

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 2  
**DOCKET NO.:** 2008-1799-AIR-E **TCEQ ID:** RN100218767 **CASE NO.:** 36819  
**RESPONDENT NAME:** NuStar Terminals Partners TX L.P.

<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> NuStar, 201 Dock Road, Texas City, Galveston County</p> <p><b>TYPE OF OPERATION:</b> Bulk storage facility</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input 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 April 13, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Roshondra Lowe, Enforcement Division, Enforcement Team 5, MC R-12, (713) 767-3553; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> Mr. Mark Prewitt, Regional HSE Director, NuStar Terminals Partners TX L.P., P.O. Box 3608, Texas City, Texas 77592  Mr. Kyle D. Oppliger, General Manager, NuStar Terminals Partners TX L.P., P.O. Box 3608, Texas City, Texas 77592  <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 checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input 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> July 30, 2008</p> <p><b>Date of NOV/NOE Relating to this Case:</b> October 31, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>AIR</b></p> <p>1) Failure to prevent unauthorized emissions. Specifically, 365 pounds of methyl acrylate were released into the atmosphere due to the failure to open the vent line block valve to the Carbon Absorption System ("CAS") when placing tank 1017 back in service, allowing vapors to vent through the tank pressure relief device instead of the CAS. The emissions event occurred on May 9, 2008 and lasted 17 hours. Since the emissions event was avoidable by better operating practices, the Respondent failed to meet the affirmative defense in 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN. CODE § 116.115(c), TEX. HEALTH &amp; SAFETY CODE § 382.085(b), and Air Permit No. 1677, Special Condition No. 1].</p> <p>2) Failure to provide additional information regarding the emissions event that occurred on May 9, 2008. Specifically, the due date was August 13, 2008, but the additional information was not received until August 21, 2008 [30 TEX. ADMIN. CODE § 101.201(f) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>	<p><b>Total Assessed:</b> \$4,394</p> <p><b>Total Deferred:</b> \$878  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$3,516</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>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Implement measures designed to check for closed block valves prior to placing the tanks back in service; and</p> <p>ii. Implement measures designed to ensure that additional information requested is submitted within the timeframe established.</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification demonstrating compliance with Ordering Provision a. The certification shall include detailed supporting documentation including receipts, monitoring records, training records, and/or other records to demonstrate compliance with Ordering Provision a.</p>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

<b>DATES</b>	<b>Assigned</b>	3-Nov-2008	<b>Screening</b>	18-Nov-2008	<b>EPA Due</b>	28-Jul-2009
	<b>PCW</b>	3-Dec-2008				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	NuStar Terminals Partners TX L.P.
<b>Reg. Ent. Ref. No.</b>	RN100218767
<b>Facility/Site Region</b>	12-Houston
<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	36819	<b>No. of Violations</b>	2
<b>Docket No.</b>	2008-1799-AIR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Roshondra Lowe
		<b>EC's Team</b>	Enforcement Team 5
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** *Subtotal 1* **\$2,600**

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

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

**Compliance History** **69.0%** Enhancement *Subtotals 2, 3, & 7* **\$1,794**

**Notes**  
Penalty enhanced due to five NOVs for same or similar violations, two NOVs for unrelated issues, and two 1660-style Agreed Orders with denial of liability.

**Culpability** **No** **0.0%** Enhancement *Subtotal 4* **\$0**

**Notes**  
The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** *Subtotal 5* **\$0**

**Economic Benefit** **0.0%** Enhancement\* *Subtotal 6* **\$0**

Total EB Amounts **\$183**  
Approx. Cost of Compliance **\$3,500**  
\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** *Final Subtotal* **\$4,394**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **0.0%** *Adjustment* **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes**

*Final Penalty Amount* **\$4,394**

**STATUTORY LIMIT ADJUSTMENT** *Final Assessed Penalty* **\$4,394**

**DEFERRAL** **20.0%** Reduction *Adjustment* **-\$878**

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** **\$3,516**

<b>Screening Date</b> 18-Nov-2008	<b>Docket No.</b> 2008-1799-AIR-E	<b>PCW</b>
<b>Respondent</b> NuStar Terminals Partners TX L.P.	<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No.</b> 36819	<i>PCW Revision October 30, 2008</i>	
<b>Reg. Ent. Reference No.</b> RN100218767		
<b>Media [Statute]</b> Air		
<b>Enf. Coordinator</b> Roshondra Lowe		

### Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i>	5	25%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgements or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 69%

**>> 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 enhanced due to five NOVs for same or similar violations, two NOVs for unrelated issues, and two 1660-style Agreed Orders with denial of liability.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 69%

<b>Screening Date</b> 18-Nov-2008	<b>Docket No.</b> 2008-1799-AIR-E	<b>PCW</b>
<b>Respondent</b> NuStar Terminals Partners TX L.P.		<small>Policy Revision 2 (September 2002)</small>
<b>Case ID No.</b> 36819		<small>PCW Revision October 30, 2008</small>
<b>Reg. Ent. Reference No.</b> RN100218767		
<b>Media [Statute]</b> Air		
<b>Enf. Coordinator</b> Roshondra Lowe		
<b>Violation Number</b> <input type="text" value="1"/>		
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 116.115(c), Tex. Health & Safety Code § 382.085(b) and Air Permit No. 1677, Special Condition No. 1	
<b>Violation Description</b>	Failed to prevent unauthorized emissions. Specifically, 365 pounds of methyl acrylate were released into the atmosphere due to the failure to open the vent line block valve to the Carbon Absorption System ("CAS") when placing tank 1017 back in service, allowing vapors to vent through the tank pressure relief device instead of the CAS. The emissions event occurred on May 9, 2008 and lasted 17 hours. Since the emissions event was avoidable by better operating practices, the Respondent failed to meet the affirmative defense in 30 Tex. Admin. Code § 101.222.	
	<b>Base Penalty</b>	<input type="text" value="\$10,000"/>
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>		
OR	<b>Harm</b>	
	Release    Major    Moderate    Minor	
	Actual <input type="text"/> <input type="text"/> <input checked="" type="text"/>	<b>Percent</b> <input type="text" value="25%"/>
Potential <input type="text"/> <input type="text"/> <input type="text"/>		
<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-Brazoria nonattainment area 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 this 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> <input type="text" value="\$2,500"/>
	weekly <input type="text"/>	
	monthly <input type="text"/>	
	quarterly <input checked="" type="text"/>	
	semiannual <input type="text"/>	
	annual <input type="text"/>	
	single event <input type="text"/>	
One quarterly event is recommended.		
<b>Good Faith Efforts to Comply</b>		
	<b>0.0% Reduction</b>	<input type="text" value="\$0"/>
	<small>Before NOV    NOV to EDRP/Settlement Offer</small>	
Extraordinary <input type="text"/>	<input type="text"/>	
Ordinary <input type="text"/>	<input type="text"/>	
N/A <input checked="" type="text"/>	<small>(mark with x)</small> <input type="text"/>	
<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="\$183"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$4,225"/>
	<b>This violation Final Assessed Penalty (adjusted for limits)</b>	<input type="text" value="\$4,225"/>

## Economic Benefit Worksheet

**Respondent** NuStar Terminals Partners TX L.P.  
**Case ID No.** 36819  
**Reg. Ent. Reference No.** RN100218767  
**Media** Air  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

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)	\$3,000	9-May-2008	28-Jul-2009	1.22	\$183	n/a	\$183

**Notes for DELAYED costs** Estimated cost to implement measures designed to check for closed block valves prior to placing the tanks back in service. Date required is the date of violation. Final date based on date corrective actions are expected to be 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**

<b>Approx. Cost of Compliance</b>	\$3,000	<b>TOTAL</b>	\$183
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**Screening Date:** 18-Nov-2008 **Docket No.:** 2008-1799-AIR-E **PCW**  
**Respondent:** NuStar Terminals Partners TX L.P. *Policy Revision 2 (September 2002)*  
**Case ID No.:** 36819 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.:** RN100218767  
**Media [Statute]:** Air  
**Enf. Coordinator:** Roshondra Lowe

**Violation Number:** 2  
**Rule Cite(s):** 30 Tex. Admin. Code § 101.201(f) and Tex. Health & Safety Code § 382.085(b)  
**Violation Description:** Failed to provide additional information regarding the emissions event that occurred on May 9, 2008. Specifically, the due date was August 13, 2008, but the additional information was not received until August 21, 2008.

**Base Penalty:** \$10,000

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

OR	Harm			Percent
	Major	Moderate	Minor	
	Actual			
Potential				

**>> Programmatic Matrix**

Falsification				Percent
Major	Moderate	Minor	1%	
		x		

**Matrix Notes:** At least 70% of the rule requirement was met.

**Adjustment:** \$9,900

**\$100**

**Violation Events**

Number of Violation Events: 1      8      Number of violation days

*mark only one with an x*

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

**Violation Base Penalty:** \$100

One single event is recommended.

**Good Faith Efforts to Comply**      0.0% Reduction      \$0

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

**Notes:** The Respondent does not meet the good faith criteria for this violation.

**Violation Subtotal:** \$100

**Economic Benefit (EB) for this violation**      **Statutory Limit Test**

Estimated EB Amount: \$1      Violation Final Penalty Total: \$169

**This violation Final Assessed Penalty (adjusted for limits):** \$169

### Economic Benefit Worksheet

**Respondent:** NuStar Terminals Partners TX L.P.  
**Case ID No.:** 36819  
**Reg. Ent. Reference No.:** RN100218767  
**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**

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	13-Aug-2008	21-Aug-2008	0.02	\$1	n/a	\$1

**Notes for DELAYED costs**  
 Estimated cost to ensure that additional information requested is submitted within the timeframe established. Date required is the date the additional information was due. Final date is the date the additional information 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**

\$1

# Compliance History Report

Customer/Respondent/Owner-Operator: CN603355892 NuStar Terminals Partners TX L.P. Classification: AVERAGE Rating: 4.50  
 Regulated Entity: RN100218767 NUSTAR Classification: AVERAGE Site Rating: 13.21

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

Location: 201 DOCK RD, TEXAS CITY, TX, 77592 Rating Date: 9/1/2008 Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: November 17, 2008

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: November 17, 2003 to November 17, 2008

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

Name: Roshondra Lowe Phone: (713) 767-3553

### 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? Yes
3. If Yes, who is the current owner?
 

	NuStar Terminals Texas, Inc.
	Air Products, L.P.
	Air Products LLC
	NuStar Terminals
4. If Yes, who was/were the prior owner(s)? NuStar Terminals Partners TX L.P.
5. When did the change(s) in ownership occur? 5/9/2008

### Components (Multimedia) for the Site :

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

Effective Date: 10/24/2005 ADMINORDER 2005-0193-AIR-E

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(2)(F)

30 TAC Chapter 101, SubChapter F 101.201(a)(2)(H)

30 TAC Chapter 101, SubChapter F 101.201(g)

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

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

Classification: Moderate

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

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

Effective Date: 10/19/2006

ADMINORDER 2006-0449-AIR-E

Classification: Major

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

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

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

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

N/A

C. Chronic excessive emissions events.

N/A

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

1	03/17/2004	(262392)
2	03/24/2004	(257375)
3	05/27/2004	(272513)
4	12/31/2004	(345451)
5	01/10/2005	(343555)
6	06/22/2006	(462108)
7	07/11/2006	(466002)
8	11/27/2006	(515178)
9	12/29/2006	(535501)
10	05/10/2007	(559919)
11	07/30/2007	(568454)
12	10/05/2007	(595105)
13	02/13/2008	(613547)
14	05/30/2008	(654708)
15	10/31/2008	(688229)

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

Date: 03/17/2004 (262392)

Self NO Classification: Minor

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

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

Self NO Classification: Minor

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

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

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

Description: Exceeded permit limits during an emissions event.

Date: 03/24/2004 (257375)

Self NO Classification: Moderate

Citation:	30 TAC Chapter 335, SubChapter A 335.6(c)		
Description:	Failure to update Notice of Registration.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 335, SubChapter A 335.13(k)		
	40 CFR Chapter 262, SubChapter I, PT 262, SubPT D 262.42		
Description:	Failure to submit an Exception Report within 45 days for an unsigned manifest.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 335, SubChapter A 335.10(b)(22)		
Description:	Failure to appropriately complete hazardous and Class 1 waste manifests.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 335, SubChapter A 335.4		
	30 TAC Chapter 350, SubChapter A 350.2(h)		
	TWC Chapter 26 26.121		
	TWC Chapter 26 26.266		
Description:	Failure to prevent and clean-up spills/discharges of hazardous materials.		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 335, SubChapter C 335.62		
	30 TAC Chapter 335, SubChapter R 335.503(a)		
	30 TAC Chapter 335, SubChapter R 335.503(b)		
	30 TAC Chapter 335, SubChapter R 335.504		
	40 CFR Chapter 262, SubChapter I, PT 262, SubPT A 262.11		
Description:	Failure to perform adequate waste determinations.		
Date:	04/28/2006 (458624)		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 101, SubChapter F 101.201(b)		
Description:	failure to properly document a non-reportable emissions event.		
Date:	06/22/2006 (462108)		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c)		
	5C THC Chapter 382, SubChapter D 382.085(b)		
Rqmt Prov:	PA 1677, SC No. 1		
Description:	Exceeded permit limits during an avoidable emissions event.		
Date:	07/11/2006 (466002)		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 122, SubChapter B 122.145(2)(A)		
Description:	Failure to report deviations.		
Self Report?	NO	Classification	Moderate
Citation:	40 CFR Chapter 61, SubChapter C, PT 61, SubPT W 61.272(a)(3)(i)		
Description:	Failure to provide inspection notification.		
Self Report?	NO	Classification	Moderate
Citation:	40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(2)		
Description:	Failure to properly design and operate flares		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)(ii)		
Description:	Failure to record flare observations		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 115, SubChapter C 115.212(a)(3)(B)		
Description:	Failure to comply with control requirements.		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 115, SubChapter B 115.114(a)(1)		
Description:	Failure to conduct inspections.		
Date:	08/01/2007 (568454)		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 101, SubChapter A 101.10(e)		
	5C THC Chapter 382, SubChapter A 382.014		
	5C THC Chapter 382, SubChapter A 382.085(b)		
Description:	Failure to submit a 2006 Emission Inventory, Category B19(g)(3)		
Date:	11/28/2007 (597053)		
Self Report?	NO	Classification	Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.4

Description: During the investigation that was conducted on October 1, 2007, it was determined by the investigators that NuStar Energy had created a "nuisance" odor.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
NUSTAR TERMINALS PARTNERS  
TX L.P.  
RN100218767

§  
§  
§  
§  
§  
§

BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

**AGREED ORDER**  
**DOCKET NO. 2008-1799-AIR-E**

**I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding NuStar Terminals Partners TX L.P. ("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 bulk storage facility at 201 Dock Road in Texas City, Galveston County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about November 5, 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 Four Thousand Three Hundred Ninety-Four Dollars (\$4,394) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Thousand Five Hundred Sixteen Dollars (\$3,516)

of the administrative penalty and Eight Hundred Seventy-Eight Dollars (\$878) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director 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.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have:

1. Failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE § 116.115(c), TEX. HEALTH & SAFETY CODE § 382.085(b) and Air Permit No. 1677, Special Condition No. 1, as documented during an investigation conducted on July 30, 2008. Specifically, 365 pounds of methyl acrylate were released into the atmosphere due to the failure to open the vent line block valve to the Carbon Absorption System ("CAS") when placing tank 1017 back in service, allowing vapors to vent through the tank pressure relief device instead of the CAS. The emissions event occurred on May 9, 2008 and lasted 17 hours. Since the emissions event was avoidable by better operating practices, the Respondent failed to meet the affirmative defense in 30 TEX. ADMIN. CODE § 101.222.
2. Failed to provide additional information regarding the emissions event that occurred on May 9, 2008, in violation of 30 TEX. ADMIN. CODE § 101.201(f) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on July 30, 2008. Specifically, the due date was August 13, 2008, but the additional information was not received until August 21, 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: NuStar Terminals Partners TX L.P., Docket No. 2008-1799-AIR-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order:
    - i. Implement measures designed to check for closed block valves prior to placing the tanks back in service; and
    - ii. Implement measures designed to ensure that additional information requested is submitted within the timeframe established.
  - b. Within 45 days after the effective date of this Agreed Order, submit written certification demonstrating compliance with Ordering Provision 2.a. The certification shall include detailed supporting documentation including receipts, monitoring records, training records, and/or other records to demonstrate compliance, and be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, 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

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

  
\_\_\_\_\_  
For the Executive Director

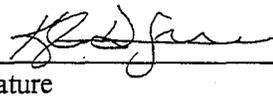
\_\_\_\_\_  
Date 3/24/2009

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

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

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

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

  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date 02.12.09

KYLE D. OPLIGER  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
NuStar Terminals Partners TX L.P.

GENERAL MANAGER  
\_\_\_\_\_  
Title

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

