of Compliance \$1,000
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$5,825
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount	\$5,825
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$5,825
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DEFERRAL	20.0% Reduction	Adjustment	-\$1,165
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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	\$4,660
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Screening Date 24-Sep-2008

Docket No. 2008-1545-AIR-E

PCW

Respondent Vopak Logistics Services USA Inc.

Policy Revision 2 (September 2002)

Case ID No. 36587

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN100223007

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)	1	5%
	Other written NOVs	5	10%
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)	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) 34%

>> **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 Notice of Violation ("NOV") issued for same or similar violations, five NOVs issued for unrelated violations and one order containing a denial of liability. Penalty reduction for one Notice of Audit letter submitted.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 34%

Screening Date 24-Sep-2008 **Docket No.** 2008-1545-AIR-E **PCW**
Respondent Vopak Logistics Services USA Inc. *Policy Revision 2 (September 2002)*
Case ID No. 36587 *PCW Revision June 12, 2008*
Reg. Ent. Reference No. RN100223007
Media [Statute] Air
Enf. Coordinator Nadia Hameed
Violation Number
Rule Cite(s) 30 Tex. Admin. Code §§ 122.143(4), 122.146(2), Federal Operating Permit No. O-01637, General Terms and Conditions and Tex. Health & Safety Code § 382.085(b)
Violation Description Failed to submit a Permit Compliance Certification within 30 days of the end of the certification period for September 12, 2006 through September 11, 2007.
Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
		<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	
The Respondent failed to meet 100% of the rule requirement.					
Adjustment					<input type="text" value="\$7,500"/>

Violation Events

Number of Violation Events Number of violation days
mark only one with an x

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

Violation Base Penalty
 A single event is recommended.

Good Faith Efforts to Comply Reduction

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input checked="" type="text" value="x"/>
N/A	<input type="text"/>	(mark with x)

Notes: The Permit Compliance Certification was received on October 7, 2008.

Violation Subtotal

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$25"/>	Violation Final Penalty Total <input type="text" value="\$3,100"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$3,100"/>	

Economic Benefit Worksheet

Respondent: Vopak Logistics Services USA Inc.
Case ID No.: 36587
Reg. Ent. Reference No.: RN100223007
Media: Air
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	11-Oct-2007	7-Oct-2008	0.99	\$25	n/a	\$25

Notes for DELAYED costs

Estimated cost for submitting the Permit Compliance Certification. Date required based on the date the certification was due. Final date based on the date the certification was submitted.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$25

Screening Date 24-Sep-2008		Docket No. 2008-1545-AIR-E		PCW	
Respondent Vopak Logistics Services USA Inc.		<small>Policy Revision 2 (September 2002)</small>			
Case ID No. 36587		<small>PCW Revision June 12, 2008</small>			
Reg. Ent. Reference No. RN100223007					
Media [Statute] Air					
Enf. Coordinator Nadia Hameed					
Violation Number		<input type="text" value="2"/>			
Rule Cite(s)		30 Tex. Admin. Code §§ 122.143(4), 122.145(2)(C), Federal Operating Permit No. O-01637, General Terms and Conditions and Tex. Health & Safety Code § 382.085(b)			
Violation Description		Failed to submit the deviation report within 30 days of the end of the reporting period for March 12, 2007 through September 11, 2007.			
Base Penalty				<input type="text" value="\$10,000"/>	
>> Environmental, Property and Human Health Matrix					
OR	Harm				
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>	
>> Programmatic Matrix					
		Falsification	Major	Moderate	Minor
		<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text"/>
					Percent <input type="text" value="25%"/>
Matrix Notes	The Respondent failed to meet 100% of the rule requirement.				
Adjustment				<input type="text" value="\$7,500"/>	
				<input type="text" value="\$2,500"/>	
Violation Events					
Number of Violation Events		<input type="text" value="1"/>	Number of violation days		
		<input type="text" value="30"/>			
<small>mark only one with an x</small>	<small>daily</small>	<input type="text"/>			
	<small>monthly</small>	<input type="text"/>			
	<small>quarterly</small>	<input type="text"/>			
	<small>semiannual</small>	<input type="text"/>			
	<small>annual</small>	<input type="text"/>			
	<small>single event</small>	<input checked="" type="checkbox"/>			
A single event is recommended.				Violation Base Penalty <input type="text" value="\$2,500"/>	
Good Faith Efforts to Comply					
		25.0%	Reduction		
		<small>Before NOV</small>	<small>NOV to EDPRP/Settlement Offer</small>		
Extraordinary	<input type="text"/>	<input type="text"/>			
Ordinary	<input checked="" type="checkbox"/>	<input type="text"/>			
N/A	<input type="text"/>	<small>(mark with x)</small>			
Notes	The deviation report was received on November 9, 2007.				
Violation Subtotal				<input type="text" value="\$1,875"/>	
Economic Benefit (EB) for this violation					
		Statutory Limit Test			
Estimated EB Amount		<input type="text" value="\$2"/>	Violation Final Penalty Total <input type="text" value="\$2,725"/>		
This violation Final Assessed Penalty (adjusted for limits)				<input type="text" value="\$2,725"/>	

Economic Benefit Worksheet

Respondent Vopak Logistics Services USA Inc.
Case ID No. 36587
Reg. Ent. Reference No. RN100223007
Media Air
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	11-Oct-2007	9-Nov-2007	0.08	\$2	n/a	\$2

Notes for DELAYED costs

Estimated cost for submitting the deviation report. Date required based on the date the deviation report was due.
 Final date based on the date the certification was submitted.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$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	\$500	TOTAL	\$2
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Compliance History Report

Customer/Respondent/Owner-Operator: CN601527955 Vopak Logistics Services USA Inc. Classification: AVERAGE Rating: 2.45
 Regulated Entity: RN100223007 VOPAK LOGISTICS SERVICES USA DEER PARK Classification: AVERAGE Site Rating: 5.30

ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	HG0224P
	AIR OPERATING PERMITS	PERMIT	1637
	AIR NEW SOURCE PERMITS	PERMIT	7569
	AIR NEW SOURCE PERMITS	PERMIT	9081
	AIR NEW SOURCE PERMITS	PERMIT	12082
	AIR NEW SOURCE PERMITS	PERMIT	13169
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG0224P
	AIR NEW SOURCE PERMITS	AFS NUM	4820100372
	UNDERGROUND INJECTION CONTROL	PERMIT	WDW157
	UNDERGROUND INJECTION CONTROL	PERMIT	WDW407
	WASTEWATER	PERMIT	WQ001731000
	WASTEWATER	EPA ID	TX0030937
	INDUSTRIAL AND HAZARDOUS WASTE STORAGE	EPA ID	TXD097673149
	INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	50025
	INDUSTRIAL AND HAZARDOUS WASTE STORAGE	SOLID WASTE REGISTRATION # (SWR)	30567
	INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	50025
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD097673149
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	30567
	INDUSTRIAL AND HAZARDOUS WASTE PROCESSING	EPA ID	TXD097673149
	INDUSTRIAL AND HAZARDOUS WASTE DISPOSAL	EPA ID	TXD097673149

Location: 2759 BATTLEGROUND ROAD, DEER PARK, TX, 77536 Rating Date: 9/1/2008 Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON
 Date Compliance History Prepared: October 08, 2008
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: October 07, 2003 to October 07, 2008

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

Name: NHameed Phone: 713-767-3629

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: 05/11/2007 ADMINORDER 2006-1347-AIR-E
 Classification: Moderate
 Citation: 30 TAC Chapter 115, SubChapter B 115.132(a)(1)
 5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failed to ensure that all openings on the water separator associated with the centrifuge separation are totally sealed to ensure there are no emissions to the atmosphere. Specifically, the maintenance hatch on the separator was not sealed and resulted in emissions to the atmosphere that were detected with a toxic vapor analyzer.

Classification: Moderate
 Citation: 30 TAC Chapter 115, SubChapter B 115.136(a)(1)
 5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failed to demonstrate continuous compliance with the applicable criteria exempting the water separator from emissions controls.

Classification: Moderate
 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 V 61.247(b)

5C THC Chapter 382, SubChapter D 382.085(b)
 Rqmt Prov: 6400, SC 4B PERMIT
 O-01637, Special Condition No. 16 OP
 O-01637, Special Condition No. 1A OP
 Description: Failed to submit semiannual reports detailing the required fugitive monitoring information.
 Classification: Moderate
 Citation: 30 TAC Chapter 122, SubChapter B 122.121
 30 TAC Chapter 122, SubChapter B 122.132(e)(2)

5C THC Chapter 382, SubChapter D 382.085(b)
 Description: Failed to represent all applicable emission sources in the Title V Permit application.
 Classification: Minor
 Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)(ii)
 30 TAC Chapter 122, SubChapter B 122.143(4)

5C THC Chapter 382, SubChapter D 382.085(b)
 Rqmt Prov: O-01637, Special Condition No. 1A OP
 Description: Failed to record flare observations in the flare operation log each time the flare is operated.
 Classification: Minor
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)

5C THC Chapter 382, SubChapter D 382.085(b)
 Rqmt Prov: 6400, SC 28 PERMIT
 O-01637, Special Condition No. 16 OP
 Description: Failed to record the pH of the scrubbing liquid each time a railcar is cleaned while utilizing the scrubber as the emission control device.
 Classification: Minor
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)

5C THC Chapter 382, SubChapter D 382.085(b)
 Rqmt Prov: 6400, SC 16 PERMIT
 O-01637, Special Condition No. 16 OP
 Description: Failed to record the vacuum system level during the purging of each railcar.

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	11/12/2003	(251875)
2	11/12/2003	(254290)
3	12/02/2003	(251456)
4	12/18/2003	(257368)
5	01/12/2004	(257970)
6	02/06/2004	(261373)
7	02/12/2004	(259993)
8	02/27/2004	(262909)
9	03/11/2004	(262168)
10	03/30/2004	(332892)
11	05/12/2004	(271567)
12	05/12/2004	(271580)
13	07/16/2004	(272860)
14	11/01/2004	(338366)
15	11/19/2004	(341462)
16	12/06/2004	(342151)
17	12/16/2004	(343647)
18	12/21/2004	(344590)
19	01/14/2005	(345658)
20	04/06/2005	(376371)
21	08/30/2005	(404236)
22	11/08/2005	(433192)
23	12/20/2005	(436825)
24	01/24/2006	(440337)
25	05/12/2006	(464571)
26	08/11/2006	(457193)
27	08/16/2006	(485162)
28	08/16/2006	(485163)

29 10/17/2006 (514521)
 30 10/27/2006 (516012)
 31 11/17/2006 (514820)
 32 01/18/2007 (534063)
 33 01/29/2007 (532733)
 34 02/23/2007 (540669)
 35 04/25/2007 (554440)
 36 06/14/2007 (563517)
 37 06/27/2007 (542689)
 38 11/01/2007 (594541)
 39 11/01/2007 (598851)
 40 01/23/2008 (611481)
 41 04/17/2008 (598897)
 42 04/29/2008 (639501)
 43 08/20/2008 (688282)
 44 08/29/2008 (699618)

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

Date: 11/13/2003 (254290)

Self Report? NO Classification Moderate

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

Rqmt Prov: PA 6400

Description: Failure to meet required 99% removal efficiency for total chlorides as required by TCEQ permit 6400 during compliance testing on June 30, 2003.

Date: 03/12/2004 (262168)

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)

30 TAC Chapter 116, SubChapter B 116.115(c)

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

Description: Regulated entity failed to maintain HCL emissions from EPN No. 02-FL-1 below the Maximum Allowable Emission Rate Table (MAER) as described in Permit No. 6400.

Date: 03/30/2004 (332892)

Self Report? NO Classification Minor

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

30 TAC Chapter 305, SubChapter F 305.125(17)

Description: SPECIFIC NON-RPT VIOLATION

Date: 05/12/2004 (271580)

Self Report? NO Classification Minor

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

Description: Failure to update/correct Notice of Registration to accurately reflect waste stream and waste management unit changes.

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 335, SubChapter A 335.9(a)(2)

Description: Failure to accurately report waste generation and disposal on Annual Waste Summary for 2003.

Self Report? NO Classification Moderate

Citation: 40 CFR Chapter 264, SubChapter I, PT 264, SubPT J 264.193(e)(1)(iii)

Rqmt Prov: PERMIT HW-50025

Description: Failure to repair damage to secondary containment wall in a timely manner.

Date: 08/16/2006 (485162)

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)(3)

40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(a)(3)

Description: Failure to label a tank (NOR 016) with the words "Hazardous Waste."

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 335, SubChapter F 335.151(a)

Rqmt Prov: PERMIT Permit Provision VIII.A.1.

Description: Failure to submit sudden and non-sudden liability coverage documentation by December 31, 2005.

Self Report? NO Classification Minor

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

Rqmt Prov: PERMIT Permit Provision II.C.1.h.

Description: Failure to update facility's Notice of Registration for waste management units and waste streams.

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 335, SubChapter A 335.2(b)

Rqmt Prov: PERMIT Permit Provision V.A.1.

Description: Failure to clearly label four permitted tanks (Permit Nos. 018, 042, 059, 062).

Date: 01/29/2007 (532733)

Self Report? NO Classification Minor

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

Rqmt Prov: 30 TAC Chapter 122, SubChapter B 122.146(2)
Description: 5C THC Chapter 382, SubChapter A 382.085(b)
OP O-01637, General Terms and Conditions
Failure to submit a federal operating permit compliance certification within 30 days after the end of the certification period.

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(C)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: OP O-01637, General Terms and Conditions
Description: Failure to submit a deviation report no later than 30 days after the end of the reporting period.

F. Environmental audits.

Notice of Intent Date: 10/03/2006 (516727)
No DOV Associated

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
VOPAK LOGISTICS SERVICES USA
INC.
RN100223007**

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§
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§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2008-1545-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 Logistics Services USA 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 waste collection facility 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 September 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 Five Thousand Eight Hundred Twenty-Five Dollars (\$5,825) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Thousand Three Hundred Thirty Dollars (\$2,330)

of the administrative penalty and One Thousand One Hundred Sixty-Five Dollars (\$1,165) 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. Two Thousand Three Hundred Thirty Dollars (\$2,330) 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 August 3, 2007, submitted a request to the TCEQ to have the Federal Operating Permit No. O-01637 voided;
 - b. On November 9, 2007, submitted the deviation report for March 12, 2007 through September 11, 2007; and
 - c. On October 7, 2008, submitted the Permit Compliance Certification for September 12, 2006 through September 11, 2007.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the 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 submit a Permit Compliance Certification within 30 days of the end of the certification period for September 12, 2006 through September 11, 2007, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4), 122.146(2), Federal Operating Permit No. O-01637, General Terms and Conditions and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on August 12, 2008.

2. Failed to submit the deviation report within 30 days of the end of the reporting period for March 12, 2007 through September 11, 2007, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4), 122.145(2)(C), Federal Operating Permit No. O-01637, General Terms and Conditions and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on August 12, 2008.

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 Logistics Services USA Inc., Docket No. 2008-1545-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, Two Thousand Three Hundred Thirty Dollars (\$2,330) 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. 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.
4. 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.
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 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.

6. 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.
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 the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Zelen
For the Executive Director

2/16/2009
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

December 17, 2008
Date

Tony Bundick
Name (Printed or typed)
Authorized Representative of
Vopak Logistics Services USA Inc.

Regional Manager, SHFE
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.

Attachment A
Docket Number: 2008-1545-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Vopak Logistics Services USA Inc.
Payable Penalty Amount: Four Thousand Six Hundred Sixty Dollars (\$4,660)
SEP Amount: Two Thousand Three Hundred Thirty Dollars (\$2,330)
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.

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 Logistics Services USA 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.

