# EXECUTIVE SUMMARY - ENFORCEMENT MATTER

**DOCKET NO.:** 2006-1989-AIR-E **TCEQ ID:** RN102412376 **CASE NO.:** 31752

**RESPONDENT NAME:** Commercial Metals Company

| **ORDER TYPE:** | | |
|---|---|---|
| X 1660 AGREED ORDER | __FINDINGS AGREED ORDER | __FINDINGS ORDER FOLLOWING SOAH HEARING |
| __FINDINGS DEFAULT ORDER | __SHUTDOWN ORDER | __IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER |
| __AMENDED ORDER | __EMERGENCY ORDER | |
| **CASE TYPE:** | | |
| X AIR | __MULTI-MEDIA (check all that apply) | __INDUSTRIAL AND HAZARDOUS WASTE |
| __PUBLIC WATER SUPPLY | __PETROLEUM STORAGE TANKS | __OCCUPATIONAL CERTIFICATION |
| __WATER QUALITY | __SEWAGE SLUDGE | __UNDERGROUND INJECTION CONTROL |
| __MUNICIPAL SOLID WASTE | __RADIOACTIVE WASTE | __DRY CLEANER REGISTRATION |

**SITE WHERE VIOLATION(S) OCCURRED:** Commercial Metals, 8230 Doniphan Drive, Vinton, El Paso County

**TYPE OF OPERATION:** Automobile shredding and metal recovery

**SMALL BUSINESS:** ___ Yes X No

**OTHER SIGNIFICANT MATTERS:** There are no 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 April 2, 2007. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney/SEP Coordinator:** None

**TCEQ Enforcement Coordinator:** Ms. Suzanne Walrath, Enforcement Division, Enforcement Section II, MC 219, (512) 239-2134; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896

**Respondent:** Mr. Kelly Nash, Environmental Manager, Commercial Metals Company, 8230 Doniphan Drive, Vinton, Texas 79821
Mr. Todd Fielding, Branch Manager, Commercial Metals Company, 8230 Doniphan Drive, Vinton, Texas 79821

**Respondent's Attorney:** Not represented by counsel on this enforcement matter

## VIOLATION SUMMARY CHART:

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|---|---|---|
| **Type of Investigation:**<br>__ Complaint<br>_X_ Routine<br>__ Enforcement Follow-up<br>__ Records Review<br><br>**Date(s) of Complaints Relating to this Case:** None<br><br>**Date of Investigation Relating to this Case:** October 11, 2006<br><br>**Date of NOE Relating to this Case:** November 10, 2006 (NOE)<br><br>**Background Facts:** This was a routine investigation. One violation was documented.<br><br>**AIR**<br><br>Dispensed and utilized gasoline for use as a motor vehicle fuel in El Paso County which failed to meet the minimum oxygen content of 2.7 percent by weight [30 TEX. ADMIN. Code § 114.100(a), and TEX. HEALTH AND SAFETY CODE § 382.085(b)]. | **Total Assessed:** $1,400<br><br>**Total Deferred:** $280<br>_X_ Expedited Settlement<br><br>__Financial Inability to Pay<br><br>**SEP Conditional Offset:** $0<br><br>**Total Paid to General Revenue:** $1,120<br><br>**Site Compliance History Classification**<br>__ **High** _X_ **Average** __ **Poor**<br><br>**Person Compliance History Classification**<br>__ **High** _X_ **Average** __ **Poor**<br><br>**Major Source:** __ Yes _X_ No<br><br>**Applicable Penalty Policy:** September 2002 | **Ordering Provisions:**<br><br>The Order will require the Respondent to:<br><br>a. Within 30 days after the effective date of this Agreed Order, establish and implement a process which will ensure that gasoline supplied, sold, or dispensed for use as motor vehicle fuel in El Paso County between October 1st and March 31st of each year shall have the minimum oxygen content of 2.7% by weight; and<br><br>b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision a. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. |

# Penalty Calculation Worksheet (PCW)

TCEQ

*Policy Revision 2 (September 2002)* *PCW Revision April 25, 2006*

| DATES | | | | | |
|---|---|---|---|---|---|
| Assigned | 13-Nov-2006 | | | | |
| PCW | 30-Nov-2006 | Screening | 14-Nov-2006 | EPA Due | |

**RESPONDENT/FACILITY INFORMATION**

| | | | |
|---|---|---|---|
| Respondent | Commercial Metals Company | | |
| Reg. Ent. Ref. No. | RN102412376 | | |
| Facility/Site Region | 6 - El Paso | Major/Minor Source | Minor Source |

**CASE INFORMATION**

| | | | |
|---|---|---|---|
| Enf./Case ID No. | 31752 | No. of Violations | 1 |
| Docket No. | 2006-1989-AIR-E | Order Type | 1660 |
| Media Program(s) | Air Quality | Enf. Coordinator | Suzanne Walrath |
| Multi-Media | | EC's Team | Enforcement Team 4 |
| Admin. Penalty $ Limit Minimum | $0 | Maximum | $10,000 |

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** *Subtotal 1* $1,000

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

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

**Compliance History** 40% Enhancement *Subtotals 2, 3, & 7* $400

Notes: The respondent has been issued two 1660 orders.

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

Notes: The respondent does not meet culpability criteria.

**Good Faith Effort to Comply** 0% Reduction *Subtotal 5* $0

| | Before NOV | NOV to EDPRP/Settlement Offer |
|---|---|---|
| Extraordinary | | |
| Ordinary | | |
| N/A | x | *(mark with a small x)* |

Notes: The respondent does not meet good faith criteria.

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

**Capped at the Total EB $ Amount*

| | |
|---|---|
| Total EB Amounts | $210 |
| Approx. Cost of Compliance | $200 |

**SUM OF SUBTOTALS 1-7** Final Subtotal $1,400

**OTHER FACTORS AS JUSTICE MAY REQUIRE** Adjustment $0

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

Notes:

**Final Penalty Amount** $1,400

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty $1,400

**DEFERRAL** 20% Reduction Adjustment -$280

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

Notes: Deferral offerred for expedited settlement.

**PAYABLE PENALTY** $1,120

**Screening Date** 14-Nov-2006 **Docket No.** 2006-1989-AIR-E **PCW**
**Respondent** Commercial Metals Company *Policy Revision 2 (September 2002)*
**Case ID No.** 31752 *PCW Revision April 25, 2006*
**Reg. Ent. Reference No.** RN102412376
**Media [Statute]** Air Quality
**Enf. Coordinator** Suzanne Walrath

## 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)* | 2 | 40% |
| | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0 | 0% |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government *(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% |
| | | *Please Enter Yes or No* | |
| 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)*** **40%**

>> Repeat Violator (Subtotal 3)

No

***Adjustment Percentage (Subtotal 3)*** **0%**

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

Average Performer

***Adjustment Percentage (Subtotal 7)*** **0%**

>> Compliance History Summary

**Compliance History Notes** The respondent has been issued two 1660 orders.

***Total Adjustment Percentage (Subtotals 2, 3, & 7)*** **40%**

**PCW**

*Policy Revision 2 (September 2002)*
*PCW Revision April 25, 2006*

| | |
|---|---|
| **Screening Date** | 14-Nov-2006 |
| **Docket No.** | 2006-1989-AIR-E |
| **Respondent** | Commercial Metals Company |
| **Case ID No.** | 31752 |
| **Reg. Ent. Reference No.** | RN102412376 |
| **Media [Statute]** | Air Quality |
| **Enf. Coordinator** | Suzanne Walrath |
| **Violation Number** | 1 |
| **Primary Rule Cite(s)** | 30 TAC § 114.100(a), and Tex. Health and Safety Code § 382.085(b) |
| **Secondary Rule Cite(s)** | |
| **Violation Description** | Respondent is alleged to have dispensed and utilized gasoline for use as a motor vehicle fuel in El Paso County which failed to meet the minimum oxygen content of 2.7 percent by weight. Specifically, samples taken on 10/11/06 found that the regular gasoline had an oxygen content of 1.48 percent by weight. |

**Base Penalty** $10,000

## >> Environmental, Property and Human Health Matrix

| Release | Harm: Major | Moderate | Minor |
|---|---|---|---|
| Actual | | | x |
| Potential | | | |

OR

**Percent** 10%

## >> Programmatic Matrix

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

**Percent**

Matrix Notes: Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

**Adjustment** -$9,000

**Base Penalty Subtotal** $1,000

## Violation Events

Number of Violation Events: 1

34 Number of violation days

*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.

## Economic Benefit (EB) for this violation

**Estimated EB Amount** $210

## Statutory Limit Test

**Violation Final Penalty Total** $1,400

**This violation Final Assessed Penalty (adjusted for limits)** $1,400

# Economic Benefit Worksheet

Respondent: Commercial Metals Company
Case ID No.: 31752
Reg. Ent. Reference No.: RN102412376
Media [Statute]: Air Quality
Violation No.: 1

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

| Item Description | Item Cost (No commas or $) | 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) | | | | 0.0 | $0 | n/a | $0 |
| Notes for DELAYED costs | | | | | | | |
| **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] | $200 | 11-Oct-2006 | 31-Mar-2007 | 1.0 | $10 | $200 | $210 |
| Other (as needed) | | | | 0.0 | $0 | $0 | $0 |
| Notes for AVOIDED costs | The approximate cost of untreated fuel is .04 cents per gallon less than oxygenated fuel. The cost difference of a 5000 gallon tank of non-oxygenated fuel compared to compliant fuel is $200.00, beginning on the date of the investigation (10/11/06), and ending on the last date of the control period. | | | | | | |

Approx. Cost of Compliance: $200

TOTAL: $210

# Compliance History

| | | | | |
|---|---|---|---|---|
| Customer/Respondent/Owner-Operator: | CN600312011 | Commercial Metals Company | Classification: AVERAGE | Rating: 2.61 |
| Regulated Entity: | RN102412376 | COMMERCIAL METALS | Classification: AVERAGE | Site Rating: 12.86 |

| | | | |
|---|---|---|---|
| ID Number(s): | PETROLEUM STORAGE TANK REGISTRATION | REGISTRATION | 51155 |
| | AIR NEW SOURCE PERMITS | PERMIT | 236 |
| | AIR NEW SOURCE PERMITS | ACCOUNT NUMBER | EE0068J |
| | AIR NEW SOURCE PERMITS | ACCOUNT NUMBER | EE0068J |
| | STORMWATER | PERMIT | TXR05L270 |
| | INDUSTRIAL AND HAZARDOUS WASTE STORAGE | PERMIT | 50208 |

| | | |
|---|---|---|
| Location: | 8230 DONIPHAN DR, VINTON, TX, 79821 | Rating Date: September 01 06 Repeat Violator: NO |
| TCEQ Region: | REGION 06 - EL PASO | |
| Date Compliance History Prepared: | November 14, 2006 | |
| Agency Decision Requiring Compliance History: | Enforcement | |
| Compliance Period: | November 14, 2001 to November 14, 2006 | |

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

Name: Suzanne Walrath Phone: 512/239-2134

## 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? | N/A |
| 4. if Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

**Components (Multimedia) for the Site :**

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

Effective Date: 08/29/2005 ADMINORDER 2004-1967-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 114, SubChapter D 114.100(a)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failed to dispense for sale gasoline for use as a motor vehicle fuel in El Paso County with an oxygen content of at least 2.7% by weight.

Effective Date: 08/28/2004 ADMINORDER 2004-0560-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 114, SubChapter D 114.100(a)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failed to comply with the 2.7% by weight oxygenated fuel requirement during the period of October 14, 2003 through November 25, 2003.

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 07/23/2004 (283041)
2 03/25/2002 (100824)
3 11/10/2006 (518191)
4 11/18/2004 (340141)
5 01/09/2004 (258710)
6 08/13/2002 (3581)
7 11/19/2004 (299938)
8 01/14/2004 (256498)

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** | § | **BEFORE THE** |
| **ENFORCEMENT ACTION** | § | |
| **CONCERNING** | § | **TEXAS COMMISSION ON** |
| **COMMERCIAL METALS COMPANY** | § | |
| **RN102412376** | § | **ENVIRONMENTAL QUALITY** |

**AGREED ORDER**
**DOCKET NO. 2006-1989-AIR-E**

## I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Commercial Metals Company ("Commercial Metals") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and Commercial Metals, appear before the Commission and together stipulate that:

1. Commercial Metals owns and operates an automobile shredding and metal recovery plant at 8230 Doniphan Drive in Vinton, El Paso County, Texas (the "Plant").

2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).

3. The Commission and Commercial Metals agree that the Commission has jurisdiction to enter this Agreed Order, and that Commercial Metals is subject to the Commission's jurisdiction.

4. Commercial Metals received notice of the violations alleged in Section II ("Allegations") on or about November 15, 2006.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Commercial Metals of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of One Thousand Four Hundred Dollars ($1,400) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Commercial Metals has paid One Thousand One Hundred Twenty Dollars ($1,120) of the administrative penalty and Two Hundred Eighty Dollars ($280) is deferred contingent upon Commercial Metals' timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Commercial Metals fails to timely and satisfactorily comply with all requirements of this Agreed

Order, the Executive Director may require Commercial Metals to pay all or part of the deferred penalty.

7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.

8. The Executive Director of the TCEQ and Commercial Metals have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.

9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Commercial Metals has not complied with one or more of the terms or conditions in this Agreed Order.

10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Plant, Commercial Metals is alleged to have dispensed and utilized gasoline for use as a motor vehicle fuel in El Paso County which failed to meet the minimum oxygen content of 2.7 percent by weight, in violation of 30 TEX. ADMIN. Code § 114.100(a), and TEX. HEALTH AND SAFETY CODE § 382.085(b), as documented during an investigation conducted on October 11, 2006.

## III. DENIALS

Commercial Metals generally denies each allegation in Section II ("Allegations").

## IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Commercial Metals pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Commercial Metals' compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Commercial Metals Company, Docket No. 2006-1989-AIR-E" to:

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

2. It is further ordered that Commercial Metals shall undertake the following technical requirements:

a. Within 30 days after the effective date of this Agreed Order, establish and implement a process which will ensure that gasoline supplied, sold, or dispensed for use as motor vehicle fuel in El Paso County between October 1st and March 31st of each year shall have the minimum oxygen content of 2.7% by weight; and

b Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision 2.a. as described below. The certification shall, include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance, 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:

Air Program Manager
El Paso City/County Health and Environmental District
222 South Campbell, Room 205
El Paso, Texas 79901

3. The provisions of this Agreed Order shall apply to and be binding upon Commercial Metals. Commercial Metals is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.

4. If Commercial Metals 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, Commercial Metals' failure to comply is not a violation of this Agreed Order. Commercial Metals shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Commercial Metals shall notify the Executive Director within seven days after Commercial Metals 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 Commercial Metals shall be made in writing to the Executive Director. Extensions are not effective until Commercial Metals 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 Commercial Metals in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Commercial Metals, or three days after the date on which the Commission mails notice of the Order to Commercial Metals, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

# SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

_____ _____
For the Executive Director Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, 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.

Kelly Nash
Signature

January 31, 2007
Date

Kelly Nash
Name (Printed or typed)
Authorized Representative of
Commercial Metals Company

Environmental Manager
Title

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