

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-0880-AIR-E **TCEQ ID:** RN100822782 **CASE NO.:** 35963

RESPONDENT NAME: Pallet & Crating Co., Inc.

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: Trench Burner, 219 Chiles Lane, Denison, Grayson County</p> <p>TYPE OF OPERATION: Wood pallet and crating manufacturing operation</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on November 24, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Jorge Ibarra, P.E., Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5890; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Ms. Karen Salyer, President, Pallet & Crating Co., Inc., P.O. Box 457, Pottsboro, Texas 75076 Mr. Richard Beehtel, Operations Manager, Pallet & Crating Co., Inc., P.O. Box 457, Pottsboro, Texas 75076 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 type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: April 8, 2008</p> <p>Date of NOV/NOE Relating to this Case: May 28, 2008 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>AIR</p> <p>1) Failure to maintain the incinerator blower on until all material is consumed so that any remaining material in the trench will not smoke when the blower is turned off [30 TEX. ADMIN. CODE § 116.115(c), Standard Exemption No. 97, Condition (f) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>2) Failure to maintain material not being worked on and material being stockpiled to be burned at a later date at least 75 feet ("ft") from the trench. Specifically, material not being worked on was stockpiled at approximately 48 ft from the trench [30 TEX. ADMIN. CODE § 116.115(c), Standard Exemption No. 97, Condition (i), and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>3) Failure to maintain an opacity limit of 20% averaged over a six minute period. Specifically, during the investigation of April 8, 2008, an opacity of 52% averaged over a six minute period was recorded [30 TEX. ADMIN. CODE § 111.111(a)(1)(B) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>4) Failure to maintain an opacity limit of 20% averaged over a five minute period. Specifically, during the investigation of April 8, 2008, an opacity of 56% averaged over a five minute period was recorded [30</p>	<p>Total Assessed: \$1,425</p> <p>Total Deferred: \$285 <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: \$1,140</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that on May 30, 2008 the Respondent has implemented the following corrective measures at the Plant:</p> <p>a. Developed and implemented improved operating procedures to ensure compliance with the conditions of Standard Exemption No. 97;</p> <p>b. Began maintaining the blower for the incinerator on until all material is consumed so that any remaining material in the trench will not smoke when the blower is turned off; and</p> <p>c. Moved pallet stockpiles and began maintaining material not being worked on and material being stockpiled to be burned at a later date at least 75 ft from the trench.</p>

TEX. ADMIN. CODE § 116.115(c), Standard Exemption No. 97, Condition (h) and TEX. HEALTH & SAFETY CODE § 382.085(b)].		
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Additional ID No(s): 928589A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

DATES	Assigned	27-May-2008			
	PCW	13-Jun-2008	Screening	28-May-2008	EPA Due

RESPONDENT/FACILITY INFORMATION	
Respondent	Pallet & Crating Co., Inc.
Reg. Ent. Ref. No.	RN100822782
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	35963	No. of Violations	2
Docket No.	2008-0880-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Jorge Ibarra, P.E.
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$1,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1	
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.	

Compliance History	5.0% Enhancement	Subtotals 2, 3, & 7	\$75
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Notes: The Respondent was issued one NOV with the same/similar type of violations.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$150
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$7
 Approx. Cost of Compliance: \$1,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$1,425
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount: \$1,425

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$1,425
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DEFERRAL	20.0% Reduction	Adjustment	-\$285
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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		\$1,140
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Screening Date 28-May-2008	Docket No. 2008-0880-AIR-E	PCW
Respondent Pallet & Crating Co., Inc.	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 35963	<i>PCW Revision June 12, 2008</i>	
Reg. Ent. Reference No. RN100822782		
Media [Statute] Air		
Enf. Coordinator Jorge Ibarra, P.E.		

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>	1	5%
	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%

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) 5%

>> 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 was issued one NOV with the same/similar type of violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 28-May-2008 **Docket No.** 2008-0880-AIR-E **PCW**
Respondent Pallet & Crating Co., Inc. *Policy Revision 2 (September 2002)*
Case ID No. 35963 *PCW Revision June 12, 2008*
Reg. Ent. Reference No. RN100822782
Media [Statute] Air
Enf. Coordinator Jorge Ibarra, P.E.

Violation Number
Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(c) and 111.111(a)(1)(B), Standard Exemption No. 97, Conditions (f) and (h), and Tex. Health & Safety Code § 382.085(b)
Violation Description Failed to maintain the incinerator blower on until all material is consumed so that any remaining material in the trench will not smoke when the blower is turned off, to maintain an opacity limit of 20% averaged over a five minute period and to maintain an opacity limit of 20% averaged over a six minute period. Specifically, during the investigation on April 8, 2008, opacities of 56% averaged over a five minute period and 52% averaged over a six minute period were recorded.
Base Penalty

>> Environmental, Property and Human Health Matrix
 OR

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

>> Programmatic Matrix

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

Matrix Notes
 Failure to maintain the blower on until all material is consumed so as to maintain an opacity limit of 20% resulted in the release of insignificant amounts of pollutants which did not exceed levels that are protective of human health or the environment.
Adjustment

Violation Events
 Number of Violation Events Number of violation days

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

Violation Base Penalty
 One single event is recommended.

Good Faith Efforts to Comply Reduction

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

Notes The Respondent achieved full compliance on May 30, 2008.
Violation Subtotal

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: Pallet & Crating Co., Inc.
Case ID No.: 35963
Reg. Ent. Reference No.: RN100822782
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
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	8-Apr-2008	30-May-2008	0.14	\$4	n/a	\$4

Notes for DELAYED costs

Estimated cost to maintain the blower on until all material is consumed so as to maintain an opacity limit of 20%.
Date Required is the investigation date, Final Date is the compliance date.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$4

Screening Date 28-May-2008 **Docket No.** 2008-0880-AIR-E **PCW**
Respondent Pallet & Crating Co., Inc. *Policy Revision 2 (September 2002)*
Case ID No. 35963 *PCW Revision June 12, 2008*
Reg. Ent. Reference No. RN100822782
Media [Statute] Air
Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 2
Rule Cite(s) 30 Tex. Admin. Code § 116.115(c), Standard Exemption No. 97, Condition (i), and Tex. Health & Safety Code § 382.085(b)
Violation Description Failed to maintain material not being worked on and material being stockpiled to be burned at a later date at least 75 feet ("ft") from the trench. Specifically, material not being worked on was stockpiled at approximately 48 ft from the trench.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					5%
Potential			x		

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0%

Matrix Notes Failure to maintain material not being worked on and material being stockpiled to be burned at a later date at least 75 feet ("ft") from the trench could result in the release of insignificant amounts of pollutants which did not exceed levels that are protective of human health or the environment.

Adjustment \$9,500

\$500

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$500

One single event is recommended.

Good Faith Efforts to Comply 10.0% Reduction \$50

	10.0% Reduction	
	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		x
N/A		(mark with x)

Notes The Respondent achieved full compliance on May 30, 2008.

Violation Subtotal \$450

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

Estimated EB Amount \$4 **Violation Final Penalty Total** \$475

This violation Final Assessed Penalty (adjusted for limits) \$475

Economic Benefit Worksheet

Respondent Pallet & Crating Co., Inc.
Case ID No. 35963
Reg. Ent. Reference No. RN100822782
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				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$500	8-Apr-2008	30-May-2008	0.14	\$4	n/a	\$4
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to maintain material not being worked on and material being stockpiled to be burned at a later date at least 75 ft from the trench. Date Required is the investigation date, Final Date is the compliance date.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$4

Compliance History

Customer/Respondent/Owner-Operator: CN600428569 Pallet & Crating Co., Inc. Classification: AVERAGE Rating: 9.00
Regulated Entity: RN100822782 TRENCH BURNER Classification: AVERAGE Site Rating: 15.00
ID Number(s): AIR NEW SOURCE PERMITS PERMIT 28589
Location: 219 CHILES LN, DENISON, TX, 75020 Rating Date: 9/1/2007 Repeat Violator: NO
TCEQ Region: REGION 04 - DFW METROPLEX
Date Compliance History Prepared: May 29, 2008
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: May 29, 2003 to May 29, 2008

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

Name: Jorge Ibarra, P.E. Phone: (817) 588-5890

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. 5/23/2008 (654896)

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 12/11/2003 (150461)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)(1)

Description: Failure to obtain a permit or operate in compliance with a permit by rule (PBR) which were previously referred to as standard exemptions (SE). The facility failed to comply with conditions (d) of SE 97 (d).

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)(1)

Description: Failure to obtain a permit or operate in compliance with a permit by rule (PBR) which were previously referred to as standard exemptions (SE). The facility failed to comply with conditions (f) of SE 97 which states that the blower shall remain on until all material is consumed.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)(1)

Description: Failure to obtain a permit or operate in compliance with a permit by rule (PBR) which were previously referred to as standard exemptions (SE). The facility failed to comply with condition (i) of SE 97 which states that material not being worked and material being stockpiled to be burned at a later date must be kept a

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)(1)

Description: Failure to obtain a permit or operate in compliance with a permit by rule (PBR) which were previously referred to as standard exemptions (SE). The facility

failed to comply with condition (l) of SE 97 which states that a copy of the exemption shall be kept at the burn site and made available at the request of personnel

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)(1)

Description: Failure to obtain a permit or operate in compliance with a permit by rule (PBR) which were previously referred to as standard exemptions (SE). The facility failed to comply with condition (m) of SE 97 which states that operating instructions shall be posted at the burn site.

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
PALLET & CRATING CO., INC.
RN100822782

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§
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BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2008-0880-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 Pallet & Crating Co., Inc. ("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 appear before the Commission and together stipulate that:

1. The Respondent owns and operates a wood pallet and crating manufacturing operation located at 219 Chiles Lane in Denison, Grayson 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 the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about June 2, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent 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 Twenty-Five Dollars (\$1,425) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Thousand One Hundred Forty Dollars (\$1,140) of the administrative penalty and Two Hundred Eighty-Five Dollars (\$285) is deferred contingent upon the Respondent'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 the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent 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 the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that on May 30, 2008 the Respondent has implemented the following corrective measures at the Plant:
 - a. Developed and implemented improved operating procedures to ensure compliance with the conditions of Standard Exemption No. 97;
 - b. Began maintaining the blower for the incinerator on until all material is consumed so that any remaining material in the trench will not smoke when the blower is turned off; and
 - c. Moved pallet stockpiles and began maintaining material not being worked on and material being stockpiled to be burned at a later date at least 75 feet ("ft") from the trench.
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 the Respondent 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, the Respondent is alleged to have:

1. Failed to maintain the incinerator blower on until all material is consumed so that any remaining material in the trench will not smoke when the blower is turned off, in violation of 30 TEX. ADMIN. CODE § 116.115(c), Standard Exemption No. 97, Condition (f), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on April 8, 2008.
2. Failed to maintain material not being worked on and material being stockpiled to be burned at a later date at least 75 ft from the trench, in violation of 30 TEX. ADMIN. CODE § 116.115(c), Standard Exemption No. 97, Condition (i), and TEX. HEALTH & SAFETY CODE § 382.085(b), as

documented during an investigation conducted on April 8, 2008, Specifically, material not being worked on was stockpiled at approximately 48 ft from the trench.

3. Failed to maintain an opacity limit of 20% averaged over a six minute period, in violation of 30 TEX. ADMIN. CODE § 111.111(a)(1)(B) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on April 8, 2008. Specifically, during the investigation of April 8, 2008, an opacity of 52% averaged over a six minute period was recorded.
4. Failed to maintain an opacity limit of 20% averaged over a five minute period, in violation of 30 TEX. ADMIN. CODE § 116.115(c), Standard Exemption No. 97, Condition (h), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on April 8, 2008. Specifically, during the investigation of April 8, 2008, an opacity of 56% averaged over a five minute period was recorded.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent'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: Pallet & Crating Co., Inc., Docket No. 2008-0880-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 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.
3. 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.
4. 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.

5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, 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

John Srdin

For the Executive Director

10/16/2008

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 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 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.

Richard Bechtel

Signature

8/29/08

Date

RICHARD Bechtel

Name (Printed or typed)
Authorized Representative of
Pallet & Crating Co., Inc.

OPER. MGR

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.

