

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

**DOCKET NO.: 2004-0083-IHW-E TCEQ ID: RN103146049 CASE NO.: 12085
RESPONDENT NAME: JOHN POPMA DBA MARKETING INTERFACE COMPANY**

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 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

SITE WHERE VIOLATION(S) OCCURRED: East Mountain Road and Municipal Drive, East Mountain, Upshur County

TYPE OF OPERATION: Facility that refurbishes and resells electroplating equipment

SMALL BUSINESS: Yes No

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

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 October 12, 2009. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Mr. Jim Sallans, Litigation Division, MC 175, (512) 239-2053
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019
TCEQ Enforcement Coordinator: Mr. Michael Meyer, Waste Enforcement Section, MC 128, (512) 239-4492
TCEQ Regional Contact: Mr. Michael Brashear, Tyler Regional Office, MC R-5, (903) 535-5176
Respondent: Mr. John Popma, Owner, Marketing Interface Company, 311 East Mountain North, Gilmer, Texas 75645-7241
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: None</p> <p>Date of Investigation Relating to this Case: April 24, 2003</p> <p>Date of NOE Relating to this Case: June 23, 2003</p> <p>Background Facts: The EDRP was filed August 23, 2004. The Respondent filed an answer and the case was referred to SOAH. Based on a Financial Ability to Pay review the penalty was reduced to \$4,254. In August 2005 the Respondent signed an Agreed order and the matter was remanded from SOAH to the Executive Director. The Agreed Order was set on the November 9, 2005, agenda. During the agenda meeting the Commission requested that the ED reconsider the financial analysis and renegotiate the penalty amount. The case was remanded to the ED and the matter was re-referred to SOAH. The preliminary hearing was waived and the parties engaged in discovery. The Respondent filed a Motion to Dismiss, which the ED opposed and the ALJ denied. Discovery was reopened and the ED filed supplemental discovery requests. A new financial review was performed which resulted in a recommended penalty of \$15,013. Settlement was achieved and an Agreed Order was signed on August 12, 2009.</p> <p>Current Compliance Status: The Respondent has not yet submitted documentation to certify compliance with the technical requirements.</p> <p>IHW:</p> <ol style="list-style-type: none"> Failed to complete waste classification, hazardous waste determination, and land disposal restrictions on each solid waste generated [30 TEX. ADMIN. CODE §§ 335.62, 335.503(a)(4), 335.513, and 335.431(c)]. Failed to update the Facility's Notice of Registration (NOR) [30 TEX. ADMIN. CODE § 335.6(c)]. Failed to properly manifest, transport, and dispose of industrial hazardous waste at a permitted facility [30 TEX. ADMIN. CODE §§ 335.2(b) and 335.10(a)]. 	<p>Total Assessed: \$29,250</p> <p>Total Deferred: \$14,237 <input type="checkbox"/> Expedited Order <input checked="" type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid/Due to General Revenue: \$404/\$14,609</p> <p>The Respondent paid \$404 of the administrative penalty. The remaining amount of \$14,609 shall be payable in 35 monthly payments. The first 12 monthly payments shall be paid in the amount of \$100 each, the remaining amount of \$13,409 shall be paid in 23 monthly payments of \$583 each.</p> <p>Site Compliance History Classification: <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification: <input checked="" type="checkbox"/> High <input 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 Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Within 60 days: <ol style="list-style-type: none"> Submit a complete notification of all solid waste management activities conducted at the Facility; Compile and submit the Facility's Annual Waste Summary Report for 2003; Perform waste determinations on all waste at the Facility to determine which wastes are hazardous wastes and which hazardous wastes are restricted from land disposal. For each restricted waste demonstrate whether that waste meets established treatment standards or treatment technology, or has been given an exclusion or extension to the land disposal restrictions. These determinations, and copies of the rationale utilized in making these determinations, shall be maintained at the Facility and shall be made readily available upon request to TCEQ staff for review and copying, Compile a file of all personnel training records relating to waste management procedures; and Develop and implement procedures to ensure proper manifesting of waste and that waste is properly transported by a registered transporter and disposed of at a permitted disposal facility. Within 90 days, draft and implement a contingency plan and a pollution prevention plan for the Facility. Within 15 days after the due date of each ordering provision, submit certification, along with supporting documentation, to demonstrate compliance.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>4. Failed to maintain records of all hazardous waste and industrial solid waste activities regarding the quantities generated, stored, processed, and disposed of onsite or shipped offsite for storage, processing, or disposal [30 TEX. ADMIN. CODE § 335.9(a)(1)].</p> <p>5. Failed to maintain records that document personnel training activities, a contingency plan and a pollution prevention plan [30 TEX. ADMIN. CODE §§ 335.69(a)(4)(A), 335.474 and 335.479, and 40 C.F.R. §§ 265.16(d)(4) and 265.51(a)].</p>		



DATES		PCW 10-Aug-2009	Screening 15-Jan-2004	Priority Due 15-Mar-2004	EPA Due
RESPONDENT INFORMATION					
Respondent	John Popma dba Marketing Interface Company				
Respondent/Site ID No(s)	SWR No 37333, RN103146049				
Facility/Site Region	5 - Tyler	Major/Minor Source	Major		
CASE INFORMATION					
Enf./Case ID No(s)	12085	No. Violations	5		
Docket No.	2004-0083-IHW-E	Order Type	1660		
Case Priority	2	EC's Team	Enforcement Team 5		
Enf. Coordinator	Michael Meyer	Media Program(s)	Industrial and Hazardous Waste		
Admin. Penalty \$ Limit	Minimum \$0	Maximum	\$10,000		

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$32,500

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History -10% Reduction **Subtotals 2, 3 & 7** -\$3,250

Notes: Respondent is offered a reduction in the penalty amount because of "high performer" compliance history rating. **+**

Culpability 0% Enhancement **Subtotal 4** \$0

Notes: Respondent does not meet culpability criteria. **+**

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

Notes: Respondent is not yet in compliance. **+**

Economic Benefit 0% Enhancement* **Subtotal 6** \$0

\$4,118 Total EB Amounts *Capped at the Total EB \$ Amount
\$8,420 Approx. Cost of Compliance =

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$29,250

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** \$29,250

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$29,250

DEFERRAL Deferral 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 cases. =

PAYABLE PENALTY \$29,250

Screening Date 15-Jan-2004 **Docket Number** 2004-0083-IHW-E **PCW**
Respondent John Popma dba Marketing Interface Company **Policy Revision 2 (09/02)**
Case ID No. 12085 **PCW Revision 6/12/2003**
Respondent/Site ID No. SWR No 37333, RN103146049
Media [Statute] Industrial and Hazardous Waste
Enf. Coordinator Michael Meyer
Site Address Old East Mountain Road and Municipal Drive, East Mountain, Upshur County

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 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) 0%

>> **Repeat Violator (Subtotal 3)**

No Select Yes/No

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

High Performer Select High, Average or Poor

Adjustment Percentage (Subtotal 7) -10%

Compliance History Summary

Compliance History Notes Respondent is offered a reduction in the penalty amount because of "high performer" compliance history rating.

Total Adjustment Percentage (Subtotals 2, 3 & 7) -10%

Respondent/Site ID No. SWR No 37333, RN103146049

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Michael Meyer

Violation Number 1

Primary Rule Cite 30 Tex. Admin. Code §§ 335.62, 335.503(a)(4), 335.513 and 335.431(c)

Secondary Cite(s)

Violation Description

Respondent failed to complete hazardous waste determination, waste classification and land disposal restrictions on each solid waste generated, specifically containers Nos. 1, 2, 3, 7, 10, 11, and 12.

Base Penalty \$10,000

» Environmental, Property and Human Health Matrix

Harm

Release	Major	Moderate	Minor	Percent
Actual				25%
Potential		x		

» Programmatic Matrix

OR	Falsification	Major	Moderate	Minor	Percent

Matrix Notes

As a result of these violations, human health and the environment could have been exposed to significant amounts of pollutants that did not exceed levels protective of human health and environmental receptors.

Adjustment -\$7,500

Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events 7

mark only one; use small x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$17,500

Events Notes

Seven single violation events are recommended for the seven containers for which a waste determination was necessary and not completed, as documented in the investigation on 4/24/03.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount (\$) \$1,182

Violation Final Penalty total \$15,750

This Violation Final Assessed Penalty (adjusted for limits) \$15,750

Economic Benefit Worksheet

Respondent John Popma dba Marketing Interface Company
ID Number(s) 12085
Media [Statute] Industrial and Hazardous Waste
Violation Number 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling	\$1,600	24-Apr-2003	15-Mar-2010	6.9	\$552	n/a	\$552
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

The respondent delayed the cost of waste determination on five containers (3, 7, 10, 11, and 12). The Date Required is the April 24, 2003 investigation and the Final Date is 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/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$600	24-Jan-2003	24-Apr-2003	1.0	\$30	\$600	\$630
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

The respondent avoided the cost of waste determination on two containers (1 and 2).

Approx Cost of Compliance **TOTAL**

Screening Date 15-Jan-04

Docket Number 2004-0083-IHW-E

PCW

Respondent John Popma dba Marketing Interface Company

Policy Revision 2 (09/02)

Case ID No. 12085

PCW Revision 6/12/2003

Respondent/Site ID No. SWR No 37333, RN103146049

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Michael Meyer

Violation Number

2

Primary Rule Cite

30 Tex. Admin. Code § 335.6(c)

Secondary Cite(s)

Violation Description

Respondent failed to update the facility's Notice of Registration (NOR) and thereby notify the Executive Director of the generation of hazardous waste. The NOR was last updated 7/27/01 and shows the status of the facility as inactive.

Base Penalty \$10,000

» Environmental, Property and Human Health Matrix

Harm

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				
	Potential				

» Programmatic Matrix

OR	Falsification				Percent
	Major	Moderate	Minor		
	x				25%

Matrix Notes

100% of the requirement was not met.

Adjustment -\$7,500

Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events 1

mark only one: use small x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$2,500

Events Notes

One single violation event is recommended for the NOR that was not kept up to date, as documented in the investigation on 4/24/03.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount (\$) \$50

Violation Final Penalty total \$2,250

This Violation Final Assessed Penalty (adjusted for limits) \$2,250

Economic Benefit Worksheet

Respondent John Popma dba Marketing Interface Company

ID Number(s) 12085

Media [Statute] Industrial and Hazardous Waste

Violation Number 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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	\$145	24-Apr-2003	15-Mar-2010	6.9	\$50	n/a	\$50
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

The respondent delayed the personnel costs of submitting an update to the facility's NOR. The Date Required is the April 24, 2003 investigation and the Final Date is 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/equip				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

TOTAL

Screening Date 15-Jan-04

Docket Number 2004-0083-IHW-E

PCW

Respondent John Popma dba Marketing Interface Company

Policy Revision 2 (09/02)

Case ID No. 12085

PCW Revision 6/12/2003

Respondent/Site ID No. SWR No 37333, RN103146049

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Michael Meyer

Violation Number 3

Primary Rule Cite 30 Tex. Admin. Code §§ 335.2(b) and 335.10(a)

Secondary Cite(s)

Violation Description

The respondent failed to manifest, transport, and dispose of industrial hazardous waste at a permitted facility. Specifically, the respondent personally hauled 2 containers of waste from the facility in East Mountain to a plating company in Longview. The respondent is not a registered transporter and the plating company was not a permitted disposal facility.

Base Penalty \$10,000

» Environmental, Property and Human Health Matrix

Harm

Release	Major	Moderate	Minor	Percent
Actual				25%
Potential		x		

» Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent

Matrix Notes

As a result of this violation, human health and the environment could have been exposed to significant amounts of pollutants which would not have exceeded levels protective of human health and environmental receptors.

Adjustment -\$7,500

Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events 1

mark only one; use small x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$2,500

Events Notes

One event is recommended based on the April 24, 2003 investigation.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount (\$) \$1,114

Violation Final Penalty total \$2,250

This Violation Final Assessed Penalty (adjusted for limits) \$2,250

Economic Benefit Worksheet

Respondent John Popma dba Marketing Interface Company
ID Number(s) 12085
Media [Statute] Industrial and Hazardous Waste
Violation Number 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling	\$1,200	24-Apr-2003	15-Mar-2010	6.9	\$414	n/a	\$414
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

The Respondent delayed the cost of waste determinations on containers 1 and 2. The Date Required is the April 24, 2003 investigation and the Final date is 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/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$700	23-Apr-2003	24-Apr-2003	0.0	\$0	\$700	\$700
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

The respondent avoided the costs of properly shipping and disposing of two containers of hazardous waste.

Approx Cost of Compliance

TOTAL

Screening Date 15-Jan-04

Docket Number 2004-0083-IHW-E

PCW

Respondent John Popma dba Marketing Interface Company

Policy Revision 2 (09/02)

Case ID No. 12085

PCW Revision 6/12/2003

Respondent/Site ID No. SWR No 37333, RN103146049

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Michael Meyer

Violation Number 4

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

Secondary Cite(s)

Violation Description

The respondent failed to maintain records of all hazardous waste and industrial solid waste activities regarding the quantities generated, stored, processed, and disposed of onsite or shipped offsite for storage, processing, or disposal. At the time of the investigation on April 24, 2003, there were no waste management records on site.

Base Penalty \$10,000

» Environmental, Property and Human Health Matrix

Harm

Release	Major	Moderate	Minor
Actual			
Potential			

Percent

» Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes

100% of the requirement was not met.

Adjustment -\$7,500

Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events 1

mark only one; use small x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$2,500

Events Notes

One single violation event is recommended for the failure to keep records of waste.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount (\$) \$517

Violation Final Penalty total \$2,250

This Violation Final Assessed Penalty (adjusted for limits) \$2,250

Economic Benefit Worksheet

Respondent John Popma dba Marketing Interface Company
ID Number(s) 12085
Media [Statute] Industrial and Hazardous Waste
Violation Number 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$1,500	24-Apr-2003	15-Mar-2010	6.9	\$517	n/a	\$517
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

The respondent delayed establishing a waste management record keeping system. The Date Required is the April 24, 2003 investigation and the Final Date is 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/equip				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

TOTAL

Respondent/Site ID No. SWR No 37333, RN103146049
 Media [Statute] Industrial and Hazardous Waste
 Enf. Coordinator Michael Meyer

Violation Number 5
 Primary Rule Cite 30 Tex. Admin. Code §§ 335.69(a)(4)(A), 335.474 and 335.479, and 40 Code of Fed. Regulations §§ 265.16(d)(4) and 265.51(a)

Secondary Cite(s)
 Violation Description The respondent failed to maintain records that document personnel training activities, a contingency plan and a pollution prevention plan.

Base Penalty \$10,000

» Environmental, Property and Human Health Matrix

		Harm			
Release		Major	Moderate	Minor	
OR	Actual				Percent
	Potential				

» Programmatic Matrix

		Major	Moderate	Minor	
OR	Falsification	x			Percent 25%

Matrix Notes 100% of the requirements were not met.

Adjustment -\$7,500
 Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events 3

mark only one: use small x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$7,500

Events Notes Three single violation events are recommended for the training records, contingency plan and pollution prevention plan that were not available during the investigation conducted 4/24/03.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount (\$) \$1,255

Violation Final Penalty total \$6,750

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

Economic Benefit Worksheet

Respondent John Popma dba Marketing Interface Company
ID Number(s) 12085
Media [Statute] Industrial and Hazardous Waste
Violation Number 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$2,200	24-Apr-2003	15-May-2010	7.1	\$52	\$1,036	\$1,088
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$475	24-Apr-2003	15-May-2010	7.1	\$168	n/a	\$168
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

The respondent delayed the cost of drafting a contingency plan and a pollution prevention plan. The Date Required is the April 23, 2003 investigation and the Final Date is the projected date of compliance..

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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/equip				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

TOTAL

Compliance History Report Pending

Customer/Respondent/Owner-Operator:	CN601894926 POPMA, JOHN	Classification: HIGH	Rating: 0.00
Regulated Entity:	RN103146049 MARKETING INTERFACE COMPANY	Classification: HIGH	Site Rating: 0.00
<hr/>			
ID Number(s):	<hr/>		
Location:	Old East Mountain School Building, East Mountain, TX	Rating Date: 9/1/2005	Repeat Violator: NO
<hr/>			
TCEQ Region:	REGION 05 - TYLER		
<hr/>			
Date Compliance History Prepared:	September 22, 2009		
<hr/>			
Agency Decision Requiring Compliance History:	Enforcement		
<hr/>			
Compliance Period:	January 15, 1999 to January 14, 2004		
<hr/>			

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

Name: Michael Meyer Phone: 239 - 4492

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/operator of the site during the compliance period? | No |
| 3. If Yes, who is the current owner/operator? | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)/operator(s) ? | <u>N/A</u> |
| 5. When did the change(s) in owner or operator 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 06/20/2003 (60594)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
- 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 JOHN POPMA
DBA MARKETING INTERFACE
COMPANY; RN103146049

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2004-0083-IHW-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 John Popma dba Marketing Interface Company ("Mr. Popma") 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 Mr. Popma appear before the Commission and together stipulate that:

1. Mr. Popma owns and operated a facility that refurbishes and resells electroplating equipment at East Mountain Road and Municipal Drive in East Mountain, Upshur 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 ch. 361 and TCEQ rules.
3. The Commission and Mr. Popma agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Popma is subject to the Commission's jurisdiction.
4. Mr. Popma received notice of the violations on or about June 28, 2003.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Popma of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of twenty-nine thousand two hundred fifty dollars (\$29,250.00) 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 the financial documentation submitted by Mr. Popma and determined that Mr. Popma is unable to pay part of the administrative penalty. Therefore, fourteen thousand two hundred thirty-seven dollars (\$14,237.00) of the penalty is deferred contingent upon Mr. Popma's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Mr. Popma fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require Mr. Popma to pay all or part of the deferred penalty.

Mr. Popma has paid four hundred four dollars (\$404.00) dollars of the undeferred administrative penalty amount of fifteen thousand thirteen dollars (\$15,013.00). The remaining amount of fourteen thousand six hundred nine dollars (\$14,609.00) shall be payable in 35 monthly payments. The first 12 monthly payments shall be paid in the amount of one hundred dollars (\$100.00) each. The remaining amount of thirteen thousand four hundred nine dollars (\$13,409.00) shall be paid in 23 monthly payments of five hundred eighty-three dollars (\$583.00) each. The first 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. If Mr. Popma fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, 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, the acceleration of any remaining balance constitutes the failure by Mr. Popma to timely and satisfactorily comply with all the terms of this Agreed Order and the Executive Director may demand payment of any deferred penalty amount.

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 Mr. Popma 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 Mr. Popma 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 April 24, 2003, a TCEQ Tyler Regional investigator documented that Mr. Popma violated:
 - a. 30 TEX. ADMIN. CODE §§ 335.62, 335.503(a)(4), 335.513, and 335.431(c) by failing to complete waste classification, hazardous waste determination, and land disposal restrictions on each solid waste generated.
 - b. 30 TEX. ADMIN. CODE § 335.6(c) by failing to update the Facility's Notice of Registration (NOR) and thereby notify the Executive Director of the generation of hazardous waste. In particular, the NOR was last updated July 27, 2001 and shows the status of the Facility as inactive.
 - c. 30 TEX. ADMIN. CODE §§ 335.2(b) and 335.10(a) by failing to properly manifest, transport, and dispose of industrial hazardous waste at a permitted facility. Specifically, Mr. Popma personally hauled two containers of waste from the Facility to a plating company in Longview and Mr. Popma was not a registered transporter and the plating company was not a permitted disposal facility.
 - d. 30 TEX. ADMIN. CODE § 335.9(a)(1) by failing to maintain records of all hazardous waste and industrial solid waste activities regarding the quantities generated, stored, processed, and disposed of onsite or shipped offsite for storage, processing, or disposal. At the time of the investigation, there were no waste management records on site.
 - e. 30 TEX. ADMIN. CODE §§ 335.69(a)(4)(A), 335.474 and 335.479, and 40 C.F.R. §§ 265.16(d)(4) and 265.51(a) by failing to maintain records that document personnel training activities, a contingency plan and a pollution prevention plan.

III. DENIALS

Mr. Popma generally denies each allegation in Section II ("Allegations").

IV. ORDER

1. It is, therefore, ordered by the TCEQ that Mr. Popma pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Mr. Popma'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 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: John Popma dba Marketing Interface Company, Docket No. 2004-0083-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. Mr. Popma shall undertake the following technical requirements:
 - a. Within 60 days after the effective date of this Agreed Order, Mr. Popma shall:
 - i. submit a complete notification of all solid waste management activities (i.e., notification information on each waste and waste management unit) conducted at the Facility in accordance with 30 TEX. ADMIN. CODE § 335.6 (relating to Notification Requirements);
 - ii. compile and submit the Facility's Annual Waste Summary Report for 2003 in accordance with 30 TEX. ADMIN. CODE § 335.9 (relating to Recordkeeping and Annual Reporting Procedures Applicable to Generators);
 - iii. perform waste determinations on all waste at the Facility to determine which wastes are hazardous wastes and which hazardous wastes are restricted from land disposal in accordance with 30 TEX. ADMIN. CODE § 335.431 (relating to Land Disposal Restrictions). For each restricted waste demonstrate whether that waste meets established treatment standards or treatment technology, or has been given an exclusion or

extension to the land disposal restrictions. These determinations, and copies of the rationale utilized in making these determinations, shall be maintained at the Facility and shall be made readily available upon request to TCEQ staff for review and copying;

- iv. compile a file of all personnel training records relating to waste management procedures in accordance with 40 CFR § 265.16; and
 - v. develop and implement procedures to ensure proper manifesting of waste, and to ensure that waste is properly transported by a registered transporter and disposed of at a permitted disposal facility.
- b. Within 90 days after the effective date of this Agreed Order, Mr. Popma shall draft and implement a contingency plan and a pollution prevention plan for the Facility in accordance with 30 TEX. ADMIN. CODE §§ 335.69(a)(4)(A) and 335.474, and 40 CRF § 265.51;
- c. Mr. Popma shall, within 15 days after the due date of each ordering provision, submit certification, along with supporting documentation, of compliance with Ordering Provisions Nos. 2.a and 2.b., to:

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

and

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

3. The provisions of this Agreed Order shall apply to and be binding upon Mr. Popma. Mr. Popma is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If Mr. Popma 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, Mr. Popma's failure to comply is not a violation of this

Agreed Order. Mr. Popma shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Popma shall notify the Executive Director within seven days after Mr. Popma 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 Mr. Popma shall be made in writing to the Executive Director. Extensions are not effective until Mr. Popma 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 Mr. Popma 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) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Mr. Popma, or three days after the date on which the Commission mails notice of the Order to Mr. Popma, 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

Bryson Penline

For the Executive Director

9/16/09
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 my compliance history;
- \$ Greater scrutiny of any permit applications submitted by me;
- \$ 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 me;
- \$ Automatic referral to the Attorney General's Office of any future enforcement actions against

me; and

\$ TCEQ seeking other relief as authorized by law.

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

John A. Popma
Signature

08/12/2009
Date

John A. Popma
Name (Printed or typed)

Title

Authorized representative of
John Popma dba Marketing Interface Company