

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2009-0008-MSW-E TCEQ ID: RN105078679 CASE NO.: 36971
RESPONDENT NAME: INDUSTRIAL SCRAP MATERIALS, 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 type="checkbox"/> INDUSTRIAL 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 checked="" type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: 3708 North Commerce Street, Fort Worth, Tarrant County

TYPE OF OPERATION: Owns and operates a scrap metal and salvage yard

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location

INTERESTED PARTIES: No one other than the ED and the Respondent expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired August 10, 2009. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Mr. Steven M. Fishburn, Litigation Division, MC 175, (512) 239-0635
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

TCEQ Enforcement Coordinator: Mr. Michael Graham, (MEDIA) Enforcement Section, MC R-2, (806) 796-7635

TCEQ Regional Contact: Mr. Sam Barrett, Dallas/Fort Worth Regional Office, MC R-4, (817) 588-5903

Respondent: Mr. Joe D. White, Industrial Scrap Materials, Inc., P.O. Box 4409, Fort Worth, Texas 76164

Respondent's Attorney: Not represented by counsel on this enforcement matter.

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 Complaint Relating to this Case: N/A</p> <p>Date of Investigation Relating to this Case: September 5, 2008</p> <p>Date of NOE Relating to this Case: November 17, 2008</p> <p>Background Facts: An Agreed Order was mailed to the Respondent on May 28, 2009. The signed Agreed Order was received at TCEQ on June 11, 2009.</p> <p>Current Compliance Status: The Respondent has not yet submitted documentation to certify compliance with the technical requirements.</p> <p>MSW: Failed to prevent the unauthorized disposal of municipal solid waste. Specifically, approximately 1,200 cubic yards of municipal solid waste was disposed of at the facility [30 TEX. ADMIN. CODE § 330.15(c)].</p>	<p>Total Assessed: \$2,040</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid/Due to General Revenue: \$140/\$2,040</p> <p>The Respondent paid \$140 of the administrative penalty. The remaining amount of \$1,900 shall be payable in 19 monthly payments of \$100 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>Ordering Provision(s):</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> 1. Immediately, cease accepting and/or disposing any additional MSW at the Facility. 2. Within 30 days, remove all municipal solid waste from the Facility and dispose of it at an authorized facility. 3. Within 45 days, submit written certification demonstrating compliance.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	17-Nov-2008	Screening	5-Jan-2009	EPA Due	
	PCW	2-Feb-2009				

RESPONDENT/FACILITY INFORMATION

Respondent	Industrial Scrap Materials, Inc.	
Reg. Ent. Ref. No.	RN105078679	
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source
		Minor

CASE INFORMATION

Enf./Case ID No.	36971	No. of Violations	1
Docket No.	2009-0008-MSW-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Michael Graham
		EC's Team	Enforcement Team 6
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 Total Adjustments **Subtotal 5**

Economic Benefit Enhancement* **Subtotal 6**

Total EB Amounts	\$298	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$6,165	

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

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

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 5-Jan-2009

Docket No. 2009-0008-MSW-E

PCW

Respondent Industrial Scrap Materials, Inc.

Policy Revision 2 (September 2002)

Case ID No. 36971

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105078679

Media [Statute] Municipal Solid Waste

Enf. Coordinator Michael Graham

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	1	2%
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) 2%

>> **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 one NOV for non-related violations.

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

Screening Date 5-Jan-2009	Docket No. 2009-0008-MSW-E	PCW			
Respondent Industrial Scrap Materials, Inc.	<i>Policy Revision 2 (September 2002)</i>				
Case ID No. 36971	<i>PCW Revision October 30, 2008</i>				
Reg. Ent. Reference No. RN105078679					
Media [Statute] Municipal Solid Waste					
Enf. Coordinator Michael Graham					
Violation Number <input type="text" value="1"/>					
Rule Cite(s)	30 Tex. Admin Code § 330.15(c)				
Violation Description	Failed to prevent the unauthorized disposal of municipal solid waste as documented during an investigation on September 5, 2008. Specifically, approximately 1,200 cubic yards of municipal solid waste was disposed at the facility.				
Base Penalty		<input type="text" value="\$10,000"/>			
>> Environmental, Property and Human Health Matrix					
OR	Harm				
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>		
		Percent	<input type="text" value="10%"/>		
>> Programmatic Matrix					
		Falsification	Major	Moderate	Minor
		<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
				Percent	<input type="text" value="0%"/>
Matrix Notes	Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.				
		Adjustment		<input type="text" value="\$9,000"/>	
				<input type="text" value="\$1,000"/>	
Violation Events					
Number of Violation Events		<input type="text" value="2"/>		Number of violation days	
		<input type="text" value="123"/>			
mark only one with an x	daily	<input type="text"/>			
	weekly	<input type="text"/>			
	monthly	<input type="text"/>			
	quarterly	<input checked="" type="checkbox"/>			
	semiannual	<input type="text"/>			
	annual	<input type="text"/>			
	single event	<input type="text"/>			
				Violation Base Penalty	<input type="text" value="\$2,000"/>
Two quarterly events are recommended from the September 5, 2008 investigation date to the January 5, 2009 screening date.					
Good Faith Efforts to Comply			0.0% Reduction		<input type="text" value="\$0"/>
			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	The Respondent does not meet the good faith criteria for this violation.				
				Violation Subtotal	<input type="text" value="\$2,000"/>
Economic Benefit (EB) for this violation			Statutory Limit Test		
Estimated EB Amount		<input type="text" value="\$298"/>		Violation Final Penalty Total	
				<input type="text" value="\$2,040"/>	
This violation Final Assessed Penalty (adjusted for limits)				<input type="text" value="\$2,040"/>	

Economic Benefit Worksheet

Respondent: Industrial Scrap Materials, Inc.
Case ID No.: 36971
Reg. Ent. Reference No.: RN105078679
Media: Municipal Solid 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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$6,165	5-Sep-2008	24-Aug-2009	0.97	\$298	n/a	\$298
Permit costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs to dispose 1200 cubic yards of municipal solid waste in an authorized landfill. The Date Required is the date of the investigation and the Final Date is the estimated date of compliance.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$6,165

TOTAL

\$298

Compliance History Report

Customer/Respondent/Owner-Operator: CN600603492 Industrial Scrap Materials Inc. Classification: AVERAGE Rating: 3.50
Regulated Entity: RN105078679 INDUSTRIAL SCRAP MATERIALS Classification: AVERAGE Site Rating: 4.00
ID Number(s):
Location: 3708 N COMMERCE ST, FORT WORTH, TX, 76106
TCEQ Region: REGION 04 - DFW METROPLEX
Date Compliance History Prepared: January 05, 2009
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: January 05, 2004 to January 05, 2009
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Michael Graham Phone: 806-796-7635

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
6. Rating Date: 9/1/2008 Repeat Violator: NO

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 01/03/2007 (515702)

2 11/12/2008 (703916)

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

Date: 01/03/2007 (515702)

Self NO Classification: Moderate

Citation: 30 TAC Chapter 327 327.5(a)

TWC Chapter 26 26.121

Description: Failure to prevent the discharge of petroleum product spilled to surface soils at site. Additionally, failure to initiate appropriate cleanup of spilled petroleum product.

Self NO Classification: Major

Citation: 30 TAC Chapter 330, SubChapter A 330.15

30 TAC Chapter 335, SubChapter A 335.4

TWC Chapter 26 26.121

Description: Failure to prevent the discharge of wastes and other materials to surface soils and stormwater drainage at the site.

- F. Environmental audits.

N/A

- G. Type of environmental management systems (EMSs).

N/A

- H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
INDUSTRIAL SCRAP
MATERIALS, INC.,
RN105078679

§
§
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§
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BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-0008-MSW-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 Industrial Scrap Materials, Inc. ("Industrial Scrap Materials") under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE ch. 361. The Executive Director of the TCEQ, represented by the Litigation Division and Industrial Scrap Materials appear before the Commission and together stipulate that:

1. Industrial Scrap Materials owns and operates a scrap metal and salvage yard located at 3708 North Commerce 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 TEX. HEALTH & SAFETY CODE ch. 361 and TCEQ rules.
3. The Commission and Industrial Scrap Materials agree that the Commission has jurisdiction to enter this Agreed Order, and that Industrial Scrap Materials is subject to the Commission's jurisdiction.
4. Industrial Scrap Materials received notice of the violations alleged in Section II ("Allegations") on or about November 17, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Industrial Scrap Materials of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of two thousand forty dollars (\$2,040.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Industrial Scrap Materials paid one hundred forty dollars (\$140.00) of the administrative penalty. The remaining amount of one thousand nine hundred dollars (\$1,900.00) of the administrative penalty shall be payable in nineteen (19) monthly payments of one hundred dollars (\$100.00) each, pursuant to 30 TEX. ADMIN. CODE § 70.9(a). 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 Industrial Scrap Materials 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, Industrial Scrap Materials's failure to meet the payment schedule of this Agreed Order constitutes the failure by Industrial Scrap Materials 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 Industrial Scrap Materials 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 Industrial Scrap Materials 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

1. During an investigation conducted on September 5, 2008 a TCEQ Dallas/Fort Worth Regional Office investigator documented that Industrial Scrap Materials violated 30 TEX. ADMIN. CODE § 330.15(c) by failing to prevent the unauthorized disposal of municipal solid waste. Specifically, approximately 1,200 cubic yards of municipal solid waste was disposed of at the facility.

III. DENIALS

Industrial Scrap Materials generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Industrial Scrap Materials pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Industrial Scrap Material'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: Industrial Scrap Materials, Inc., Docket No. 2009-0008-MSW-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. Industrial Scrap Materials shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, Industrial Scrap Materials shall cease accepting and/or disposing of any additional MSW at the Facility;
 - b. Within 30 days after the effective date of this Agreed Order, Industrial Scrap Materials shall remove all municipal solid waste (MSW) from the Facility and dispose of it at an authorized facility; and
 - c. Within 45 days after the effective date of this Order, Industrial Scrap Materials shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware

that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

Industrial Scrap Materials shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.b. to:

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

and

Waste Section, Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

3. The provisions of this Agreed Order shall apply to and be binding upon Industrial Scrap Materials. Industrial Scrap Materials is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
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 Industrial Scrap Materials shall be made in writing to the Executive Director. Extensions are not effective until Industrial Scrap Materials 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 Industrial Scrap Materials 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 Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order 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 this Agreed Order to Industrial Scrap Materials, or three days after the date on which the Commission mails notice of this Agreed Order to Industrial Scrap Materials, 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

9/2/2009

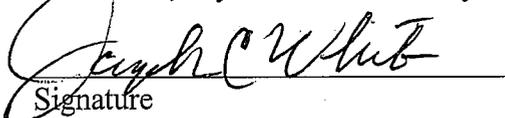
Date

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, if any, 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 my failure to timely pay the penalty amount, may result in:

- A negative impact on Industrial Scrap Materials' compliance history;
- Greater scrutiny of any permit applications submitted by Industrial Scrap Materials;
- 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 Industrial Scrap Materials;
- Automatic referral to the Attorney General's Office of any future enforcement actions against Industrial Scrap Materials; and
- TCEQ seeking other relief as authorized by law.

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



Signature

06-06-09

Date

Joe White

Joe White
Authorized representative of
Industrial Scrap Materials, Inc.

President

Title