

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 3
DOCKET NO.: 2007-0515-MLM-E TCEQ ID: RN100688738 CASE NO.: 34059
RESPONDENT NAME: THOMAS STEEL DRUMS, 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 checked="" 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: 2517 Northeast 35th Street, Fort Worth, Tarrant County</p> <p>TYPE OF OPERATION: Steel drum recycling facility</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There is no record of additional pending enforcement actions regarding this respondent.</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 April 21, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873 TCEQ Enforcement Coordinator: Mr. Clinton Sims, Waste Enforcement Section, MC 128, (512) 239-6933 TCEQ Regional Contact: Mr. Sam Barrett, DFW Regional Office, MC R-14, (817) 588-5903 Respondent: Mr. Stanley C. Thomas, President, Thomas Steel Drums, Inc., 500 West 7th Street, Ste. 1217, Fort Worth, Texas 76102-4770 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: January 11, 2007</p> <p>Date of NOE Relating to this Case: February 13, 2007</p> <p>Background Facts: The EDRP was filed on November 26, 2007. Settlement was achieved on February 7, 2008.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>MLM:</p> <ol style="list-style-type: none"> Failed to dispose of hazardous waste at an authorized facility. Specifically, Thomas Steel Drums, Inc. sent two, 20 cubic yard shipments of ash (hazardous thermal residue waste) to an unauthorized facility on August 25, 2004, and January 19, 2006. The waste was disposed of at a Class I landfill, but analysis indicated that the waste was characteristically hazardous for cadmium and chromium [30 TEX. ADMIN. CODE § 335.2(b)]. Failed to maintain accurate information on the Facility's Notice of Registration ("NOR"), and failing to have a waste code for one waste stream generated by the Facility. Specifically, the NOR stated that the Facility is not a hazardous waste generator, but the Facility generated more than 20 cubic yards of hazardous waste (thermal residue waste), making it a Large Quantity Generator, and did not have an EPA waste code for this hazardous thermal residue waste stream [30 TEX. ADMIN. CODE § 335.6(c)]. 	<p>Total Assessed: \$13,500</p> <p>Total Deferred: \$0</p> <p>Total Paid/Due to General Revenue: \$1,180/\$12,320</p> <p>The Respondent has paid \$1,180 of the administrative penalty. The remaining amount of \$12,320 shall be paid in eleven monthly installments of \$1,120 each.</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> <ol style="list-style-type: none"> Begun ensuring that hazardous wastes generated at the Facility are disposed of only at authorized facilities. Ceased the disposal of paint booth filters in the Facility's furnace. Begun ensuring that the Facility's NOR remains current and contains accurate information, and added an EPA waste code for the thermal waste residue waste stream generated by the Facility.

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>3. Failed to operate the Facility as represented in the permit application, and failing to properly dispose of industrial solid waste. Specifically, the Facility's August 29, 2001, permit application did not provide for the use of the furnace to dispose of used paint booth filters. Facility personnel reported that used paint booth filters are routinely burned in the furnace for disposal [30 TEX. ADMIN. CODE §§ 116.115(c) and 335.2(b), TEX. HEALTH & SAFETY CODE § 382.085(b), and Air Permit No. 49060, Special Condition 14].</p>		



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision December 8, 2006

DATES	Assigned	20-Feb-2007	Screening	6-Apr-2007	EPA Due	
	PCW	19-Oct-2007				

RESPONDENT/FACILITY INFORMATION			
Respondent	Thomas Steel Drums, Inc.		
Reg. Ent. Ref. No.	RN100688738		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Major

CASE INFORMATION				
Enf./Case ID No.	33148	No. of Violations	3	
Docket No.	2007-0515-MLM-E	Order Type	1660	
Media Program(s)	Industrial and Hazardous Waste	Enf. Coordinator	Mike Limos	
Multi-Media	Air Quality	EC's Team	Enforcement Team 8	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 \$10,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 35% Enhancement Subtotals 2, 3, & 7 \$3,500

Notes: The plant received one Agreed Order and three NOVs for same or similar violations within the past five years.

Culpability No 0% Enhancement Subtotal 4 \$0

Notes: Respondent does not meet the culpability criteria.

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

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

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

Total EB Amounts \$8,966 0% Enhancement* Subtotal 6 \$0
Approx. Cost of Compliance \$9,000 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal \$13,500

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment \$0

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

Notes:

Final Penalty Amount \$13,500

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty \$13,500

DEFERRAL 0% Reduction Adjustment \$0

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 \$13,500

Screening Date 6-Apr-2007

Docket No. 2007-0515-MLM-E

PCW

Respondent Thomas Steel Drums, Inc.

Policy Revision 2 (September 2002)

Case ID No. 33148

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN100688738

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Mike Limos

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)	3	15%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	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%
<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) 35%

>> 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 plant received one Agreed Order and three NOVs for same or similar violations within the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 35%

Screening Date 6-Apr-2007

Docket No. 2007-0515-MLM-E

PCW

Respondent Thomas Steel Drums, Inc.

Policy Revision 2 (September 2002)

Case ID No. 33148

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN100688738

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Mike Limos

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 335.2(b)

Violation Description

Failed to dispose of hazardous waste at an authorized facility, as documented during an investigation conducted on January 11, 2007. Specifically, the Respondent sent two, 20 cubic yard shipments of ash (hazardous thermal residue waste) to an unauthorized facility on August 25, 2004, and January 19, 2006. The waste was disposed of at a Class I landfill for disposal, but analysis indicated that the waste was characteristically hazardous for cadmium and chromium, respectively.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health and the environment was exposed to insignificant amounts of pollutants which do not exceed protective levels.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2

2 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$5,000

Two single events are recommended based on the August 25, 2004 and January 19, 2006 waste shipments.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$8,928

Violation Final Penalty Total \$6,750

This violation Final Assessed Penalty (adjusted for limits) \$6,750

Economic Benefit Worksheet

Respondent Thomas Steel Drums, Inc.
Case ID No. 33148
Reg. Ent. Reference No. RN100688738
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
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)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$8,000	25-Aug-2004	19-Jan-2006	2.3	\$928	\$8,000	\$8,928
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to dispose of 40 cubic yards of hazardous waste at an authorized facility calculated at \$200/cubic yard from the dates of each shipment to an unauthorized facility.

Approx. Cost of Compliance

\$8,000

TOTAL

\$8,928

Screening Date 6-Apr-2007

Docket No. 2007-0515-MLM-E

PCW

Respondent Thomas Steel Drums, Inc.

Policy Revision 2 (September 2002)

Case ID No. 33148

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN100688738

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Mike Limos

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 335.6(c)

Violation Description Failed to maintain accurate information on the Plant's Notice of Registration (NOR), and failure to have a waste code for one waste stream generated by the Plant, as documented during an investigation conducted on January 11, 2007. Specifically, the NOR stated that the Plant is not a hazardous waste generator, but the Plant generated more than 20 cubic yards of hazardous waste (thermal residue waste), making it a Large Quantity Generator and did not have an EPA waste code for this hazardous thermal residue waste stream.

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			25%

Matrix Notes Greater than 70% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 1

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$2,500

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$19

Violation Final Penalty Total \$3,375

This violation Final Assessed Penalty (adjusted for limits) \$3,375

Economic Benefit Worksheet

Respondent Thomas Steel Drums, Inc.
Case ID No. 33148
Reg. Ent. Reference No. RN100688738
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	\$500	11-Jan-2007	15-Oct-2007	0.8	\$19	n/a	\$19
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to update the Plant's NOR calculated from the investigation date through the projected compliance date.

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

\$19

Screening Date 6-Apr-2007

Docket No. 2007-0515-MLM-E

PCW

Respondent Thomas Steel Drums, Inc.

Policy Revision 2 (September 2002)

Case ID No. 33148

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN100688738

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Mike Limos

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(c), 335.2(b); Tex. Health & Safety Code § 382.085(b); and Air Permit No. 49060, Special Condition 14

Violation Description

Failed to operate the Plant as represented in the permit application, and failed to properly dispose of industrial solid waste, as documented during an investigation conducted on January 11, 2007. Specifically, the Plant's August 29, 2001 permit application did not provide for the use of the furnace to dispose of used paint booth filters. Plant personnel reported that used paint booth filters are routinely burned in the furnace for disposal.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health and the environment has been exposed to an insignificant amount of pollutants which do not exceed protective levels.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

85 Number of violation days

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

Violation Base Penalty \$2,500

One quarterly event is recommended from the January 11, 2007 investigation date to the April 6, 2007 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$19

Violation Final Penalty Total \$3,375

This violation Final Assessed Penalty (adjusted for limits) \$3,375

Economic Benefit Worksheet

Respondent Thomas Steel Drums, Inc.
Case ID No. 33148
Reg. Ent. Reference No. RN100688738
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	Onetime Costs	EB Amount
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Item Description 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	\$500	11-Jan-2007	13-Oct-2007	0.8	\$19	n/a	\$19
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to to dispose of used paint booth filters at an authorized facility calculated from the investigation date to the projected 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 \$19

Compliance History

Customer/Respondent/Owner-Operator:	CN600395388 Thomas Steel Drums, Inc.	Classification: AVERAGE	Rating: 6.00
Regulated Entity:	RN100688738 THOMAS STEEL DRUMS	Classification: AVERAGE	Site Rating: 6.00
ID Number(s):	INDUSTRIAL AND HAZARDOUS WASTE GENERATION INDUSTRIAL AND HAZARDOUS WASTE GENERATION AIR NEW SOURCE PERMITS AIR NEW SOURCE PERMITS AIR NEW SOURCE PERMITS	EPA ID SOLID WASTE REGISTRATION # (SWR) ACCOUNT NUMBER AFS NUM PERMIT	TXD026462697 65206 TA0375T 4843900005 49060
Location:	2517 NE 35TH ST, FORT WORTH, TX, 76111	Rating Date: September 01 06	Repeat Violator: NO
TCEQ Region:	REGION 04 - DFW METROPLEX		
Date Compliance History Prepared:	March 30, 2007		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	March 30, 2002 to March 30, 2007		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Mike Limos	Phone:	512.239.5839

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

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

Effective Date: 02/05/2007	ADMINORDER 2006-0804-AIR-E
Classification: Moderate	
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c) 5C THC Chapter 382, SubChapter D 382.085(b)	
Rqmt Prov: Special Condition 2 PERMIT	
Description: Average opacity readings from the furnace stack exceeded the 5% limit.	

- 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	04/05/2002	(92282)
2	08/27/2003	(141158)
3	01/05/2004	(251872)
4	11/30/2005	(434235)
5	05/30/2006	(465767)
6	02/13/2007	(536229)

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

Date:	08/27/2003	(141158)	
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 111, SubChapter A 111.111(a)(1)(A)		
Description:	Emitting visible emissions in excess of 30% opacity, averaged over a six-minute period. On July 27, 2003, an FWDEM certified visible emission reader observed that the opacity emissions from the furnace controlled by an afterburner was 41%, averaged over six minutes.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c)		
Description:	Failure to comply with Special Conditions of Permit #49060.		
Date	11/30/2005	(434235)	

Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(b) 5C THC Chapter 382, SubChapter A 382.085(b)		
Rqmt Prov:	PERMIT General Condition #9		
Description:	Failure to maintain air pollution emission capture equipment in good working order during normal facility operations as required by Permit 49060 General Condition 9.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 5C THC Chapter 382, SubChapter A 382.085(b)		
Rqmt Prov:	PERMIT Special Condition 4		
Description:	Failure to maintain the minimum operating temperature of the afterburner at 1,400 degrees F as required by Permit 49060 Special Condition 4.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.116(a)(1) 5C THC Chapter 382, SubChapter A 382.085(b)		
Description:	Failure to provide an accurate representation of facility operations in the permit application.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 5C THC Chapter 382, SubChapter A 382.085(b)		
Rqmt Prov:	PERMIT Special Condition 12		
Description:	Failure to store cleanup material in a closed container as required by Permit 49060 Special Condition 12.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.116(a)(1) 5C THC Chapter 382, SubChapter A 382.085(b)		
Description:	Failure to provide an accurate representation of facility operations in the permit application.		
Date	04/11/2006	(458677)	
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 5C THC Chapter 382, SubChapter D 382.085(b)		
Rqmt Prov:	PERMIT Special Condition 2		
Description:	Average opacity readings from the furnace stack exceeded the 5% limit.		

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
THOMAS STEEL DRUMS, INC.
RN100688738

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§
§
§
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BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2007-0515-MLM-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Thomas Steel Drums, Inc. ("Thomas Steel Drums, Inc.") under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE chs. 361 and 382. The Executive Director of the TCEQ, represented by the Litigation Division, and Thomas Steel Drums, Inc. appear before the Commission and together stipulate that:

1. Thomas Steel Drums, Inc. owns and operates a steel drum recycling facility located at 2517 Northeast 35th Street, Fort Worth, Tarrant County, Texas (the "Facility").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE chs. 361 and 382, and the rules of the TCEQ.
3. The Commission and Thomas Steel Drums, Inc. agree that the Commission has jurisdiction to enter this Agreed Order, and that Thomas Steel Drums, Inc. is subject to the Commission's jurisdiction.
4. Thomas Steel Drums, Inc. received notice of the violations alleged in Section II ("Allegations") on or about February 18, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Thomas Steel Drums, Inc. of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of thirteen thousand five hundred dollars (\$13,500.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Thomas Steel Drums, Inc. has paid one thousand one hundred eighty dollars (\$1,180.00) of the administrative penalty. The remaining amount of twelve thousand three hundred twenty dollars (\$12,320.00) of the administrative penalty shall be payable in 11 monthly payments of one thousand one hundred twenty dollars (\$1,120.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Thomas Steel Drums, Inc. fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Thomas Steel Drums, Inc.'s failure to meet the payment schedule of this Agreed Order constitutes the failure by Thomas Steel Drums, Inc. to timely and satisfactorily comply with all of the terms of this Agreed Order.
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 Thomas Steel Drums, Inc. 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 Thomas Steel Drums, Inc. has implemented the following corrective measures at the Facility in response to this enforcement action:
 - a. Begun ensuring that hazardous wastes generated at the Facility are disposed of only at authorized facilities, in accordance with 30 TEX. ADMIN. CODE § 335.2(b);
 - b. Ceased the disposal of paint booth filters in the Facility's furnace; and
 - c. Begun ensuring that the Facility's NOR remains current and contains accurate information, and added an EPA waste code for the thermal waste residue waste stream generated by the Facility, in accordance with 30 TEX. ADMIN. CODE § 335.6(c).
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 Thomas Steel Drums, Inc. 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

1. Thomas Steel Drums, Inc. is alleged to have violated:
 - a. 30 TEX. ADMIN. CODE § 335.2(b), by failing to dispose of hazardous waste at an authorized facility. Specifically, Thomas Steel Drums, Inc. sent two, 20 cubic yard shipments of ash (hazardous thermal residue waste) to an unauthorized facility on August 25, 2004, and January 19, 2006. The waste was disposed of at a Class I landfill, but analysis indicated that the waste was characteristically hazardous for cadmium and chromium;
 - b. 30 TEX. ADMIN. CODE § 335.6(c), by failing to maintain accurate information on the Facility's Notice of Registration ("NOR"), and failing to have a waste code for one waste stream generated by the Facility. Specifically, the NOR stated that the Facility is not a hazardous waste generator, but the Facility generated more than 20 cubic yards of hazardous waste (thermal residue waste), making it a Large Quantity Generator, and did not have an EPA waste code for this hazardous thermal residue waste stream; and
 - c. 30 TEX. ADMIN. CODE §§ 116.115(c) and 335.2(b), TEX. HEALTH & SAFETY CODE § 382.085(b), and Air Permit No. 49060, Special Condition 14, by failing to operate the Facility as represented in the permit application, and failing to properly dispose of industrial solid waste. Specifically, the Facility's August 29, 2001, permit application did not provide for the use of the furnace to dispose of used paint booth filters. Facility personnel reported that used paint booth filters are routinely burned in the furnace for disposal.

III. DENIALS

1. Thomas Steel Drums, Inc. generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Thomas Steel Drums, Inc. pay an administrative penalty as set forth in Section I, Paragraph 6, above. The payment of this administrative penalty and Thomas Steel Drums, Inc.'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 considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Thomas Steel Drums, Inc., Docket No. 2007-0515-MLM-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 Thomas Steel Drums, Inc.
3. If Thomas Steel Drums, Inc. 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, Thomas Steel Drums, Inc.'s failure to comply is not a violation of this Agreed Order. Thomas Steel Drums, Inc. shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Thomas Steel Drums, Inc. shall notify the Executive Director within seven days after Thomas Steel Drums, Inc. becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
4. 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 Thomas Steel Drums, Inc. shall be made in writing to the Executive Director. Extensions are not effective until Thomas Steel Drums, Inc. receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Agreed Order, issued by the Commission, shall not be admissible against Thomas Steel Drums, Inc. 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.

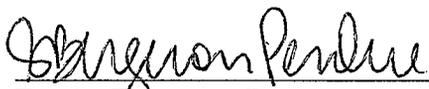
6. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

7. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T. CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Thomas Steel Drums, Inc., or three days after the date on which the Commission mails notice of the Order to Thomas Steel Drums, Inc., whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

3/24/2008

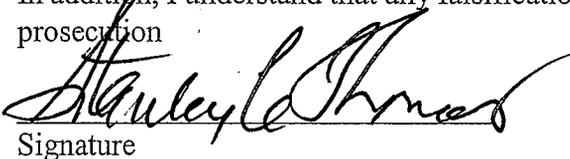
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that 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 my failure to comply with the Ordering Provisions, if any, in this order and/or Thomas Steel Drums, Inc.'s failure to timely pay the penalty amount, may result in:

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

In addition, I understand that any falsification of any compliance documents may result in criminal prosecution


Signature

2/19/08
Date

Stanley C. Thomas
Name (Printed or typed)
Authorized representative of
Thomas Steel Drums, Inc.

President
Title