

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-0078-AIR-E **TCEQ ID:** RN100771807 **CASE NO.:** 32271

RESPONDENT NAME: Associated Rack Corporation

| | | |
|--|---|--|
| 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 checked="" type="checkbox"/> AIR | <input type="checkbox"/> MULTI-MEDIA (check all that apply) | <input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE |
| <input type="checkbox"/> PUBLIC WATER SUPPLY | <input type="checkbox"/> PETROLEUM STORAGE TANKS | <input type="checkbox"/> OCCUPATIONAL CERTIFICATION |
| <input type="checkbox"/> WATER QUALITY | <input type="checkbox"/> SEWAGE SLUDGE | <input type="checkbox"/> UNDERGROUND INJECTION CONTROL |
| <input type="checkbox"/> MUNICIPAL SOLID WASTE | <input type="checkbox"/> RADIOACTIVE WASTE | <input type="checkbox"/> DRY CLEANER REGISTRATION |
| <p>SITE WHERE VIOLATION(S) OCCURRED: Southwestern Rack, 1401 Royal Parkway, Suite A, Euless, Tarrant County</p> <p>TYPE OF OPERATION: Metal platings equipment engineering and manufacturing</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: A complaint was received on May 12, 2005 for operating a source of air emissions without authorization. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on June 11, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Terry Murphy, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-5025; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896 Respondent: Mr. Steven Green, Registered Agent, Associated Rack Corporation, 1401 Royal Parkway, Suite A, Euless, Texas 76040-6725 Mr. Roger Naeve, General Manager, Associated Rack Corporation, 1401 Royal Parkway, Suite A, Euless, Texas 76040-6725 Respondent's Attorney: Not represented by counsel on this enforcement matter</p> | | |

VIOLATION SUMMARY CHART:

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|--|---|---|
| <p>Type of Investigation: <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: May 12, 2005</p> <p>Dates of Investigations Relating to this Case: June 2, 2005, September 26, 2006</p> <p>Date of NOE Relating to this Case: December 28, 2006 (NOE)</p> <p>Background Facts: The investigation was in response to a complaint. One violation was documented.</p> <p>AIR</p> <p>Failed to obtain authorization for sources of air emissions at the Plant. Specifically, the dipping tank process for surface coating, the cold solvent degreaser, and the ovens that emit polyvinyl chloride all require permitting, but Associated Rack did not request permit authorization [30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.085(b) and 382.0518(a)].</p> | <p>Total Assessed: \$5,680</p> <p>Total Deferred: \$1,136 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$4,544</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input checked="" type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input checked="" 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>1) The Executive Director recognizes that Associated Rack has implemented the following corrective measures at the Plant:</p> <p>a. By May 26, 2006, ceased operating the degreaser; and</p> <p>b. On December 27, 2006, submitted a permit application to the TCEQ's New Source Review Air Permits Division to authorize emissions at the Plant.</p> <p>Ordering Provisions:</p> <p>2) The Order will require the Respondent to:</p> <p>a. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application submitted on December 27, 2006 within 30 days after the date of such requests, or by any other deadline specified in writing; and</p> <p>b. Within 90 days after the effective date of this Agreed Order, submit written certification that either authorization to construct and operate a source of air emissions has been obtained or that construction/operation has ceased until such time that appropriate authorization is obtained. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance.</p> |



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision December 8, 2006

TCEQ

| | | | | | | |
|-------|----------|------------|-----------|-------------|---------|--|
| DATES | Assigned | 3-Jan-2007 | Screening | 10-Jan-2007 | EPA Due | |
| | PCW | 8-Feb-2007 | | | | |

| | | | |
|--|-----------------------------|--------------------|-------|
| RESPONDENT/FACILITY INFORMATION | | | |
| Respondent | Associated Rack Corporation | | |
| Reg. Ent. Ref. No. | RN100771807 | | |
| Facility/Site Region | 4-Dallas/Fort Worth | Major/Minor Source | Minor |

| | | | | |
|-------------------------|-----------------|-------------------|--------------|----------|
| CASE INFORMATION | | | | |
| Enf./Case ID No. | 32271 | No. of Violations | 1 | |
| Docket No. | 2007-0078-AIR-E | Order Type | 1660 | |
| Media Program(s) | Air Quality | Enf. Coordinator | Terry Murphy | |
| Multi-Media | | EC's Team | 5 | |
| Admin. Penalty \$ | Limit Minimum | \$0 | Maximum | \$10,000 |

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 42% Enhancement Subtotals 2, 3, & 7

Notes: The penalty was enhanced by one NOV for same or similar violations, one NOV for dissimilar violations, poor performer classification, and repeat violator status.

Culpability No 0% Enhancement Subtotal 4

Notes: Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction Subtotal 5

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

Notes: The Respondent does not meet the good faith criteria.

Total EB Amounts 0% Enhancement* Subtotal 6
Approx. Cost of Compliance *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

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

Notes:

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL 20% Reduction Adjustment

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

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY

Screening Date 10-Jan-2007

Docket No. 2007-0078-AIR-E

PCW

Respondent Associated Rack Corporation

Policy Revision 2 (September 2002)

Case ID No. 32271

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN100771807

Media [Statute] Air Quality

Enf. Coordinator Terry Murphy

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) | 1 | 5% |
| | Other written NOVs | 1 | 2% |
| 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 judgments or consent decrees meeting criteria) | 0 | 0% |
| | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government | 0 | 0% |
| Convictions | Any criminal convictions of this state or the federal government (number of counts) | 0 | 0% |
| Emissions | Chronic excessive emissions events (number of events) | 0 | 0% |
| Audits | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted) | 0 | 0% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed) | 0 | 0% |

Please Enter Yes or No

| | | | |
|-------|---|----|----|
| Other | Environmental management systems in place for one year or more | 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) 7%

>> Repeat Violator (Subtotal 3)

Yes

Adjustment Percentage (Subtotal 3) 25%

>> Compliance History Person Classification (Subtotal 7)

Poor Performer

Adjustment Percentage (Subtotal 7) 10%

>> Compliance History Summary

Compliance History Notes

The penalty was enhanced by one NOV for same or similar violations, one NOV for dissimilar violations, poor performer classification, and repeat violator status.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 42%

Screening Date 10-Jan-2007

Docket No. 2007-0078-AIR-E

PCW

Respondent Associated Rack Corporation

Policy Revision 2 (September 2002)

Case ID No. 32271

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN100771807

Media [Statute] Air Quality

Enf. Coordinator Terry Murphy

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 116.110(a) and Tex. Health & Safety Code §§ 382.085(b) and 382.0518(a)

Violation Description Failed to obtain authorization for sources of air emissions at the plant. Specifically, the dipping tank process for surface coating, the cold solvent degreaser, and the ovens that emit polyvinyl chloride all require permitting, but the Respondent did not request permit authorization, as documented during investigations and record reviews initiated on June 2, 2005 and concluded on September 26, 2006.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

| OR | Release | Harm | | | Percent |
|----|-----------|-------|----------|-------|---------|
| | | Major | Moderate | Minor | |
| | Actual | | | | 0% |
| | Potential | | | | |

>> Programmatic Matrix

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

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 4 Number of violation days 106

| | | |
|-------------------------|--------------|---|
| mark only one with an x | daily | |
| | monthly | x |
| | quarterly | |
| | semiannual | |
| | annual | |
| | single event | |

Violation Base Penalty \$4,000

Four monthly events are recommended, from the 9/26/06 investigation to the 1/10/07 enforcement screening.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$541

Violation Final Penalty Total \$5,680

This violation Final Assessed Penalty (adjusted for limits) \$5,680

Economic Benefit Worksheet

Respondent Associated Rack Corporation
Case ID No. 32271
Reg. Ent. Reference No. RN100771807
Media Air Quality
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 |
|--------------------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| <small>No commas or \$</small> | | | | | | | |

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 | \$5,000 | 2-Jun-2005 | 1-Aug-2007 | 2.2 | \$541 | n/a | \$541 |
| Other (as needed) | | | | 0.0 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Estimated costs to prepare and submit a permit application. The Date Required is the date of the initial investigation, and the Final Date is the date the Respondent is expected to receive permit approval.

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

\$5,000

TOTAL

\$541

Compliance History

| | | | |
|---|--|--|---------------------|
| Customer/Respondent/Owner-Operator: | CN600292932 Associated Rack Corporation | Classification: Poor | Rating: 67.13 |
| Regulated Entity: | RN100771807 SOUTHWESTERN RACK | Classification: Poor | Site Rating: 131.25 |
| ID Number(s): | AIR NEW SOURCE PERMITS AIR NEW SOURCE PERMITS | ACCOUNT NUMBER PERMIT | TA21130 80364 |
| Location: | 1401 ROYAL PKWY STE A, EULESS, TX, 76040 | Rating Date: 9/1/2006 Repeat Violator: Yes | |
| TCEQ Region: | REGION 04 - DFW METROPLEX | | |
| Date Compliance History Prepared: | January 30, 2007 | | |
| Agency Decision Requiring Compliance History: | Enforcement | | |
| Compliance Period: | January 30, 2002 to January 30, 2007 | | |
| TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History | | | |
| Name: | Terry Murphy | Phone: | (512) 239-5025 |

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.
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 | 03/30/2006 | (402599) | |
| 2 | 12/27/2006 | (514600) | |
| 3 | 12/19/2002 | (19688) | |
| 4 | 02/15/2005 | (350618) | |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- | | | | | |
|---|--------------|---|----------|-----------------------|
| 1 | Date: | 03/31/2006 | (402599) | |
| | Self Report? | NO | | Classification: Major |
| | Citation: | 30 TAC Chapter 116, SubChapter B 116.110(a)[G] 5C THC Chapter 382, SubChapter A 382.0518(a) 5C THC Chapter 382, SubChapter A 382.085(b) | | |
| | Description: | Failure to obtain authorization for the surface coating operation used on-site. | | |
| | Self Report? | NO | | Classification: Major |
| | Citation: | 30 TAC Chapter 116, SubChapter B 116.110(a)[G] 5C THC Chapter 382, SubChapter A 382.0518(a) 5C THC Chapter 382, SubChapter A 382.085(b) | | |
| | Description: | Failure to obtain a permit or satisfy the conditions for facilities permitted by rule. This is in violation of 30 TAC 116.110(a)(1), since SWR operated a degreaser unit without authorization. | | |
| | Self Report? | NO | | Classification: Major |
| | Citation: | 30 TAC Chapter 116, SubChapter B 116.110(a)[G] 5C THC Chapter 382, SubChapter A 382.0518(a) 5C THC Chapter 382, SubChapter A 382.085(b) | | |
| | Description: | Failure to meet to meet the conditions of the PBR issued for heat cleaning devices. | | |
| | Self Report? | NO | | Classification: Major |
| | Citation: | 30 TAC Chapter 113, SubChapter C 113.250 | | |

40 CFR Chapter 63, SubChapter C, PT 63, SubPT T 63.460(a)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to meet the conditions of 40 CFR 63 NESHAP for Source Categories, Subpart T.

2 Date: 01/07/2003 (19688)

Self Report? NO

Classification: Major

Citation: TWC Chapter 26 26.121(a)(3)

Description: Failure to obtain authorization to discharge storm water associated with industrial activity to water in the state through an individual permit, the Multi-Sector General Permit (MSGP) TXR050000 issued under the Texas Pollutant Discharge Elimination System, or by qualifying for the Conditional No Exposure Certification

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
ASSOCIATED RACK CORPORATION
RN100771807

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

AGREED ORDER
DOCKET NO. 2007-0078-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 Associated Rack Corporation ("Associated Rack") 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 Associated Rack appear before the Commission and together stipulate that:

1. Associated Rack owns and operates a metal platings equipment engineering and manufacturing plant at 1401 Royal Parkway, Suite A in Euless, Tarrant 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 Associated Rack agree that the Commission has jurisdiction to enter this Agreed Order, and that Associated Rack is subject to the Commission's jurisdiction.
4. Associated Rack received notice of the violations alleged in Section II ("Allegations") on or about January 2, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Associated Rack of any violation alleged in the Allegations, nor of any statute or rule.
6. An administrative penalty in the amount of Five Thousand Six Hundred Eighty Dollars (\$5,680) is assessed by the Commission in settlement of the violations alleged in the Allegations. Associated Rack has paid Four Thousand Five Hundred Forty-Four Dollars (\$4,544) of the

administrative penalty and One Thousand One Hundred Thirty-Six Dollars (\$1,136) is deferred contingent upon Associated Rack's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Associated Rack fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Associated Rack 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 Associated Rack 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 Associated Rack has implemented the following corrective measures at the Plant:
 - a. By May 26, 2006, ceased operating the degreaser; and
 - b. On December 27, 2006, submitted a permit application to the TCEQ's New Source Review Air Permits Division to authorize emissions at the Plant.
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 Associated Rack has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, Associated Rack is alleged to have failed to obtain authorization for sources of air emissions at the Plant, in violation of 30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.085(b) and 382.0518(a), as documented during investigations and record reviews initiated on June 2, 2005 and concluded on September 26, 2006. Specifically, the dipping tank process for surface coating, the cold solvent degreaser, and the ovens that emit polyvinyl chloride all require permitting, but Associated Rack did not request permit authorization.

III. DENIALS

Associated Rack generally denies each allegation in the Allegations.

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Associated Rack pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Associated Rack's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Associated Rack Corporation, Docket No. 2007-0078-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 Associated Rack shall undertake the following technical requirements:
 - a. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application submitted on December 27, 2006 within 30 days after the date of such requests, or by any other deadline specified in writing; and
 - b. Within 90 days after the effective date of this Agreed Order, submit written certification that either authorization to construct and operate a source of air emissions has been obtained or that construction/operation has ceased until such time that appropriate authorization is obtained. The certification shall, include detailed supporting documentation including 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 Section Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2301 Gravel Drive
Fort Worth, Texas 76118-6951

3. The provisions of this Agreed Order shall apply to and be binding upon Associated Rack. Associated Rack 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 Associated Rack 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, Associated Rack's failure to comply is not a violation of this Agreed Order. Associated Rack shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Associated Rack shall notify the Executive Director within seven days after Associated Rack 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 Associated Rack shall be made in writing to the Executive Director. Extensions are not effective until Associated Rack 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 Associated Rack 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 Associated Rack, or three days after the date on which the Commission mails notice of the Order to Associated Rack, 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

[Handwritten Signature]
For the Executive Director

7/25/07
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.

[Handwritten Signature]
Signature

4-5-07
Date

Roger Naeve
Name (Printed or typed)
Authorized Representative of
Associated Rack Corporation

GENERAL 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.

