

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.:** 2010-0811-AIR-E **TCEQ ID:** RN102599719 **CASE NO.:** 39718  
**RESPONDENT NAME:** Veolia ES Technical Solutions, L.L.C.

<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> Veolia ES Technical Solutions, 7665 Highway 73, Port Arthur, Jefferson County</p> <p><b>TYPE OF OPERATION:</b> Hazardous waste incinerator</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 one additional pending enforcement action regarding this facility location, Docket No. 2010-0272-MLM-E.</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 October 18, 2010. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732  <b>TCEQ Enforcement Coordinator:</b> Mr. Raymond Marlow, Enforcement Division, Enforcement Team 5, MC R-10, (409) 899-8785; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> Mr. James M. Osborne, General Manager, Veolia ES Technical Solutions, L.L.C., P.O. Box 2563, Port Arthur, Texas 77643  <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> March 2, 2010</p> <p><b>Date of NOV/NOE Relating to this Case:</b> April 28, 2010 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>AIR</b></p> <p>Failed to limit the carbon monoxide ("CO") concentration emission below the permitted rolling hourly average of 100 parts per million ("ppm"). Specifically, on the 43 occasions between October 21, 2007 and October 20, 2008, the CO emission concentration averaged 204 ppm from the hazardous waste incinerator [New Source Review Permit No. 1509, Special Condition ("SC") 15, Federal Operating Permit No. 42450, SC 12(H), 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>	<p><b>Total Assessed:</b> \$22,100</p> <p><b>Total Deferred:</b> \$4,420  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$8,840</p> <p><b>Total Paid (Due) to General Revenue:</b> \$8,840</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Site 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>1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p> <p>2) The Order will also require the Respondent to:</p> <p>a. Immediately after the effective date of this Agreed Order, begin utilizing a modified Shut-down, Start-up and Malfunction plan at the Plant that implements measures designed to prevent CO concentration deviations caused by inconsistencies of waste material and surges in energetic liquid feeds from line restrictions; and</p> <p>b. Within 15 days after the effective date of this Agreed Order, submit written certification to demonstrate compliance with Ordering Provision No. 2.a.</p>

Additional ID No(s): JE0024D

**Attachment A**

**Docket Number: 2010-0811-AIR-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

**Respondent:** Veolia ES Technical Solutions, L.L.C.  
**Payable Penalty Amount:** Seventeen Thousand Six Hundred Eighty Dollars  
(\$17,680)  
**SEP Amount:** Eight Thousand Eight Hundred Forty Dollars  
(\$8,840)  
**Type of SEP:** Pre-approved  
**Third-Party Recipient:** Southeast Texas Regional Planning Commission -  
West Port Arthur Home Energy Efficiency Program  
**Location of SEP:** Jefferson 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 shall contribute the SEP amount to the Third-Party Recipient named above. The contribution will be to the Southeast Texas Regional Planning Commission to be used for the West Port Arthur Home Energy Efficiency Program as set forth in the agreement between the Third-Party Recipient and the TCEQ. Specifically, the Performing Party shall use SEP funds to assist low-income residents in the West Port Arthur area by: 1) conducting home energy audits; 2) weatherizing homes to improve energy efficiency; and/or 3) repairing or replacing heating/cooling systems and major appliances with new, energy-efficient equipment. Weatherizing homes may include costs of caulking openings as well as insulating walls, floors, and attics in homes. Any heating/cooling systems or major appliances that are replaced must be scrapped and must not be reused in any way. Performing Party shall use consistent and reliable criteria for determining the low-income status of residents assisted with SEP funds.

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**

Implementation of this project will reduce residential fuel and electricity usage for heating and cooling. These reductions, in turn, will reduce emissions of particulate matter (PM), volatile organic carbon compounds (VOC), and nitrogen oxides (NOx) associated with the combustion of fuel and generation of electricity.

**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:

Southeast Texas Regional Planning Commission  
2210 Eastex Freeway  
Beaumont, TX 77703

**3. Records and Reporting**

Concurrent with the payment of the SEP amount, the Respondent shall provide the Enforcement Division 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.



Veolia ES Technical Solutions, L.L.C.  
Agreed Order – Attachment A

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

Office of Legal Services  
Attention: SEP Coordinator, MC 175  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the Enforcement Division 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 October 30, 2008

TCEQ

DATES	Assigned	4-May-2010	Screening	7-May-2010	EPA Due	
	PCW	4-Jun-2010				

## RESPONDENT/FACILITY INFORMATION

Respondent	Veolia ES Technical Solutions, L.L.C.		
Reg. Ent. Ref. No.	RN102599719		
Facility/Site Region	10-Beaumont	Major/Minor Source	Major

## CASE INFORMATION

Enf./Case ID No.	39718	No. of Violations	1
Docket No.	2010-0811-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Raymond Marlow
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** Subtotal 1

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

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

**Compliance History**  Enhancement Subtotals 2, 3, & 7

Notes:

**Culpability**   Enhancement Subtotal 4

Notes:

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

**Economic Benefit**  Enhancement\* Subtotal 6

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

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

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty

**DEFERRAL**  Reduction Adjustment

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

Notes:

**PAYABLE PENALTY**

Screening Date 7-May-2010

Docket No. 2010-0811-AIR-E

PCW

Respondent Veolla ES Technical Solutions, L.L.C.

Policy Revision 2 (September 2002)

Case ID No. 39718

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102599719

Media [Statute] Air

Enf. Coordinator Raymond Marlow

### 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)	2	10%
	Other written NOVs	8	16%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	4	80%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	Yes	-10%
	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)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

Penalty enhancement due to two NOVs with same or similar violations, eight NOVs for dissimilar violations, four Agreed Orders with a denial of liability, and Repeat Violator designation. Penalty reduction due to an environmental management system in place for more than one year.

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

Screening Date 7-May-2010

Docket No. 2010-0811-AIR-E

PCW

Respondent Veolia ES Technical Solutions, L.L.C.

Policy Revision 2 (September 2002)

Case ID No. 39718

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN102599719

Media [Statute] Air

Enf. Coordinator Raymond Marlow

Violation Number 1

Rule Cite(s)

New Source Review Permit No. 1509, Special Condition ("SC") 15 and Federal Operating Permit No. 42450, SC 12(H), 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to limit the carbon monoxide ("CO") concentration emission below the permitted rolling hourly average of 100 parts per million ("ppm"). Specifically, on 43 occasions, between October 21, 2007 and October 20, 2008, the CO emission concentration averaged 204 ppm from the hazardous waste incinerator.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to an insignificant amount of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 4

41 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$10,000

Four quarterly events are recommended for the quarters during which exceedances occurred.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$10,000

Economic Benefit (EB) for this violation

Estimated EB Amount \$215

Statutory Limit Test

Violation Final Penalty Total \$22,100

This violation Final Assessed Penalty (adjusted for limits) \$22,100

# Economic Benefit Worksheet

**Respondent** Veolia ES Technical Solutions, L.L.C.  
**Case ID No.** 39718  
**Reg. Ent. Reference No.** RN102599719  
**Media** Air  
**Violation No.** 1

Percent Interest	Years of Depreciation
6.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
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)	\$1,500	21-Oct-2007	1-Sep-2010	2.87	\$215	n/a	\$215

**Notes for DELAYED costs**  
 Estimated cost to modify the Start-up, Shut-down and Malfunction Plan. The date required is the date based on the initial non-compliance. The final date is the date the corrective actions are expected to be completed.

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)</b>							
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**  
 (Empty box for notes)

**Approx. Cost of Compliance** \$1,500 **TOTAL** \$215

# Compliance History Report

Customer/Respondent/Owner-Operator: CN603069626 Veolia ES Technical Solutions, L.L.C. Classification: AVERAGE Rating: 9.60  
 Regulated Entity: RN102599719 VEOLIA ES TECHNICAL SOLUTIONS Classification: AVERAGE Site Rating: 16.62

ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	JE0024D
	AIR OPERATING PERMITS	PERMIT	1509
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD000838896
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	50212
	INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	50212
	INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	39012
	UNDERGROUND INJECTION CONTROL	PERMIT	WDW160
	UNDERGROUND INJECTION CONTROL	PERMIT	WDW358
	AIR NEW SOURCE PERMITS	REGISTRATION	12785
	AIR NEW SOURCE PERMITS	PERMIT	42450
	AIR NEW SOURCE PERMITS	REGISTRATION	44590
	AIR NEW SOURCE PERMITS	REGISTRATION	49820
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	JE0024D
	AIR NEW SOURCE PERMITS	REGISTRATION	51878
	AIR NEW SOURCE PERMITS	REGISTRATION	50998
	AIR NEW SOURCE PERMITS	REGISTRATION	73331
	AIR NEW SOURCE PERMITS	AFS NUM	4824500118
	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1230082
	WATER LICENSING	LICENSE	1230082
	IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	50212
	INDUSTRIAL AND HAZARDOUS WASTE COMPLIANCE PLANS	PERMIT	50212
	AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	JE0024D

Location: 7665 HWY 73, PORT ARTHUR, TX, 77640

TCEQ Region: REGION 10 - BEAUMONT

Date Compliance History Prepared: May 07, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: May 04, 2005 to May 04, 2010

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

Name: Raymond Marlow, P.G. Phone: 409-899-8785

## 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: YES

**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: 11/24/2005**

**ADMINORDER 2005-0039-IHW-E**

Classification: Major

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

Description: Failure to properly dispose hazardous waste (D001, D003) at an authorized facility.

**Effective Date: 03/23/2006**

**ADMINORDER 2004-1438-MLM-E**

Classification: Moderate

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

Rqmt Prov: 5TAC Permit O-01509 OP  
 Standard Permit Condition G PERMIT

Description: Failure to maintain an emission rate below the allowable emissions limits for carbon monoxide at the incinerator stack.

Classification: Moderate

Citation: 30 TAC Chapter 117, SubChapter B 117.219(f)(6)(B)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: HW 50212-001 PERMIT

Description: Failure to maintain and record the hours of operation of the deep well emergency generator (DWBKUP).

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(7)  
 5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: HW 50212-001 PERMIT

Description: Failure to notify the regional office of a reportable emissions event.

Classification: Moderate

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

Rqmt Prov: General Terms and Conditions OP  
 Standard Permit Condition G PERMIT

Description: Failure to maintain an emission rate below the allowable emissions limit for Hydrochloric acid (HCL), Sulphur Dioxide (SO2), Particulate Matter (PM) at the Incinerator stack.

**Effective Date: 05/18/2009**

**ADMINORDER 2008-0270-IHW-E**

Classification: Major

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 30 TAC Chapter 335, SubChapter A 335.2(a)  
 30 TAC Chapter 335, SubChapter A 335.2(b)  
 40 CFR Chapter 264, SubChapter I, PT 264, SubPT O 264.344(a)

Rqmt Prov: P.P. IV.B.3.c. PERMIT

Description: Failure to obtain authorization for the incineration and/or processing of hazardous waste not specified in their permit.

Classification: Minor

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

Description: Failure to prevent the unauthorized discharge of industrial solid waste.

Effective Date: 07/09/2009

ADMINORDER 2006-0455-IHW-E

Classification: Minor

Citation: 30 TAC Chapter 335, SubChapter F 335.152(a)(1)  
40 CFR Chapter 264, SubChapter I, PT 264, SubPT B 264.13(b)

Rqmt Prov: Permit 50212, Provision IV.A. PERMIT

Description: Failure to develop an adequate Waste Analysis Plan.

Classification: Major

Citation: 30 TAC Chapter 335, SubChapter A 335.2(a)  
30 TAC Chapter 335, SubChapter A 335.2(b)  
40 CFR Chapter 264, SubChapter I, PT 264, SubPT O 264.344(a)

Rqmt Prov: Permit 50212, Provision IV.B.3.b. PERMIT

Description: Failure to ship industrial mixed waste to an authorized facility for disposal and failure to prevent the acceptance of unauthorized waste that resulted in the onsite waste management activities including storage and treatment.

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

N/A

C. Chronic excessive emissions events.

N/A

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

1	06/17/2005	(392465)
2	07/19/2005	(397345)
3	07/28/2005	(397902)
4	08/11/2005	(399866)
5	08/29/2005	(397031)
6	12/21/2005	(437069)
7	03/10/2006	(451540)
8	04/13/2006	(462592)
9	04/21/2006	(453560)
10	05/12/2006	(463257)
11	06/23/2006	(462809)
12	06/23/2006	(480987)
13	06/23/2006	(482284)
14	07/20/2006	(484801)
15	08/22/2006	(497231)
16	08/29/2006	(497549)
17	09/21/2006	(510383)
18	01/30/2007	(538192)
19	02/23/2007	(536084)
20	02/23/2007	(541486)
21	04/03/2007	(539847)
22	04/03/2007	(540119)
23	04/25/2007	(542516)
24	04/25/2007	(556014)
25	04/25/2007	(556979)
26	04/26/2007	(542829)
27	05/18/2007	(652342)
28	06/08/2007	(543729)
29	07/02/2007	(559068)
30	09/14/2007	(568173)
31	10/12/2007	(572822)
32	11/20/2007	(598262)
33	11/20/2007	(598654)
34	02/19/2008	(611497)
35	02/25/2008	(615260)
36	02/26/2008	(616938)

37 03/26/2008 (637931)  
 38 04/29/2008 (650557)  
 39 05/16/2008 (669931)  
 40 05/23/2008 (680243)  
 41 05/23/2008 (680245)  
 42 05/31/2008 (481070)  
 43 06/09/2008 (671688)  
 44 07/07/2008 (680231)  
 45 07/07/2008 (680239)  
 46 08/27/2008 (700265)  
 47 09/06/2008 (686816)  
 48 10/31/2008 (705180)  
 49 11/17/2008 (705723)  
 50 11/17/2008 (705729)  
 51 05/05/2009 (742966)  
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 53 05/29/2009 (746873)  
 54 06/16/2009 (746860)  
 55 06/29/2009 (759620)  
 56 06/29/2009 (759623)  
 57 07/31/2009 (762709)  
 58 08/31/2009 (767786)  
 59 08/31/2009 (767831)  
 60 09/10/2009 (775404)  
 61 09/15/2009 (775962)  
 62 09/21/2009 (763136)  
 63 10/01/2009 (765178)  
 64 10/13/2009 (777271)  
 65 10/21/2009 (768092)  
 66 10/26/2009 (775731)  
 67 11/08/2009 (777011)  
 68 12/22/2009 (785347)  
 69 02/09/2010 (767968)  
 70 02/15/2010 (788942)  
 71 03/23/2010 (793435)  
 72 04/28/2010 (794343)

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

**Date: 08/30/2005 (397031)**

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
 30 TAC Chapter 122, SubChapter B 122.146(1)  
 5C THC Chapter 382, SubChapter A 382.085(b)  
 O-01509 OP

Description: Failure to submit an annual permit compliance certification within 30 days of the compliance period.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 113, SubChapter C 113.620  
 30 TAC Chapter 116, SubChapter B 116.115(a)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 5C THC Chapter 382, SubChapter A 382.085(b)  
 Genral Terms and Conditions OP

Description: Failure to submit to comply with all requirements of Federal Operating O-01509.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 113, SubChapter C 113.620  
 30 TAC Chapter 116, SubChapter B 116.115(a)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 42450 SC 17A PA  
 5C THC Chapter 382, SubChapter A 382.085(b)  
 O-01509 1H OP

Description: Failure to comply with all requirements of Federal Operating Permit O-01509  
Failure to comply with all requirements of Permit 42540  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.145(2)(A)  
5C THC Chapter 382, SubChapter A 382.085(b)  
O-01509 General terms and conditions OP

Description: Failure to report all instances of all deviations.

Date: 02/23/2007 (536084)

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(B)(III)

Description: Failure to calibrate the online turbidimeter every 90 days with primary standards.

Date: 04/26/2007 (542516)

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)

5C THC Chapter 382, SubChapter D 382.085(b)  
FOP-O-1509 Special Condition 11 OP  
Permit 42450 Special Condition 17(A) PERMIT

Description: Failure to maintain minimum kiln temperature of 1391 degrees Fahrenheit.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THC Chapter 382, SubChapter D 382.085(b)  
FOP-O-1509 Special Condition 11 OP  
Permit 42450 Special Condition 8 PERMIT

Description: Failure to submit the semi-annual NESHAPS report as required by 40 CFR Part 63, Subpart DD and H in a timely manner.

Self Report? NO Classification: Moderate

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

Description: Failure to submit semi-annual deviation report for the period of October 21, 2005 through April 21, 2006, in a timely manner.

Date: 05/18/2007 (652342)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)

Description: TOTAL TRIHALOMETHANES

Date: 06/08/2007 (543729)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Part 61, Subpart FF 61.345(b)  
5C THC Chapter 382, SubChapter D 382.085(b)  
FOP-O-1509 OP

Description: Failure to complete container inspections for the fourth quarter period of October 1, 2006, to December 31, 2006, in a timely manner.

Date: 11/20/2007 (598654)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THC Chapter 382, SubChapter D 382.085(b)  
Permit 42450 Special Condition 30 PERMIT

Description: Failure to maintain adequate documentation of alarm searches for continuous ambient hydrocarbon monitors 551, 553 and 554, as required by Special Condition 30.

Date: 02/20/2008 (611497)

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)(1)(B)  
30 TAC Chapter 335, SubChapter E 335.112(a)(1)  
40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(a)(1)(II)  
40 CFR Chapter 265, SubChapter I, PT 265, SubPT B 265.15(d)  
Description: Failure to properly document the inspector's full name on the Daily Tank Farm Inspection records.

**Date: 02/26/2008 (615260)**

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
42450 Special Condition 12(H) PERMIT  
5C THSC Chapter 382 382.085(b)  
FOP-O-1509 Special Condition 11 OP  
Description: Failure to maintain Carbon monoxide concentration emissions below 100 parts per million. Thirty (30) deviations documented during the semi-annual reporting period of October 21, 2006 through April 21, 2007 and twenty-four (24) deviations documented during the semi-annual reporting period of April 21, 2007 through October 21, 2007 resulted when the rolling hourly average for CO emissions exceeded the permitted limit of 100 ppm.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
42450 Special Condition 17(A) PERMIT  
5C THSC Chapter 382 382.085(b)  
FOP-O-1509 Special Condition 11 OP  
Description: Failure to maintain minimum kiln temperature of 1391. Deviations documented on November 7, 2006 and November 9, 2006, resulted when the kiln temperature dropped below the established permit limit of 1391 degrees Fahrenheit, established during the Comprehensive Performance Test. The kiln temperature dropped to 1200 degrees Fahrenheit and 1226 degrees Fahrenheit respectively. These deviations are a violation of Permit condition of 17(A) of Permit 42450.

Self Report? NO Classification: Moderate  
Citation: 1509 General Terms and Conditions OP  
30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.145(2)(A)  
5C THSC Chapter 382 382.085(b)  
Description: Failure to report a deviation in the period that it occurred. A deviation which occurred on October 15, 2006, should have been reported in the deviation report submitted for the previous semi-annual reporting period of April 21, 2006 through October 21, 2006 was reported in the semi-annual report submitted for the period of October 21, 2006 through April 21, 2007.

**Date: 05/29/2009 (746873)**

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 331, SubChapter D 331.64(e)(2)  
Description: Failure to conduct a temperature log, noise log, oxygen activation log, or other approved log at least once every five years to test for fluid movement along the borehole.

**Date: 07/31/2009 (762709)**

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
Special Condition 15 OP  
Special Condition 17(A) PERMIT

Description: Failure to maintain minimum kiln temperature of 1391 degrees Fahrenheit.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
Special Condition 12(H) PERMIT  
Special Condition 15 OP

**Description:** Failed to limit the carbon monoxide ("CO") concentration emission below the permitted rolling hourly average of 100 parts per million ("ppm").

**Self Report?** NO **Classification:** Moderate

**Citation:** 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
Special Condition 13 PERMIT  
Special Condition 15 OP

**Description:** Failure to operate the incinerator train in accordance with all applicable conditions of Industrial Solid Waste Management Permit No. HW-5021-001.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

08/16/2006 ENVIRONMENTAL MANAGEMENT SYSTEM NON 30 TAC CH 90 CERTIFIED

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  
VEOLIA ES TECHNICAL  
SOLUTIONS, L.L.C.  
RN102599719

§  
§  
§  
§  
§  
§

BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2010-0811-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 Veolia ES Technical Solutions, L.L.C. ("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 hazardous waste incinerator at 7665 Highway 73 in Port Arthur, Jefferson 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 May 3, 2010.
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 Twenty-Two Thousand One Hundred Dollars (\$22,100) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Eight Thousand Eight Hundred Forty Dollars (\$8,840)

of the administrative penalty and Four Thousand Four Hundred Twenty Dollars (\$4,420) 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. Eight Thousand Eight Hundred Forty Dollars (\$8,840) 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 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 failed to limit the carbon monoxide ("CO") concentration emission below the permitted rolling hourly average of 100 parts per million ("ppm"), in violation of New Source Review Permit No. 1509, Special Condition ("SC") 15 and Federal Operating Permit No. 42450, SC 12(H), 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on March 2, 2010. Specifically, on the 43 occasions between October 21, 2007 and October 20, 2008, the CO emission concentration averaged 204 ppm from the hazardous waste incinerator.

## 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: Veolia ES Technical Solutions, L.L.C., Docket No. 2010-0811-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, Eight Thousand Eight Hundred Forty Dollars (\$8,840) 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 agreement.

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

- a. Immediately after the effective date of this Agreed Order, begin utilizing a modified Shut-down, Start-up and Malfunction plan ("SSMP") at the Plant that implements measures designed to prevent CO concentration deviations caused by inconsistencies of waste material and surges in energetic liquid feeds from line restrictions; and
- b. Within 15 days after the effective date of this Agreed Order, submit written certification to demonstrate compliance with Ordering Provision No. 3.a. as described below:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines 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  
Beaumont Regional Office  
Texas Commission on Environmental Quality  
3870 Eastex Freeway  
Beaumont, Texas 77703-1892

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This 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.
9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

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

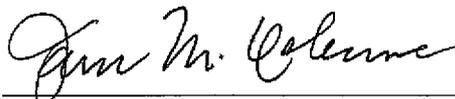
\_\_\_\_\_  
Date 9/21/2010

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 8-12-10

\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Veolia ES Technical Solutions, L.L.C.

\_\_\_\_\_  
Title  
General Manager

**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: 2010-0811-AIR-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

**Respondent:** Veolia ES Technical Solutions, L.L.C.

**Payable Penalty Amount:** Seventeen Thousand Six Hundred Eighty Dollars  
(\$17,680)

**SEP Amount:** Eight Thousand Eight Hundred Forty Dollars  
(\$8,840)

**Type of SEP:** Pre-approved

**Third-Party Recipient:** Southeast Texas Regional Planning Commission -  
West Port Arthur Home Energy Efficiency Program

**Location of SEP:** Jefferson 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 shall contribute the SEP amount to the Third-Party Recipient named above. The contribution will be to the Southeast Texas Regional Planning Commission to be used for the West Port Arthur Home Energy Efficiency Program as set forth in the agreement between the Third-Party Recipient and the TCEQ. Specifically, the Performing Party shall use SEP funds to assist low-income residents in the West Port Arthur area by: 1) conducting home energy audits; 2) weatherizing homes to improve energy efficiency; and/or 3) repairing or replacing heating/cooling systems and major appliances with new, energy-efficient equipment. Weatherizing homes may include costs of caulking openings as well as insulating walls, floors, and attics in homes. Any heating/cooling systems or major appliances that are replaced must be scrapped and must not be reused in any way. Performing Party shall use consistent and reliable criteria for determining the low-income status of residents assisted with SEP funds.

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

Implementation of this project will reduce residential fuel and electricity usage for heating and cooling. These reductions, in turn, will reduce emissions of particulate matter (PM), volatile organic carbon compounds (VOC), and nitrogen oxides (NOx) associated with the combustion of fuel and generation of electricity.

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:

Southeast Texas Regional Planning Commission  
2210 Eastex Freeway  
Beaumont, TX 77703

**3. Records and Reporting**

Concurrent with the payment of the SEP amount, the Respondent shall provide the Enforcement Division 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:

Office of Legal Services  
Attention: SEP Coordinator, MC 175  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the Enforcement Division 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.

