

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2008-0596-MLM-E **TCEQ ID:** RN103204954 **CASE NO.:** 35702
RESPONDENT NAME: Four States Recycling, Inc.

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	

CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input checked="" type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input checked="" type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: Four States Recycling Inc, 4110 East Amarillo Boulevard, Amarillo, Potter County

TYPE OF OPERATION: Unauthorized municipal and industrial material recycling facility

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: A complaint was received February 11, 2008, alleging that the Respondent was operating an unauthorized recycling facility. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.

COMMENTS RECEIVED: The *Texas Register* comment period expired on January 12, 2009. No comments were received.

CONTACTS AND MAILING LIST:
TCEQ Attorney/SEP Coordinator: None
TCEQ Enforcement Coordinator: Ms. Danielle Porras, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-2602; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171
Respondent: Mr. Ed Pruitt, General Manager, Four States Recycling, Inc., P.O. Box 5908, Amarillo, Texas 79117
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: <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: February 11, 2008</p> <p>Date of Investigation Relating to this Case: February 11, 2008</p> <p>Date of NOV/NOE Relating to this Case: March 19, 2008 (NOE)</p> <p>Background Facts: This was a complaint investigation.</p> <p>WASTE</p> <p>1) Failure to notify the Executive Director of recycling operations for materials generated at municipal and industrial facilities, and failure to report to the Executive Director prior to the commencement of new recycling operations. Specifically, the Respondent is recycling material from various municipal and industrial facilities and has not notified the Executive Director [30 TEX. ADMIN. CODE §§ 335.6(a) and 328.5(b)].</p> <p>2) Failure to dispose of solid waste at an authorized facility. Specifically, multiple piles of municipal solid waste, including wooden pallets, railroad ties, metal, plastic and cafeteria waste including styrofoam were observed on-site, totaling approximately 250 cubic yards [30 TEX. ADMIN. CODE § 330.15(c)].</p> <p>3) Failure to maintain records necessary to show compliance with the requirements of 30 TEX. ADMIN. CODE § 328.4, relating to limitations on storage of recyclable materials [30 TEX. ADMIN. CODE § 328.5(f)].</p> <p>4) Failure to obtain financial assurance for closure of the Facility [30 TEX. ADMIN. CODE §§ 37.921, 328.5(d), and 328.5(f)(3)].</p> <p>5) Failure to maintain a fire prevention and suppression plan [30 TEX. ADMIN. CODE § 328.5(h)].</p>	<p>Total Assessed: \$6,115</p> <p>Total Deferred: \$1,223 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$200 (remaining \$4,692 due in 23 monthly payments of \$204 each)</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input 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. Cease accepting any recyclable materials at the Facility until properly authorized; and</p> <p>ii. Begin maintaining records.</p> <p>b. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Submit a Notice of Intent to operate a recycling facility;</p> <p>ii. Submit notice of recycling operations for materials generated at industrial facilities;</p> <p>iii. Submit documentation that demonstrates acceptable financial assurance for the closure of the Facility; and</p> <p>iv. Develop and implement a fire prevention and suppression plan that shall be made available to the local fire prevention authority having jurisdiction over the Facility for review and coordination.</p> <p>c. In lieu of b.i. through b.iv., within 30 days of the effective date of this Agreed Order, cease accepting waste and recyclable materials and remove all accumulated materials and dispose at an authorized facility.</p> <p>d. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a.i. through c.</p> <p style="text-align: right;">Additional ID No(s): N/A</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision February 29, 2008

DATES	Assigned	24-Mar-2008			
	PCW	26-Mar-2008	Screening	9-Apr-2008	EPA Due

RESPONDENT/FACILITY INFORMATION			
Respondent	Four States Recycling, Inc.		
Reg. Ent. Ref. No.	RN103204954		
Facility/Site Region	1-Amarillo	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	35702	No. of Violations	5
Docket No.	2008-0596-MLM-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Enf. Coordinator	Cynthia McKaughan
Multi-Media	Industrial and Hazardous Waste	EC's Team	Enforcement Team 7
Admin. Penalty \$	Limit Minimum	\$0	Maximum
			\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	<i>Subtotal 1</i>	\$6,000
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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	0% Enhancement	<i>Subtotals 2, 3, & 7</i>	\$0
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Notes: No enhancement is recommended.

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

Good Faith Effort to Comply	0% Reduction	<i>Subtotal 5</i>	\$0
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	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.

	0% Enhancement*	<i>Subtotal 6</i>	\$0
Total EB Amounts	\$534	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$7,578		

SUM OF SUBTOTALS 1-7	<i>Final Subtotal</i>	\$6,000
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OTHER FACTORS AS JUSTICE MAY REQUIRE	2%	<i>Adjustment</i>	\$115
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended adjustment to capture the avoided cost associated with violation #4.

<i>Final Penalty Amount</i>	\$6,115
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STATUTORY LIMIT ADJUSTMENT	<i>Final Assessed Penalty</i>	\$6,115
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DEFERRAL	20%	Reduction	<i>Adjustment</i>	-\$1,223
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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	\$4,892
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Screening Date 9-Apr-2008	Docket No. 2008-0596-MLM-E	PCW
Respondent Four States Recycling, Inc.		<i>Policy Revision 2 (September 2002)</i>
Case ID No. 35702		<i>PCW Revision February 29, 2008</i>
Reg. Ent. Reference No. RN103204954		
Media [Statute] Municipal Solid Waste		
Enf. Coordinator Cynthia McKaughan		

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 <i>(number of NOVs meeting criteria)</i>	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	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 <i>(number of judgements or consent decrees meeting criteria)</i>	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 <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	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 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No enhancement is recommended.

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

Screening Date 9-Apr-2008	Docket No. 2008-0596-MLM-E	PCW
Respondent Four States Recycling, Inc.	<small>Policy Revision 2 (September 2002)</small>	
Case ID No. 35702	<small>PCW Revision February 29, 2008</small>	
Reg. Ent. Reference No. RN103204954		
Media [Statute] Municipal Solid Waste		
Enf. Coordinator Cynthia McKaughan		

Violation Number	1		
Rule Cite(s)	30 Tex. Admin. Code §§ 335.6(a) and 328.5(b)		
Violation Description	Failed to notify the Executive Director of recycling operations for materials generated at industrial facilities, and failed to report to the Executive Director prior to the commencement of new recycling operations, as documented during an investigation conducted on February 11, 2008. Specifically, the Respondent is recycling material from various municipal and industrial facilities, including cardboard, paper and plastics, and has not notified the Executive Director.		
Base Penalty			\$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm					
	Release	Major	Moderate	Minor		
	Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
	Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Percent	0%

>> Programmatic Matrix

	Falsification					
		Major	Moderate	Minor		
	<input type="checkbox"/>	X	<input type="checkbox"/>	<input type="checkbox"/>		
					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	58
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<small>mark only one with an x</small>	daily	<input type="checkbox"/>	
	monthly	<input type="checkbox"/>	
	quarterly	<input type="checkbox"/>	
	semiannual	<input type="checkbox"/>	
	annual	<input type="checkbox"/>	
	single event	X	

Violation Base Penalty \$1,000

One single event is recommended.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount \$11	Violation Final Penalty Total \$1,019
This violation Final Assessed Penalty (adjusted for limits) \$1,019	

Economic Benefit Worksheet

Respondent: Four States Recycling, Inc.

Case ID No.: 35702

Reg. Ent. Reference No.: RN103204954

Media: Municipal Solid Waste

Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$200	11-Feb-2008	26-Mar-2009	1.1	\$11	n/a	\$11

Notes for DELAYED costs

Estimated cost to notify the Executive Director as a recycler of municipal and industrial solid waste. Date Required is the investigation date and Final Date is the estimated date of compliance.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$200

TOTAL

\$11

Screening Date 9-Apr-2008 **Docket No.** 2008-0596-MLM-E **PCW**
Respondent Four States Recycling, Inc. *Policy Revision 2 (September 2002)*
Case ID No. 35702 *PCW Revision February 29, 2008*
Reg. Ent. Reference No. RN103204954
Media [Statute] Municipal Solid Waste
Enf. Coordinator Cynthia McKaughan

Violation Number

Rule Cite(s)

Violation Description Failed to dispose of solid waste at an authorized facility, as documented during an investigation conducted on February 11, 2008. Specifically, multiple piles of municipal solid waste ("MSW"), including wooden pallets, railroad ties, metal, plastic and cafeteria waste including styrofoam were observed on-site, totaling approximately 250 cubic yards.

Base Penalty

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text" value="10%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

Matrix Notes 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.

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input checked="" type="checkbox"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
single event	<input type="text"/>	

Violation Base Penalty

One quarterly event is recommended from the February 11, 2008 investigation date to the April 9, 2008 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Four States Recycling, Inc.
Case ID No. 35702
Reg. Ent. Reference No. RN103204954
Media Municipal Solid 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				0.0	\$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	\$1,769	11-Feb-2008	26-Mar-2009	1.1	\$99	n/a	\$99
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to dispose of 250 cubic yards of municipal solid waste. The Date Required is the date of the investigation and the Final Date is the estimated date of compliance.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,769

TOTAL

\$99

Screening Date	9-Apr-2008	Docket No.	2008-0596-MLM-E	PCW
Respondent	Four States Recycling, Inc.			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	35702			<i>PCW Revision February 29, 2008</i>
Reg. Ent. Reference No.	RN103204954			
Media [Statute]	Municipal Solid Waste			
Enf. Coordinator	Cynthia McKaughan			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> **Environmental, Property and Human Health Matrix**

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>		

>> **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

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<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

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Four States Recycling, Inc.
 Case ID No. 35702
 Reg. Ent. Reference No. RN103204954
 Media Municipal Solid Waste
 Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$500	11-Feb-2008	26-Mar-2009	1.1	\$28	n/a	\$28
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to develop and implement recordkeeping system. The Date Required is the date of the investigation and the Final Date is the estimated date of compliance.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$500	TOTAL	\$28
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Screening Date 9-Apr-2008	Docket No. 2008-0596-MLM-E	PCW
Respondent Four States Recycling, Inc.	<small>Policy Revision 2 (September 2002)</small>	
Case ID No. 35702	<small>PCW Revision February 29, 2008</small>	
Reg. Ent. Reference No. RN103204954		
Media [Statute] Municipal Solid Waste		
Enf. Coordinator Cynthia McKaughan		
Violation Number <input type="text" value="4"/>		
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code §§ 37.921, 328.5(d) and 328.5(f)(3)"/>	
Violation Description	<input type="text" value="Failed to obtain financial assurance for closure of the Facility, as documented during an investigation conducted on February 11, 2008."/>	
Base Penalty		<input type="text" value="\$10,000"/>

>> Environmental, Property and Human Health Matrix

OR	Harm				
		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"/>	x	<input type="text"/>	<input type="text"/>	
					Percent <input type="text" value="10%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

<small>mark only one with an x</small>	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	x
single event	<input type="text"/>	

Violation Base Penalty

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$115"/>	Violation Final Penalty Total <input type="text" value="\$1,019"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$1,019"/>	

Economic Benefit Worksheet

Respondent Four States Recycling, Inc.
Case ID No. 35702
Reg. Ent. Reference No. RN103204954
Media Municipal Solid Waste
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]	\$110	11-Feb-2007	11-Feb-2008	1.0	\$5	\$110	\$115
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to obtain and maintain financial assurance. The Date Required is the date the financial assurance was required, a year prior to the investigation, and the Final Date is the Investigation Date.

Approx. Cost of Compliance

\$110

TOTAL

\$115

Screening Date 9-Apr-2008 **Docket No.** 2008-0596-MLM-E **PCW**
Respondent Four States Recycling, Inc. *Policy Revision 2 (September 2002)*
Case ID No. 35702 *PCW Revision February 29, 2008*
Reg. Ent. Reference No. RN103204954
Media [Statute] Municipal Solid Waste
Enf. Coordinator Cynthia McKaughan

Violation Number
Rule Cite(s) 30 Tex. Admin. Code § 328.5(h)
Violation Description Failed to maintain a fire prevention and suppression plan, as documented during an investigation conducted on February 11, 2008.

Base Penalty

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="10%"/>
Potential	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="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 this violation.

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
monthly	<input checked="" type="text" value="x"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

Two monthly events are recommended from the February 11, 2008 investigation date to the April 9 2008 screening date.

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Four States Recycling, Inc.
Case ID No. 35702
Reg. Ent. Reference No. RN103204954
Media Municipal Solid Waste
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$5,000	11-Feb-2008	26-Mar-2009	1.1	\$280	n/a	\$280

Notes for DELAYED costs

Estimated cost to draft a site specific fire prevention plan and suppression plan. Date Required is the investigation date and Final Date is the estimated date of compliance.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$280

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
FOUR STATES RECYCLING, INC.
RN103204954

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-0596-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 Four States Recycling, Inc. ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates an unauthorized municipal and industrial material recycling facility at 4110 East Amarillo Boulevard in Amarillo, Potter County, Texas (the "Facility").
2. The Facility involves or involved the management of municipal solid waste ("MSW") and industrial solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about March 24, 2008.
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 Six Thousand One Hundred Fifteen Dollars (\$6,115) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Hundred Dollars (\$200) of the administrative penalty and One Thousand Two Hundred Twenty-Three Dollars (\$1,223) is deferred contingent

upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Four Thousand Six Hundred Ninety-Two Dollars (\$4,692) of the administrative penalty shall be payable in twenty-three monthly payments of Two Hundred Four Dollars (\$204) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to notify the Executive Director of recycling operations for materials generated at municipal and industrial facilities, and failed to report to the Executive Director prior to the commencement of new recycling operations, in violation of 30 TEX. ADMIN. CODE §§ 335.6(a) and 328.5(b), as documented during an investigation conducted on February 11, 2008. Specifically, the Respondent is recycling material from various municipal and industrial facilities and has not notified the Executive Director.
2. Failed to dispose of solid waste at an authorized facility, in violation of 30 TEX. ADMIN. CODE § 330.15(c), as documented during an investigation conducted on February 11, 2008. Specifically,

multiple piles of MSW, including wooden pallets, railroad ties, metal, plastic and cafeteria waste including styrofoam were observed on-site, totaling approximately 250 cubic yards.

3. Failed to maintain records necessary to show compliance with the requirements of 30 TEX. ADMIN. CODE § 328.4, relating to limitations on storage of recyclable materials, in violation of 30 TEX. ADMIN. CODE § 328.5(f), as documented during an investigation conducted on February 11, 2008.
4. Failed to obtain financial assurance for closure of the Facility, in violation of 30 TEX. ADMIN. CODE §§ 37.921, 328.5(d) and 328.5(f)(3) as documented during an investigation conducted on February 11, 2008.
5. Failed to maintain a fire prevention and suppression plan, in violation of 30 TEX. ADMIN. CODE § 328.5(h), as documented during an investigation conducted on February 11, 2008.

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: Four States Recycling, Inc., Docket No. 2008-0596-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. Cease accepting any recyclable materials at the Facility until properly authorized, in accordance with 30 TEX. ADMIN. CODE §§ 335.6(a) and 328.5(b);
 - ii. Begin maintaining records, in accordance with 30 TEX. ADMIN. CODE § 328.5(f);
 - b. Within 30 days after the effective date of this Agreed Order:

- i. Submit a Notice of Intent to operate a recycling facility, in accordance with 30 TEX. ADMIN. CODE § 328.5(b), to:

Municipal Solid Waste Permits Section, MC 124
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- ii. Submit notice of recycling operations for materials generated at industrial facilities, in accordance with 30 TEX. ADMIN. CODE § 335.6(a), to:

Industrial and Hazardous Waste Permits Section, MC-130
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- iii. Submit documentation that demonstrates acceptable financial assurance for the closure of the Facility, in accordance with 30 TEX. ADMIN. CODE §§ 37.921, 328.5(d) and 328.5(f)(3) to:

Financial Assurance Team, MC 184
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- iv. Develop and implement a fire prevention and suppression plan that shall be made available to the local fire prevention authority having jurisdiction over the Facility for review and coordination, in accordance with 30 TEX. ADMIN. CODE § 328.5(h);

c. In lieu of b.i. through b.iv., within 30 days of the effective date of this Agreed Order, cease accepting waste and recyclable materials and remove all accumulated materials and dispose at an authorized facility.

d. 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 2.a.i. through c. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

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
Amarillo Regional Office
Texas Commission on Environmental Quality
3918 Canyon Drive
Amarillo, Texas 79109-4933


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 agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

* Four States Recycling, Inc.
DOCKET NO. 2008-0596-MLM-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

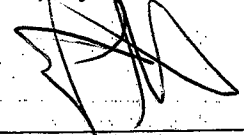
Date 11/23/2009

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.



Signature

ED PRUITT

Name (Printed or typed)
Authorized Representative of
Four States Recycling, Inc.

Date 9-17-08

Title G/m

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

