

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2008-0465-AIR-E TCEQ ID: RN101474955 CASE NO.: 35571**  
**RESPONDENT NAME: Texas Port Recycling LP**

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Texas Port Recycling Metal Recycling Facility, 8945 Manchester Street, Houston, Harris County</p> <p><b>TYPE OF OPERATION:</b> Metal recycling plant</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> Seven complaints were received, the first on October 18, 2007, concerning dust and noise conditions. Investigators documented that 41 fires and explosions has occurred at the Plant within the prior six month period. There is one additional pending enforcement action regarding this facility location, Docket No. 2008-0008-AIR-E.</p> <p><b>INTERESTED PARTIES:</b> Complaints were received, but the complainants have not expressed a desire to protest this action or to speak at Agenda.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on October 6, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  TCEQ Attorney/SEP Coordinator: None  TCEQ Enforcement Coordinator: Mr. Terry Murphy, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-5025; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171  Respondent: Mr. Tim Comeau, Facility Manager, Texas Port Recycling LP, 8945 Manchester Street, Houston, Texas 77012  Mr. Dan Bonivich, President, Texas Port Recycling LP, 8945 Manchester Street, Houston, Texas 77012  Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input checked="" type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> Seven complaints beginning on October 18, 2007</p> <p><b>Date of Investigation Relating to this Case:</b> February 14, 2008</p> <p><b>Date of NOV/NOE Relating to this Case:</b> March 6, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a complaint investigation.</p> <p><b>AIR</b></p> <p>1) Failure to prevent unauthorized volatile organic compounds emissions and meet the general requirements for permitting by rule [30 TEX. ADMIN. CODE §§ 106.261(a)(2), 106.262(a)(2), 106.4(c), and 116.110(a)(4) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>2) Failure to include the type of contaminant released and the estimated total quantity released in the final record for each event [30 TEX. ADMIN. CODE § 101.201(b)(2)(G) and (H) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>	<p><b>Total Assessed:</b> \$61,500</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$61,500</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> <p><b>Findings Orders Justification:</b> This case involves unauthorized emissions which are excessive emissions events.</p> <p>The February 6, 2008 emissions event was the most recent in a series of emissions events at TPR. Based on a review of the six excessive emissions event criteria, it was determined that the emissions events at TPR are part of a frequent and reoccurring pattern due to poor operational practices and should be considered excessive.</p>	<p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Implement procedures designed to ensure fuel tanks on crushed vehicles are removed, punctured, or dried prior to processing; bottles containing butane, oxygen, or other potentially explosive material are opened, punctured, or empty prior to processing; and trained inspectors are present at all times to check incoming loads of scrap metal; and</p> <p>ii. Develop a scrap specification guidelines manual that shall list all the types of scrap material to be accepted at the Plant and materials that shall be excluded from being accepted at the Plant including: lead containing batteries, PCBs, hazardous materials, pressurized gas cylinders, refrigerants, and ammunition. A copy of the scrap specification guidelines manual shall be provided to all suppliers.</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provisions a.i. and a.ii., as described in Ordering Provision h.;</p> <p>c. Within 30 days after the effective date of this Agreed Order, submit a Form PI-8 or PI-7 certification;</p> <p>d. Submit the Corrective Action Plan ("CAP") within the time frame and as directed by the TCEQ Excessive Emissions Event letter dated March 6, 2008;</p> <p>e. Respond completely and adequately, as determined by the Executive Director, to all written requests for information concerning the CAP submitted in connection with the excessive emission events within 15 days after the date of such requests, or by any other deadline specified in writing;</p>

		<p>f. Upon Commission approval, implement the CAP in accordance with the approved schedule;</p> <p>g. Within 15 days upon completion of the CAP implementation, submit written certification to demonstrate compliance with Ordering Provisions c., d., and e., as described in Ordering Provision h.; and</p> <p>h. Submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a. and b.</p>
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Additional ID No(s): N/A





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision February 29, 2008

<b>DATES</b>	Assigned	10-Mar-2008		
	PCW	14-Apr-2008	Screening	19-Mar-2008
			EPA Due	

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	Texas Port Recycling LP		
Reg. Ent. Ref. No.	RN101474955		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	35571	No. of Violations	2
Docket No.	2008-0465-AIR-E	Order Type	Findings
Media Program(s)	Air	Enf. Coordinator	Terry Murphy
Multi-Media		EC's Team	Enforcement Team 4
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>	<b>\$61,500</b>
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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.

<b>Compliance History</b>	0% Enhancement	<i>Subtotals 2, 3, &amp; 7</i>	<b>\$0</b>
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Notes: No change due to average performer classification.

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

<b>Good Faith Effort to Comply</b>	0% Reduction	<i>Subtotal 5</i>	<b>\$0</b>
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	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.

	0% Enhancement*	<i>Subtotal 6</i>	<b>\$0</b>
Total EB Amounts	\$1,645	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$35,000		

<b>SUM OF SUBTOTALS 1-7</b>	<i>Final Subtotal</i>	<b>\$61,500</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0%	<i>Adjustment</i>	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

*Final Penalty Amount* **\$61,500**

<b>STATUTORY LIMIT ADJUSTMENT</b>	<i>Final Assessed Penalty</i>	<b>\$61,500</b>
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<b>DEFERRAL</b>	0% Reduction	<i>Adjustment</i>	<b>\$0</b>
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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 for Findings-Orders.

<b>PAYABLE PENALTY</b>	<b>\$61,500</b>
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<b>Screening Date</b> 19-Mar-2008	<b>Docket No.</b> 2008-0465-AIR-E	<b>PCW</b>
<b>Respondent</b> Texas Port Recycling LP		<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b> 35571		<i>PCW Revision February 29, 2008</i>
<b>Reg. Ent. Reference No.</b> RN101474955		
<b>Media [Statute]</b> Air		
<b>Enf. Coordinator</b> 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 <i>(number of NOVs meeting criteria)</i>	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	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 <i>(number of judgements or consent decrees meeting criteria)</i>	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 <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	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 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	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)**

<span style="border: 1px solid black; padding: 2px;">No</span>			<b>Adjustment Percentage (Subtotal 3)</b> <span style="border: 1px solid black; padding: 2px;">0%</span>
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**>> Compliance History Person Classification (Subtotal 7)**

<span style="border: 1px solid black; padding: 2px;">Average Performer</span>			<b>Adjustment Percentage (Subtotal 7)</b> <span style="border: 1px solid black; padding: 2px;">0%</span>
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**>> Compliance History Summary**

<b>Compliance History Notes</b>	No change due to average performer classification.
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**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 0%

Screening Date 19-Mar-2008 Docket No. 2008-0465-AIR-E PCW

Respondent Texas Port Recycling LP  
 Case ID No. 35571

Policy Revision 2 (September 2002)  
 PCW Revision February 29, 2008

Reg. Ent. Reference No. RN101474955

Media [Statute] Air

Enf. Coordinator Terry Murphy

Violation Number

Rule Cite(s) 30 Tex. Admin. Code §§ 106.261(a)(2), 106.262(a)(2), 106.4(c), and 116.110(a)(4) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to prevent unauthorized VOC emissions and meet the general requirements for permitting by rule. Specifically, and contrary to representations made in the Permit by Rule registration, the Respondent failed to exclude combustible substances from scrap metal prior to the shredding process which resulted in 41 fires and explosions during the period October 12, 2007 through February 6, 2008. Since these events could have been avoided by good operational practices and were determined to be excessive, the emissions do not meet the demonstrations for an affirmative defense in 30 Tex. Admin. Code § 101.222. Please see attached table.

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

Matrix Notes

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

Adjustment

Violation Events

Number of Violation Events   Number of violation days

mark only one with an x

daily	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="checkbox"/>

Violation Base Penalty

Forty-one single events are recommended.

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:** Texas Port Recycling LP  
**Case ID No.:** 35571  
**Reg. Ent. Reference No.:** RN101474955  
**Media:** Air  
**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				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$30,000	12-Oct-2007	19-Sep-2008	0.9	\$1,410	n/a	\$1,410

Notes for DELAYED costs

Estimated costs for annual salary and training for one inspector to ensure that scrap metal introduced into the shredder does not contain combustible materials. Date required is the initial date fires and explosions first occurred at the plant and the final date is the estimated date of compliance.

**Avoided Costs**

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$30,000

**TOTAL**

\$1,410

<b>Screening Date</b>	19-Mar-2008	<b>Docket No.</b>	2008-0465-AIR-E	<b>PCW</b>
<b>Respondent</b>	Texas Port Recycling LP	<i>Policy Revision 2 (September 2002)</i>		
<b>Case ID No.</b>	35571	<i>PCW Revision February 29, 2008</i>		
<b>Reg. Ent. Reference No.</b>	RN101474955			
<b>Media [Statute]</b>	Air			
<b>Enf. Coordinator</b>	Terry Murphy			
<b>Violation Number</b>	2			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 101.201(b)(2)(G) and (H) and Tex. Health & Safety Code § 382.085(b)			
<b>Violation Description</b>	Failed to include the type of contaminant released and the estimated total quantity released in the final record for each event listed in the attached table.			
<b>Base Penalty</b>				\$10,000

>> Environmental, Property and Human Health Matrix

OR	<b>Harm</b>				Percent
	<b>Release</b>	Major	Moderate	Minor	
	Actual				
Potential					

>> Programmatic Matrix

Matrix Notes	<b>Falsification</b>	Major	Moderate	Minor	Percent
			x		
30% to 70% of the rule was not met.					

**Adjustment** \$9,500  
\$500

Violation Events

Number of Violation Events	41	Number of violation days	41	<b>Violation Base Penalty</b>	\$20,500
<i>mark only one with an x</i>	daily				
	monthly				
	quarterly				
	semiannual				
	annual				
	single event	x			

Forty-one single events are recommended.

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
Estimated EB Amount	\$235
<b>Violation Final Penalty Total</b>	\$20,500
<b>This violation Final Assessed Penalty (adjusted for limits)</b>	\$20,500

## Economic Benefit Worksheet

**Respondent:** Texas Port Recycling LP  
**Case ID No.:** 35571  
**Reg. Ent. Reference No.:** RN101474955  
**Media:** Air  
**Violation No.:** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<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	\$5,000	12-Oct-2007	19-Sep-2008	0.9	\$235	n/a	\$235
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**

Costs are an estimate for proper reporting of emissions events at the Plant. Date required is the date of the first emissions event and the final date is the estimated date of compliance.

### Avoided Costs

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

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

**Notes for AVOIDED costs**

<b>Approx. Cost of Compliance</b>	\$5,000	<b>TOTAL</b>	\$235
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**TEXAS PORT RECYCLING LP**  
**DOCKET NO. 2008-0465-AIR-E**  
**CASE NO. 35571**

Date	Duration of Production Shutdown (Minutes)	Pollutants Released
10/12/2007	15	Volatile Organic Compounds (VOC)
10/19/2007	20	VOC
10/29/2007	5	VOC
10/30/2007	6	VOC
11/16/2007	10	VOC
11/27/2007	2	VOC
12/03/2007	22	VOC
12/12/2007	40	VOC
12/13/2007	4	VOC
12/17/2007	11	VOC
12/26/2007	8	VOC
12/26/2007	8	VOC
12/28/2007	6	VOC
01/02/2008	5	VOC
01/02/2008	4	VOC
01/03/2008	5	VOC
01/05/2008	3	VOC
01/10/2008	14	VOC
01/15/2008	10	VOC
01/15/2008	5	VOC
01/15/2008	20	VOC
01/16/2008	5	VOC
01/17/2008	5	VOC
01/17/2008	15	VOC
01/18/2008	5	VOC
01/18/2008	10	VOC
01/18/2008	5	VOC
01/20/2008	5	VOC
01/23/2008	10	VOC
01/23/2008	7	VOC
01/23/2008	4	VOC
01/23/2008	5	VOC
01/29/2008	15	VOC
01/29/2008	22	VOC
01/29/2008	5	VOC
01/29/2008	35	VOC
01/29/2008	5	VOC
01/29/2008	8	VOC
01/30/2008	5	VOC
02/02/2008	5	VOC
02/06/2008	5	VOC



# Compliance History

Customer/Respondent/Owner-Operator:	CN602997272	Texas Port Recycling LP	Classification: AVERAGE	Rating: 2.25
Regulated Entity:	RN101474955	TEXAS PORT RECYCLING METAL RECYCLING FACILITY	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	VOLUNTARY CLEANUP PROGRAM	ID NUMBER	1906	
	AIR NEW SOURCE PERMITS	REGISTRATION	82289	
	STORMWATER	PERMIT	TXR05W204	
Location:	8945 MANCHESTER ST, HOUSTON, TX, 77012		Rating Date: 9/1/2007	Repeat Violator: NO
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	April 14, 2008			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	April 14, 2003 to April 14, 2008			

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

Name: Sidney Wheeler Phone: (512) 239-4969

### 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 judgments, 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 03/06/2008 (637739)
  - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
  - 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  
TEXAS PORT RECYCLING LP  
RN101474955

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2008-0465-AIR-E

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Texas Port Recycling LP ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that they have certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

### I. FINDINGS OF FACT

1. The Respondent owns and operates a metal recycling plant at 8945 Manchester Street in Houston, Harris County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).



3. During an investigation on February 14, 2008, TCEQ staff documented that the Respondent failed to exclude combustibles from scrap metal prior to the shredding process which resulted in 41 fires and explosions during the period October 12, 2007 through February 6, 2008. Since these events could have been avoided by good operational practices and were determined to be excessive, the emissions do not meet the demonstrations for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222. Please see table below.

Date	Duration of Production Shutdown (Minutes)	Pollutants Released
10/12/2007	15	Volatile Organic Compounds ("VOC")
10/19/2007	20	VOC
10/29/2007	5	VOC
10/30/2007	6	VOC
11/16/2007	10	VOC
11/27/2007	2	VOC
12/03/2007	22	VOC
12/12/2007	40	VOC
12/13/2007	4	VOC
12/17/2007	11	VOC
12/26/2007	8	VOC
12/26/2007	8	VOC
12/28/2007	6	VOC
01/02/2008	5	VOC
01/02/2008	4	VOC
01/03/2008	5	VOC
01/05/2008	3	VOC
01/10/2008	14	VOC
01/15/2008	10	VOC
01/15/2008	5	VOC
01/15/2008	20	VOC
01/16/2008	5	VOC
01/17/2008	5	VOC
01/17/2008	15	VOC
01/18/2008	5	VOC
01/18/2008	10	VOC
01/18/2008	5	VOC
01/20/2008	5	VOC
01/23/2008	10	VOC
01/23/2008	7	VOC



01/23/2008	4	VOC
01/23/2008	5	VOC
01/29/2008	15	VOC
01/29/2008	22	VOC
01/29/2008	5	VOC
01/29/2008	35	VOC
01/29/2008	5	VOC
01/29/2008	8	VOC
01/30/2008	5	VOC
02/02/2008	5	VOC
02/06/2008	5	VOC

4. During an investigation on February 14, 2008, TCEQ staff documented that the Respondent failed to include the type of contaminant released and the estimated total quantity released in the final record for each event listed in the above table.
5. The Respondent received notice of the violations on March 10, 2008.

## II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to prevent unauthorized VOC emissions and meet the general requirements for permitting by rule, in violation of 30 TEX. ADMIN. CODE §§ 106.261(a)(2), 106.262(a)(2), 106.4(c), and 116.110(a)(4) and TEX. HEALTH & SAFETY CODE § 382.085(b).
3. As evidenced by Findings of Fact No. 4, the Respondent failed to include the type of contaminant released and the estimated total quantity released in the final record for each event, in violation of 30 TEX. ADMIN. CODE § 101.201(b)(2)(G) and (H) and TEX. HEALTH & SAFETY CODE § 382.085(b).
4. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of Sixty-One Thousand Five Hundred Dollars (\$61,500) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid the Sixty-One Thousand Five Hundred Dollar (\$61,500) administrative penalty.



### III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Sixty-One Thousand Five Hundred Dollars (\$61,500) as set forth in Section II, Paragraph 5 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Texas Port Recycling LP, Docket No. 2008-0465-AIR-E" to:

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

2. The Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order:
    - i. Implement procedures designed to ensure fuel tanks on crushed vehicles are removed, punctured, or dried prior to processing; bottles containing butane, oxygen, or other potentially explosive material are opened, punctured, or empty prior to processing; and trained inspectors are present at all times to check incoming loads of scrap metal; and
    - ii. Develop a scrap specification guidelines manual that shall list all the types of scrap material to be accepted at the Plant and materials that shall be excluded from being accepted at the Plant including: lead containing batteries, PCBs, hazardous materials, pressurized gas cylinders, refrigerants, and ammunition. A copy of the scrap specification guidelines manual shall be provided to all suppliers.
  - b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provisions Nos. 2.a.i. and 2.a.ii., as described in Ordering Provision No. 2.h.;
  - c. Within 30 days after the effective date of this Agreed Order, submit a Form PI-8 or PI-7 certification to:



Air Permits Division, MC 163  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

- d. Submit the Corrective Action Plan ("CAP") within the time frame and as directed by the TCEQ Excessive Emissions Event letter dated March 6, 2008;
- e. Respond completely and adequately, as determined by the Executive Director, to all written requests for information concerning the CAP submitted in connection with the excessive emission events within 15 days after the date of such requests, or by any other deadline specified in writing;
- f. Upon Commission approval, implement the CAP in accordance with the approved schedule;
- g. Within 15 days upon completion of the CAP implementation, submit written certification to demonstrate compliance with Ordering Provisions Nos. 2.c., 2.d., and 2.e., as described in Ordering Provision No. 2.h.; and
- h. Submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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



with a copy to:

Air Section, Manager  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Avenue, Suite H  
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
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 the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
7. 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.
8. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
9. 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.



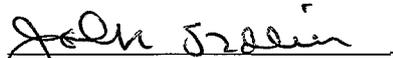
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.



## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

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

9/26/2008  
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Texas Port Recycling LP. I am authorized to agree to the attached Agreed Order on behalf of Texas Port Recycling LP, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Texas Port Recycling LP waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

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

  
\_\_\_\_\_  
Signature

JULY 22 2008  
Date

DAN BONIVICH  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Texas Port Recycling LP

PRESIDENT  
\_\_\_\_\_  
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.

