

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 2  
**DOCKET NO.:** 2009-1429-AIR-E **TCEQ ID:** RN100223445 **CASE NO.:** 38299  
**RESPONDENT NAME:** HFOTCO LLC

<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> Houston Fuel Oil Terminal, 16642 Jacintoport Boulevard, Houston, Harris County</p> <p><b>TYPE OF OPERATION:</b> Fuel terminal facility</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 28, 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> Mr. Raymond Marlow, Enforcement Division, Enforcement Team 5, MC R-12, (409) 899-8785; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> Mr. Robert Riemer, Vice President of Maintenance and Regulatory Affairs, HFOTCO LLC, 16642 Jacintoport Boulevard, Houston, Texas 77015  <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> July 30, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> August 28, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a record review.</p> <p><b>AIR</b></p> <p>Failure to submit a deviation report. Specifically, the Respondent failed to submit a semi-annual deviation report for the period of February 20, 2008 through August 20, 2008 within 30 days after the end of the reporting period [30 TEX. ADMIN. CODE § 122.145(2)(C), Federal Operating Permit No. O-01033, General Terms and Conditions, TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>	<p><b>Total Assessed:</b> \$2,125</p> <p><b>Total Deferred:</b> \$425  <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> \$1,700</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 submitted a deviation report for the period of February 20, 2008 through August 20, 2008 on March 19, 2009.</p>

Additional ID No(s): HG0345C

**Penalty Calculation Worksheet (PCW)**  
 Policy Revision 2 (September 2002) PCW Revision October 30, 2008

<b>TCEQ</b>	<b>DATES</b>	<b>Assigned</b>	31-Aug-2009	<b>Screening</b>	31-Aug-2009	<b>EPA Due</b>	
	<b>PCW</b>		8-Sep-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>			
<b>Respondent</b>	HFOTCO LLC		
<b>Reg. Ent. Ref. No.</b>	RN100223445		
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	38299	<b>No. of Violations</b>	1
<b>Docket No.</b>	2009-1429-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>	Martina Kusniadi
		<b>EC's Team</b>	Enforcement Team 5
<b>Admin. Penalty \$ Limit</b>	<b>Minimum</b>	\$0	<b>Maximum</b>
			\$10,000

<b>Penalty Calculation Section</b>			
<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>		\$2,500
<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>			
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>			
<b>Compliance History</b>	10.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$250
<b>Notes</b>	The penalty was enhanced by five dissimilar NOVs.		
<b>Culpability</b>	No 0.0% Enhancement	<b>Subtotal 4</b>	\$0
<b>Notes</b>	The Respondent does not meet the culpability criteria.		
<b>Good Faith Effort to Comply Total Adjustments</b>		<b>Subtotal 5</b>	\$625
<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
<small>Total EB Amounts</small>	\$25	<small>*Capped at the Total EB \$ Amount</small>	
<small>Approx. Cost of Compliance</small>	\$1,000		
<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>		\$2,125
<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
<small>Reduces or enhances the Final Subtotal by the indicated percentage.</small>			
<b>Notes</b>			
	<b>Final Penalty Amount</b>		\$2,125
<b>STATUTORY LIMIT ADJUSTMENT</b>		<b>Final Assessed Penalty</b>	\$2,125
<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	-\$425
<small>Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)</small>			
<b>Notes</b>	Deferral offered for expedited settlement.		
<b>PAYABLE PENALTY</b>			\$1,700

Screening Date: 31-Aug-2009

Docket No.: 2009-1429-AIR-E

PCW

Respondent: HFOTCO LLC

Policy Revision 2 (September 2002)

Case ID No.: 38299

PCW Revision October 30, 2008

Reg. Ent. Reference No.: RN100223445

Media [Statute]: Air

Enf. Coordinator: Martina Kusniadi

### Compliance History Worksheet

>> Compliance History: Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	5	10%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of 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)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 10%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History: Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History: Summary

Compliance History Notes

The penalty was enhanced by five dissimilar NOVs.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 10%

<b>Screening Date:</b> 31-Aug-2009	<b>Docket No.:</b> 2009-1429-AIR-E	<b>PCW</b>		
<b>Respondent:</b> HFOTCO LLC		<small>Policy Revision 2 (September 2002)</small>		
<b>Case ID No.:</b> 38299		<small>PCW Revision October 30, 2008</small>		
<b>Reg. Ent. Reference No.:</b> RN100223445				
<b>Media [Statute]:</b> Air				
<b>Enf. Coordinator:</b> Martina Kusniadi				
<b>Violation Number:</b> 1				
<b>Rule Cite(s):</b>	30 Tex. Admin. Code § 122.145(2)(C), Federal Operating Permit No. O-01093, General Terms and Conditions, Tex. Health & Safety Code § 382.085(b)			
<b>Violation Description:</b>	Failed to submit a deviation report, as documented during an investigation conducted on July 30, 2009. Specifically, the Respondent failed to submit a semi-annual deviation report for the period of February 20, 2008 through August 20, 2008 within 30 days after the end of the reporting period.			
	<b>Base Penalty</b>	\$10,000		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
<b>OR</b>	<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
				<b>Percent</b> <input type="text" value="0%"/>
<b>&gt;&gt; Programmatic Matrix</b>				
	<b>Falsification</b>	Major	Moderate	Minor
	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				<b>Percent</b> <input type="text" value="25%"/>
<b>Matrix Notes</b>	The Respondent failed to comply with 100% of the rule requirements.			
				<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="181"/>
	<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 type="text"/>	
		semiannual	<input type="text"/>	
		annual	<input type="text"/>	
		single event	<input checked="" type="checkbox"/>	
	One single event is recommended based on the missing deviation report.			
<b>Good Faith Efforts to Comply</b>		<input type="text" value="25.0%"/> Reduction	<input type="text" value="\$625"/>	
		<small>Before NOV</small>	<small>NOV to ED/PRP/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>	
<b>Notes</b>	The Respondent achieved compliance on March 19, 2009. The NOE date was August 28, 2009.			
				<b>Violation Subtotal</b> <input type="text" value="\$1,875"/>
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>		
	<b>Estimated EB Amount</b>	<input type="text" value="\$25"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$2,125"/>
				<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$2,125"/>

## Economic Benefit Worksheet

**Respondent:** HFOTCO LLC  
**Case ID No.:** 38299  
**Reg. Ent. Reference No.:** RN100223445  
**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	\$1,000	19-Sep-2008	19-Mar-2009	0.50	\$25	n/a	\$25
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs to provide additional oversight of the reporting system. The Date Required is the date the deviation report was due, and the Final Date is the date the deviation report 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

\$1,000

**TOTAL**

\$25

# Compliance History Report

Customer/Respondent/Owner-Operator:	CN603316548 HFOTCO LLC	Classification: AVERAGE	Rating: 1.85
Regulated Entity:	RN100223445 HOUSTON FUEL OIL TERMINAL	Classification: AVERAGE	Site Rating: 0.20
ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	HG0345C
	AIR OPERATING PERMITS	PERMIT	1093
	AIR NEW SOURCE PERMITS	PERMIT	5783
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG0345C
	AIR NEW SOURCE PERMITS	AFS NUM	4820100356
	AIR NEW SOURCE PERMITS	PERMIT	N57
	AIR NEW SOURCE PERMITS	PERMIT	54377
	AIR NEW SOURCE PERMITS	REGISTRATION	78215
	AIR NEW SOURCE PERMITS	REGISTRATION	90134
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	31774
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD097307029
	WASTEWATER	PERMIT	WQ0002277000
	WASTEWATER	PERMIT	TPDES0031534
	WASTEWATER	PERMIT	TX0031534
	WASTEWATER	PERMIT	TX0031534000
Location:	16642 JACINTOPORT BLVD, HOUSTON, TX, 77015		
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	September 04, 2009		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	August 31, 2004 to August 31, 2009		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Martina Kusniadl	Phone:	713-767-3682

## 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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2009 Repeat Violator: NO

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A

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

1	09/01/2004	(290818)
2	09/16/2004	(355407)
3	10/18/2004	(355409)
4	11/10/2004	(383738)
5	12/17/2004	(277389)
6	12/31/2004	(383739)
7	01/20/2005	(383740)
8	02/09/2005	(383736)
9	03/07/2005	(383737)
10	03/29/2005	(375495)
11	04/14/2005	(421581)
12	06/16/2005	(421582)
13	07/11/2005	(442559)
14	08/04/2005	(402626)
15	08/10/2005	(442560)
16	09/12/2005	(442561)
17	10/07/2005	(471684)
18	11/14/2005	(471685)
19	12/07/2005	(471686)
20	01/12/2006	(471687)
21	02/09/2006	(471682)
22	03/16/2006	(471683)
23	04/14/2006	(500248)
24	05/11/2006	(500249)
25	05/25/2006	(349816)
26	06/12/2006	(500250)
27	07/18/2006	(522344)
28	08/07/2006	(522345)
29	08/29/2006	(457366)
30	09/13/2006	(510011)
31	09/15/2006	(522346)
32	10/13/2006	(547032)
33	11/09/2006	(547033)
34	12/07/2006	(547034)
35	01/10/2007	(579490)
36	02/05/2007	(579485)
37	03/09/2007	(579486)
38	03/29/2007	(542006)
39	04/04/2007	(512686)
40	04/12/2007	(579487)
41	05/08/2007	(579488)
42	06/18/2007	(579489)
43	07/06/2007	(602833)
44	08/08/2007	(602834)
45	08/30/2007	(568685)
46	09/24/2007	(602835)
47	10/09/2007	(602836)
48	11/08/2007	(621205)
49	12/06/2007	(621206)
50	01/08/2008	(621207)
51	02/04/2008	(673287)
52	03/11/2008	(673288)
53	04/09/2008	(673289)
54	05/14/2008	(691447)
55	06/18/2008	(691448)
56	07/07/2008	(691449)
57	08/28/2008	(680036)



58 09/02/2008 (712382)  
 59 09/23/2008 (712383)  
 60 10/06/2008 (712384)  
 61 11/10/2008 (712385)  
 62 12/04/2008 (728649)  
 63 01/06/2009 (728650)  
 64 02/05/2009 (751727)  
 65 02/17/2009 (722105)  
 66 03/05/2009 (751728)  
 67 04/07/2009 (751729)  
 68 05/12/2009 (769513)  
 69 06/02/2009 (769514)  
 70 08/28/2009 (747489)

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

Date: 12/20/2004 (277389)  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 5783 General Condition 8 PERMIT  
 5C THC Chapter 382, SubChapter A 382.085(b)  
 Description: Failure to follow General Conditions of Permit 5783.

Date: 09/30/2006 (547032) CN603316548  
 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: 03/28/2007 (542006) CN603316548  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Effluent Limitations & Monitoring Req #1 PERMIT  
 TWC Chapter 26 26.121(a)(1)  
 Description: Failure to obtain authorization for the discharge of steam condensate.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Effluent Limitations & Monitoring Req #1 PERMIT  
 Description: Failure to maintain compliance with the permitted effluent pH limits.

Date: 02/17/2009 (722105) CN603316548  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 319, SubChapter A 319.11(b)  
 Description: Failure to analyze the oil & grease within the holding time.

Date: 08/28/2009 (747489) CN603316548  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)  
 Description: Failure to prevent the presence of open-ended lines or valves.

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  
HFOTCO LLC  
RN100223445**

§ **BEFORE THE**  
§  
§ **TEXAS COMMISSION ON**  
§  
§ **ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2009-1429-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 HFOTCO LLC ("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 fuel terminal facility at 16642 Jacintoport Boulevard in Houston, 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 2, 2009.
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 Two Thousand One Hundred Twenty-Five Dollars (\$2,125) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Thousand Seven Hundred Dollars (\$1,700) of the administrative penalty and Four Hundred Twenty-Five Dollars (\$425) 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 recognizes that the Respondent submitted a deviation report for the period of February 20, 2008 through August 20, 2008 on March 19, 2009.
  10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
  11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
  12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have failed to submit a deviation report, in violation of 30 TEX. ADMIN. CODE § 122.145(2)(C), Federal Operating Permit No. O-01033, General Terms and Conditions, TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on July 30, 2009. Specifically, the Respondent failed to submit a semi-annual deviation report for the period of February 20, 2008 through August 20, 2008 within 30 days after the end of the reporting period.

## 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: HFOTCO LLC, Docket No. 2009-1429-AIR-E" to:

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

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

John S. Sullivan  
For the Executive Director

12/1/2009  
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.

[Signature]  
Signature

10-26-09  
Date

Robert Riemer  
Name (Printed or typed)  
Authorized Representative of  
HFOTCO LLC

V.P. Maintenance/Regulatory Affairs  
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.