

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-0507-IHW-E **TCEQ ID:** RN102157856 **CASE NO.:** 33082

RESPONDENT NAME: Opti-Blast, 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 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: Opti-Blast Jacksonville Texas Facility, 4032B North Jackson Street, Jacksonville, Cherokee County</p> <p>TYPE OF OPERATION: Plastic bead blast manufacturer</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: One complaint was received on March 15, 2007, alleging that the Respondent had been dumping waste behind the Respondent's property. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: A complaint was received but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on January 22, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Michael Meyer, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-4492; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Jason Floyd, President, Opti-Blast, Inc., 13201 Northwest Freeway, Suite 300, Houston, Texas 77040 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input checked="" type="checkbox"/> Complaint <input 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: March 15, 2007</p> <p>Date of Investigation Relating to this Case: December 5, 2006, November 15, 2006, March 15, 2007</p> <p>Date of NOV/NOE Relating to this Case: January 23, 2007 (NOE)</p> <p>Background Facts: There were two complaint investigations and one routine investigation.</p> <p>WASTE</p> <p>1) Failure to obtain a permit to store and treat municipal hazardous and industrial solid waste. Specifically, the Respondent was receiving Spent Plastic Bead Blast Media Waste ("SPBBMW") from various off-site generators and treated the waste to stabilize metal contaminants. Samples of treated SPBBMW stored in the Container Storage Area of the Building 4 Warehouse, collected by the TCEQ during the December 5, 2006 investigation, were tested for toxicity characteristic leaching procedure ("TCLP") and characterized as hazardous for cadmium (D006) and lead (D008). In addition, at least 1,000 cubic yards of Off-Specification Plastic Bead Blast Media Waste ("OSPBBMW") was being stored at the Facility without being recycled [30 TEX. ADMIN. CODE §§ 335.2(a) and 335.17(a)(8) and 335.24(h)].</p> <p>2) Failure to prevent spills, discharges and disposal of industrial solid waste. Specifically, spills of OSPBBMW were noted around the storage areas. In addition, plastic scrap and supersacks of OSPBBMW were disposed on the ground on the east portion of the property [30 TEX. ADMIN. CODE § 335.4].</p> <p>3) Failure to conduct hazardous waste determinations. Specifically, the Respondent</p>	<p>Total Assessed: \$63,500</p> <p>Total Deferred: \$12,700 <input checked="" type="checkbox"/> Expedited Settlement <input checked="" type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$500 (remaining \$50,300 due in 11 monthly payments of \$500 each, then 23 monthly payments of \$1,867, with the 35th payment being \$1,859)</p> <p>The Financial Assurance Section of the Commission's Financial Administration Division reviewed financial documentation submitted by the Respondent and determined that the Respondent is able to pay the full payable penalty, in accordance with the installment schedule detailed above.</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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a) Immediately upon the effective date of this Agreed Order, cease to cause, suffer, allow or permit the collection, handling, storage, processing or disposal of industrial solid waste in violation of 30 TEX. ADMIN. CODE § 335.4;</p> <p>b) Immediately upon the effective date of this Agreed Order, begin managing all plastic bead blast media being processed and stored at the Facility in accordance with the requirements of 30 TEX. ADMIN. CODE § 335.24;</p> <p>c) Immediately upon the effective date of this Agreed Order, begin maintaining records of hazardous and industrial solid waste activities, in accordance with 30 TEX. ADMIN. CODE § 335.9(a)(1)(A);</p> <p>d) Within 15 days after the effective date of this Agreed Order, conduct hazardous waste determinations and classifications on the Off-Specification Plastic Bead Blast Media and the Spent Plastic Bead Blast Media generated at the Facility, in accordance with 30 TEX. ADMIN. CODE § 335.62;</p> <p>e) Within 30 days after the effective date of this Agreed Order, complete the response action(s) needed to remediate any soil contamination at the Facility and ensure that the response action(s) taken are conducted in accordance with all applicable requirements of the Texas Risk Reduction Program found in 30 TEX. ADMIN. CODE ch. 350 which may include: plans, reports, and notices under Subchapter E (30 TEX. ADMIN. CODE §§ 350.92 and 350.96, financial assurance (30 TEX. ADMIN. CODE § 350.33(1); and Institutional Controls under Subchapter F;</p> <p>f) Within 30 days after the effective date of this Agreed Order, remove and properly dispose of all hazardous plastic bead blast media waste being stored at the Facility;</p> <p>g) Within 30 days after the effective date</p>

<p>had not conducted hazardous waste determinations on the OSPBBMW generated at the Facility and the SPBBMW which was received from off-site generators. In addition, no waste determination had been conducted on a block of black waste disposed on the ground, in the northeast portion of property [30 TEX. ADMIN. CODE § 335.62 and 40 CODE OF FEDERAL REGULATIONS ("CFR") § 262.11(a)].</p> <p>4) Failure to maintain records of hazardous and industrial solid waste activities. Specifically, the Respondent could not provide records at the time of the investigations. Information later provided by the Respondent to the TCEQ Regional Office failed to contain complete information on every waste shipment received and did not contain information of each individual waste generator (contact name, company name, address, contact phone number, waste categories and classifications) [30 TEX. ADMIN. CODE § 335.9(a)(1)(A)].</p> <p>5) Failure to notify the Executive Director of regulated waste activities. The Respondent's Notice of Registration did not include the following wastestreams and waste management units: 1) hazardous and solid waste treatment operations conducted on-site; 2) the container storage areas for pre and post treatment storage of SPBBMW; 3) dust collected from SPBBMW operations; and 4) OSPBBMW being stored on-site [30 TEX. ADMIN. CODE § 335.6(c)].</p> <p>6) Failure to have personnel who had successfully completed a program of classroom instruction or on-the-job training to ensure the proper management of hazardous waste. Specifically, the Respondent's plant manager indicated that the Respondent did not have any personnel who had successfully completed training specific to the management of hazardous waste [30 TEX. ADMIN. CODE § 335.69(a)(4)(A) and 40 CFR § 265.16(a)(1)].</p>		<p>of this Agreed Order, update the Notice of Registration for all solid waste management activities at the Facility, in accordance with 30 TEX. ADMIN. CODE § 335.6(c) and 40 CFR § 262.11(e);</p> <p>h) Within 60 days after the effective date of this Agreed Order, provide classroom instruction or on-the-job training for personnel in the management of hazardous waste, in accordance with 30 TEX. ADMIN. CODE § 335.69(a)(4)(A) and 40 CFR § 265.16(a)(1); and</p> <p>i) Within 75 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a. through h.</p>
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Additional ID No(s): SWR86978



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision January 9, 2007

TCEQ

DATES	Assigned	29-Jan-2007	Screening	28-Mar-2007	EPA Due	13-Jul-2007
	PCW	22-Aug-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	Opti-Blast, Inc.
Reg. Ent. Ref. No.	RN102157856
Facility/Site Region	5-Tyler
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	33082	No. of Violations	6
Docket No.	2007-0507-IHW-E	Order Type	1660
Media Program(s)	Industrial and Hazardous Waste	Enf. Coordinator	Michael Meyer
Multi-Media		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**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement **Subtotals 2, 3, & 7**

Notes

Culpability Enhancement **Subtotal 4**

Notes

Good Faith Effort to Comply Reduction **Subtotal 5**

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/>	(mark with x)

Notes

Enhancement* **Subtotal 6**

Total EB Amounts *Capped at the Total EB \$ Amount
 Approx. Cost of Compliance

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

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

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Notes

PAYABLE PENALTY

Screening Date 28-Mar-2007

Docket No. 2007-0507-IHW-E

PCW

Respondent Opti-Blast, Inc.

Policy Revision 2 (September 2002)

Case ID No. 33082

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN102157856

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Michael Meyer

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)	0	0%
	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 judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

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

There were no NOV's or orders issued to the Respondent during the previous five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 28-Mar-2007

Docket No. 2007-0507-IHW-E

PCW

Respondent Opti-Blast, Inc.

Policy Revision 2 (September 2002)

Case ID No. 33082

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN102157856

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Michael Meyer

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 335.2(a) and 335.17(a)(8) and 335.24(h)

Violation Description

Failed to obtain a permit to store and treat municipal hazardous and industrial solid waste, as documented during investigations conducted on November 15 and December 5, 2006 and March 15, 2007. Specifically, TCEQ investigators' review of the Respondent's records showed that the Respondent was receiving Spent Plastic Bead Blast Media Waste ("SPBBMW") from various off-site generators and treated the waste to stabilize metal contaminants. Samples of treated SPBBMW stored in the Container Storage Area of the Building 4 Warehouse, collected by the TCEQ during the December 5, 2006 investigation, were tested for toxicity characteristic leaching procedure ("TCLP") and characterized as hazardous for cadmium (D006) and lead (D008). In addition, at least 1,000 cubic yards of Off-Specification Plastic Bead Blast Media Waste ("OSPBBMW") was being stored at the Facility without being recycled.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes

100 percent of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 5

133 Number of violation days

mark only one with an x

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$12,500

Five monthly events are recommended from the November 15, 2006 investigation to the March 28, 2007 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2,199

Violation Final Penalty Total \$12,500

This violation Final Assessed Penalty (adjusted for limits) \$12,500

Economic Benefit Worksheet

Respondent Opti-Blast, Inc.
Case ID No. 33082
Reg. Ent. Reference No. RN102157856
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
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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	\$15,000	15-Nov-2006	27-Apr-2008	0.9	\$750	n/a	\$750
Permit Costs	\$20,000	15-Nov-2006	27-Apr-2008	1.4	\$1,449	n/a	\$1,449
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to obtain a RCRA permit along with the estimated cost to remove and properly dispose of an estimated 1,000 cubic yards of OSPBBMW at an estimated cost of disposal at \$15 per cubic yard. The Date Required is the date of the November 15, 2006 investigation and the Final Date is the estimated 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

\$35,000

TOTAL

\$2,199

Screening Date 28-Mar-2007

Docket No. 2007-0507-IHW-E

PCW

Respondent Opti-Blast, Inc.

Policy Revision 2 (September 2002)

Case ID No. 33082

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN102157856

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Michael Meyer

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 335.4

Violation Description

Failed to prevent spills, discharges and disposal of industrial solid waste, as documented during investigations conducted on November 15, December 5, 2006 and March 15, 2007. Specifically, spills of OSPBBMW were noted around the storage areas. In addition, plastic scrap and supersacks of OSPBBMW were disposed on the ground on the east portion of the property.

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 insignificant amounts of pollutants as result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2

133 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$5,000

Two quarterly events are recommended from the November 15, 2006 investigation to the March 28, 2007 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$5,250

Violation Final Penalty Total \$5,000

This violation Final Assessed Penalty (adjusted for limits) \$5,000

Economic Benefit Worksheet

Respondent Opti-Blast, Inc.
Case ID No. 33082
Reg. Ent. Reference No. RN102157856
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	\$5,000	15-Nov-2006	27-Apr-2008	1.4	\$250	n/a	\$5,250
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to dispose of waste which had leaked from supersacks including the cost to remove and dispose of any contaminated soil. The Date Required is the November 15, 2006 investigation and the Final Date is the estimated 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

\$5,000

TOTAL

\$5,250

Screening Date 28-Mar-2007

Docket No. 2007-0507-IHW-E

PCW

Respondent Opti-Blast, Inc.

Policy Revision 2 (September 2002)

Case ID No. 33082

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN102157856

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Michael Meyer

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 335.62 and Code of Federal Regulations ("CFR") § 262.11(a)

Violation Description Failed to conduct hazardous waste determinations, as documented during investigations conducted on November 15, December 5, 2006 and March 15, 2007. Specifically, the Respondent had not conducted hazardous waste determinations on the Off Specification Plastic Bead Blast Media Waste ("OSPBBMW") generated at the Facility and the Spent Plastic Bead Blast Media Waste ("SPBBMW") which was received from off-site generators. In addition, no waste determination had been conducted on a block of black waste disposed on the ground, in the northeast portion of property.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				50%
	Potential	x			

>> 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 as a result of the violation.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 3 133 Number of violation days

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$15,000

Three single events are recommended (one for each wastestream).

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$106

Violation Final Penalty Total \$15,000

This violation Final Assessed Penalty (adjusted for limits) \$15,000

Economic Benefit Worksheet

Respondent Opti-Blast, Inc.
Case ID No. 33082
Reg. Ent. Reference No. RN102157856
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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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)	\$1,500	15-Nov-2006	12-Apr-2008	1.4	\$106	n/a	\$106

Notes for DELAYED costs

Estimated cost to conduct waste determinations on the OSPBBMW and SPBBMW and black waste located on the ground in the northeast portion of the property. The Date Required is the November 15, 2006 investigation and the Final Date is the estimated 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

\$1,500

TOTAL

\$106

Screening Date 28-Mar-2007

Docket No. 2007-0507-IHW-E

PCW

Respondent Opti-Blast, Inc.

Policy Revision 2 (September 2002)

Case ID No. 33082

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN102157856

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Michael Meyer

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 335.9(a)(1)(A)

Violation Description

Failed to maintain records of hazardous and industrial solid waste activities, as documented during investigations conducted on November 15 and December 5, 2006. Specifically, the Respondent could not provide records at the time of the investigations. Information later provided by the Respondent to the TCEQ Regional Office failed to contain complete information on every waste shipment received and did not contain information of each individual waste generator (contact name, company name, address, contact phone number, waste categories and classifications).

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 25%

Matrix Notes

Greater than 70 percent of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2

133 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.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$352

Violation Final Penalty Total \$5,000

This violation Final Assessed Penalty (adjusted for limits) \$5,000

Economic Benefit Worksheet

Respondent Opti-Blast, Inc.
Case ID No. 33082
Reg. Ent. Reference No. RN102157856
Media Industrial and Hazardous Waste
Violation No. 4

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	\$5,000	15-Nov-2006	12-Apr-2008	1.4	\$352	n/a	\$352
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

Estimated cost to establish a record keeping system for waste regulated activities, including the shipments of waste(s) received from off-site generators. The Date Required is the November 15, 2006 investigation and the Final Date is the estimated 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

\$5,000

TOTAL

\$352

Screening Date 28-Mar-2007

Docket No. 2007-0507-IHW-E

PCW

Respondent Opti-Blast, Inc.

Policy Revision 2 (September 2002)

Case ID No. 33082

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN102157856

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Michael Meyer

Violation Number 5

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

Violation Description

Failed to notify the Executive Director of regulated waste activities, as documented during investigations conducted on November 15 and December 5, 2006. The Respondent's Notice of Registration did not include the following wastestreams and waste management units: 1) hazardous and solid waste treatment operations conducted on-site; 2) the container storage areas for pre and post treatment storage of SPBBMW; 3) dust collected from SPBBMW operations; and 4) OSPBBMW being stored on-site.

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

30 to 70 percent of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

133 Number of violation days

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 \$36

Violation Final Penalty Total \$1,000

This violation Final Assessed Penalty (adjusted for limits) \$1,000

Economic Benefit Worksheet

Respondent Opti-Blast, Inc.
Case ID No. 33082
Reg. Ent. Reference No. RN102157856
Media Industrial and Hazardous Waste
Violation No. 5

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)	\$500	15-Nov-2006	27-Apr-2008	1.4	\$36	n/a	\$36

Notes for DELAYED costs

Estimated cost to update Notice of Registration. The Date Required is the November 15, 2006 investigation and the Final Date is the estimated 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	\$36
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Screening Date 28-Mar-2007

Docket No. 2007-0507-IHW-E

PCW

Respondent Opti-Blast, Inc.

Policy Revision 2 (September 2002)

Case ID No. 33082

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN102157856

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Michael Meyer

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code § 335.69(a)(4)(A) and 40 CFR § 265.16(a)(1)

Violation Description Failed to have personnel who had successfully completed a program of classroom instruction or on-the-job training to ensure the proper management of hazardous waste, as documented during an investigation conducted on December 5, 2006. Specifically, the Respondent's plant manager indicated that the Respondent did not have any personnel who had successfully completed training specific to the management of hazardous waste.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				50%
	Potential	x			

>> 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 as a result of the violation.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 5 Number of violation days 133

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

Violation Base Penalty \$25,000

Five monthly events are recommended from the November 15, 2006 investigation to the March 28, 2007 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$144

Violation Final Penalty Total \$25,000

This violation Final Assessed Penalty (adjusted for limits) \$25,000

Economic Benefit Worksheet

Respondent: Opti-Blast, Inc.
Case ID No.: 33082
Reg. Ent. Reference No.: RN102157856
Media: Industrial and Hazardous Waste
Violation No.: 6

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	\$2,000	5-Dec-2006	12-May-2008	1.4	\$144	n/a	\$144
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

Estimated cost to provide training to personnel in the management of hazardous waste. The Date Required is the December 5, 2006 investigation the the Final Date is the estimated 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

\$2,000

TOTAL

\$144

Compliance History

Customer/Respondent/Owner-Operator:	CN601173487 Opti-Blast, Inc.	Classification: AVERAGE BY DEFAULT	Rating: 3.01
Regulated Entity:	RN102157856 OPTI-BLAST JACKSONVILLE TX FACILITY	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	86978
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXR000046748
Location:	4032B N JACKSON ST, JACKSONVILLE, TX, 75766		Rating Date: 9/1/2006 Repeat Violator: NO
TCEQ Region:	REGION 05 - TYLER		
Date Compliance History Prepared:	February 14, 2007		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	February 15, 2002 to February 14, 2007		

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

Name: Michael Meyer Phone: (512) 239-4492

Site Compliance History Components

- | | |
|--|------------|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | No |
| 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? | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>N/A</u> |
| 5. When did the change(s) in ownership occur? | <u>N/A</u> |

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 01/23/2007 (533511)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
OPTI-BLAST, INC.
RN102157856

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2007-0507-IHW-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 Opti-Blast, Inc. ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 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 operates as a plastic bead blast manufacturer located at 4032B North Jackson Street in Jacksonville, Cherokee County, Texas ("the Facility").
2. The Facility involves or involved the management of municipal hazardous waste, municipal solid waste and industrial solid waste as as defined in TEX. HEALTH & SAFETY CODE ch. 361.
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 January 28, 2007.
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 Sixty-Three Thousand Five Hundred Dollars (\$63,500) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Financial Assurance Section of the Commission's Financial Administration

Division reviewed financial documentation submitted by the Respondent and determined that the Respondent has the ability to pay the full payable penalty of Fifty Thousand Eight Hundred Dollars (\$50,800). Therefore, Twelve Thousand Seven Hundred Dollars (\$12,700) of the penalty is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The Respondent has paid Five Hundred Dollars (\$500) of the undeferred administrative penalty. The remaining amount of Fifty Thousand Three Hundred Dollars (\$50,300) of the administrative penalty shall be payable in 11 monthly payments of Five Hundred Dollars (\$500) each, followed by 23 monthly payments of One Thousand Eight Hundred Sixty-Seven Dollars (\$1,867) each, and one final payment of One Thousand Eight Hundred Fifty-Nine Dollars (\$1,859). The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's 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, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all 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 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 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.
10. 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.
11. 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 Facility, the Respondent is alleged to have:

1. Failed to obtain a permit to store and treat municipal hazardous and industrial solid waste, in violation of 30 TEX. ADMIN. CODE §§ 335.2(a) and 335.17(a)(8) and 335.24(h) as documented during investigations conducted on November 15 and December 5, 2006. Specifically, the

Respondent was receiving Spent Plastic Bead Blast Media Waste ("SPBBMW") from various off-site generators and treated the waste to stabilize metal contaminants. Samples of treated SPBBMW stored in the Container Storage Area of the Building 4 Warehouse, collected by the TCEQ during the December 5, 2006 investigation, were tested for toxicity characteristic leaching procedure ("TCLP") and characterized as hazardous for cadmium (D006) and lead (D008). In addition, at least 1,000 cubic yards of Off-Specification Plastic Bead Blast Media Waste ("OSPBBMW") was being stored at the Facility without being recycled.

2. Failed to prevent spills, discharges and disposal of industrial solid waste, in violation of 30 TEX. ADMIN. CODE § 335.4 as documented during investigations conducted on November 15 and December 5, 2006 and March 15, 2007. Specifically, spills of OSPBBMW were noted around the storage areas. In addition, plastic scrap and supersacks of OSPBBMW were disposed on the ground on the east portion of the property.
3. Failed to conduct hazardous waste determinations, in violation of 30 TEX. ADMIN. CODE § 335.62 and 40 CODE OF FEDERAL REGULATIONS ("CFR") § 262.11(a), as documented during investigations conducted on November 15, December 5, 2006 and March 15, 2007. Specifically, the Respondent had not conducted hazardous waste determinations on the OSPBBMW generated at the Facility and the SPBBMW which was received from off-site generators. In addition, no waste determination had been conducted on a block of black waste disposed on the ground in the northeast portion of property.
4. Failed to maintain records of hazardous and industrial solid waste activities, in violation of 30 TEX. ADMIN. CODE § 335.9(a)(1)(A), as documented during investigations conducted on November 15 and December 5, 2006. Specifically, the Respondent could not provide records at the time of the investigations. Information later provided by the Respondent to the TCEQ Regional Office failed to contain complete information on every waste shipment received and did not contain information of each individual waste generator (contact name, company name, address, contact phone number, waste categories and classifications).
5. Failed to notify the Executive Director of regulated waste activities, in violation of 30 TEX. ADMIN. CODE § 335.6(c), as documented during investigations conducted on November 15 and December 5, 2006. The Respondent's Notice of Registration did not include the following wastestreams and waste management units: 1) hazardous and solid waste treatment operations conducted on-site; 2) the container storage areas for pre and post treatment storage of SPBBMW; 3) dust collected from SPBBMW operations; and 4) OSPBBMW being stored on-site.
6. Failed to have personnel who had successfully completed a program of classroom instruction or on-the-job training to ensure the proper management of hazardous waste, in violation of 30 TEX. ADMIN. CODE § 335.69(a)(4)(A) and 40 CFR § 265.16(a)(1), as documented during an investigation conducted on December 5, 2006. Specifically, the Respondent's plant manager indicated that the Respondent did not have any personnel who had successfully completed training specific to the management of hazardous waste.

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: Opti-Blast, Inc., Docket No. 2007-0507-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. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, cease to cause, suffer, allow or permit the collection, handling, storage, processing, or disposal of industrial solid waste in violation of 30 TEX. ADMIN. CODE § 335.4;
 - b. Immediately upon the effective date of this Agreed Order, begin managing all plastic bead blast media being processed and stored at the Facility in accordance with the requirements of 30 TEX. ADMIN. CODE § 335.24;
 - c. Immediately upon the effective date of this Agreed Order, begin maintaining records of hazardous and industrial solid waste activities, in accordance with 30 TEX. ADMIN. CODE § 335.9(a)(1)(A);
 - d. Within 15 days after the effective date of this Agreed Order, conduct hazardous waste determinations and classifications on the OSPBBMW and the SPBBMW generated at the Facility, in accordance with 30 TEX. ADMIN. CODE § 335.62;
 - e. Within 30 days after the effective date of this Agreed Order, complete the response action(s) needed to remediate any soil contamination at the Facility and ensure that the response action(s) taken are conducted in accordance with all applicable requirements of the Texas Risk Reduction Program found in 30 TEX. ADMIN. CODE ch. 350 which may include: plans, reports, and notices under Subchapter E (30 TEX. ADMIN. CODE §§ 350.92 and 350.96, financial assurance (30 TEX. ADMIN. CODE § 350.33(1); and Institutional Controls under Subchapter F;

- f. Within 30 days after the effective date of this Agreed Order, remove and properly dispose of all hazardous plastic bead blast media waste being stored at the Facility;
- g. Within 30 days after the effective date of this Agreed Order, update the Notice of Registration for all solid waste management activities at the Facility, in accordance with 30 TEX. ADMIN. CODE § 335.6(c) and 40 CFR § 262.11(e);
- h. Within 60 days after the effective date of this Agreed Order, provide classroom instruction or on-the job training for personnel in the management of hazardous waste, in accordance with 30 TEX. ADMIN. CODE § 335.69(a)(4)(A) and 40 CFR § 265.16(a)(1); and
- i. Within 75 days after the effective date of this Agreed Order, 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.h. 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

with a copy to:

Waste Section Manager
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3756

- 3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.

4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. 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.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to 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.

Opti-Blast, Inc.
DOCKET NO. 2007-0507-IHW-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Ordean

For the Executive Director

8/29/2008

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.

Jason Floyd

Signature

8/08/08

Date

JASON FLOYD

Name (Printed or typed)
Authorized Representative of
Opti-Blast, Inc.

PRESIDENT

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Section at the address in Section IV, Paragraph 1 of this Agreed Order.

