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EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-0673-IHW-E TCEQ ID: RN105066286 CASE NO.: 33300
RESPONDENT NAME: TAYLORCRAFT AVIATION, L.L.C.

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" 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 type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input checked="" 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: 2045 Les Mauldin Road, Brownsville, Cameron County</p> <p>TYPE OF OPERATION: Aircraft manufacturing facility</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 January 4, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST:</p> <p style="margin-left: 20px;">TCEQ Attorney: Mr. Xavier Guerra, Litigation Division, MC R-13, (210) 403-4016 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873</p> <p style="margin-left: 20px;">TCEQ Enforcement Coordinator: Mr. Clinton Sims, Waste Enforcement Section, MC 169, (512) 239-6933</p> <p style="margin-left: 20px;">TCEQ Regional Contact: Mr. David A. Ramirez, Harlingen Regional Office, MC R-15, (956) 430-6048</p> <p style="margin-left: 20px;">Respondent: Ms. Darlene Ingram, Registered Agent, Taylorcraft Aviation, L.L.C., 2124 N. Central Avenue, Brownsville, Texas 78521-5216</p> <p style="margin-left: 20px;">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:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaints Relating to this Case: None</p> <p>Dates of Investigation Relating to this Case: September 19, 2006, and February 20, 2007</p> <p>Date of NOV/NOE Relating to this Case: October 20, 2006 (NOV), and March 5, 2007 (NOE)</p> <p>Background Facts: A petition was filed and mailed on September 27, 2007. The certified mail signed "green card" was received on October 4, 2007. The Respondent did not file an answer.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>IHW</p> <ol style="list-style-type: none"> Failed to provide a hazardous waste determination for each solid waste generated [30 TEX. ADMIN. CODE § 335.62 and C.F.R. § 262.11]. Failed to label a container "Hazardous Waste" [30 TEX. ADMIN. CODE § 335.69(a)(3) and 40 C.F.R. § 262.34(a)(3)]. Failed to label or mark clearly containers with the words "Universal Waste – Paint and Paint-Related Wastes" [30 TEX. ADMIN. CODE § 335.262(c)(2)(F) and (d)]. 	<p>Total Assessed: \$8,400</p> <p>Total Deferred: \$0</p> <p>SEP Conditional Offset: \$0</p> <p>Total Due to General Revenue: \$8,400</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.</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>Technical Requirement(s)</p> <p>The Respondent shall undertake the following technical requirements.</p> <ol style="list-style-type: none"> Within 10 days, conduct proper hazardous waste determinations on wastes generated at the Facility. Within 15 days, properly label all hazardous waste containers with the words "Hazardous Waste"; and properly label all containers containing universal or paint-related wastes with the words "Universal Paint and Paint-Related Wastes". Within 30 days, dispose of the three drums of waste that were left at the Facility at an authorized facility. Within 45 days, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with the Ordering Provision above.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision January 9, 2007

DATES	Assigned	12-Mar-2007	Screening	25-Apr-2007	EPA Due	
	PCW	25-Apr-2007				

RESPONDENT/FACILITY INFORMATION			
Respondent	Taylorcraft Aviation, L.L.C.		
Reg. Ent. Ref. No.	RN105066286		
Facility/Site Region	15-Harlingen	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	33300	No. of Violations	3
Docket No.	2007-0673-IHW-E	Order Type	1660
Media Program(s)	Industrial and Hazardous Waste	Enf. Coordinator	Alison Echlin
Multi-Media		EC's Team	EnforcementTeam 8
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$8,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	5% Enhancement	Subtotals 2, 3, & 7	\$400
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Notes: The Respondent has received one NOV with same or similar violations for this site within the past five years.

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

Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
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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.

Total EB Amounts	\$35	Subtotal 6	\$0
Approx. Cost of Compliance	\$600	*Capped at the Total EB \$ Amount	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$8,400
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OTHER FACTORS AS JUSTICE MAY REQUIRE		Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

Final Penalty Amount	\$8,400
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$8,400
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DEFERRAL	0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral not offered for non-expedited settlement

PAYABLE PENALTY	\$8,400
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Screening Date: 25-Apr-2007

Docket No. 2007-0673-IHW-E

PCW

Respondent: Taylorcraft Aviation, L.L.C.

Policy Revision 2 (September 2002)

Case ID No. 33300

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN105066286

Media [Statute]: Industrial and Hazardous Waste

Enf. Coordinator: Alison Echlin

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	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were 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) 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 has received one NOV with same or similar violations for this site within the past five years.

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

Screening Date 25-Apr-2007

Docket No. 2007-0673-IHW-E

PCW

Respondent Taylorcraft Aviation, L.L.C.

Policy Revision 2 (September 2002)

Case ID No. 33300

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN105066286

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Alison Echlin

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 335.62 and 40 Code of Federal Regulations § 262.11

Violation Description

Failed to provide a hazardous waste determination for each solid waste generated, as documented during an investigation conducted on September 19, 2006. Specifically, a waste determination was not conducted on one fifty-five gallon drum of methyl ethyl ketone (MEK) waste and on paint-related waste.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2

218 Number of violation days

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$5,000

Two single events (one per each waste stream) are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$29

Violation Final Penalty Total \$5,250

This violation Final Assessed Penalty (adjusted for limits) \$5,250

Economic Benefit Worksheet

Respondent Taylorcraft Aviation, L.L.C.
Case ID No. 33300
Reg. Ent. Reference No. RN105066286
Media Industrial and Hazardous Waste
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$500	19-Sep-2006	17-Nov-2007	1.2	\$29	n/a	\$29

Notes for DELAYED costs

Estimated cost to conduct a hazardous waste determination on wastes generated on site from the investigation date to 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 \$500
TOTAL \$29

Screening Date 25-Apr-2007

Docket No. 2007-0673-IHW-E

PCW

Respondent Taylorcraft Aviation, L.L.C.

Policy Revision 2 (September 2002)

Case ID No. 33300

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN105066286

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Alison Echlin

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 335.69(a)(3) and 40 Code of Federal Regulations § 262.34(a)(3)

Violation Description Failed to label the container "Hazardous Waste", as documented during an investigation conducted on September 19, 2006. Specifically, one fifty-five gallon drum approximately one-quarter to one-half full of MEK waste was not labeled.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					0%
Potential					

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			10%

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 218

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

Violation Base Penalty \$1,000

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$1,050

This violation Final Assessed Penalty (adjusted for limits) \$1,050

Economic Benefit Worksheet

Respondent Taylorcraft Aviation, L.L.C.

Case ID No. 33300

Reg. Ent. Reference No. RN105066286

Media Industrial and Hazardous Waste

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
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No commas or \$

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)	\$50	19-Sep-2006	22-Nov-2007	1.2	\$3	n/a	\$3

Notes for DELAYED costs

Estimated cost of labeling containers as "Hazardous Waste" from the investigation date to 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

\$50

TOTAL

\$3

Screening Date 25-Apr-2007

Docket No. 2007-0673-IHW-E

PCW

Respondent Taylorcraft Aviation, L.L.C.

Policy Revision 2 (September 2002)

Case ID No. 33300

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN105066286

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Alison Echlin

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 335.262(c)(2)(F) and (d)

Violation Description

Failed to label or mark clearly containers with the words "Universal Paint-Paint and Paint Related Wastes", as documented during an investigation conducted on September 19, 2006. Specifically, the paint & paint-related waste contained in 2 containers was not labeled.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2

218 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$2,000

Two single events (one per each unlabeled container) are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$2,100

This violation Final Assessed Penalty (adjusted for limits) \$2,100

Economic Benefit Worksheet

Respondent Taylorcraft Aviation, L.L.C.

Case ID No. 33300

Reg. Ent. Reference No. RN105066286

Media Industrial and Hazardous Waste

Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Overtime 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				0.0	\$0	n/a	\$0
Other (as needed)	\$50	19-Sep-2006	22-Nov-2007	1.2	\$3	n/a	\$3

Notes for DELAYED costs

Estimated cost to label containers as "Universal Waste", from the investigation date to 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

\$50

TOTAL

\$3

Compliance History

Customer/Respondent/Owner-Operator: CN603097551 TAYLORCRAFT AVIATION LLC Classification: Average Rating: 3.75
 Regulated Entity: RN105066286 TAYLORCRAFT AVIATION LLC Classification: Average Site Rating: 3.75
 ID Number(s): INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXD066429028
 GENERATION
 Location: 2045 LES MAULDIN RD, BROWNSVILLE, TX, 78521
 TCEQ Region: REGION 15 - HARLINGEN
 Date Compliance History Prepared: April 02, 2007
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: April 02, 2002 to April 02, 2007

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

Name: Alison Echlin Phone: 512-239-3308

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 10/23/2006 (514497)

N/A

2 01/29/2007 (537527)

3 03/05/2007 (541480)

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

Date: 10/20/2006 (514497)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter C 335.62
40 CFR Chapter 262, SubChapter I, PT 262, SubPT A 262.11[G]

Description: Failure to provide a hazardous waste determination for each solid waste generated.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)(3)
40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(a)(3)

Description: Failure to label the container "Hazardous Waste."

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter H 335.262(c)(2)(F)
Description: Failure to label or mark clearly a container with the words "Universal Paint - Paint and Paint-Related Wastes."

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter H 335.262(d)
Description: Failure to document a hazardous waste determination for paint and paint-related wastes.

Self Report? NO Classification: Moderate

Citation: 40 CFR Chapter 279, SubChapter I, PT 279, SubPT C 279.22(c)(1)
Description: Failure to label or mark clearly containers used to store used oil with the words "Used Oil."

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
TAYLORCRAFT AVIATION,
L.L.C.;
RN105066286

§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

DEFAULT ORDER
DOCKET NO. 2007-0673-IHW-E

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE ch. 361, 40 C.F.R pt. 262, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Taylorcraft Aviation, L.L.C. ("Taylorcraft").

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

FINDINGS OF FACT

1. Taylorcraft owns and operates an aircraft manufacturing facility located at 2045 Les Mauldin Road, Brownsville, Cameron County, Texas (the "Facility").
2. The Facility involves the management and/or disposal of industrial hazardous waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. During an inspection on September 19, 2006, a TCEQ Harlingen Regional Office investigator documented that Taylorcraft:
 - a. Failed to provide a hazardous waste determination for each solid waste generated;
 - b. Failed to label a container "Hazardous Waste;" and
 - c. Failed to label or mark clearly containers with the words "Universal Waste - Paint and Paint-Related Wastes."

4. Taylorcraft received notice of the violations on or about October 25, 2006, and March 10, 2007.
5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Taylorcraft Aviation, L.L.C." (the "EDPRP") in the TCEQ Chief Clerk's office on September 27, 2007.
6. By letter dated September 27, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Taylorcraft with notice of the EDPRP. According to the return receipt "green card," Taylorcraft received notice of the EDPRP on October 2, 2007, as evidenced by the signature on the card.
7. More than 20 days have elapsed since Taylorcraft received notice of the EDPRP, provided by the Executive Director. Taylorcraft failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Taylorcraft is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE ch. 361 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Taylorcraft failed to provide a hazardous waste determination for each solid waste generated, in violation of 30 TEX. ADMIN. CODE § 335.62 and 40 C.F.R § 262.11.
3. As evidenced by Finding of Fact No. 3.b., Taylorcraft failed to label a container "Hazardous Waste," in violation of 30 TEX. ADMIN. CODE § 335.69(a)(3) and 40 C.F.R § 262.34(a)(3).
4. As evidenced by Finding of Fact No. 3.c., Taylorcraft failed to label or mark clearly containers with the words "Universal Waste - Paint and Paint-Related Wastes," in violation of 30 TEX. ADMIN. CODE § 335.262(c)(2)(F) and (d).
5. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director has timely served Taylorcraft with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).

6. As evidenced by Finding of Fact No. 7, Taylorcraft has failed to file a timely answer to the EDRP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Taylorcraft and assess the penalty recommended by the Executive Director.
7. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Taylorcraft 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.
8. An administrative penalty in the amount of eight thousand four hundred dollars (\$8,400.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
9. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

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

1. Taylorcraft is assessed an administrative penalty in the amount of eight thousand four hundred dollars (\$8,400.00) for violations of TEX. HEALTH & SAFETY CODE ch. 361, 40 C.F.R pt. 262, and rules of the TCEQ. The payment of this administrative penalty and Taylorcraft's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality". The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Taylorcraft Aviation, L.L.C.; Docket No. 2007-0673-IHW-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. Taylorcraft shall undertake the following technical requirements:
 - a. Within 10 days after the effective date of this Order, Taylorcraft shall conduct proper hazardous waste determinations on wastes generated at the Facility;
 - b. Within 15 days after the effective date of this Order, Taylorcraft shall:
 - i. Properly label all hazardous waste containers with the words "Hazardous Waste;" and
 - ii. Properly label all containers containing universal or paint-related wastes with the words "Universal Paint and Paint-Related Wastes;"
 - c. Within 30 days after the effective date of this Order, Taylorcraft shall dispose of the three drums of waste that were left at the Facility at an authorized facility; and
 - d. Within 45 days after the effective date of this Order, Taylorcraft shall 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. through 2.c.

The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, 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

and

Mr. David A. Ramirez, Waste Section Manager
Texas Commission on Environmental Quality
Harlingen Regional Office
1804 West Jefferson Avenue
Harlingen, Texas 78550-5247

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Taylorcraft. Taylorcraft is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. If Taylorcraft fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Taylorcraft's failure to comply is not a violation of this Order. Taylorcraft shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Taylorcraft shall notify the Executive Director within seven days after Taylorcraft becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Taylorcraft shall be made in writing to the Executive Director. Extensions are not effective until Taylorcraft receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. 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 Taylorcraft if the Executive Director determines that Taylorcraft has not complied with one or more of the terms or conditions in this Order.

8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF XAVIER GUERRA

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

“My name is Xavier Guerra. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I filed the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Taylorcraft Aviation, L.L.C.” (the “EDPRP”) with the Office of the Chief Clerk on September 27, 2007.

I sent the EDPRP to Taylorcraft at its last known address on September 27, 2007, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” Taylorcraft received notice of the EDPRP on October 2, 2007, as evidenced by the signature on the card.

More than 20 days have elapsed since Taylorcraft received notice of the EDPRP. Taylorcraft failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference”.

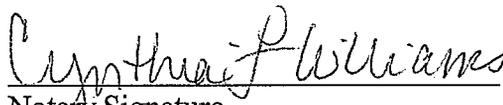


Xavier Guerra
Attorney
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Xavier Guerra, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 11th day of November, A.D., 2007.

Notary Stamp  **CYNTHIA L. WILLIAMS**
Notary Public, State of Texas
My Commission Expires
JULY 17, 2010
Notary without Bond



Notary Signature