

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2008-1116-AIR-E **TCEQ ID:** RN100804657 **CASE NO.:** 36173

**RESPONDENT NAME:** Overwraps Packaging, L.P.

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> <b>1660 AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS ORDER FOLLOWING SOAH HEARING</b>
<input type="checkbox"/> <b>FINDINGS DEFAULT ORDER</b>	<input type="checkbox"/> <b>SHUTDOWN ORDER</b>	<input type="checkbox"/> <b>IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER</b>
<input type="checkbox"/> <b>AMENDED ORDER</b>	<input type="checkbox"/> <b>EMERGENCY ORDER</b>	
<b>CASE TYPE:</b>		
<input checked="" type="checkbox"/> <b>AIR</b>	<input type="checkbox"/> <b>MULTI-MEDIA (check all that apply)</b>	<input type="checkbox"/> <b>INDUSTRIAL AND HAZARDOUS WASTE</b>
<input type="checkbox"/> <b>PUBLIC WATER SUPPLY</b>	<input type="checkbox"/> <b>PETROLEUM STORAGE TANKS</b>	<input type="checkbox"/> <b>OCCUPATIONAL CERTIFICATION</b>
<input type="checkbox"/> <b>WATER QUALITY</b>	<input type="checkbox"/> <b>SEWAGE SLUDGE</b>	<input type="checkbox"/> <b>UNDERGROUND INJECTION CONTROL</b>
<input type="checkbox"/> <b>MUNICIPAL SOLID WASTE</b>	<input type="checkbox"/> <b>RADIOACTIVE WASTE</b>	<input type="checkbox"/> <b>DRY CLEANER REGISTRATION</b>
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Overwraps Packaging, 9008 Governors Row, Dallas, Dallas County</p> <p><b>TYPE OF OPERATION:</b> Flexographic printing and packaging plant</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on December 22, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768  <b>TCEQ Enforcement Coordinator:</b> Mr. Jorge Ibarra, P.E., Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5890; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171  <b>Respondent:</b> Mr. Dane Angus, Environmental Coordinator, Overwraps Packaging, L.P., 3950 La Reunion Parkway, Dallas, Texas 75212  Mr. Lanny Howell, President/COO, Overwraps Packaging, L.P., 3950 La Reunion Parkway, Dallas, Texas 75212  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> June 11, 2008</p> <p><b>Date of NOV/NOE Relating to this Case:</b> July 2, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>AIR</b></p> <p>Failure to submit the annual compliance certification for the period of November 22, 2006 through November 21, 2007 within 30 days after the end of the certification period. Specifically, the certification was due on December 21, 2007 and was submitted on June 11, 2008 [30 TEX. ADMIN. CODE § 122.146(2) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>	<p><b>Total Assessed:</b> \$2,375</p> <p><b>Total Deferred:</b> \$475  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$950</p> <p><b>Total Paid to General Revenue:</b> \$950</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent submitted the annual compliance certification for the period of November 22, 2006 through November 21, 2007 on June 11, 2008.</p> <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p>

Additional ID No(s): DB1740Q

Attachment A

Docket Number: 2008-1116-AIR-E

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

**Respondent:** Overwraps Packaging, L.P.  
**Penalty Amount:** One Thousand Nine Hundred Dollars (\$1,900)  
**SEP Offset Amount:** Nine Hundred Fifty Dollars (\$950)  
**Type of SEP:** Pre-approved  
**Third-Party Recipient:** Texas PTA – *Clean School Bus Program*  
**Location of SEP:** Dallas County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

A. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to *Texas PTA* for the *Clean School Bus Program* in Dallas County as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to reimburse local school districts for the cost of the following activities to reduce emissions: 1) replacing older diesel buses with alternative fuelled or clean diesel buses; or 2) retrofitting older diesel buses with new, cleaner technology. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

The Respondent certifies that it has no prior commitment to make this contribution and that it is being done solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing particulate emissions on buses by more than 90% below today’s level and reducing hydrocarbons below measurement capability.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Recipient and comply with all other provisions of this SEP.



**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Recipient. The Respondent shall mail a copy of the Agreed Order with the contribution to:

Texas Congress of Parents and Teachers dba Texas PTA  
Clean School Bus Program  
Suzy Swan, Director of Finance  
408 West 11<sup>th</sup> Street  
Austin, Texas 78707

**3. Records and Reporting**

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division  
Attention: SEP Coordinator, MC 219  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

**4. Failure to Fully Perform**

If the Respondent does not perform its obligations under this SEP in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Offset Amount.

In the event of incomplete performance, the Respondent shall include on the check the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. The Respondent shall make the payment for the amount due to "Texas Commission on Environmental Quality" and mail it to:

Litigation Division  
Attention: SEP Coordinator, MC 175  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

**5. Publicity**

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.



**6. Clean Texas Program**

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**7. Other SEPs by TCEQ or Other Agencies**

The SEP identified in this Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.







# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

<b>DATES</b>	Assigned	7-Jul-2008	Screening	9-Jul-2008	EPA Due	29-May-2009
	PCW	18-Jul-2008				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	Overwraps Packaging, L.P.		
Reg. Ent. Ref. No.	RN100804657		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Major

<b>CASE INFORMATION</b>			
Enf./Case ID No.	36173	No. of Violations	1
Docket No.	2008-1116-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Jorge Ibarra, P.E.
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$2,500</b>
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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.

<b>Compliance History</b>	20.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$500</b>
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Notes: The Respondent was issued one 1660 Agreed Order.

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>\$625</b>
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts \$12  
 Approx. Cost of Compliance \$500  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$2,375</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	<b>\$2,375</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$2,375</b>
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	<b>-\$475</b>
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	<b>\$1,900</b>
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**Screening Date** 9-Jul-2008

**Docket No.** 2008-1116-AIR-E

**PCW**

**Respondent** Overwraps Packaging, L.P.

Policy Revision 2 (September 2002)

**Case ID No.** 36173

PCW Revision June 12, 2008

**Reg. Ent. Reference No.** RN100804657

**Media [Statute]** Air

**Enf. Coordinator** Jorge Ibarra, P.E.

**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>	1	20%
	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%

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)** 20%

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

No

**Adjustment Percentage (Subtotal 3)** 0%

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

Average Performer

**Adjustment Percentage (Subtotal 7)** 0%

>> **Compliance History Summary**

**Compliance History Notes**

The Respondent was issued one 1660 Agreed Order.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 20%

<b>Screening Date</b> 9-Jul-2008	<b>Docket No.</b> 2008-1116-AIR-E	<b>PCW</b>				
<b>Respondent</b> Overwraps Packaging, L.P.		<small>Policy Revision 2 (September 2002)</small>				
<b>Case ID No.</b> 36173		<small>PCW Revision June 12, 2008</small>				
<b>Reg. Ent. Reference No.</b> RN100804657						
<b>Media [Statute]</b> Air						
<b>Enf. Coordinator</b> Jorge Ibarra, P.E.						
<b>Violation Number</b> 1						
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 122.146(2) and Tex. Health & Safety Code § 382.085(b)					
<b>Violation Description</b>	Failed to submit the annual compliance certification for the period of November 22, 2006 through November 21, 2007 within 30 days after the end of the certification period. Specifically, the certification was due on December 21, 2007 and was submitted on June 11, 2008.					
	<b>Base Penalty</b>	\$10,000				
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>						
OR	Harm					
	Release	Major    Moderate    Minor				
	Actual	<table border="1" style="display: inline-table; border-collapse: collapse;"><tr><td style="width: 50px; height: 15px;"></td><td style="width: 50px; height: 15px;"></td><td style="width: 50px; height: 15px;"></td></tr></table>				
	Potential	<table border="1" style="display: inline-table; border-collapse: collapse;"><tr><td style="width: 50px; height: 15px;"></td><td style="width: 50px; height: 15px;"></td><td style="width: 50px; height: 15px;"></td></tr></table>				
	<b>Percent</b>	0%				
<b>&gt;&gt; Programmatic Matrix</b>						
	Falsification	Major    Moderate    Minor				
		<table border="1" style="display: inline-table; border-collapse: collapse;"><tr><td style="width: 50px; height: 15px;"></td><td style="width: 50px; height: 15px; text-align: center;">x</td><td style="width: 50px; height: 15px;"></td><td style="width: 50px; height: 15px;"></td></tr></table>		x		
	x					
	<b>Percent</b>	25%				
<b>Matrix Notes</b>	100% of the rule requirement was not met.					
	<b>Adjustment</b>	\$7,500				
		\$2,500				
<b>Violation Events</b>						
	<b>Number of Violation Events</b>	1				
		1 <b>Number of violation days</b>				
<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	<input checked="" type="checkbox"/>				
	<b>Violation Base Penalty</b>	\$2,500				
	One single event is recommended.					
<b>Good Faith Efforts to Comply</b>						
	25.0% Reduction	\$625				
	<small>Before NOV    NOV to EDPRP/Settlement Offer</small>					
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>				
Ordinary	<input checked="" type="checkbox"/>	<input type="checkbox"/>				
N/A	<input type="checkbox"/>	<small>(mark with x)</small>				
<b>Notes</b>	The Respondent achieved compliance on June 11, 2008.					
	<b>Violation Subtotal</b>	\$1,875				
<b>Economic Benefit (EB) for this violation</b>						
	<b>Statutory Limit Test</b>					
<b>Estimated EB Amount</b>	\$12	<b>Violation Final Penalty Total</b> \$2,375				
	<b>This violation Final Assessed Penalty (adjusted for limits)</b> \$2,375					

## Economic Benefit Worksheet

**Respondent** Overwraps Packaging, L.P.  
**Case ID No.** 36173  
**Reg. Ent. Reference No.** RN100804657  
**Media** Air  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
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**

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	21-Dec-2007	11-Jun-2008	0.47	\$12	n/a	\$12

**Notes for DELAYED costs:** Estimated cost to submit the required annual compliance certification. Date Required is the date the report was due. Final Date is the compliance date.

**Avoided Costs**

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

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

**Notes for AVOIDED costs:**

Approx. Cost of Compliance \$500

**TOTAL** \$12



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  
OVERWRAPS PACKAGING, L.P.  
RN100804657**

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**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2008-1116-AIR-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 Overwraps Packaging, L.P. ("the Respondent") under the authority of TEX. HEALTH & SAFETY Code ch. 382 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 owned and operated a flexographic printing and packaging plant located at 9008 Governors Row in Dallas, Dallas County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
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 July 7, 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 Two Thousand Three Hundred Seventy-Five Dollars (\$2,375) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Nine Hundred Fifty Dollars (\$950) of the administrative penalty and Four Hundred Seventy-Five Dollars (\$475) 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. Nine Hundred Fifty Dollars (\$950) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

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 recognizes that the Respondent submitted the annual compliance certification for the period of November 22, 2006 through November 21, 2007 on June 11, 2008.
10. 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.
11. 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.
12. 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 Plant, the Respondent is alleged to have failed to submit the annual compliance certification for the period of November 22, 2006 through November 21, 2007 within 30 days after the end of the certification period, in violation of 30 TEX. ADMIN. CODE § 122.146(2) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on June 11, 2008. Specifically, the certification was due on December 21, 2007 and was submitted on June 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: Overwraps Packaging, L.P., Docket No. 2008-1116-AIR-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. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Nine Hundred Fifty Dollars (\$950) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

John S. Zoller  
For the Executive Director

12/29/2008  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

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

x Lanny Howell  
Signature

x 10-2-08  
Date

x LANNY HOWELL  
Name (Printed or typed)  
Authorized Representative of  
Overwraps Packaging, L.P.

x PRESIDENT/COO  
Title

**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.



**Attachment A**  
**Docket Number: 2008-1116-AIR-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

**Respondent:** Overwraps Packaging, L.P.  
**Penalty Amount:** One Thousand Nine Hundred Dollars (\$1,900)  
**SEP Offset Amount:** Nine Hundred Fifty Dollars (\$950)  
**Type of SEP:** Pre-approved  
**Third-Party Recipient:** Texas PTA – *Clean School Bus Program*  
**Location of SEP:** Dallas County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

A. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to *Texas PTA* for the *Clean School Bus Program* in Dallas County as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to reimburse local school districts for the cost of the following activities to reduce emissions: 1) replacing older diesel buses with alternative fuelled or clean diesel buses; or 2) retrofitting older diesel buses with new, cleaner technology. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

The Respondent certifies that it has no prior commitment to make this contribution and that it is being done solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing particulate emissions on buses by more than 90% below today’s level and reducing hydrocarbons below measurement capability.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

THE UNIVERSITY OF CHICAGO

DEPARTMENT OF CHEMISTRY

1. The first part of the experiment is to determine the molar mass of a polymer. This is done by measuring the osmotic pressure of a solution of the polymer in a solvent. The osmotic pressure is measured by a method known as the membrane osmometry. The polymer solution is separated from a pure solvent by a semi-permeable membrane. The osmotic pressure is the pressure that must be applied to the pure solvent to prevent it from flowing through the membrane into the polymer solution.

2. The second part of the experiment is to determine the degree of substitution of a polymer. This is done by measuring the change in the refractive index of a solution of the polymer in a solvent. The refractive index is a measure of the speed of light in a medium. The refractive index of a solution is a function of the concentration of the solute. The change in the refractive index of a solution of the polymer in a solvent is a measure of the degree of substitution of the polymer.

3. The third part of the experiment is to determine the molecular weight of a polymer. This is done by measuring the viscosity of a solution of the polymer in a solvent. The viscosity is a measure of the resistance to flow of a fluid. The viscosity of a solution is a function of the concentration of the solute. The molecular weight of a polymer can be determined from the viscosity of a solution of the polymer in a solvent.

4. The fourth part of the experiment is to determine the glass transition temperature of a polymer. This is done by measuring the change in the heat capacity of a polymer as a function of temperature. The glass transition temperature is the temperature at which a polymer changes from a hard, brittle solid to a soft, rubbery material. The change in the heat capacity of a polymer as a function of temperature is a measure of the glass transition temperature of the polymer.

5. The fifth part of the experiment is to determine the crystallinity of a polymer. This is done by measuring the X-ray diffraction pattern of a polymer. The X-ray diffraction pattern is a function of the crystallinity of the polymer. The crystallinity of a polymer is the fraction of the polymer that is in a crystalline state. The X-ray diffraction pattern of a polymer can be used to determine the crystallinity of the polymer.

6. The sixth part of the experiment is to determine the thermal stability of a polymer. This is done by measuring the weight loss of a polymer as a function of temperature. The thermal stability of a polymer is the ability of a polymer to resist degradation at high temperatures. The weight loss of a polymer as a function of temperature is a measure of the thermal stability of the polymer.

7. The seventh part of the experiment is to determine the mechanical properties of a polymer. This is done by measuring the stress-strain curve of a polymer. The stress-strain curve is a plot of the stress applied to a polymer versus the strain of the polymer. The stress-strain curve of a polymer can be used to determine the mechanical properties of the polymer.



**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Recipient. The Respondent shall mail a copy of the Agreed Order with the contribution to:

Texas Congress of Parents and Teachers dba Texas PTA  
Clean School Bus Program  
Suzy Swan, Director of Finance  
408 West 11<sup>th</sup> Street  
Austin, Texas 78707

**3. Records and Reporting**

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division  
Attention: SEP Coordinator, MC 219  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

**4. Failure to Fully Perform**

If the Respondent does not perform its obligations under this SEP in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Offset Amount.

In the event of incomplete performance, the Respondent shall include on the check the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. The Respondent shall make the payment for the amount due to "Texas Commission on Environmental Quality" and mail it to:

Litigation Division  
Attention: SEP Coordinator, MC 175  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

**5. Publicity**

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.



**6. Clean Texas Program**

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**7. Other SEPs by TCEQ or Other Agencies**

The SEP identified in this Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

