

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2005-1314-MSW-E TCEQ ID: RN104606801 CASE NO.: 25928**  
**RESPONDENT NAME: WOOD PROCESSING SERVICES, INC.**

**ORDER TYPE:**

<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> EMERGENCY ORDER	

**CASE TYPE:**

<input type="checkbox"/> AGRICULTURE	<input type="checkbox"/> AIR	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE	<input checked="" type="checkbox"/> MUNICIPAL SOLID WASTE
<input type="checkbox"/> OCCUPATIONAL CERTIFICATION	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> RADIOACTIVE WASTE
<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL	<input type="checkbox"/> USED OIL
<input type="checkbox"/> USED OIL FILTER	<input type="checkbox"/> WATER QUALITY		

**SITE WHERE VIOLATION(S) OCCURRED:** 3236 Chambers Street, Venus, Johnson County

**TYPE OF OPERATION:** Wood recycling facility

**SMALL BUSINESS:**  Yes  No

**OTHER SIGNIFICANT MATTERS:** There are no previous complaints. There is no record of additional pending enforcement actions regarding this facility location.

**INTERESTED PARTIES:** No one other than the ED and the Respondent has expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired on December 4, 2006. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Mr. Mark Curnutt, Litigation Division, MC 175, (512) 239-0624; Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873

**TCEQ Enforcement Coordinator:** Mr. Colin Barth, Enforcement Division, Section IV, MC 128, (512) 239-0086

**TCEQ Regional Contact:** Mr. Samuel Barrett, DFW Regional Office, MC R-4, (817) 588-5894

**Respondent:** Mr. Robert F. Dunlap, General Manager, Wood Processing Services, Inc., Post Office Box 3415, Fort Worth, Texas 76101

**Respondent's Attorney:** Not represented by counsel.

**RESPONDENT'S NAME: WOOD PROCESSING SERVICES, INC.  
DOCKET NO.: 2005-1314-MSW-E**

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b> ___ Complaint ___ Routine <input checked="" type="checkbox"/> Enforcement Follow-up ___ Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date(s) of Investigation(s) Relating to this Case:</b> April 28, 2005</p> <p><b>Date(s) of NOV(s)/NOE(s) Relating to this Case:</b> May 27, 2005 (NOE)</p> <p><b>Background Facts:</b> The EDPRP was filed February 28, 2006. The Respondent filed an answer requesting a hearing on March 15, 2006. The case was referred to SOAH on May 16, 2006. An Agreed Order was signed and first payment was sent on September 19, 2006.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p><b>MSW:</b></p> <p>1) Disposed of municipal solid waste at an unauthorized disposal site [30 TEX. ADMIN. CODE § 330.5(c)].</p> <p>2) Failed to submit a Notice of Intent to conduct recycling activities [30 TEX. ADMIN. CODE § 328.5(b)].</p> <p>3) Failed to demonstrate financial assurance for closure of the Facility [30 TEX. ADMIN. CODE §§ 37.921 and 328.5(d)].</p> <p>4) Failed to make available an approved fire prevention and suppression plan for the management of combustible materials [30 TEX. ADMIN. CODE § 328.5(e)].</p>	<p><b>Total Assessed:</b> \$3,600</p> <p><b>Total Deferred:</b> \$0 ___ Expedited Settlement ___ Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid/Due to General Revenue:</b> \$100/ \$3,500 The Respondent has paid \$100 of the penalty amount. The remaining \$3,500 shall be paid in 35 monthly installments of \$100.</p> <p><b>Site Compliance History Classification:</b> <input checked="" type="checkbox"/> High ___ Avg. ___ Poor</p> <p><b>Person Compliance History Classification:</b> <input checked="" type="checkbox"/> High ___ Avg. ___ Poor</p> <p><b>Major Source:</b> ___ Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provision(s)</b> The Respondent shall undertake the following technical requirements</p> <p>1) Immediately cease the disposal of any additional waste at the facility.</p> <p>2) Within 15 days, submit written certification as described below, and include detailed supporting documentation to demonstrate compliance with Ordering Provision No. 1.</p> <p>3) Within 30 days:</p> <p>a. Ensure that all solid waste disposed of at the Facility is removed and disposed of at a permitted municipal solid waste landfill;</p> <p>b. Submit documentation that demonstrates acceptable financial assurance for closure of the Facility; and</p> <p>c. Prepare and keep on file an approved fire prevention and suppression plan for the management of combustible materials.</p> <p>4) Within 45 days, submit written certification as described below, and include detailed supporting documentation including photographs, copies of receipts from the permitted landfill that received the waste, and/or other records to demonstrate compliance with Ordering Provision No. 3.</p> <p><b>Corrective Actions Taken</b> The Executive Director recognizes that on May 6, 2005, the Respondent submitted a Notice of Intent to conduct recycling activities.</p>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) PCW Revision May 19, 2005

DATES	Assigned	31-May-2005			
	PCW	28-Dec-2005	Screening	17-Jun-2005	EPA Due

<b>RESPONDENT/FACILITY INFORMATION</b>					
Respondent	Wood Processing Services, Inc.				
Reg. Ent. Ref. No.	RN104606801				
Facility/Site Region	4-Dallas/Fort Worth		Major/Minor Source	Minor Source	

<b>CASE INFORMATION</b>					
Enf./Case ID No.	25928		No. of Violations	4	
Docket No.	2005-1314-MSW-E		Order Type	1660	
Media Program(s)	Municipal Solid Waste		Enf. Coordinator	Jaime Garza	
Multi-Media			EC's Team	Enforcement Team 7	
Admin. Penalty \$ Limit	Minimum	\$0	Maximum	\$10,000	

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<i>Subtotal 1</i>	\$4,000
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	-10% Enhancement	<i>Subtotals 2, 3, &amp; 7</i>	-\$400
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Notes: Reduction due to High Performer classification.

Culpability	No	<i>Subtotal 4</i>	\$0
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Notes: The respondent does not meet the culpability criteria.

Good Faith Effort to Comply	0% Reduction	<i>Subtotal 5</i>	\$0
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	Before NOV	NOV to EDRP/Settlement Offer			
Extraordinary					
Ordinary					
N/A	x	<i>(mark with a small x)</i>			

Notes: The respondent is not yet in compliance.

Economic Benefit	0% Enhancement*	<i>Subtotal 6</i>	\$0
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Total EB Amounts	\$199	<i>*Capped at the Total EB \$ Amount</i>
Approx. Cost of Compliance	\$4,300	

<b>SUM OF SUBTOTALS 1-7</b>	<i>Final Subtotal</i>	\$3,600
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>		<i>Adjustment</i>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

<b>Final Penalty Amount</b>	\$3,600
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<b>STATUTORY LIMIT ADJUSTMENT</b>		<i>Final Assessed Penalty</i>	\$3,600
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<b>DEFERRAL</b>		<i>Adjustment</i>	\$0
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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.

<b>PAYABLE PENALTY</b>	\$3,600
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Screening Date 17-Jun-2005

Docket No. 2005-1314-MSW-E

PCW

Respondent Wood Processing Services, Inc.

Policy Revision 2 (September 2002)

Case ID No. 25928

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN104606801

Media [Statute] Municipal Solid Waste

Enf. Coordinator Jaime Garza

**Compliance History Worksheet**

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOV's with same or similar violations as those in the current enforcement action (number of NOV's meeting criteria)	0	0%
	Other written NOV's	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) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance History Notes

Reduction due to High Performer classification.

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

**Screening Date** 17-Jun-2005 **Docket No.** 2005-1314-MSW-E **PCW**  
**Respondent** Wood Processing Services, Inc. *Policy Revision 2 (September 2002)*  
**Case ID No.** 25928 *PCW Revision May 19, 2005*  
**Reg. Ent. Reference No.** RN104606801  
**Media [Statute]** Municipal Solid Waste  
**Enf. Coordinator** Jaime Garza  
**Violation Number**   
**Primary Rule Cite(s)**   
**Secondary Rule Cite(s)**   
**Violation Description**   
**Base Penalty**

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

OR

		Harm			
Release		Major	Moderate	Minor	
Actual				X	Percent <input type="text" value="10%"/>
Potential					

>> **Programmatic Matrix**

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

**Matrix Notes**

**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	X
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

**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 Wood Processing Services, Inc.  
 Case ID No. 25928  
 Reg. Ent. Reference No. RN104606801  
 Media [Statute] Municipal Solid 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
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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	\$2,000	28-Apr-2005	31-Mar-2006	0.9	\$92	n/a	\$92
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: This is an estimate of the cost to dispose of the waste at a permitted municipal solid waste landfill.

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 **\$2,000**

**TOTAL \$92**

**Screening Date** 17-Jun-2005 **Docket No.** 2005-1314-MSW-E **PCW**  
**Respondent** Wood Processing Services, Inc. *Policy Revision 2 (September 2002)*  
**Case ID No.** 25928 *PCW Revision May 19, 2005*  
**Reg. Ent. Reference No.** RN104606801  
**Media [Statute]** Municipal Solid Waste  
**Enf. Coordinator** Jaime Garza  
**Violation Number**   
**Primary Rule Cite(s)**   
**Secondary Rule Cite(s)**   
**Violation Description**   
**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"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

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

Matrix Notes

Adjustment

Base Penalty Subtotal

**Violation Events**

Number of Violation Events

<i>mark only one use a small x</i>	<i>daily</i>	<input type="text"/>
	<i>monthly</i>	<input checked="" type="text" value="X"/>
	<i>quarterly</i>	<input type="text"/>
	<i>semiannual</i>	<input type="text"/>
	<i>annual</i>	<input type="text"/>
	<i>single event</i>	<input type="text"/>

Violation Base Penalty

Economic Benefit (EB) for this violation		Statutory Limit Test	
Estimated EB Amount	<input type="text" value="\$46"/>	Violation Final Penalty Total	<input type="text" value="\$900"/>
This violation Final Assessed Penalty (adjusted for limits)		<input type="text" value="\$900"/>	

### Economic Benefit Worksheet

Respondent Wood Processing Services, Inc.  
 Case ID No. 25928  
 Reg. Ent. Reference No. RN104606801  
 Media [Statute] Municipal Solid Waste  
 Violation No. 2

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
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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	28-Apr-2005	31-Mar-2006	0.9	\$46	n/a	\$46

Notes for DELAYED costs: This is an estimated cost to submit a notice of intent to operate a recycling facility.

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 \$46

<b>Screening Date</b>	17-Jun-2005	<b>Docket No.</b>	2005-1314-MSW-E	<b>PCW</b>
<b>Respondent</b>	Wood Processing Services, Inc.		<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No.</b>	25928	<i>PCW Revision May 19, 2005</i>		
<b>Reg. Ent. Reference No.</b>	RN104606801			
<b>Media [Statute]</b>	Municipal Solid Waste			
<b>Enf. Coordinator</b>	Jaime Garza			
<b>Violation Number</b>	<input type="text" value="3"/>			
<b>Primary Rule Cite(s)</b>	<input type="text" value="30 Tex. Admin. Code §§ 37.921 and 328.5(d)"/>			
<b>Secondary Rule Cite(s)</b>	<input type="text"/>			
<b>Violation Description</b>	<input type="text" value="Failure to demonstrate financial assurance for closure of the facility."/>			
<b>Base Penalty</b>				<input type="text" value="\$10,000"/>

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

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

>> **Programmatic Matrix**

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

Matrix Notes

**Adjustment**

**Base Penalty Subtotal**

**Violation Events**

Number of Violation Events

<i>mark only one use a small x</i>	<i>daily</i>	<input type="text"/>
	<i>monthly</i>	<input type="text"/>
	<i>quarterly</i>	<input type="text"/>
	<i>semiannual</i>	<input type="text"/>
	<i>annual</i>	<input type="text"/>
	<i>single event</i>	<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: Wood Processing Services, Inc.  
 Case ID No. 25928  
 Reg. Ent. Reference No. RN104606801  
 Media [Statute]: Municipal Solid 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
<b>Delayed Costs</b>							
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	28-Apr-2005	31-Mar-2006	0.9	\$46	n/a	\$46

Notes for DELAYED costs: This is an estimated cost to provide financial assurance for the facility. The date required is the investigation date and the final date is the projected date of compliance.

Item	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 **\$46**

**Screening Date** 17-Jun-2005 **Docket No.** 2005-1314-MSW-E **PCW**  
**Respondent** Wood Processing Services, Inc. *Policy Revision 2 (September 2002)*  
**Case ID No.** 25928 *PCW Revision May 19, 2005*  
**Reg. Ent. Reference No.** RN104606801  
**Media [Statute]** Municipal Solid Waste  
**Enf. Coordinator** Jaime Garza  
**Violation Number**   
**Primary Rule Cite(s)**   
**Secondary Rule Cite(s)**   
**Violation Description**   
**Base Penalty**

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

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

>> **Programmatic Matrix**

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

Matrix Notes

Adjustment

Base Penalty Subtotal

**Violation Events**

Number of Violation Events

<i>mark only one use a small x</i>	<i>daily</i>	<input type="text"/>
	<i>monthly</i>	<input type="text"/>
	<i>quarterly</i>	<input type="text"/>
	<i>semiannual</i>	<input type="text"/>
	<i>annual</i>	<input type="text"/>
	<i>single event</i>	<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 Wood Processing Services, Inc.

Case ID No. 25928

Reg. Ent. Reference No. RN104606801

Media [Statute] Municipal Solid Waste

Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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**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	28-Apr-2005	31-Mar-2006	0.9	\$14	n/a	\$14

Notes for DELAYED costs

This is an estimated cost to prepare and maintain an approved fire prevention and suppression plan for the management of combustible materials.

**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** **\$14**

## Compliance History

Customer/Respondent/Owner-Operator:	CN602832982 Wood Processing Services, Inc.	Classification: HIGH	Rating: 0.00
Regulated Entity:	RN104606801 WOOD PROCESSING SERVICES	Classification: HIGH	Site Rating: 0.00
ID Number(s):	MUNICIPAL SOLID WASTE PROCESSING	REGISTRATION	100100
	MUNICIPAL SOLID WASTE NON PERMITTED	ID NUMBER	100100
Location:	3236 CHAMBERS ST, VENUS, TX, 76084	Rating Date: September 01 05 Repeat Violator: NO	
TCEQ Region:	REGION 04 - DFW METROPLEX		
Date Compliance History Prepared:	September 27, 2005		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	September 27, 2000 to September 27, 2005		

TCEQ Staff Member 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? | Yes        |
| 2. Has there been a (known) change in ownership of the site during the compliance period?    | No         |
| 3. If Yes, who is the current owner?   | <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 judgements, and consent decrees of the state of Texas and the federal government.  
N/A
  - B. Any criminal convictions of the state of Texas and the federal government.  
N/A
  - C. Chronic excessive emissions events.  
N/A
  - D. The approval dates of investigations. (CCEDS Inv. Track. No.)  
1 05/27/2005 (380497)
  - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)  
N/A
  - F. Environmental audits.  
N/A
  - G. Type of environmental management systems (EMSs).  
N/A
  - H. Voluntary on-site compliance assessment dates.  
N/A
  - I. Participation in a voluntary pollution reduction program.  
N/A
  - J. Early compliance.  
N/A
- Sites Outside of Texas  
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
WOOD PROCESSING SERVICES,  
INC.; RN104606801

§  
§  
§  
§  
§

BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

**AGREED ORDER**  
**DOCKET NO. 2005-1314-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 Wood Processing Services, Inc. ("Wood Processing" or "Respondent") under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE ch. 361. The Executive Director of the TCEQ, represented by the Litigation Division, and Wood Processing, appear before the Commission and together stipulate that:

1. Wood Processing owns and operates a wood recycling facility located at 3236 Chambers Street, Venus, Johnson County, Texas (the "Facility").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 361 and TCEQ rules.
3. The Commission and Wood Processing agree that the Commission has jurisdiction to enter this Agreed Order, and that Wood Processing is subject to the Commission's jurisdiction.
4. Wood Processing received notice of the violations alleged in Section II ("Allegations") on or about June 1, 2005.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Wood Processing of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of three thousand six hundred dollars (\$3,600.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Wood Processing has paid one hundred dollars (\$100.00) of the

administrative penalty. The remaining balance of three thousand five hundred dollars (\$3,500.00) shall be payable in thirty-five payments of one hundred dollars (\$100.00) each. The first payment shall be due 30 days after the effective date of this Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If Wood Processing fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of Wood Processing to meet the payment schedule of this Agreed Order constitutes the failure by Wood Processing to timely and satisfactorily comply with all of the terms of this Agreed Order.

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 Wood Processing have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that on May 6, 2005, Wood Processing submitted a Notice of Intent to conduct recycling activities.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Wood Processing has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

Wood Processing is alleged to have violated:

1. 30 TEX. ADMIN. CODE § 330.5(c) by disposing of municipal solid waste at an unauthorized disposal site. Specifically, during the investigation, it was documented that the Respondent was disposing of trash including but not limited to plastics, paper, wood scraps, and other rubbish on property surrounding the active recycling area, as documented during an inspection conducted on April 28, 2005.

2. 30 TEX. ADMIN. CODE § 328.5(b) by failing to submit a Notice of Intent to conduct recycling activities, as documented during an inspection conducted on April 28, 2005.
3. 30 TEX. ADMIN. CODE §§ 37.921 and 328.5(d) by failing to demonstrate financial assurance for closure of the Facility, as documented during an inspection conducted on April 28, 2005.
4. 30 TEX. ADMIN. CODE § 328.5(e) by failing to make available an approved fire prevention and suppression plan for the management of combustible materials, as documented during an inspection conducted on April 28, 2005.

### III. DENIALS

Wood Processing generally denies each allegation in Section II ("Allegations").

### IV. ORDER

1. It is, therefore, ordered by the TCEQ that Wood Processing pay an administrative penalty as set forth in Section I, Paragraph six above. The payment of this administrative penalty and Wood Processing'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 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: Wood Processing Services, Inc., Docket No. 2005-1314-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. Wood Processing shall undertake the following technical requirements:

- a. Immediately upon the effective date of this Order, Wood Processing shall cease the disposal of any additional waste at the Facility; and
- b. Within 15 days after the effective date of this Order, Wood Processing shall submit written certification as described below, and include detailed supporting documentation to demonstrate compliance with Ordering Provision No. 2.a.

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.”

- c. Within 30 days after the effective date of this Order, Wood Processing shall:
  - i. Ensure that all solid waste disposed of at the Facility is removed and disposed of at a permitted municipal solid waste landfill;
  - ii. Submit documentation that demonstrates acceptable financial assurance for closure of the Facility, in accordance with 30 Tex. Admin. Code §§ 37.921 and 328.5(d) to:

Mr. Rob Norris, Senior Financial Analyst  
Financial Assurance Unit, MC 184  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087
  - iii. Prepare and keep on file an approved fire prevention and suppression plan for the management of combustibile materials, in accordance with 30 Tex. Admin. Code § 328.5(e).
- d. Within 45 days after the effective date of this Order, Wood Processing shall submit written certification as described below, and include detailed supporting documentation including photographs, copies of receipts from the permitted landfill that received the waste, and/or other records to demonstrate compliance with Ordering Provision No. 2.c.

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.”

- e. Wood Processing shall submit all correspondence, reports, and documentation required by these Ordering Provisions to:

Work Leader  
Team 5, Section III  
Enforcement Division, MC 149  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Mr. Samuel Barrett, Manager  
Waste Section  
Dallas/Fort Worth Regional Office  
Texas Commission on Environmental Quality  
2309 Gravel Drive  
Fort Worth, Texas 76118-6951

3. The provisions of this Agreed Order shall apply to and be binding upon Wood Processing. Wood Processing is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility referenced in this Agreed Order.
4. If Wood Processing 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, Wood Processing's failure to comply is not a violation of this Agreed Order. Wood Processing shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Wood Processing shall notify the Executive Director within seven days after Wood Processing 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 Wood Processing shall be made in writing to the Executive Director. Extensions are not effective until Wood Processing 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 Wood Processing 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 Wood Processing, or three days after the date on which the Commission mails notice of the Order to Wood Processing, 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

J. Bergeron Penland

For the Executive Director

12/11/06

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

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

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

[Signature]

Signature

9-19-06

Date

Robert Dunlap

Name (Printed or typed)

G.M.

Title

Authorized representative of  
Wood Processing Services, Inc.