

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 3
DOCKET NO.: 2009-0807-MLM-E TCEQ ID: RN101641884 CASE NO.: 37707
RESPONDENT NAME: MANITEX, 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 checked="" type="checkbox"/> MULTI-MEDIA (check all that apply)	<input checked="" type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input checked="" type="checkbox"/> USED OIL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input checked="" type="checkbox"/> EDWARDS AQUIFER
<p>SITE WHERE VIOLATION(S) OCCURRED: Manitex, 3000 South Austin Avenue, Georgetown, Williamson County</p> <p>TYPE OF OPERATION: Heavy duty equipment manufacturing</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on November 30, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Rajesh Acharya, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-0577; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Phil Fridley, Director of Operations, MANITEX, INC., 3000 South Austin Avenue, Georgetown, Texas 78626 Mr. Steve C. Burt, Director Internal Affairs, MANITEX, INC., 3000 South Austin Avenue, Georgetown, Texas 78626 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 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: None</p> <p>Date of Investigation Relating to this Case: April 21, 2009</p> <p>Date of NOV/NOE Relating to this Case: May 22, 2009 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WASTE</p> <p>1) Failure to properly label or mark used oil containers with the words "Used Oil". Specifically, two 5-gallon containers in the yard; four 55-gallon and one 20-gallon containers in the container storage area building, all containing used oil, were not labeled with the words "Used Oil" [30 TEX. ADMIN. CODE § 324.6 and 40 CODE OF FEDERAL REGULATIONS § 279.22(c)(1)].</p> <p>2) Failure to immediately document any changes to the Notice of Registration ("NOR") or additional information with respect to that originally provided and provide notification within 90 days of the occurrence of such change or of becoming aware of such additional information. Specifically, the NOR was not updated to reflect the Facility's current primary contact name and phone number. Also, the Respondent generated grit trap waste, spent batteries, scrap metal, and waste oil, which are waste streams not listed on the NOR [30 TEX. ADMIN. CODE § 335.6(c)].</p> <p>3) Failure to conduct proper hazardous waste determinations on solid wastes stored at the Facility. Specifically, there had not been a waste determination conducted for waste contained in open 55-gallon drums located southwest of the production building or for grit trap waste generated at the wash bay [30 TEX. ADMIN. CODE § 335.62 and 40 CODE OF FEDERAL</p>	<p>Total Assessed: \$11,222</p> <p>Total Deferred: \$2,244 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$8,978</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 Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Immediately upon the effective date of this Agreed Order:</p> <p>i. Develop and implement procedures to prevent any unauthorized discharges of wastes, used oil, and any other materials;</p> <p>ii. Begin keeping the waste containers closed, except when adding or removing wastes;</p> <p>iii. Begin properly labeling all the drums containing wastes with the words to identify contents; and</p> <p>iv. Begin labeling all used oil containers with the words "Used Oil".</p> <p>b. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Submit a report, which includes a summary of remediation activities that took place, confirming that all contaminated soils at the Facility have been properly remediated. Remediation activities will address all areas where stained soils and soils contaminated with gear oil and/or used oil on the Facility yard. The report shall include analytical results of soil confirmation sampling which characterizes the effectiveness of soil removal in all contaminated areas and documentation that contaminated soils have been disposed of in an authorized manner;</p> <p>ii. Submit the updated NOR to include, but not limited to current operational status of the Facility operations and waste streams; and</p> <p>iii. Conduct hazardous waste determinations and classifications of waste streams generated at the Facility.</p> <p>c. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including</p>

<p>REGULATIONS § 262.11].</p> <p>4) Failure to demonstrate the length of time universal waste had been accumulated [30 TEX. ADMIN. CODE § 335.262(1) and 40 CODE OF FEDERAL REGULATIONS § 273.15(c)].</p> <p>5) Failure to contain paint and paint related waste in a container that was labeled or marked clearly with the words "Universal Waste-Paint and Paint-Related Wastes" [30 TEX. ADMIN. CODE § 335.262(c)(2)(F)].</p> <p>6) Failure to contain paint or paint-related waste in closed containers. Specifically, the paint containers located at the east wall of the main production building were punctured and open [30 TEX. ADMIN. CODE § 335.262(c)(2)(A)].</p> <p>7) Failure to prevent the discharge of industrial waste that will endanger the public health and welfare. Specifically, used oil was being stored in open, leaking containers and discharging used oil on and around the soils at the Facility, which is located over the Edwards Aquifer Recharge Zone [30 TEX. ADMIN. CODE §§ 335.4(3) and 213.8(3)].</p>		<p>photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a.i. through b.iii.</p>
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Additional ID No(s): 81466
TXD078567021



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned PCW	26-May-2009	Screening	28-May-2009	EPA Due	
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RESPONDENT/FACILITY INFORMATION	
Respondent	MANITEX, INC.
Reg. Ent. Ref. No.	RN101641884
Facility/Site Region	11-Austin
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	37707	No. of Violations	1
Docket No.	2009-0807-MLM-E	Order Type	1660
Media Program(s)	Used Oil	Government/Non-Profit	No
Multi-Media	Industrial and Hazardous Waste and Edwards Aquifer	Enf. Coordinator	Rajesh Acharya
Admin. Penalty \$ Limit	Minimum \$0	Maximum	\$2,500
		EC's Team	Enforcement Team 6

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$1,750
ADJUSTMENTS (+/-) TO SUBTOTAL 1		
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.		
Compliance History	7.0% Enhancement	Subtotals 2, 3, & 7 \$122
Notes	Enhancement for one NOV for same or similar violations and one NOV for non-similar violations.	
Culpability	No 0.0% Enhancement	Subtotal 4 \$0
Notes	The Respondent does not meet the culpability criteria.	
Good Faith Effort to Comply Total Adjustments		Subtotal 5 \$0
Economic Benefit	0.0% Enhancement	Subtotal 6 \$0
Total EB Amounts	\$3	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$50	
SUM OF SUBTOTALS 1-7	Final Subtotal	\$1,872
OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment \$0
Reduces or enhances the Final Subtotal by the indicated percentage.		
Notes		
	Final Penalty Amount	\$1,872
STATUTORY LIMIT ADJUSTMENT		Final Assessed Penalty \$1,872
DEFERRAL	20.0% Reduction	Adjustment -\$374
Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)		
Notes	Deferral offered for expedited settlement.	
PAYABLE PENALTY		\$1,498

Screening Date 28-May-2009

Docket No. 2009-0807-MLM-E

PCW

Respondent MANITEX, INC.

Policy Revision 2 (September 2002)

Case ID No. 37707

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101641884

Media [Statute] Used Oil

Enf. Coordinator Rajesh Acharya

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOV's with same or similar violations as those in the current enforcement action (number of NOV's meeting criteria)	1	5%
	Other written NOV's	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 judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 7%

>> **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

Enhancement for one NOV for same or similar violations and one NOV for non-similar violations.

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

<p>Screening Date 28-May-2009 Respondent MANITEX, INC. Case ID No. 37707 Reg. Ent. Reference No. RN101641884 Media [Statute] Used Oil Enf. Coordinator Rajesh Acharya Violation Number 1 Rule Cite(s) 30 Tex. Admin. Code § 324.6 and 40 Code of Federal Regulations § 279.22(c)(1)</p>	<p>Docket No. 2009-0807-MLM-E PCW <i>Policy Revision 2 (September 2002)</i> <i>PCW Revision October 30, 2008</i></p>																		
<p>Violation Description Failed to properly label or mark used oil containers with the words "Used Oil". Specifically, two 5-gallon containers in the yard; four 55-gallon and one 20-gallon containers in the container storage area building, all containing used oil, were not labeled with the words "Used Oil".</p>																			
<p>Base Penalty \$2,500</p>																			
<p>>> Environmental, Property and Human Health Matrix</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td rowspan="3" style="width:10%; text-align: center; vertical-align: middle;">OR</td> <td colspan="3" style="text-align: center;">Harm</td> <td rowspan="3" style="width:10%;"></td> </tr> <tr> <td style="width:15%; text-align: center;">Release</td> <td style="width:15%; text-align: center;">Major</td> <td style="width:15%; text-align: center;">Moderate</td> <td style="width:15%; text-align: center;">Minor</td> </tr> <tr> <td style="text-align: center;">Actual</td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;">Percent <input type="text" value="0%"/></td> </tr> </table>		OR	Harm				Release	Major	Moderate	Minor	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>
OR	Harm																		
	Release		Major		Moderate		Minor												
	Actual	<input type="text"/>	<input type="text"/>		<input type="text"/>														
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>															
<p>>> Programmatic Matrix</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:15%;"></td> <td style="width:15%; text-align: center;">Falsification</td> <td style="width:15%; text-align: center;">Major</td> <td style="width:15%; text-align: center;">Moderate</td> <td style="width:15%; text-align: center;">Minor</td> <td style="width:10%;"></td> </tr> <tr> <td></td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input checked="" type="text" value="x"/></td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;">Percent <input type="text" value="10%"/></td> </tr> </table> <p>Matrix Notes 100% of the rule requirement was not met.</p>			Falsification	Major	Moderate	Minor			<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="10%"/>						
	Falsification	Major	Moderate	Minor															
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="10%"/>														
<p>Adjustment \$2,250</p>																			
<p>\$250</p>																			
<p>Violation Events</p> <p>Number of Violation Events <input type="text" value="7"/> Number of violation days <input type="text" value="7"/></p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td rowspan="7" style="width:10%; text-align: center; vertical-align: middle;">mark only one with an x</td> <td style="width:15%; text-align: center;">daily</td> <td style="width:15%; text-align: center;"><input type="text"/></td> <td rowspan="7" style="width:10%;"></td> </tr> <tr> <td style="text-align: center;">weekly</td> <td style="text-align: center;"><input type="text"/></td> </tr> <tr> <td style="text-align: center;">monthly</td> <td style="text-align: center;"><input type="text"/></td> </tr> <tr> <td style="text-align: center;">quarterly</td> <td style="text-align: center;"><input type="text"/></td> </tr> <tr> <td style="text-align: center;">semiannual</td> <td style="text-align: center;"><input type="text"/></td> </tr> <tr> <td style="text-align: center;">annual</td> <td style="text-align: center;"><input type="text"/></td> </tr> <tr> <td style="text-align: center;">single event</td> <td style="text-align: center;"><input checked="" type="text" value="x"/></td> </tr> </table> <p style="text-align: right;">Violation Base Penalty \$1,750</p> <p style="text-align: center; border: 1px solid black; padding: 5px;">Seven single events are recommended (one event per container).</p>		mark only one with an x	daily	<input type="text"/>		weekly	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input checked="" type="text" value="x"/>		
mark only one with an x	daily		<input type="text"/>																
	weekly		<input type="text"/>																
	monthly		<input type="text"/>																
	quarterly		<input type="text"/>																
	semiannual		<input type="text"/>																
	annual		<input type="text"/>																
	single event	<input checked="" type="text" value="x"/>																	
<p>Good Faith Efforts to Comply 0.0% Reduction \$0</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td rowspan="3" style="width:10%;"></td> <td style="width:15%; text-align: center;">Extraordinary</td> <td style="width:15%; text-align: center;">Before NOV</td> <td style="width:15%; text-align: center;">NOV to EDRP/Settlement Offer</td> </tr> <tr> <td style="text-align: center;">Ordinary</td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> </tr> <tr> <td style="text-align: center;">N/A</td> <td style="text-align: center;"><input checked="" type="text" value="x"/></td> <td style="text-align: center;">(mark with x)</td> </tr> </table> <p>Notes The Respondent does not meet the good faith criteria for this violation.</p> <p style="text-align: right;">Violation Subtotal \$1,750</p>			Extraordinary	Before NOV	NOV to EDRP/Settlement Offer	Ordinary	<input type="text"/>	<input type="text"/>	N/A	<input checked="" type="text" value="x"/>	(mark with x)								
	Extraordinary		Before NOV	NOV to EDRP/Settlement Offer															
	Ordinary		<input type="text"/>	<input type="text"/>															
	N/A	<input checked="" type="text" value="x"/>	(mark with x)																
<p>Economic Benefit (EB) for this violation Statutory Limit Test</p> <p>Estimated EB Amount <input type="text" value="\$3"/> Violation Final Penalty Total <input type="text" value="\$1,873"/></p> <p style="text-align: right;">This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$1,873"/></p>																			

Economic Benefit Worksheet

Respondent MANITEX, INC.
Case ID No. 37707
Reg. Ent. Reference No. RN101641884
Media Used Oil
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
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Item Description: No commas or \$

Delayed Costs

Equipment	\$50	21-Apr-2009	21-Jan-2010	0.75	\$0	\$3	\$3
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				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to label containers with the words "Used Oil". Date Required is the investigation date. Final Date is the estimated date of compliance.

Avoided Costs

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

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

\$50

TOTAL

\$3



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	26-May-2009	Screening	28-May-2009	EPA Due	
	PCW	28-May-2009				

RESPONDENT/FACILITY INFORMATION			
Respondent	MANITEX, INC.		
Reg. Ent. Ref. No.	RN101641884		
Facility/Site Region	11-Austin	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	37707	No. of Violations	5
Docket No.	2009-0807-MLM-E	Order Type	1660
Media Program(s)	Industrial and Hazardous Waste	Government/Non-Profit	No
Multi-Media	Edwards Aquifer and Used Oil	Enf. Coordinator	Rajesh Acharya
		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	\$8,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	10.0% Enhancement	Subtotals 2, 3, & 7	\$850
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Notes: Enhancement for two NOVs for same or similar violation.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$439
 Approx. Cost of Compliance \$11,650
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$9,350
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the Indicated percentage.

Notes:

Final Penalty Amount	\$9,350
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$9,350
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DEFERRAL	20.0% Reduction	Adjustment	-\$1,870
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$7,480
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Screening Date 28-May-2009

Docket No. 2009-0807-MLM-E

PCW

Respondent MANITEX, INC.

Policy Revision 2 (September 2002)

Case ID No. 37707

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101641884

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Rajesh Acharya

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)	2	10%
	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) 10%

>> **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

Enhancement for two NOVs for same or similar violation.

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

Screening Date: 28-May-2009	Docket No.: 2009-0807-MLM-E	PCW
Respondent: MANITEX, INC.	<i>Policy Revision 2 (September 2002)</i>	
Case ID No.: 37707	<i>PCW Revision October 30, 2009</i>	
Reg. Ent. Reference No.: RN101641884		
Media [Statute]: Industrial and Hazardous Waste		
Enf. Coordinator: Rajesh Acharya		
Violation Number: 1		
Rule Cite(s):	30-Tex. Admin. Code § 335.6(c)	
Violation Description:	Failed to immediately document any changes to the Notice of Registration ("NOR") or additional information with respect to that originally provided and provide notification within 90 days of the occurrence of such change or of becoming aware of such additional information. Specifically, the NOR was not updated to reflect the Facility's current primary contact name and phone number. Also, the Respondent generated grit trap waste, spent batteries, scrap metal, and waste oil, which are waste streams not listed on the NOR.	
Base Penalty:	\$10,000	
>> Environmental, Property and Human Health Matrix		
OR	Harm	
	Release	Major Moderate Minor
	Actual	<input type="text"/>
	Potential	<input type="text"/>
	Percent	0%
>> Programmatic Matrix		
	Falsification	Major Moderate Minor
	<input type="text"/>	<input checked="" type="text"/> <input type="text"/> <input type="text"/>
	Percent	10%
Matrix Notes:	100% of the rule requirement was not met.	
Adjustment:	\$9,000	
		\$1,000
Violation Events		
Number of Violation Events:	1	Number of violation days: 37
<i>mark only one with an x</i>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input checked="" type="text"/>
Violation Base Penalty:	\$1,000	
One single event is recommended.		
Good Faith Efforts to Comply		
0.0% Reduction		\$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="text"/>	(mark with x)
Notes:	The Respondent does not meet the good faith criteria for this violation.	
Violation Subtotal:	\$1,000	
Economic Benefit (EB) for this violation		
Statutory Limit Test		
Estimated EB Amount:	\$2	Violation Final Penalty Total: \$1,100
		This violation Final Assessed Penalty (adjusted for limits): \$1,100

Economic Benefit Worksheet

Respondent: MANITEX, INC.
Case ID No.: 37707
Reg. Ent. Reference No.: RN101641884
Media: Industrial and Hazardous Waste
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$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				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$50	21-Apr-2009	21-Jan-2010	0.75	\$2	n/a	\$2

Notes for DELAYED costs

Estimated cost to submit an updated NOR. Date Required is the investigation date. Final Date is the estimated date of compliance.

Avoided Costs

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

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

\$50

TOTAL

\$2

Screening Date: 28-May-2009	Docket No.: 2009-0807-MLM-E	PCW
Respondent: MANITEX, INC.	<i>Policy Revision 2 (September 2002)</i>	
Case ID No.: 37707	<i>PCW Revision October 30, 2008</i>	
Reg. Ent. Reference No.: RN101641884		
Media [Statute]: Industrial and Hazardous Waste		
Enf. Coordinator: Rajesh Acharya		
Violation Number: 2		
Rule Cite(s):	30 Tex. Admin. Code § 335.62 and 40 Code of Federal Regulations § 262.11	
Violation Description:	Failed to conduct proper hazardous waste determinations on solid wastes stored at the Facility. Specifically, there had not been a waste determination conducted for waste contained in open 55-gallon drums located at the southwest of the production building or for grit trap waste generated at the wash bay.	
Base Penalty:	\$10,000	

>> Environmental, Property and Human Health Matrix

OR	Harm				
		Major	Moderate		Minor
	Release				
	Actual			Percent	
	Potential	x		25%	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
					Percent
					0%

Matrix Notes: Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment: \$7,500

\$2,500

Violation Events

Number of Violation Events: 2 37 Number of violation days

	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty: \$5,000

Two single events (one each for the grit trap waste and the open 55-gallon drums) are recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

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

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

Violation Subtotal: \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount: \$38

Violation Final Penalty Total: \$5,000

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

Economic Benefit Worksheet

Respondent: MANITEX, INC.

Case ID No: 37707

Reg. Ent. Reference No: RN101841884

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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Delayed Costs

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				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,000	21-Apr-2009	21-Jan-2010	0.75	\$38	n/a	\$38

Notes for DELAYED costs

Estimated cost to conduct hazardous waste determination and classification of waste streams. Date Required is the investigation date. Final Date is the estimated date of compliance.

Avoided Costs

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

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

\$1,000

TOTAL

\$38

Screening Date 28-May-2009	Docket No. 2009-0807-MLM-E	PCW			
Respondent MANITEX, INC.	<small>Policy Revision 2 (September 2002)</small>				
Case ID No. 37707	<small>PCW Revision October 30, 2008</small>				
Reg. Ent. Reference No. RN101641884					
Media [Statute] Industrial and Hazardous Waste					
Enf. Coordinator Rajesh Acharya					
Violation Number 8					
Rule Cite(s) 30 Tex. Admin. Code § 335.262(1) and (c)(2)(F) and 40 Code of Federal Regulations § 273.15(c)					
Violation Description	Failed to demonstrate the length of time universal waste had been accumulated. Also, failed to contain paint and paint related waste in a container that was labeled or marked clearly with the words "Universal Waste-Paint and Paint-Related Wastes".				
Base Penalty		\$10,000			
>> Environmental, Property and Human Health Matrix					
OR	Harm				
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
				Percent <input type="text" value="0%"/>	
>> Programmatic Matrix					
		Falsification	Major	Moderate	Minor
		<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>
				Percent <input type="text" value="10%"/>	
Matrix Notes	100% of the rule requirement was not met.				
Adjustment				\$9,000	
				\$1,000	
Violation Events					
Number of Violation Events <input type="text" value="1"/>		Number of violation days <input type="text" value="37"/>			
<small>mark only one with an x</small>	daily	<input type="text"/>			
	weekly	<input type="text"/>			
	monthly	<input type="text"/>			
	quarterly	<input type="text"/>			
	semiannual	<input type="text"/>			
	annual	<input type="text"/>			
	single event	<input checked="" type="text" value="x"/>			
				Violation Base Penalty <input type="text" value="\$1,000"/>	
One single event is recommended.					
Good Faith Efforts to Comply					
		0.0% Reduction	<input type="text" value="\$0"/>		
		<small>Before NOV</small>	<small>NOV to EDPRP/Settlement Offer</small>		
Extraordinary	<input type="text"/>				
Ordinary	<input type="text"/>				
N/A	<input checked="" type="text" value="x"/>	<small>(mark with x)</small>			
Notes	The Respondent does not meet the good faith criteria for this violation.				
Violation Subtotal				\$1,000	
Economic Benefit (EB) for this violation					
Estimated EB Amount <input type="text" value="\$4"/>		Statutory Limit Test			
				Violation Final Penalty Total <input type="text" value="\$1,000"/>	
This violation Final Assessed Penalty (adjusted for limits)				\$1,000	

Economic Benefit Worksheet

Respondent MANITEX, INC.
Case ID No. 37707
Reg. Ent. Reference No. RN101641884
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
<small>No commas or \$</small>							

Delayed Costs

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				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	21-Apr-2009	21-Jan-2010	0.75	\$4	n/a	\$4

Notes for DELAYED costs

Estimated cost to-label and mark the accumulation date on universal waste containers. Date Required is the investigation date. Final Date is the estimated date of compliance.

Avoided Costs

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

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

\$100

TOTAL:

\$4

Screening Date	28-May-2009	Docket No.	2009-0807-MLM-E	PCW
Respondent	MANITEX, INC.		Policy Revision 2 (September 2002)	
Case ID No.	37707		PCW Revision October 30, 2008	
Reg. Ent. Reference No.	RN101641884			
Media [Statute]	Industrial and Hazardous Waste			
Enf. Coordinator	Rajesh Acharya			
Violation Number	4			
Rule Cite(s)	30 Tex. Admin. Code §.335.262(c)(2)(A)			
Violation Description	Failed to contain paint or paint-related waste in closed containers. Specifically, the paint containers located at the east wall of the main production building were punctured and open.			
Base Penalty	\$10,000			

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent	
	Release	Major	Moderate		Minor
	Actual				
	Potential			X	5%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					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: \$9,500

\$500

Violation Events

Number of Violation Events: 1 37 Number of violation days

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

Violation Base Penalty: \$500

One single event is recommended.

Good Faith Efforts to Comply 0.0% Reduction \$0

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

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

Violation Subtotal: \$500

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount: \$19

Violation Final Penalty Total: \$550

This violation Final Assessed Penalty (adjusted for limits): \$550

Economic Benefit Worksheet

Respondent MANITEX, INC.
Case ID No. 37707
Reg. Ent. Reference No. RN101641884
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				0.00	\$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				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	21-Apr-2009	21-Jan-2010	0.75	\$19	n/a	\$19

Notes for DELAYED costs

Estimated cost to contain the paint-related waste in closed containers. Date Required is the investigation date. Final Date is the estimated date of compliance.

Avoided Costs

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

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

\$500

TOTAL

\$19

Screening Date 28-May-2009	Docket No. 2009-0807-MLM-E	PCW		
Respondent MANITEX, INC.	<i>Policy Revision 2 (September 2002)</i>			
Case ID No. 37707	<i>PCW Revision October 30, 2008</i>			
Reg. Ent. Reference No. RN101841884				
Media [Statute] Industrial and Hazardous Waste				
Enf. Coordinator Rajesh Acharya				
Violation Number <input type="text" value="5"/>				
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code §§ 385.4(3) and 213.8(3)"/>			
Violation Description	<input type="text" value="Failed to prevent the discharge of industrial waste that will endanger the public health and welfare. Specifically, used oil was being stored in open, leaking containers and discharging used oil on and around the soils at the Facility, which is located over the Edwards Aquifer Recharge Zone."/>			
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"/>	x
	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	<input type="text" value="Human health or the environment has been exposed to insignificant amounts of pollutants which do 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				
	<input type="text" value="1"/>	<input type="text" value="37"/>	Number of violation days	
<i>mark only one with an x</i>	daily	<input type="text"/>		
	weekly	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	x		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		
				Violation Base Penalty <input type="text" value="\$1,000"/>
<input type="text" value="One quarterly event is recommended from the investigation date of April 21, 2009 to the screening date of May 28, 2009."/>				
Good Faith Efforts to Comply				
	<input type="text" value="0.0%"/>	Reduction		<input type="text" value="\$0"/>
		Before NOV	NOV to EJPRP/Settlement Offer	
	Extraordinary	<input type="text"/>	<input type="text"/>	
	Ordinary	<input type="text"/>	<input type="text"/>	
	N/A	x	(mark with x)	
Notes	<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>			
				Violation Subtotal <input type="text" value="\$1,000"/>
Economic Benefit (EB) for this violation				
	Estimated EB Amount	<input type="text" value="\$377"/>		Violation Final Penalty Total <input type="text" value="\$1,100"/>
				This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$1,100"/>

Economic Benefit Worksheet

Respondent: MANITEX, INC.
Case ID No.: 37707
Reg. Ent. Reference No.: RN101641884
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
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No commas or \$

Delayed Costs

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	\$10,000	21-Apr-2009	21-Jan-2010	0.75	\$377	n/a	\$377
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to remove and properly dispose contaminated soil. Date Required is the investigation date. Final Date is the estimated date of compliance.

Avoided Costs

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

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

\$10,000

TOTAL

\$377

Compliance History Report

Customer/Respondent/Owner-Operator:	CN603219890 MANITEX, INC.	Classification: AVERAGE	Rating: 4.00
Regulated Entity:	RN101641884 MANITEX	Classification: AVERAGE	Site Rating: 4.00
ID Number(s):	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD078567021
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	81466
	STORMWATER	PERMIT	TXR05U708
Location:	3000 S AUSTIN AVE, GEORGETOWN, TX, 78626		
TCEQ Region:	REGION 11 - AUSTIN		
Date Compliance History Prepared:	May 29, 2009		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	May 29, 2004 to May 29, 2009		

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

Name: Rajesh Acharya Phone: (512) 239-0577

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? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator 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	08/24/2005	(406507)
2	05/22/2009	(743179)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	02/28/2005	(350336)			
Self Report?	NO		Classification:	Moderate	
Citation:	30 TAC Chapter 324, SubChapter A 324.4(1)				
Description:	Failure to properly store used oil.				
Self Report?	NO		Classification:	Minor	
Citation:	30 TAC Chapter 335, SubChapter H 335.262(a)				
Description:	Failure to properly label paint waste containers.				
Date:	07/07/2005	(396072)			
Self Report?	NO		Classification:	Minor	
Citation:	30 TAC Chapter 335, SubChapter H 335.262(a)				
Description:	Failure to properly label paint waste containers.				
Self Report?	NO		Classification:	Moderate	
Citation:	30 TAC Chapter 335, SubChapter H 335.262(c)(1)				

Description: Failure to demonstrate the length of time paint and paint related wastes have been accumulated.

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
MANITEX, INC.
RN101641884**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2009-0807-MLM-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 MANITEX, INC. ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE chs. 361 and 371 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 owns and operates a heavy duty equipment manufacturing Facility at 3000 South Austin Avenue in Georgetown, Williamson County, Texas (the "Facility").
2. The Facility involves or involved the management of industrial solid waste and hazardous waste and used oil as defined in TEX. HEALTH & SAFETY CODE chs. 361 and 371.
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 May 27, 2009.
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 Eleven Thousand Two Hundred Twenty-Two Dollars (\$11,222) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Eight Thousand Nine Hundred Seventy-Eight Dollars (\$8,978) of the administrative penalty and Two Thousand Two Hundred Forty-Four Dollars

(\$2,244) is deferred contingent upon the Respondent'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 the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

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 properly label or mark used oil containers with the words "Used Oil", in violation of 30 TEX. ADMIN. CODE § 324.6 and 40 CODE OF FEDERAL REGULATIONS § 279.22(c)(1), as documented during an investigation conducted on April 21, 2009. Specifically, two 5-gallon containers in the yard; four 55-gallon and one 20-gallon containers in the container storage area building, all containing used oil, were not labeled with the words "Used Oil".
2. Failed to immediately document any changes to the Notice of Registration ("NOR") or additional information with respect to that originally provided and provide notification within 90 days of the occurrence of such change or of becoming aware of such additional information, in violation of 30 TEX. ADMIN. CODE § 335.6(c), as documented during an investigation conducted on April 21, 2009. Specifically, the NOR was not updated to reflect the Facility's current primary contact name and phone number. Also, the Respondent generated grit trap waste, spent batteries, scrap metal, and waste oil, which are waste streams not listed on the NOR.
3. Failed to conduct proper hazardous waste determinations on solid wastes stored at the Facility, in violation of 30 TEX. ADMIN. CODE § 335.62 and 40 CODE OF FEDERAL REGULATIONS § 262.11, as documented during an investigation conducted on April 21, 2009. Specifically, there had not been a waste determination conducted for waste contained in open 55-gallon drums located southwest of the production building or for grit trap waste generated at the wash bay.

4. Failed to demonstrate the length of time universal waste had been accumulated, in violation of 30 TEX. ADMIN. CODE § 335.262(c)(1) and 40 CODE OF FEDERAL REGULATIONS § 273.15(c), as documented during an investigation conducted on April 21, 2009.
5. Failed to contain paint and paint related waste in a container that was labeled or marked clearly with the words "Universal Waste-Paint and Paint-Related Wastes", in violation of 30 TEX. ADMIN. CODE § 335.262(c)(2)(F), as documented during an investigation conducted on April 21, 2009.
6. Failed to contain paint or paint-related waste in closed containers, in violation of 30 TEX. ADMIN. CODE § 335.262(c)(2)(A), as documented during an investigation conducted on April 21, 2009. Specifically, the paint containers located at the east wall of the main production building were punctured and open.
7. Failed to prevent the discharge of industrial waste that will endanger the public health and welfare, in violation of 30 TEX. ADMIN. CODE §§ 335.4(3) and 213.8(a)(3) as documented during an investigation conducted on April 21, 2009. Specifically, used oil was being stored in open, leaking containers and discharging used oil on and around the soils at the Facility, which is located over the Edwards Aquifer Recharge Zone.

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: MANITEX, INC., Docket No. 2009-0807-MLM-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order:
 - i. Develop and implement procedures to prevent any unauthorized discharges of wastes, used oil, and any other materials, in accordance with 30 TEX. ADMIN. CODE § 335.4;

- ii. Begin keeping the waste containers closed, except when adding or removing wastes, in accordance with 30 TEX. ADMIN. CODE § 335.262 and 40 CODE OF FEDERAL REGULATIONS § 273.15;
 - iii. Begin properly labeling all the drums containing wastes with the words to identify contents, in accordance with 30 TEX. ADMIN. CODE § 335.262 and 40 CODE OF FEDERAL REGULATIONS § 273.15; and
 - iv. Begin labeling all used oil containers with the words "Used Oil", in accordance with 30 TEX. ADMIN. CODE § 324.6.
- b. Within 30 days after the effective date of this Agreed Order:
- i. Submit a report, which includes a summary of remediation activities that took place, confirming that all contaminated soils at the Facility have been properly remediated. Remediation activities will address all areas where stained soils and soils contaminated with gear oil and/or used oil on the Facility yard. The report shall include analytical results of soil confirmation sampling which characterizes the effectiveness of soil removal in all contaminated areas and documentation that contaminated soils have been disposed of in an authorized manner;
 - ii. Submit the updated NOR to include, but not limited to current operational status of the Facility operations and waste streams, in accordance with 30 TEX. ADMIN. CODE § 335.6(c).
 - iii. Conduct hazardous waste determinations and classifications of waste streams generated at the Facility, in accordance with 30 TEX. ADMIN. CODE § 335.62 and 40 CODE OF FEDERAL REGULATIONS § 262.11.
- c. Within 45 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.i. through 2.b.iii. 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 fines 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
Austin Regional Office
Texas Commission on Environmental Quality
2800 S IH 35, Suite 100
Austin, Texas 78704-5712

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 Facility 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 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 under this Agreed Order.

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.

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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

[Handwritten Signature]
For the Executive Director

10/23/2009
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.

[Handwritten Signature]
Signature

10/21/09
Date

Steve C. Burt
Name (Printed or typed)
Authorized Representative of
MANITEX, INC.

Director of Internal Affairs
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.

