

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 3
DOCKET NO.: 2005-0329-MSW-E TCEQ ID: RN102947280 CASE NO.: 23124
RESPONDENT NAME: POSITIVE IMPACT WASTE SOLUTIONS, LLC DBA
POSITIVE IMPACT WASTE SOLUTIONS

| | | |
|--|---|--|
| ORDER TYPE: | | |
| <input checked="" type="checkbox"/> 1660 AGREED ORDER | <input type="checkbox"/> FINDINGS AGREED ORDER | <input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING |
| <input type="checkbox"/> FINDINGS DEFAULT ORDER | <input type="checkbox"/> SHUTDOWN ORDER | <input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER |
| <input type="checkbox"/> AMENDED ORDER | <input type="checkbox"/> EMERGENCY ORDER | |
| CASE TYPE: | | |
| <input 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 checked="" type="checkbox"/> MUNICIPAL SOLID WASTE | <input type="checkbox"/> RADIOACTIVE WASTE | <input type="checkbox"/> DRY CLEANER REGISTRATION |
| <p>SITE WHERE VIOLATION(S) OCCURRED: 601 South Pagewood, Odessa, Ector County and 5850 Rogerdale, Houston, Harris County</p> <p>TYPE OF OPERATION: Medical waste transportation and an on-site medical waste treatment operation</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: This Facility was investigated on August 13, 24 and 27, 2004, as a result of a complaint received by the TCEQ Houston Region Office. There is no record of additional pending enforcement actions regarding this facility.</p> <p>INTERESTED PARTIES: There has been one complaint, but the complainant has not indicated a desire to protest this action or to speak at Agenda. No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on July 9, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Mr. Shawn Slack, Litigation Division, MC175, (512) 239-0063; Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873 TCEQ Enforcement Coordinator: Mr. John Shelton, Enforcement Division, MC 128, (512) 239-2354 TCEQ Regional Contact: Ms. Nicole Bealle, Houston Regional Office, MC R-12, (713) 767-3623 Respondent: Mr. Timothy P. Spencer, President, Positive Impact Waste Solutions, LLC dba Positive Impact Waste Solutions, 5030 East University, Suite D101, Odessa, Texas 79762; P.O. Box 14692, Odessa, Texas 79768</p> | | |

VIOLATION SUMMARY CHART:

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|---|---|---|
| <p>Type of Investigation:</p> <p><input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaints Relating to this Case: None</p> <p>Dates of Investigation Relating to this Case: August 13, 2004, August 24, 2004, August 27, 2004, and March 15, 2005</p> <p>Date of NOEs Relating to this Case: November 27, 2004 and March 10, 2005</p> <p>Background Facts: An EDPRP was filed on June 22, 2005, and the Respondent filed an Answer on July 12, 2005. The parties agreed to a settlement on or about March 15, 2007, and a signed agreed order with payment was received shortly thereafter.</p> <p>The Respondent does not owe any other penalties according to the Administrative Penalty Database Report</p> <p>MSW:</p> <p>1. Failed to deposit shipments of untreated special waste only at a facility which has been permitted by the Commission to accept untreated special waste from health care facilities; and by failing to obtain authorization to treat special waste off the site of generation. The investigator specifically documented that the Respondent deposited untreated medical waste at a facility not authorized to accept the waste. The investigator also documented that the Respondent treated the waste on their mobile treatment unit off the site of generation without authorization [30 TEX. ADMIN. CODE §§ 330.4(a), (b), 330.5(a), 330.1005(n), and 330.1010(a)].</p> <p>2. Failed to include in the waste shipping document, the date and place where the untreated special waste from health care related facilities was deposited and unloaded. The investigator documented that the Respondent's waste shipping documents indicated an incorrect location where waste was being shipped [30 TEX. ADMIN. CODE § 330.1005(l)(5)].</p> | <p>Total Assessed: \$14,100</p> <p>Total Deferred: \$0</p> <p>Total Paid to General Revenue: \$14,100</p> <p>The Respondent has paid the administrative penalty in full.</p> <p>Site Compliance History Classification <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Respondent Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> | <p>Corrective Actions Taken</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures:</p> <ol style="list-style-type: none"> 1. Began carrying spill cleanup equipment with the transportation unit on December 16, 2004. 2. Labeled the two sides and back of the cargo-carrying compartment of the transportation unit on June 10, 2005. <p>Ordering Provisions</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> 1. Within 15 days: <ol style="list-style-type: none"> a. Ensure that all shipments of untreated medical waste are deposited only at a facility that has been authorized by the Commission to accept untreated medical waste; b. Begin including in the waste shipping document the date and place where the untreated medical waste was deposited or unloaded; c. Ensure that untreated medical waste is packaged in accordance with 30 TEX. ADMIN. CODE § 330.1207(c) prior to accepting waste for transport; and d. Begin furnishing the generator of untreated medical waste with a signed receipt for each shipment at the time of collection of the waste. 2. Within 30 days: <ol style="list-style-type: none"> a. Ensure that the floor and sides of the cargo compartment of the transportation vehicle are made of an impervious, nonporous material; b. Begin including in the waste shipping document the date and place where the untreated medical waste was deposited or unloaded; |

VIOLATION SUMMARY CHART:

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|--|------------------------|--|
| <p>3. Failed to prevent the acceptance of untreated medical waste which is not properly labeled. The investigator documented that the Respondent accepted untreated medical waste that did not have the name and address of the generator on each container or package [30 TEX. ADMIN. CODE § 330.1005(o)].</p> <p>4. Failed to furnish the generator with a signed receipt for each shipment at the time of collection of the waste. The investigator documented that the Respondent did not provide any receipts to the generator of the waste [30 TEX. ADMIN. CODE § 330.1005(k)].</p> <p>5. Failed to have the floor and the sides of the cargo compartment of the transportation vehicle made of an impervious, non-porous material. The investigator documented that the floor and sides of the cargo compartment of the transport vehicle were made of wood [30 TEX. ADMIN. CODE § 330.1005(g)(2)].</p> <p>6. Failed to carry the required spill clean-up equipment and personal protective equipment including, but not limited to, disinfectant, absorbent materials, gloves, coveralls, eye protection, and leakproof containers or packaging materials [30 TEX. ADMIN. CODE § 330.1005(g)(1)(C)].</p> <p>7. Failed to have the required identification on the two sides and back of the cargo-carrying compartment in letters at least three inches high [30 TEX. ADMIN. CODE § 330.1005(g)(1)(D)].</p> | | <p>c. Ensure that untreated medical waste is packaged;</p> <p>d. Begin furnishing the generator of untreated medical waste with a signed receipt for each shipment at the time of collection of the waste; and</p> <p>e. Ensure that the floor and sides of the cargo compartment of the transportation vehicle are made of an impervious, nonporous material.</p> |



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision December 10, 2004

| | | | | | | |
|--------------|----------|-------------|-----------|-------------|--------------|-------------|
| DATES | Assigned | 06-Dec-2004 | | | | |
| | PCW | 09-Mar-2007 | Screening | 22-Dec-2004 | Priority Due | 04-Feb-2005 |
| | | | | | EPA Due | |

| | |
|--|--|
| RESPONDENT/FACILITY INFORMATION | |
| Respondent | Positive Impact Waste Solutions, LLC dba Positive Impact Waste Solutions |
| Reg. Ent. Ref. No. | RN102947280 |
| Facility/Site Region | 7-Midland <input type="text"/> Major/Minor Source <input type="text"/> Minor Source <input type="text"/> |

| | | | |
|---------------------------------|------------------------------------|-------------------|---|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 23124 | No. of Violations | 7 |
| Docket No. | 2005-0329-MSW-E | Order Type | 1660 <input type="text"/> |
| Case Priority | 3 <input type="text"/> | Enf. Coordinator | Mike Limos <input type="text"/> |
| Media Program(s) | Medical Waste <input type="text"/> | EC's Team | Enforcement Team 8 <input type="text"/> |
| Multi-Media | | | |
| Admin. Penalty \$ Limit Minimum | \$0 | Maximum | \$10,000 |

Penalty Calculation Section

| | | |
|---|-------------------|-----------------|
| TOTAL BASE PENALTY (Sum of violation base penalties) | Subtotal 1 | \$14,100 |
|---|-------------------|-----------------|

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

| | | | |
|---------------------------|----------------|--------------------------------|------------|
| Compliance History | 0% Enhancement | Subtotals 2, 3, & 7 | \$0 |
|---------------------------|----------------|--------------------------------|------------|

Notes: No change due to Average Performer classification.

| | | | | |
|--------------------|-------------------------|----------------|-------------------|------------|
| Culpability | No <input type="text"/> | 0% Enhancement | Subtotal 4 | \$0 |
|--------------------|-------------------------|----------------|-------------------|------------|

Notes: The respondent does not meet the culpability criteria.

| | | | |
|------------------------------------|--------------|-------------------|------------|
| Good Faith Effort to Comply | 0% Reduction | Subtotal 5 | \$0 |
|------------------------------------|--------------|-------------------|------------|

Before NOV NOV to EDRP/Settlement Offer

| | | |
|---------------|---|-----------------------|
| Extraordinary | | |
| Ordinary | | |
| N/A | X | (mark with a small x) |

Notes: The respondent is not yet in compliance.

| | | | |
|-------------------------|-----------------|-------------------|------------|
| Economic Benefit | 0% Enhancement* | Subtotal 6 | \$0 |
|-------------------------|-----------------|-------------------|------------|

| | | |
|----------------------------|---------|-----------------------------------|
| Total EB Amounts | \$1,353 | *Capped at the Total EB \$ Amount |
| Approx. Cost of Compliance | \$6,950 | |

| | | |
|-----------------------------|-----------------------|-----------------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$14,100 |
|-----------------------------|-----------------------|-----------------|

| | | | |
|---|----------------------|-------------------|------------|
| OTHER FACTORS AS JUSTICE MAY REQUIRE | <input type="text"/> | Adjustment | \$0 |
|---|----------------------|-------------------|------------|

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

Final Penalty Amount **\$14,100**

| | | |
|-----------------------------------|-------------------------------|-----------------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$14,100 |
|-----------------------------------|-------------------------------|-----------------|

| | | | | |
|-----------------|----------------------|-----------|-------------------|------------|
| DEFERRAL | <input type="text"/> | Reduction | Adjustment | \$0 |
|-----------------|----------------------|-----------|-------------------|------------|

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

Notes: No deferral is recommended because this is not an expedited case.

| | |
|------------------------|-----------------|
| PAYABLE PENALTY | \$14,100 |
|------------------------|-----------------|

| | | | | |
|--------------------------------|--|-------------------|-----------------|--------------------------------|
| Screening Date | 22-Dec-2004 | Docket No. | 2005-0329-MSW-E | PCW |
| Respondent | Positive Impact Waste Solutions, LLC dba Positive Impact Waste Solutions | | | ember 2002) |
| Case ID No. | 23124 | | | PCW Revision December 10, 2004 |
| Reg. Ent. Reference No. | RN102947280 | | | |
| Media [Statute] | Medical Waste | | | |
| Enf. Coordinator | Mike Limos | | | |

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 | 0 | 0% |
| 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) | 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)

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

| | |
|---------------------------------|---|
| <input type="text" value="No"/> | Adjustment Percentage (Subtotal 3) <input type="text" value="0%"/> |
|---------------------------------|---|

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

| | |
|--|---|
| <input type="text" value="Average Performer"/> | Adjustment Percentage (Subtotal 7) <input type="text" value="0%"/> |
|--|---|

>> **Compliance History Summary**

| | |
|---------------------------------|--|
| Compliance History Notes | No change due to Average Performer classification. |
|---------------------------------|--|

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

| | | | | |
|--------------------------------|--|-------------------|-----------------|--------------------------------|
| Screening Date | 22-Dec-2004 | Docket No. | 2005-0329-MSW-E | PCW |
| Respondent | Positive Impact Waste Solutions, LLC dba Positive Impact Waste Solutions | | | ember 2002) |
| Case ID No. | 23124 | | | PCW Revision December 10, 2004 |
| Reg. Ent. Reference No. | RN102947280 | | | |
| Media [Statute] | Medical Waste | | | |
| Enf. Coordinator | Mike Limos | | | |
| Violation Number | 1 | | | |

Primary Rule Cite(s) 30 Tex. Admin. Code §§ 330.4(a), 330.4(b), 330.5(a), 330.1005(n), and 330.1010(a)

Secondary Rule Cite(s)

Violation Description

Failure to deposit shipments of untreated special waste only at a facility which has been permitted by the commission to accept untreated special waste from health care related facilities. Failure to obtain authorization to treat special waste off the site of generation. Specifically, during the investigation, it was documented that the respondent deposited untreated medical waste at a facility not authorized to accept the waste. Additionally, the respondent treated the medical waste on their mobile treatment unit off the site of generation without authorization. A total of 7 medical waste loads were handled by the respondent in this manner.

Base Penalty \$10,000

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

| | | | | | |
|----|----------------|-------|----------|-------|---------|
| OR | Harm | | | | Percent |
| | Release | Major | Moderate | Minor | |
| | Actual | | | | |
| | Potential | | | | |

>> **Programmatic Matrix**

| | | | | |
|----------------------|-------|----------|-------|---------|
| Falsification | Major | Moderate | Minor | Percent |
| | X | | | |

Matrix Notes The respondent failed to comply with 100% of the rule requirement.

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 7

| | | |
|--------------------------------|--------------|---|
| mark only one use a small x | daily | |
| | monthly | |
| | quarterly | |
| | semiannual | |
| | annual | |
| | single event | X |

Violation Base Penalty \$7,000

Seven single events are recommended for the seven (7) medical waste deliveries, as documented during the August 27, 2004 investigation date.

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

Estimated EB Amount \$1,232

Violation Final Penalty Total \$7,000

This violation Final Assessed Penalty (adjusted for limits) \$7,000

Economic Benefit Worksheet

Respondent: Positive Impact Waste Solutions, LLC dba Positive Impact Waste Solutions
 Case ID No: 23124
 Reg. Ent. Reference No: RN102947280
 Media [Statute]: Medical Waste
 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

| | | | | | | | |
|--------------------------|---------|-------------|-------------|-----|-------|-----|-------|
| Equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.0 | \$0 | \$0 | \$0 |
| Land | | | | 0.0 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.0 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.0 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.0 | \$0 | n/a | \$0 |
| Permit Costs | \$3,000 | 13-Aug-2004 | 28-Feb-2006 | 1.5 | \$232 | n/a | \$232 |
| Other (as needed) | | | | 0.0 | \$0 | n/a | \$0 |

Notes for DELAYED costs: This is an estimated cost to obtain authorization to treat medical waste off the site of generation. The Date Required is the investigation date and the Final Date is the projected date of compliance.

Avoided Costs

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

| | | | | | | | |
|-------------------------------|---------|-------------|-------------|-----|-----|---------|---------|
| Disposal | | | | 0.0 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.0 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.0 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.0 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | \$1,000 | 13-Aug-2004 | 13-Aug-2004 | 0.0 | \$0 | \$1,000 | \$1,000 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs: This is an estimated cost that the respondent avoided to deposit shipments of untreated special waste only at a facility which has been permitted by the commission to accept untreated special waste from health care related facilities.

Approx. Cost of Compliance **\$4,000**

TOTAL \$1,232

| | | | | |
|--------------------------------|--|---------------------|-----------------|--------------------------------|
| Screening Date | 22-Dec-2004 | Docket No. | 2005-0329-MSW-E | PCW |
| Respondent | Positive Impact Waste Solutions, LLC dba Positive Impact Waste Solutions | | | ember 2002) |
| Case ID No. | 23124 | | | PCW Revision December 10, 2004 |
| Reg. Ent. Reference No. | RN102947280 | | | |
| Media [Statute] | Medical Waste | | | |
| Enf. Coordinator | Mike Limos | | | |
| Violation Number | 2 | | | |
| Primary Rule Cite(s) | 30 Tex. Admin. Code § 330.1005(l)(5) | | | |
| Secondary Rule Cite(s) | | | | |
| Violation Description | Failure to include in the waste shipping document the date and place where the untreated special waste from health care related facilities was deposited and unloaded. Specifically, during the investigation, it was documented that the respondent's waste shipping documents indicated an incorrect location where waste was being shipped. | | | |
| | | Base Penalty | \$10,000 | |

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

| | | | | |
|----|-----------|--------------------------|--------------------------|------------------------------|
| OR | Harm | | | |
| | Release | Major | Moderate | Minor |
| | Actual | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| | Potential | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| | | | | Percent <input type="text"/> |

>> **Programmatic Matrix**

| | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|---|
| | Falsification | Major | Moderate | Minor | |
| | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Percent <input type="text" value="1%"/> |

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

| | | |
|--------------------------------|--------------|-------------------------------------|
| mark only one use a small x | daily | <input type="checkbox"/> |
| | monthly | <input type="checkbox"/> |
| | quarterly | <input type="checkbox"/> |
| | semiannual | <input type="checkbox"/> |
| | annual | <input type="checkbox"/> |
| | single event | <input checked="" type="checkbox"/> |

Violation Base Penalty

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

Estimated EB Amount Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent: Positive Impact Waste Solutions, LLC dba Positive Impact Waste Solutions
 Case ID No: 23124
 Reg. Ent. Reference No: RN102947280
 Media [Statute]: Medical Waste
 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 |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|

| Delayed Costs | | | | | | | |
|--------------------------|------|-------------|-------------|-----|-----|-----|-----|
| Equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.0 | \$0 | \$0 | \$0 |
| Land | | | | 0.0 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.0 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.0 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.0 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.0 | \$0 | n/a | \$0 |
| Other (as needed) | \$50 | 13-Aug-2004 | 15-Sep-2005 | 1.1 | \$3 | n/a | \$3 |

Notes for DELAYED costs: This is an estimated cost to include in the waste shipping document the correct place where the untreated special waste from health care related facilities was deposited and unloaded. The Date Required is the investigation date and the Final Date is the projected date of compliance.

| Avoided Costs | | | | | | | |
|--|--|--|--|-----|-----|-----|-----|
| ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs) | | | | | | | |
| Disposal | | | | 0.0 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.0 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.0 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.0 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs:

Approx. Cost of Compliance \$50 TOTAL \$3

| | | | | |
|--------------------------------|--|-------------------|-----------------|--------------------------------|
| Screening Date | 22-Dec-2004 | Docket No. | 2005-0329-MSW-E | PCW |
| Respondent | Positive Impact Waste Solutions, LLC dba Positive Impact Waste Solutions | | | ember 2002) |
| Case ID No. | 23124 | | | PCW Revision December 10, 2004 |
| Reg. Ent. Reference No. | RN102947280 | | | |
| Media [Statute] | Medical Waste | | | |
| Enf. Coordinator | Mike Limos | | | |

| | |
|-------------------------------|---|
| Violation Number | 3 |
| Primary Rule Cite(s) | 30 Tex. Admin. Code § 330.1005(o) |
| Secondary Rule Cite(s) | |
| Violation Description | Failure to prevent the acceptance of untreated medical waste which is not labeled in accordance with the provisions of § 330.1004(l) of this title (relating to Generators of Medical Waste). Specifically, during the investigation, it was documented that the respondent accepted untreated medical waste that did not have the name and address of the generator on each container/package. |
| Base Penalty | \$10,000 |

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

| | | | | |
|----|----------------|--------------------------|--------------------------|-------------------------------------|
| OR | Harm | | | |
| | Release | Major | Moderate | Minor |
| | Actual | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| | Potential | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| | | | | Percent <input type="text"/> |

>> **Programmatic Matrix**

| | | | | | |
|--|--------------------------|-------------------------------------|--------------------------|--------------------------|---|
| | Falsification | Major | Moderate | Minor | |
| | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Percent <input type="text" value="10%"/> |

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

| | | |
|--------------------------------|--------------|-------------------------------------|
| mark only one use a small x | daily | <input type="checkbox"/> |
| | monthly | <input type="checkbox"/> |
| | quarterly | <input type="checkbox"/> |
| | semiannual | <input type="checkbox"/> |
| | annual | <input type="checkbox"/> |
| | single event | <input checked="" type="checkbox"/> |

Violation Base Penalty

Two single events are recommended based on documentation of the violation during the August 13, 2004 and March 15, 2005 investigation dates.

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

| | | | |
|--|-----------------------------------|--------------------------------------|--------------------------------------|
| Estimated EB Amount | <input type="text" value="\$27"/> | Violation Final Penalty Total | <input type="text" value="\$2,000"/> |
| This violation Final Assessed Penalty (adjusted for limits) | | <input type="text" value="\$2,000"/> | |

Economic Benefit Worksheet

Respondent: Positive Impact Waste Solutions, LLC dba Positive Impact Waste Solutions
 Case ID No: 23124
 Reg. Ent. Reference No: RN102947280
 Media [Statute]: Medical Waste
 Violation No: 3

| | |
|------------------|-----------------------|
| Percent Interest | Years of Depreciation |
| 5.0 | 15 |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|

| Delayed Costs | | | | | | | |
|--------------------------|-------|-------------|-------------|-----|------|-----|------|
| Equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.0 | \$0 | \$0 | \$0 |
| Land | | | | 0.0 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.0 | \$0 | n/a | \$0 |
| Training/Sampling | \$500 | 13-Aug-2004 | 15-Sep-2005 | 1.1 | \$27 | n/a | \$27 |
| Remediation/Disposal | | | | 0.0 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.0 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | n/a | \$0 |

Notes for DELAYED costs: This is an estimated cost to provide training to operators to prevent the acceptance of untreated medical waste which is not packaged in accordance with the provisions of 30 Tex. Admin. Code § 330.1004(l) (relating to Generators of Medical Waste). The Date Required is the investigation date and the Final Date is the projected date of compliance.

| Avoided Costs | | | | | | | |
|--|--|--|--|-----|-----|-----|-----|
| ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs) | | | | | | | |
| Disposal | | | | 0.0 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.0 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.0 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.0 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

TOTAL

Screening Date 22-Dec-2004 **Docket No.** 2005-0329-MSW-E **PCW**
Respondent Positive Impact Waste Solutions, LLC dba Positive Impact Waste Solutions *ember 2002)*
Case ID No. 23124 *PCW Revision December 10, 2004*
Reg. Ent. Reference No. RN102947280
Media [Statute] Medical Waste
Enf. Coordinator Mike Limos

Violation Number 4
Primary Rule Cite(s) 30 Tex. Admin. Code § 330.1005(k)
Secondary Rule Cite(s)
Violation Description Failure to furnish the generator with a signed receipt for each shipment at the time of collection of the waste. Specifically, during the investigation, it was documented that the respondent did not provide any receipts to the generator.
Base Penalty \$10,000

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

| | | Harm | | | |
|---------|-----------|-------|----------|-------|---------|
| Release | | Major | Moderate | Minor | |
| OR | Actual | | | | Percent |
| | Potential | | | | |

>> **Programmatic Matrix**

| Falsification | Major | Moderate | Minor | Percent |
|---------------|-------|----------|-------|---------|
| | X | | | 10% |

Matrix Notes The respondent failed to comply with 100% of the rule requirement.

Adjustment -\$9,000
Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 1
 mark only one use a small x

| | |
|--------------|---|
| daily | |
| monthly | |
| quarterly | |
| semiannual | |
| annual | |
| single event | X |

Violation Base Penalty \$1,000

One single event is recommended based on documentation of the violation during the August 13, 2004 investigation date.

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

Estimated EB Amount \$5 **Violation Final Penalty Total** \$1,000
This violation Final Assessed Penalty (adjusted for limits) \$1,000

Economic Benefit Worksheet

Respondent: Positive Impact Waste Solutions, LLC dba Positive Impact Waste Solutions

Case ID No: 23124

Reg. Ent. Reference No: RN102947280

Media [Statute]: Medical Waste

Violation No: 4

| | |
|------------------|-----------------------|
| Percent Interest | Years of Depreciation |
| 5.0 | 15 |

| Item Description | Item Cost <small>No commas or \$</small> | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|---|---------------|------------|-----|----------------|---------------|-----------|
|------------------|---|---------------|------------|-----|----------------|---------------|-----------|

Delayed Costs

| | | | | | | | |
|--------------------------|-------|-------------|-------------|-----|-----|-----|-----|
| Equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.0 | \$0 | \$0 | \$0 |
| Land | | | | 0.0 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.0 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.0 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.0 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.0 | \$0 | n/a | \$0 |
| Other (as needed) | \$100 | 13-Aug-2004 | 15-Sep-2005 | 1.1 | \$5 | n/a | \$5 |

Notes for DELAYED costs: This is an estimated cost to furnish the generator a signed receipt for each shipment at the time of collection of the waste. The Date Required is the investigation date and the Final date is the projected date of compliance.

Avoided Costs

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

| | | | | | | | |
|-------------------------------|--|--|--|-----|-----|-----|-----|
| Disposal | | | | 0.0 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.0 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.0 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.0 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance \$100

TOTAL \$5

| | | | | |
|--------------------------------|--|-------------------|-----------------|--------------------------------|
| Screening Date | 22-Dec-2004 | Docket No. | 2005-0329-MSW-E | PCW |
| Respondent | Positive Impact Waste Solutions, LLC dba Positive Impact Waste Solutions | | | ember 2002) |
| Case ID No. | 23124 | | | PCW Revision December 10, 2004 |
| Reg. Ent. Reference No. | RN102947280 | | | |
| Media [Statute] | Medical Waste | | | |
| Enf. Coordinator | Mike Limos | | | |
| Violation Number | 5 | | | |
| Primary Rule Cite(s) | 30 Tex. Admin. Code § 330.1005(g)(2) | | | |
| Secondary Rule Cite(s) | | | | |
| Violation Description | Failure to have the floor and sides of the cargo compartment of the vehicle made of an impervious, nonporous material. Specifically, during the investigation, it was documented that the floor and sides of the cargo compartment of the vehicle were made of wood. | | | |
| | Base Penalty | \$10,000 | | |

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

| Release | Harm | | | Percent |
|-----------|-------|----------|-------|---------|
| | Major | Moderate | Minor | |
| Actual | | | | 5% |
| Potential | | | X | |

>> **Programmatic Matrix**

| Falsification | Major | Moderate | Minor | Percent |
|---------------|-------|----------|-------|---------|
| | | | | |

Matrix Notes
 Failure to have the floor and sides of the cargo compartment made of an impervious, nonporous material could expose human health or the environment to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors.

Adjustment -\$9,500

Base Penalty Subtotal \$500

Violation Events

Number of Violation Events

| | | |
|--------------------------------|--------------|--------------------------|
| mark only one use a small x | daily | <input type="checkbox"/> |
| | monthly | <input type="checkbox"/> |
| | quarterly | X |
| | semiannual | <input type="checkbox"/> |
| | annual | <input type="checkbox"/> |
| | single event | <input type="checkbox"/> |

Violation Base Penalty \$500

One single event is recommended.

| Economic Benefit (EB) for this violation | Statutory Limit Test |
|--|--|
| Estimated EB Amount <input type="text" value="\$57"/> | Violation Final Penalty Total <input type="text" value="\$500"/> |
| This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$500"/> | |

Economic Benefit Worksheet

Respondent: Positive Impact Waste Solutions, LLC dba Positive Impact Waste Solutions
 Case ID No: 23124
 Reg. Ent. Reference No: RN102947280
 Media [Statute]: Medical Waste
 Violation No: 5

| | |
|------------------|-----------------------|
| Percent Interest | Years of Depreciation |
| 5.0 | 15 |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|--------------------------|-----------|---------------|-------------|-----|----------------|---------------|-----------|
| Delayed Costs | | | | | | | |
| Equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.0 | \$0 | \$0 | \$0 |
| Land | | | | 0.0 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.0 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.0 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.0 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.0 | \$0 | n/a | \$0 |
| Other (as needed) | \$1,000 | 13-Aug-2004 | 30-Sep-2005 | 1.1 | \$57 | n/a | \$57 |

Notes for DELAYED costs: This is an estimated cost to provide the cargo compartment of the vehicle with a floor and sides made of an impervious, nonporous material. The Date Required is the investigation date and the Final Date is the projected date of compliance.

| Avoided Costs | ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs) | | | | | | |
|-------------------------------|--|--|--|-----|-----|-----|-----|
| Disposal | | | | 0.0 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.0 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.0 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.0 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |
| Notes for AVOIDED costs | | | | | | | |

Approx. Cost of Compliance \$1,000

TOTAL \$57

| | | | | |
|--------------------------------|--|-------------------|-----------------|--------------------------------|
| Screening Date | 22-Dec-2004 | Docket No. | 2005-0329-MSW-E | PCW |
| Respondent | Positive Impact Waste Solutions, LLC dba Positive Impact Waste Solutions | | | ember 2002) |
| Case ID No. | 23124 | | | PCW Revision December 10, 2004 |
| Reg. Ent. Reference No. | RN102947280 | | | |
| Media [Statute] | Medical Waste | | | |
| Enf. Coordinator | Mike Limos | | | |

| | |
|-------------------------------|--|
| Violation Number | 6 |
| Primary Rule Cite(s) | 30 Tex. Admin. Code §.330.1005(g)(1)(C) |
| Secondary Rule Cite(s) | |
| Violation Description | Failure to carry spill cleanup equipment and personal protective equipment including, but not limited to, disinfectant, absorbent materials, gloves, coveralls, eye protection, and leakproof containers or packaging materials. Specifically, during the investigation, it was documented that the respondent failed to have the required spill kit within the transportation unit. |

Base Penalty

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

| | | Harm | | | |
|---------|-----------|-------------------------------------|--------------------------|--------------------------|---|
| Release | | Major | Moderate | Minor | |
| OR | Actual | <input type="text"/> | <input type="text"/> | <input type="text"/> | Percent <input type="text" value="25%"/> |
| | Potential | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |

>> **Programmatic Matrix**

| | | Falsification | Major | Moderate | Minor | |
|--|--|----------------------|----------------------|----------------------|----------------------|-------------------------------------|
| | | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | Percent <input type="text"/> |

Matrix Notes
 Failure to carry spill cleanup equipment and personal protective equipment could result in inadequate spill response and cleanup which could expose human health or the environment to significant amounts of pollutants which would exceed levels that are protective of human health or environmental receptors.

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

| | | |
|--------------------------------|--------------|-------------------------------------|
| mark only one use a small x | daily | <input type="text"/> |
| | monthly | <input type="text"/> |
| | quarterly | <input type="text"/> |
| | semiannual | <input type="text"/> |
| | annual | <input type="text"/> |
| | single event | <input checked="" type="checkbox"/> |

Violation Base Penalty

One single event is recommended.

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

| | | | |
|--|-----------------------------------|--------------------------------------|--------------------------------------|
| Estimated EB Amount | <input type="text" value="\$24"/> | Violation Final Penalty Total | <input type="text" value="\$2,500"/> |
| This violation Final Assessed Penalty (adjusted for limits) | | <input type="text" value="\$2,500"/> | |

Economic Benefit Worksheet

Respondent: Positive Impact Waste Solutions, LLC dba Positive Impact Waste Solutions
 Case ID No: 23124
 Reg. Ent. Reference No: RN102947280
 Media [Statute]: Medical Waste
 Violation No: 6

| | |
|------------------|-----------------------|
| Percent Interest | Years of Depreciation |
| 5.0 | 15 |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|

| Delayed Costs | | | | | | | |
|--------------------------|---------|-------------|-------------|-----|-----|------|------|
| Equipment | \$1,000 | 13-Aug-2004 | 16-Dec-2004 | 0.3 | \$1 | \$23 | \$24 |
| Buildings | | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.0 | \$0 | \$0 | \$0 |
| Land | | | | 0.0 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.0 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.0 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.0 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.0 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | n/a | \$0 |

Notes for DELAYED costs: This is an estimated cost to provide an adequate spill cleanup kit. The Date Required is the investigation date and the Final Date is the date the respondent returned to compliance.

| Avoided Costs | | | | | | | |
|--|--|--|--|-----|-----|-----|-----|
| ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs) | | | | | | | |
| Disposal | | | | 0.0 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.0 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.0 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.0 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs:

Approx. Cost of Compliance TOTAL

| | | | | |
|--------------------------------|---|---------------------|-----------------|--------------------------------|
| Screening Date | 22-Dec-2004 | Docket No. | 2005-0329-MSW-E | PCW |
| Respondent | Positive Impact Waste Solutions, LLC dba Positive Impact Waste Solutions | | | ember 2002) |
| Case ID No. | 23124 | | | PCW Revision December 10, 2004 |
| Reg. Ent. Reference No. | RN102947280 | | | |
| Media [Statute] | Medical Waste | | | |
| Enf. Coordinator | Mike Limos | | | |
| Violation Number | 7 | | | |
| Primary Rule Cite(s) | 30 Tex. Admin. Code § 330.1005(g)(1)(D) | | | |
| Secondary Rule Cite(s) | | | | |
| Violation Description | Failure to have the following identification on the two-sides and back of the cargo-carrying compartment in letters at least three inches high: (the name of the transporter) TCEQ: (the TCEQ-assigned registration number) Caution: Medical Waste. Specifically, during the investigation, it was documented that the respondent did not have any of the required identification on the vehicle. | | | |
| | | Base Penalty | \$10,000 | |

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

| | | | | | |
|----|----------------|--------------------------|--------------------------|--------------------------|-------------------------------------|
| | | Harm | | | |
| | Release | Major | Moderate | Minor | |
| OR | Actual | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Percent <input type="text"/> |
| | Potential | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |

>> **Programmatic Matrix**

| | | | | | | |
|--|--|--------------------------|--------------------------|-------------------------------------|--------------------------|--|
| | | Falsification | Major | Moderate | Minor | |
| | | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Percent <input type="text" value="5%"/> |

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

| | | |
|--------------------------------|-------------------------------------|--------------------------|
| mark only one use a small x | daily | <input type="checkbox"/> |
| | monthly | <input type="checkbox"/> |
| | quarterly | <input type="checkbox"/> |
| | semiannual | <input type="checkbox"/> |
| | annual | <input type="checkbox"/> |
| single event | <input checked="" type="checkbox"/> | |

Violation Base Penalty

Two single events are recommended based on documentation of the violation during the August 13, 2004 and March 15, 2005 investigation dates.

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

Estimated EB Amount Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent: Positive Impact Waste Solutions, LLC dba Positive Impact Waste Solutions
Case ID/No: 23124
Reg. Ent. Reference No.: RN102947280
Media [Statute]: Medical Waste
Violation No.: 7

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|

| Delayed Costs | | | | | | | |
|--------------------------|-------|-------------|-------------|-----|-----|-----|-----|
| Equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.0 | \$0 | \$0 | \$0 |
| Land | | | | 0.0 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.0 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.0 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.0 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.0 | \$0 | n/a | \$0 |
| Other (as needed) | \$300 | 13-Aug-2004 | 16-Dec-2004 | 0.3 | \$5 | n/a | \$5 |

Notes for DELAYED costs: This is an estimated cost to label the two sides and back of the cargo-carrying compartment in letters at least three inches high with the required information. The Date Required is the investigation date and the Final Date is the date the respondent returned to compliance.

| Avoided Costs | | | | | | | |
|--|--|--|--|-----|-----|-----|-----|
| ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs) | | | | | | | |
| Disposal | | | | 0.0 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.0 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.0 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.0 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs:

Approx. Cost of Compliance \$300
TOTAL \$5

COMPLIANCE HISTORY

Customer/Respondent/Owner-Operator: CN601493125 Positive Impact Waste Solutions, LLC Classification: Average Rating: 1.500

Regulated Entity/ID Nos.: RN102947280 Positive Impact Waste Solutions Classification: High Rating: 0.0

| | | | |
|---------------|------------------------|--------------|-------|
| ID Number(s): | MEDICAL WASTE | REGISTRATION | 54008 |
| | MEDICAL WASTE | REGISTRATION | 50070 |
| | PETROLEUM STORAGE TANK | REGISTRATION | 72855 |
| | REGISTRATION | | |

Location [physical address or description of location (street, highway, FM, etc.) including city or nearest city, and county]: 5030 E University Blvd Ste D101, Odessa, TX Repeat Violator: (y/n) n

TCEQ Region No. 07 - Midland

Date Compliance History Prepared: March 9, 2005

Agency Decision Requiring Compliance History (mark one):

- | | |
|-------------------------------------|---|
| <input type="checkbox"/> | the issuance, renewal, amendment, modification, denial, suspension, or revocation of a permit |
| <input checked="" type="checkbox"/> | enforcement |
| <input type="checkbox"/> | the use of announced investigations (Field Ops) |
| <input type="checkbox"/> | participation in innovative programs |

Compliance Period: March 9, 2000 - March 9, 2005

TCEQ staff person to contact for additional information regarding this compliance history:

Name: Jaime Garza Phone: (956) 430-6030

Site Compliance History Components

- | | | | |
|--|---|--|------------------------------|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Unk |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No | <input type="checkbox"/> Unk |
| 3. If Yes, who is the current owner? | <u>N/A</u> | | |
| 4. If Yes, who was/were the prior owner(s)? | <u>N/A</u> | | |
| 5. When did the change(s) in ownership occur? | <u>N/A</u> | | |

Components (multimedia) for the Site:

A. Final enforcement orders, court judgments, and consent decrees of the state of Texas and the federal government

| | |
|--------------------------------|-----------------|
| 1. Effective Date: <u>None</u> | Type of Action: |
| Violation Citation 1: | Classification: |
| Violation Description: | |

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

Conviction Date: None
 Count 1:
 Count 2:

C. Chronic excessive emissions events: None

D. The dates of investigations.

1. 08/14/2003 (18588)
2. 12/02/2004 (334101)

E. Written notices of violation (NOV)

None

F. Environmental audits.

1. Notice of Intent Date: None

Disclosure Date:

Violation Citation 1:

Classification:

Violation Description:

G. Type of environmental management systems (EMSs).

None

H. Voluntary on-site compliance assessment dates.

None

I. Participation in a voluntary pollution reduction program.

None

J. Early compliance.

None

Sites Outside of Texas

State: None

Site Name:

Location:

Type of Action:

Effective Date:

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
POSITIVE IMPACT WASTE
SOLUTIONS, LLC DBA POSITIVE
IMPACT WASTE SOLUTIONS,
TCEQ ID NO. RN102947280

§
§
§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2005-0329-MSW-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Positive Impact Waste Solutions, LLC dba Positive Impact Waste Solutions ("Positive Impact") under the authority of TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE ch. 361, and the rules of the Commission. The Executive Director of the TCEQ, represented by the Litigation Division, and Positive Impact appear before the Commission and together stipulate that:

1. Positive Impact owns and operates a medical waste transportation and an on-site medical waste treatment operation. Positive Impact's business address is 601 South Pagewood, Odessa, Ector County, Texas.
2. Positive Impact transports and disposes of medical waste for Quest Diagnostics, Inc. ("Quest"). Positive Impact transports waste from various Quest facilities throughout Texas to the Quest regional facility located at 5850 Rogerdale, Houston, Harris County, Texas.
3. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction over this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 361 and the TCEQ rules.
4. The Commission and Positive Impact agree that the Commission has jurisdiction to enter this Agreed Order, and that Positive Impact is subject to the Commission's jurisdiction.
5. Positive Impact received notice of the violations alleged in Section II ("Allegations") on or about December 2, 2004, and March 15, 2005.

6. The Executive Director recognizes that Positive Impact has implemented the following corrective measures:
 - a. Began carrying spill cleanup equipment with the transportation unit, in accordance with 30 TEX. ADMIN. CODE § 330.1005(g)(1)(C), on December 16, 2004;
 - b. Labeled the two sides and back of the cargo-carrying compartment of the transportation unit, in accordance with 30 TEX. ADMIN. CODE § 330.1005(g)(1)(D), on June 10, 2005;
7. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Positive Impact of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
8. An administrative penalty in the amount of fourteen thousand one hundred dollars (\$14,100.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Positive Impact has paid fourteen thousand one hundred dollars (\$14,100.00) of the administrative penalty.
9. 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.
10. The Executive Director of the TCEQ and Positive Impact have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
11. 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 Positive Impact has not complied with one or more of the terms or conditions in this Agreed Order.
12. This Agreed Order shall terminate five years from its effective date or upon compliance with all of the terms and conditions set forth in this Agreed Order, whichever is later.
13. 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

Positive Impact is alleged to have violated¹:

1. 30 TEX. ADMIN. CODE §§ 330.4(a), (b), 330.5(a), 330.1005(n), and 330.1010(a) by failing to deposit shipments of untreated special waste only at a facility which has been permitted by the Commission to accept untreated special waste from health care facilities; and by failing to obtain authorization to treat special waste off the site of generation, as documented on or about August 27, 2004. The investigator specifically documented that Positive Impact deposited untreated medical waste at a facility not authorized to accept the waste. The investigator also documented that Positive Impact treated the waste on their mobile treatment unit off the site of generation without authorization.
2. 30 TEX. ADMIN. CODE § 330.1005(l)(5) by failing to include in the waste shipping document, the date and place where the untreated special waste from health care related facilities was deposited and unloaded, as documented on or about August 13, 2004. The investigator documented that Positive Impact's waste shipping documents indicated an incorrect location where waste was being shipped.
3. 30 TEX. ADMIN. CODE § 330.1005(o) by failing to prevent the acceptance of untreated medical waste which is not properly labeled, as documented on or about August 13, 2004, and March 15, 2005. The investigator documented that Positive Impact accepted untreated medical waste that did not have the name and address of the generator on each container or package.
4. 30 TEX. ADMIN. CODE § 330.1005(k) by failing to furnish the generator with a signed receipt for each shipment at the time of collection of the waste, as documented on or about August 13, 2004. The investigator documented that Positive Impact did not provide any receipts to the generator of the waste.
5. 30 TEX. ADMIN. CODE § 330.1005(g)(2) by failing to have the floor and the sides of the cargo compartment of the transportation vehicle made of an impervious, non-porous material, as documented on or about August 24, 2004. The investigator documented that the floor and sides of the cargo compartment of the transport vehicle were made of wood.
6. 30 TEX. ADMIN. CODE § 330.1005(g)(1)(C) by failing to carry the required spill clean-up equipment and personal protective equipment including, but not limited to, disinfectant,

¹ The provisions of 30 TEX. ADMIN. CODE ch. 330 were revised by the Commission and the new provisions were adopted effective March 27, 2006. (31 TEX. REG. 2502) The violations are alleged to have occurred prior to the change in the rules, so the citations are to the rules in effect at the time of the violations.

absorbent materials, gloves, coveralls, eye protection, and leakproof containers or packaging materials, as documented on or about August 24, 2004.

7. 30 TEX. ADMIN. CODE § 330.1005(g)(1)(D) by failing to have the required identification on the two sides and back of the cargo-carrying compartment in letters at least three inches high, as documented on or about August 13, 2004, and March 15, 2005.

III. DENIALS

Positive Impact generally denies each allegation in Section II (“Allegations”).

IV. ORDER

1. It is, therefore, ordered by the TCEQ that Positive Impact pay an administrative penalty as set forth in Section I, Paragraph 8 above. The payment of this administrative penalty and Positive Impact’s compliance with all of 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 considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to “Texas Commission on Environmental Quality” and shall be sent with the notation “Re: Positive Impact Waste Solutions, LLC dba Positive Impact Waste Solutions, Docket No. 2005-0329-MSW-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. Positive Impact shall undertake the following technical requirements:
 - a. Within 15 days after the effective date of this Agreed Order:
 - i. Ensure that all shipments of untreated medical waste are deposited only at a facility that has been authorized by the Commission to accept untreated medical waste, in accordance with 30 TEX. ADMIN. CODE § 330.1211(j);
 - ii. Begin including in the waste shipping document the date and place where the untreated medical waste was deposited or unloaded, in accordance with 30 TEX. ADMIN. CODE § 330.1211(h)(5);

- iii. Ensure that untreated medical waste is packaged in accordance with the provisions of 30 TEX. ADMIN. CODE § 330.1207(c) (relating to Generators of Medical Waste) prior to accepting the waste for transport, as required by 30 TEX. ADMIN. CODE § 330.1211(k); and
 - iv. Begin furnishing the generator of untreated medical waste with a signed receipt for each shipment at the time of collection of the waste, in accordance with 30 TEX. ADMIN. CODE § 330.1211(g).
- b. Within 30 days after the effective date of this Agreed Order, ensure that the floor and sides of the cargo compartment of the transportation vehicle are made of an impervious, nonporous material, in accordance with 30 TEX. ADMIN. CODE § 330.1211(c)(2)(D).
- c. Within 30 days after the effective date of this Agreed Order:
- i. Cease treating untreated medical waste off the site of generation; or
 - ii. Submit an administratively complete application for authorization to treat untreated medical waste off the site of generation, in accordance with 30 TEX. ADMIN. CODE ch. 330, Subchapter B (relating to Permit Procedures) to:
- Municipal Solid Waste Permits Section
Waste Permits Division, MC 124
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
- d. Respond completely and adequately, as determined by the TCEQ, to all letter requests for information concerning the application within 30 days after the date of such letters, or by any other deadline specified in writing.
- e. Within 180 days after the effective date of this Agreed Order, submit written certification that authorization to store, treat or dispose of medical waste has been obtained.
- f. Within 45 days after the effective date of this Agreed Order, submit written certification, as described below, and include detailed supporting documentation including photographs, labeling, receipts, and/or other records to demonstrate compliance with Ordering Provisions 2.a., b., and c.i. or c.ii.

The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC-149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Ms. Nicole Bealle, Manager
Waste Section
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 Positive Impact. Positive Impact is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the operation referenced in this Agreed Order.
4. If Positive Impact 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, Positive Impact's failure to comply is not a violation of this Agreed Order. Positive Impact shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Positive Impact shall notify the Executive Director within seven days after Positive Impact 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

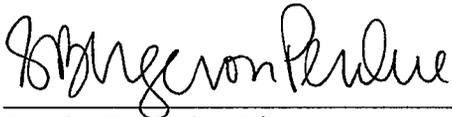
substantiated showing of good cause. All requests for extensions by Positive Impact shall be made in writing to the Executive Director. Extensions are not effective until Positive Impact receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against Positive Impact 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) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Positive Impact, or three days after the date on which the Commission mails notice of the Order to Positive Impact, 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

6/20/07

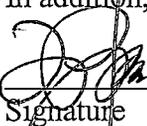
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, 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 Positive Impact's failure to comply with the Ordering Provisions, if any, in this order and/or Positive Impact's failure to timely pay the penalty amount, may result in:

- A negative impact on Positive Impact's compliance history;
- Greater scrutiny of any permit applications submitted by Positive Impact;
- 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 against Positive Impact;
- Automatic referral to the Attorney General's Office of any future enforcement actions against Positive Impact; and
- TCEQ seeking other relief as authorized by law.

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



Signature

3/26/07
Date

Timothy P. Spencer

Name (Printed or typed)

PRESIDENT
Title

Authorized representative of

Positive Impact Waste Solutions, LLC dba Positive Impact Waste Solutions