

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2005-0349-MLM-E TCEQ ID: RN102523461 CASE NO.: 24637
RESPONDENT NAME: WALKER WOOD PRESERVING, INC.

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input checked="" 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 checked="" 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 type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: 3947 State Highway 146 South, Livingston, Polk County</p> <p>TYPE OF OPERATION: Wood preserving facility</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.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on April 20, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Mr. Barham A. Richard Litigation Division, MC 175, (512) 239-0107 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019 TCEQ Enforcement Coordinator: Mr. Thomas Greimel, Waste Enforcement Section, MC 128, (512) 239-5690 TCEQ Regional Contact: Mr. Derek Eades, Beaumont Regional Office, MC R-10, (409) 898-3838 Respondent: Mr. Robert "Robin" E. Morse, III, Attorney, Crain, Caton, & James, P.C., Five Houston Center 17th Floor, 1401 McKinney Street, Suite 1700, Houston, Texas 77010-1079 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:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: September 16, 2004; February 15, 2005</p> <p>Date of NOE Relating to this Case: November 15, 2005</p> <p>Background Facts: The EDPRP was filed May 9, 2008; service was unsuccessful. The EDPRP was re-filed October 28, 2008; service was unsuccessful. The EDPRP was re-filed January 7, 2009, and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," the Respondent received notice of the EDPRP on January 29, 2009. The Respondent failed to answer the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p>MLM:</p> <p>1. Failed to amend or modify the Site permit [30 TEX. ADMIN. CODE §§ 305.62, 305.69, 305.125(8) 335.2, and 335.69, IHW Permit No. 50308, Provision II.A.1., and 40 C.F.R. § 262.34(a)].</p> <p>2. Failed to comply with the provisions of IHW Permit No. 50308 [30 TEX. ADMIN. CODE § 305.125(1) and IHW Permit No. 50308, Provision II.A.2].</p> <p>3. Caused, suffered, or allowed outdoor burning without authorization from the Commission [30 TEX. ADMIN. CODE § 111.201 and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>4. Failed to conduct hazardous waste determinations for two hazardous waste streams (EPA Hazardous Waste Codes K001, D004, D007, and F035) and determine if its waste streams were restricted from land disposal prior to shipping off-site [30 TEX. ADMIN. CODE §§ 335.62 and 335.431(c) and 40 C.F.R. §§ 262.11 and 268.7(a)(1)].</p>	<p>Total Assessed: \$101,000</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Due to General Revenue: \$101,000</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.</p> <p>Site Compliance History Classification <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provision(s):</p> <p>The Respondent shall undertake the following technical requirements:</p> <p>1. Immediately:</p> <p>a. Begin complying with the provisions of IHW Permit No. 50308;</p> <p>b. Cease causing or allowing outdoor burning at the Facility without first receiving authorization from the Commission;</p> <p>c. Begin keeping copies of hazardous waste manifests at the facility for shipment of all Hazardous and Class 1 industrial waste shipped offsite; and</p> <p>d. Begin keeping records of all hazardous and industrial solid waste activities regarding the quantities generated, stored, processed, and disposed of.</p> <p>2. Within 15 days, submit written certification to demonstrate compliance with Ordering Provisions 1.a. through 1.d..</p> <p>3. Within 30 days:</p> <p>a. Conduct hazardous waste determinations on the waste streams containing creosote and CCA solutions and determine if these wastes are restricted from land disposal; and</p> <p>b. Update the facility's Notice of Registration regarding the creosote and CCA waste streams, the eleven hazardous waste storage tanks and the 92-foot long treatment vessel storing hazardous waste.</p> <p>4. Within 45 days:</p> <p>a. Submit payment of all outstanding fees, including any associated penalties and interest to TCEQ.</p> <p>b. Submit certification of compliance with Ordering Provisions 3.a. and 3.b.</p>

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>5. Failed to notify the Commission of the existence of hazardous waste streams and hazardous waste management units [30 TEX. ADMIN. CODE § 335.6].</p> <p>6. Failed to retain hazardous waste manifests for a minimum of three years from the date of shipment [30 TEX. ADMIN. CODE § 335.13(i), IHW Permit No. 50308, Provision II.C.1.h., and 40 C.F.R. §§ 262.40(a)].</p> <p>7. Failed to keep records of all hazardous and industrial solid waste activities regarding the quantities generated, stored, processed, and disposed of [30 TEX. ADMIN. CODE § 335.9(a)(1) and IHW Permit No. 50308, Provision II.C.1.h].</p> <p>8. Failed to prevent unauthorized discharges of hazardous and industrial waste [30 TEX. ADMIN. CODE § 335.4 and TEX. WATER CODE § 26.121(a)(1)].</p> <p>9. Failed to pay Storm Water General Permit and Hazardous Waste Facility fees for Fiscal Year 2005 [30 TEX. ADMIN. CODE §§ 205.6, 335.324, and 335.331, TEX. WATER CODE § 5.702, and TEX. HEALTH & SAFETY CODE § 361.135(c)].</p>		<p>5. Within 90 days:</p> <p>a. Submit an Affected Property Assessment Report to the Executive Director for approval. If response actions are necessary, shall comply with all applicable requirements of the Texas Risk Reduction Program, which may include: plans, reports, and notices; Financial Assurance; and Institutional Controls; and,</p> <p>Either</p> <p>b. Submit a closure plan for all hazardous waste storage tanks and associated units at the Facility, including secondary containment structures;</p> <p>or</p> <p>c. Submit an administratively complete IHW permit modification request for storage of hazardous waste for more than 90 days to TCEQ.</p> <p>6. Within 120 days, submit written certification of compliance with either Ordering Provision 5.a. and 5.b. or c.</p> <p>7. Within 180 days, submit written certification that either authorization to store hazardous waste for greater than 90 days has been obtained or that operation has ceased until such time that authorization is obtained.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision December 10, 2004

DATES	Assigned PCW	22-Nov-2005	Screening	10-Feb-2005	Priority Due	21-Jan-2006	EPA Due	13-Feb-2005
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RESPONDENT/FACILITY INFORMATION	
Respondent	Walker Wood Preserving, Inc.
Reg. Ent. Ref. No.	RN102523461
Additional ID No(s)	Industrial and Hazardous Waste Permit No. 50308
Facility/Site Region	10-Beaumont <
Major/Minor Source	Major Source <

CASE INFORMATION			
Enf./Case ID No.	24637	No. of Violations	9
Docket No.	2005-0349-MLM-E	Order Type	Findings <
Case Priority	2 (SNC/HPV) <	Enf. Coordinator	Thomas Greimel
Media Program(s)	Industrial and Hazardous Waste <	EC's Team	Enforcement Team 8 <
Multi-Media	IHW and Air		
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 **\$101,000**

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 Subtotals 2, 3, & 7 **\$0**

Notes: No penalty adjustment due to "Average Performer" classification.

Culpability No < 0% Enhancement Subtotal 4 **\$0**

Notes: The respondent does not meet the culpability criteria.

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

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

Notes: The respondent is not yet in compliance.

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

Total EB Amounts	\$5,032	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$18,450	

SUM OF SUBTOTALS 1-7 Final Subtotal **\$101,000**

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

Final Penalty Amount **\$101,000**

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty **\$101,000**

DEFERRAL Adjustment **\$0**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: No deferral due to findings order.

PAYABLE PENALTY **\$101,000**

Screening Date 10-Feb-2005 **Docket No.** 2005-0349-MLM-E **PCW**
Respondent Walker Wood Preserving, Inc. *Policy Revision 2 (September 2002)*
Case ID No. 24637 *PCW Revision December 10, 2004*
Reg. Ent. Reference No. RN102523461
Additional ID No(s). Industrial and Hazardous Waste Permit No. 50308
Media [Statute] Industrial and Hazardous Waste
Enf. Coordinator Thomas Greimel
Site Address

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)</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)

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

Adjustment Percentage (Subtotal 3)

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

Adjustment Percentage (Subtotal 7)

>> **Compliance History Summary**

Compliance History Notes

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

Screening Date 10-Feb-2005 **Docket No.** 2005-0349-MLM-E **PCW**
Respondent Walker Wood Preserving, Inc. *Policy Revision 2 (September 2002)*
Case ID No. 24637 *PCW Revision December 10, 2004*
Reg. Ent. Reference No. RN102523461

Additional ID No(s) Industrial and Hazardous Waste Permit No. 50308

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Thomas Greimel

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Base Penalty

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

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

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	
<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="25%"/>

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one use a small x	daily	<input type="text"/>
	monthly	<input checked="" type="checkbox"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

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 Walker Wood Preserving, Inc.
 Case ID No. 24637
 Reg. Ent. Reference No. RN102523461
 Additional ID No(s). Industrial and Hazardous Waste Permit No. 50308
 Media [Statute] 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
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	\$2,000	16-Sep-2004	28-Aug-2005	0.9	\$95	n/a	\$95
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost to submit a permit and obtain authorization to manage and store hazardous waste at the facility for greater than 90 days from the investigation date to the anticipated 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

TOTAL

Screening Date	10-Feb-2005	Docket No.	2005-0349-MLM-E	PCW
Respondent	Walker Wood Preserving, Inc.			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	24637			<i>PCW Revision December 10, 2004</i>
Reg. Ent. Reference No.	RN102523461			
Additional ID No(s)	Industrial and Hazardous Waste Permit No. 50308			
Media [Statute]	Industrial and Hazardous Waste			
Enf. Coordinator	Thomas Greimel			
Violation Number	<input type="text" value="2"/>			
Primary Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 305.125(1); IHW Permit No. 50308, Provision II.A.2"/>			
Secondary Rule Cite(s)	<input type="text"/>			
Violation Description	<input type="text" value="Failure to comply with the provisions of IHW Permit No. 50308, as documented during the investigation conducted on September 16, 2004. Specifically, the respondent notified the Commission that Walker Wood Preserving, Inc. is no longer performing the activities required by the Site's Post-Closure Care Permit and Compliance Plan."/>			

Base Penalty

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

		Harm			
	Release	Major	Moderate	Minor	
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="50%"/>
	Potential	X	<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"/>	

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

<i>mark only one use a small x</i>	daily	<input type="text"/>
	monthly	X
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

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 Walker Wood Preserving, Inc.
 Case ID No. 24637
 Reg. Ent. Reference No. RN102523461
 Additional ID No(s). Industrial and Hazardous Waste Permit No. 50308
 Media [Statute] 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
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	\$5,400	16-Sep-2004	28-Aug-2005	0.9	\$256	n/a	\$256
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost to comply with the facility's post-closure care permit from the investigation date to the anticipated date of compliance.

Item Description	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 **\$5,400**

TOTAL \$256

Screening Date	10-Feb-2005	Docket No.	2005-0349-MLM-E	PCW
Respondent	Walker Wood Preserving, Inc.			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	24637			<i>PCW Revision December 10, 2004</i>
Reg. Ent. Reference No.	RN102523461			
Additional ID No(s)	Industrial and Hazardous Waste Permit No. 50308			
Media [Statute]	Industrial and Hazardous Waste			
Enf. Coordinator	Thomas Greimel			
Violation Number	<input type="text" value="3"/>			
Primary Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 111.201"/>			
Secondary Rule Cite(s)	<input type="text" value="Tex. Health & Safety Code § 382.085(b)"/>			
Violation Description	<input type="text" value="The respondent caused, suffered or allowed outdoor burning in the State of Texas without authorization from the Commission, as documented during the investigation conducted on September 16, 2004. Specifically, charred remains were observed in a pile of burned waste at the Facility."/>			

Base Penalty

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

		Harm			
	Release	Major	Moderate	Minor	
OR	Actual	<input type="text"/>	<input type="text"/>	X	Percent <input type="text" value="25%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

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

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

Base Penalty Subtotal

Violation Events

Number of Violation Events

<i>mark only one use a small x</i>	<i>daily</i>	<input type="text"/>
	<i>monthly</i>	<input type="text"/>
	<i>quarterly</i>	<input type="text"/>
	<i>semiannual</i>	<input type="text"/>
	<i>annual</i>	<input type="text"/>
	<i>single event</i>	X

Violation Base Penalty

One single penalty event is recommended for the investigation conducted on September 16, 2004 which documented the violation.

Economic Benefit (EB) for this violation

Estimated EB Amount

Statutory Limit Test:

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Walker Wood Preserving, Inc.

Case ID No. 24637

Reg. Ent. Reference No. RN102523461

Additional ID No(s). Industrial and Hazardous Waste Permit No. 50308

Media [Statute] 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
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

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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]	\$200	16-Sep-2004	16-Sep-2004	0.0	\$0	\$200	\$200
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to properly dispose of the burned waste as documented during the investigation.	
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Approx. Cost of Compliance \$200

TOTAL \$200

Screening Date 10-Feb-2005 **Docket No.** 2005-0349-MLM-E **PCW**

Respondent Walker Wood Preserving, Inc. *Policy Revision 2 (September 2002)*

Case ID No. 24637 *PCW Revision December 10, 2004*

Reg. Ent. Reference No. RN102523461

Additional ID No(s). Industrial and Hazardous Waste Permit No. 50308

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Thomas Greimel

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Base Penalty

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

		Harm			
Release		Major	Moderate	Minor	
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="50%"/>
	Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

>> **Programmatic Matrix**

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

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

<i>mark only one use a small x</i>	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="checkbox"/>

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 Walker Wood Preserving, Inc.

Case ID No. 24637

Reg. Ent. Reference No. RN102523461

Additional ID No(s). Industrial and Hazardous Waste Permit No. 50308

Media [Statute] 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
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)	\$1,000	12-Dec-2004	05-Nov-2005	0.9	\$45	n/a	\$45

Notes for DELAYED costs

Estimated cost to conduct hazardous waste determinations on two hazardous waste streams and determine if these wastes are restricted from land disposal from the investigation date to the anticipated 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 \$1,000

TOTAL \$45

Screening Date 10-Feb-2005

Docket No. 2005-0349-MLM-E

PCW

Respondent Walker Wood Preserving, Inc.

Policy Revision 2 (September 2002)

Case ID No. 24637

PCW Revision December 10, 2004

Reg. Ent. Reference No. RN102523461

Additional ID No(s). Industrial and Hazardous Waste Permit No. 50308

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Thomas Greimel

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Base Penalty

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

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

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	
<input type="text"/>	<input type="text"/>	X	<input type="text"/>	Percent <input type="text" value="10%"/>

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

<i>mark only one use a small x</i>	<i>daily</i>	<input type="text"/>
	<i>monthly</i>	<input type="text"/>
	<i>quarterly</i>	<input type="text"/>
	<i>semiannual</i>	<input type="text"/>
	<i>annual</i>	<input type="text"/>
	<i>single event</i>	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 Walker Wood Preserving, Inc.

Case ID No. 24637

Reg. Ent. Reference No. RN102523461

Additional ID No(s). Industrial and Hazardous Waste Permit No. 50308

Media [Statute] 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
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)	\$50	16-Sep-2004	28-Aug-2005	0.9	\$2	n/a	\$2

Notes for DELAYED costs: Estimated cost to provide notification to the Commission for the hazardous waste streams and hazardous waste management units from the investigation date to the anticipated date of compliance.

Item Description	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 **\$50** TOTAL **\$2**

Screening Date	10-Feb-2005	Docket No.	2005-0349-MLM-E	PCW
Respondent	Walker Wood Preserving, Inc.			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	24637			<i>PCW Revision December 10, 2004</i>
Reg. Ent. Reference No.	RN102523461			
Additional ID No(s)	Industrial and Hazardous Waste Permit No. 50308			
Media [Statute]	Industrial and Hazardous Waste			
Enf. Coordinator	Thomas Greimel			
Violation Number	6			
Primary Rule Cite(s)	30 Tex. Admin. Code § 335.13(i); IHW Permit No. 50308, Provision II.C.1.h			
Secondary Rule Cite(s)	40 CFR § 262.40(a)			
Violation Description	Failure to retain copies of manifests for shipment of hazardous waste for a minimum of three years from the date of shipment, as documented during the investigation conducted on September 16, 2004. Specifically, no manifests were provided for hazardous waste generated during the years 2001, 2002, and 2003 and shipped off-site, including hazardous waste removed from a 42-foot long wood treatment vessel.			

Base Penalty \$10,000

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

	Harm											
	Major	Moderate	Minor									
OR	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="text-align:center">Actual</td> <td style="width:40px; height:15px;"></td> <td style="width:40px; height:15px;"></td> <td style="width:40px; height:15px;"></td> </tr> <tr> <td style="text-align:center">Potential</td> <td style="width:40px; height:15px;"></td> <td style="width:40px; height:15px;"></td> <td style="width:40px; height:15px;"></td> </tr> </table>			Actual				Potential				Percent
Actual												
Potential												

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor					
	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:20px; height:15px;"></td> <td style="width:40px; height:15px; text-align:center">X</td> <td style="width:40px; height:15px;"></td> <td style="width:40px; height:15px;"></td> </tr> </table>					X			Percent 25%
	X								

Matrix Notes Human health or the environment could be exposed to significant amounts of pollutants which would exceed levels that are protective of human health or environmental receptors.

Adjustment -\$7,500

Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events 1

<i>mark only one use a small x</i>	<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td style="text-align:center"><i>daily</i></td><td style="width:40px; height:15px;"></td></tr> <tr><td style="text-align:center"><i>monthly</i></td><td style="width:40px; height:15px;"></td></tr> <tr><td style="text-align:center"><i>quarterly</i></td><td style="width:40px; height:15px;"></td></tr> <tr><td style="text-align:center"><i>semiannual</i></td><td style="width:40px; height:15px;"></td></tr> <tr><td style="text-align:center"><i>annual</i></td><td style="width:40px; height:15px;"></td></tr> <tr><td style="text-align:center"><i>single event</i></td><td style="width:40px; height:15px; text-align:center">X</td></tr> </table>	<i>daily</i>		<i>monthly</i>		<i>quarterly</i>		<i>semiannual</i>		<i>annual</i>		<i>single event</i>	X
<i>daily</i>													
<i>monthly</i>													
<i>quarterly</i>													
<i>semiannual</i>													
<i>annual</i>													
<i>single event</i>	X												

Violation Base Penalty \$2,500

One single event is recommended for the September 16, 2004 investigation which documented the violation.

Economic Benefit (EB) for this violation

Estimated EB Amount \$4,140

Statutory Limit Test

Violation Final Penalty Total \$2,500

This violation Final Assessed Penalty (adjusted for limits) \$2,500

Economic Benefit Worksheet

Respondent Walker Wood Preserving, Inc.
 Case ID No. 24637
 Reg. Ent. Reference No. RN102523461
 Additional ID No(s). Industrial and Hazardous Waste Permit No. 50308
 Media [Statute] Industrial and Hazardous Waste
 Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				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]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)	\$3,600	16-Sep-2001	16-Sep-2004	3.0	\$540	\$3,600	\$4,140

Notes for AVOIDED costs

Estimated cost to implement a manifest system and retain manifests for shipments of hazardous waste during the three years preceeding the investigation.

Approx. Cost of Compliance \$3,600

TOTAL \$4,140

Screening Date 10-Feb-2005

Docket No. 2005-0349-MLM-E

PCW

Respondent Walker Wood Preserving, Inc.

Policy Revision 2 (September 2002)

Case ID No. 24637

PCW Revision December 10, 2004

Reg. Ent. Reference No. RN102523461

Additional ID No(s). Industrial and Hazardous Waste Permit No. 50308

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Thomas Greimel

Violation Number

7

30 Tex. Admin. Code § 335.9(a)(1); IHW Permit No. 50308, Provision II.C.1.h

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Failure to keep records of all hazardous and industrial solid waste activities regarding the quantities generated, stored, processed, and disposed, as documented during the investigation conducted on September 16, 2004.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

		Harm			
Release		Major	Moderate	Minor	
OR	Actual				Percent
	Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	X			25%

Matrix Notes

100% of the rule requirement has not been met.

Adjustment -\$7,500

Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events 1

mark only one use a small x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

Violation Base Penalty \$2,500

One single event is recommended for the September 16, 2004 investigation which documented the violation.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$57

Violation Final Penalty Total \$2,500

This violation Final Assessed Penalty (adjusted for limits) \$2,500

Economic Benefit Worksheet

Respondent Walker Wood Preserving, Inc.
Case ID No. 24637
Reg. Ent. Reference No. RN102523461
Additional ID No(s). Industrial and Hazardous Waste Permit No. 50308
Media [Statute] Industrial and Hazardous Waste
Violation No. 7

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)	\$1,200	16-Sep-2004	28-Aug-2005	0.9	\$57	n/a	\$57

Notes for DELAYED costs: Estimated cost to develop and maintain a recordkeeping system for hazardous and industrial solid waste activities from the investigation date to the anticipated 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 \$1,200
TOTAL \$57

Screening Date 10-Feb-2005	Docket No. 2005-0349-MLM-E	PCW
Respondent Walker Wood Preserving, Inc.		<i>Policy Revision 2 (September 2002)</i>
Case ID No. 24637		<i>PCW Revision December 10, 2004</i>
Reg. Ent. Reference No. RN102523461		
Additional ID No(s). Industrial and Hazardous Waste Permit No. 50308		
Media [Statute] Industrial and Hazardous Waste		
Enf. Coordinator Thomas Greimel		
Violation Number	8	
Primary Rule Cite(s)	30 Tex. Admin. Code § 335.4	
Secondary Rule Cite(s)	Tex. Water Code § 26.121(a)(1)	
Violation Description	Failure to prevent unauthorized discharges of hazardous and industrial waste, as documented during the investigation conducted on September 16, 2004. Specifically, several areas of waste discharged to soil were observed including one measuring approximately 7 feet by 20 feet adjacent to the secondary containment structure for the large hazardous waste tanks.	
	Base Penalty	\$10,000

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

	Harm			
	Major	Moderate	Minor	
OR	Actual	X		Percent <input style="width: 50px;" type="text" value="50%"/>
	Potential			

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
					Percent <input style="width: 50px;" type="text"/>

Matrix Notes Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

		<i>daily</i>	
		<i>monthly</i>	
<i>mark only one</i>		<i>quarterly</i>	X
<i>use a small x</i>		<i>semiannual</i>	
		<i>annual</i>	
		<i>single event</i>	

Violation Base Penalty

Three quarterly events are recommended from the September 16, 2004 investigation date to the May 22, 2005 expedited order settlement deadline.

Economic Benefit (EB) for this violation

Estimated EB Amount

Statutory Limit Test

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Walker Wood Preserving, Inc.
 Case ID No. 24637
 Reg. Ent. Reference No. RN102523461
 Additional ID No(s). Industrial and Hazardous Waste Permit No. 50308
 Media [Statute] Industrial and Hazardous Waste
 Violation No. 8

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal	\$5,000	16-Sep-2004	28-Aug-2005	0.9	\$237	n/a	\$237
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimate cost to cleanup and dispose of contaminated media from the investigation date to the anticipated date of compliance.

Item	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 **\$237**

Screening Date 10-Feb-2005	Docket No. 2005-0349-MLM-E	PCW
Respondent Walker Wood Preserving, Inc.		<i>Policy Revision 2 (September 2002)</i>
Case ID No. 24637		<i>PCW Revision December 10, 2004</i>
Reg. Ent. Reference No. RN102523461		
Additional ID No(s). Industrial and Hazardous Waste Permit No. 50308		
Media [Statute] Industrial and Hazardous Waste		
Enf. Coordinator Thomas Greimel		
Violation Number <input type="text" value="9"/>		
Primary Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code §§ 205.6, 335.324, & 335.331"/>	
Secondary Rule Cite(s)	<input type="text" value="Tex. Water Code § 5.702 & Tex. Health & Safety Code 361.135(c)"/>	
Violation Description	<input type="text" value="Failure to pay the Stormwater General Permit and Hazardous Waste Facility fees for fiscal year 2005."/>	

Base Penalty

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

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

>> **Programmatic Matrix**

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

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

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

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 Walker Wood Preserving, Inc.
Case ID No. 24637
Reg. Ent. Reference No. RN102523461
Additional ID No(s). Industrial and Hazardous Waste Permit No. 50308
Media [Statute] Industrial and Hazardous Waste
Violation No. 9

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				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 No economic benefit associated with this violation.

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 \$0
TOTAL \$0

Compliance History

Customer/Respondent/Owner-Operator:	CN601292337 Walker Wood Preserving, Inc.	Classification: AVERAGE	Rating: 1.500
Regulated Entity:	RN102523461 WALKER WOOD PRESERVING	Classification: HIGH	Site Rating: 0.00
ID Number(s):	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	34399
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD026042168
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	PERMIT	50308
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	PF0020N
	AIR NEW SOURCE PERMITS	PERMIT	38630
Location:	3947 STATE HIGHWAY 146 S, LIVINGSTON, TX, 77351		Rating Date: 9/1/04 Repeat Violator: NO
TCEQ Region:	REGION 10 - BEAUMONT		
Date Compliance History Prepared:	February 15, 2005		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	February 15, 2000 to February 15, 2005		

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

Name: Thomas Greimel Phone: (512) 239-5690

Site Compliance History Components

- | | |
|----------------------------------------------------------------------------------------------|------------|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>N/A</u> |
| 5. When did the change(s) in ownership occur? | <u>N/A</u> |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
 - B. Any criminal convictions of the state of Texas and the federal government.
N/A
 - C. Chronic excessive emissions events.
N/A
 - D. The approval dates of investigations. (CCEDS Inv. Track. No.)
 - 1 08/02/2000 (112635)
 - 2 11/15/2004 (335191)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
 - F. Environmental audits.
N/A
 - Description:
 - 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
WALKER WOOD PRESERVING,
INC.;
RN102523461

§
§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

DEFAULT ORDER
DOCKET NO. 2005-0349-MLM-E

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 5, 7 and 26, TEX. HEALTH & SAFETY CODE chs. 361 and 382, 40 C.F.R. chs. 262 and 268, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Walker Wood Preserving, Inc. ("Walker Wood").

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Walker Wood owns and operates a wood preserving facility located at 3947 State Highway 146 South, Livingston, Polk County, Texas (the "Facility").
2. The Facility involves the management of industrial hazardous waste as defined in TEX. HEALTH & SAFETY CODE ch. 361. Further, at the time of the violations, the Facility consisted of one or more sources as defined in TEX. HEALTH AND SAFETY CODE § 382.003(12).
3. During an investigation conducted on September 16, 2004, TCEQ Beaumont Regional Office investigators documented that Walker Wood:
 - a. Failed to amend or modify the Facility's permit. Specifically, Walker Wood stored hazardous waste associated with wood preserving (EPA Hazardous Waste Codes K001, D004, D007, and F035) in large tanks and a 92-foot long treatment vessel at the Facility for greater than 90 days without a permit and without complying with the 90-day requirements for storage of hazardous waste;

- b. Failed to comply with the provisions of IHW Permit No. 50308. Specifically, Walker Wood is no longer performing activities required by the site's Post-Closure Care Permit and Compliance Plan;
 - c. Caused, suffered, or allowed outdoor burning in the State of Texas without authorization from the Commission. Specifically, charred remains were observed in a pile of burned waste at the Facility;
 - d. Failed to conduct hazardous waste determinations for two hazardous waste streams (EPA Hazardous Waste Codes K001, D004, D007, and F035) and determine if its waste streams were restricted from land disposal prior to shipping off-site. Specifically, Walker Wood failed to determine if its waste streams containing creosote and Chromated Copper Arsenate ("CCA") solutions were restricted from land disposal prior to shipping off-site;
 - e. Failed to notify the Commission of the existence of hazardous waste streams and hazardous waste management units. Specifically, notification was not provided for four hazardous waste streams (EPA Hazardous Waste Codes K001, D004, D007, and F035), eleven large hazardous waste storage tanks, and a 92-foot long wood treatment vessel;
 - f. Failed to retain hazardous waste manifests for hazardous waste for a minimum of three years from the date of shipment. Specifically, no manifests were provided for hazardous waste generated during the years 2001, 2002, and 2003, including hazardous waste removed from a 42-foot long wood treatment vessel;
 - g. Failed to keep records of all hazardous and industrial solid waste activities regarding the quantities generated, stored, processed, and disposed of; and
 - h. Failed to prevent unauthorized discharges of hazardous and industrial waste. Specifically, several areas of waste discharged to soil were observed, including one measuring approximately 7 feet by 20 feet adjacent to the secondary containment structure for the large hazardous waste tanks.
4. During a record review investigation conducted on February 15, 2005, a TCEQ Central Office staff member documented that Walker Wood failed to pay Storm Water General Permit and Hazardous Waste Facility Fees for Account Nos. 20003813 and 0301287F for Fiscal Year 2005.
 5. Walker Wood received notice of the violations on or about November 20, 2005.

6. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Walker Wood Preserving, Inc." (the "EDPRP") in the TCEQ Chief Clerk's office on January 7, 2009.
7. By letter dated January 7, 2009, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Walker Wood with notice of the EDPRP. According to the return receipt "green card," Walker Wood received notice of the EDPRP on January 29, 2009, as evidenced by the signature on the card.
8. More than 20 days have elapsed since Walker Wood received notice of the EDPRP, provided by the Executive Director. Walker Wood failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Walker Wood is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 5, 7 and 26, TEX. HEALTH & SAFETY CODE chs. 361 and 382, 40 C.F.R. chs. 262 and 268, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Walker Wood failed to amend or modify the Facility's permit, in violation of 30 TEX. ADMIN. CODE §§ 305.62, 305.69, 305.125(8), 335.2, and 335.69, IHW Permit No. 50308, Provision II.A.1., and 40 C.F.R. § 262.34(a).
3. As evidenced by Finding of Fact No. 3.b., Walker Wood failed to comply with the provisions of IHW Permit No. 50308, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and IHW Permit No. 50308, Provision II.A.2.
4. As evidenced by Finding of Fact No. 3.c., Walker Wood caused, suffered, or allowed outdoor burning in the State of Texas without authorization from the Commission, in violation of 30 TEX. ADMIN. CODE § 111.201 and TEX. HEALTH & SAFETY CODE § 382.085(b).
5. As evidenced by Finding of Fact No. 3.d., Walker Wood failed to conduct hazardous waste determinations for two hazardous waste streams (EPA Hazardous Waste Codes K001, D004, D007, and F035) and determine if its waste streams were restricted from land disposal prior to shipping off-site, in violation of 30 TEX. ADMIN. CODE §§ 335.62 and 335.431(c) and 40 C.F.R. §§ 262.11 and 268.7(a)(1).

6. As evidenced by Finding of Fact No. 3.e., Walker Wood failed to notify the Commission of the existence of hazardous waste streams and hazardous waste management units, in violation of 30 TEX. ADMIN. CODE § 335.6.
7. As evidenced by Finding of Fact No. 3.f., Walker Wood failed to retain hazardous waste manifests for hazardous waste for a minimum of three years from the date of shipment in violation of 30 TEX. ADMIN. CODE § 335.13(i), IHW Permit No. 50308, Provision II.C.1.h., and 40 C.F.R. § 262.40(a).
8. As evidenced by Finding of Fact No. 3.g., Walker Wood failed to keep records of all hazardous and industrial solid waste activities regarding the quantities generated, stored, processed, and disposed of, in violation of 30 TEX. ADMIN. CODE § 335.9(a)(1) and IHW Permit No. 50308, Provision II.C.1.h.
9. As evidenced by Finding of Fact No. 3.h., Walker Wood failed to prevent unauthorized discharges of hazardous and industrial waste, in violation of 30 TEX. ADMIN. CODE § 335.4 and TEX. WATER CODE § 26.121(a)(1).
10. As evidenced by Finding of Fact No. 4., Walker Wood failed to pay Storm Water General Permit and Hazardous Waste Facility fees for Fiscal Year 2005, in violation of 30 TEX. ADMIN. CODE §§ 205.6, 335.324, and 335.331, TEX. WATER CODE § 5.702, and TEX. HEALTH & SAFETY CODE § 361.135(c).
11. As evidenced by Finding of Fact Nos. 6 and 7, the Executive Director timely served Walker Wood with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
12. As evidenced by Finding of Fact No. 8, Walker Wood failed to file a timely answer to the EDPRP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Walker Wood and assess the penalty recommended by the Executive Director.
13. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Walker Wood for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
14. An administrative penalty in the amount of one hundred one thousand dollars (\$101,000.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.

15. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Walker Wood is assessed an administrative penalty in the amount of one hundred one thousand dollars (\$101,000.00) for violations of the Texas Water Code, the Texas Health & Safety Code, and the rules of the TCEQ. The payment of this administrative penalty and Walker Wood's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Walker Wood Preserving, Inc.; Docket No. 2005-0349-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. Walker Wood shall undertake the following technical requirements:
- a. Immediately upon the effective date of this Order, Walker Wood shall:
- i. Begin complying with the provisions of IHW Permit No. 50308;
 - ii. Cease causing or allowing outdoor burning at the Facility without first receiving authorization from the Commission, in accordance with 30 TEX. ADMIN. CODE § 111.201 and TEX. HEALTH & SAFETY CODE § 382.085(b);
 - iii. Begin keeping copies of hazardous waste manifests at the facility for shipment of all Hazardous and Class 1 industrial waste shipped offsite, in accordance with 30 TEX. ADMIN. CODE § 335.13(i), IHW Permit No. 50308, Provision II.C.1.h, and 40 C.F.R. § 262.40(a); and

- iv. Begin keeping records of all hazardous and industrial solid waste activities regarding the quantities generated, stored, processed, and disposed of, in accordance with 30 TEX. ADMIN. CODE § 335.9(a)(1) and IHW Permit No. 50308, Provision II.C.1.h.

- b. Within 15 days after the effective date of this Order, Walker Wood shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision Nos. 2.a.i. through 2.a.iv. 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.”

- c. Within 30 days after the effective date of this Order, Walker Wood shall:
 - i. Conduct hazardous waste determinations on the waste streams containing creosote and CCA solutions and determine if these wastes are restricted from land disposal, in accordance with 30 TEX. ADMIN. CODE §§ 335.62 and 335.431(c) and 40 C.F.R. §§ 262.11 and 268.7(a)(1); and

 - ii. Update the facility’s Notice of Registration regarding the creosote and CCA waste streams, the eleven hazardous waste storage tanks and the 92-foot long treatment vessel storing hazardous waste, in accordance with 30 TEX. ADMIN. CODE § 335.6.

- d. Within 45 days of the effective date of this Order, Walker Wood shall:
- i. Submit payment of all outstanding fees, including any associated penalties and interest and with the notation "Walker Wood Preserving, Inc., Account Nos. 20003813 and 0301287F", 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
 - ii. Submit certification of compliance with Ordering Provisions 2.c.i and 2.c.ii as described in Ordering Provision 2.b.
- e. Within 90 days of the effective date of this Order, Walker Wood shall:
- i. Submit an Affected Property Assessment Report, pursuant to 30 TEX. ADMIN. CODE § 350.91, to the Executive Director for approval. If response actions are necessary, Walker Wood shall comply with all applicable requirements of the Texas Risk Reduction Program found in 30 TEX. ADMIN. CODE ch. 350 which may include: plans, reports, and notices under Subchapter E (30 TEX. ADMIN. CODE §§ 350.92 to 350.96); Financial Assurance (30 TEX. ADMIN. CODE § 350.33(l)); and Institutional Controls under Subchapter F; and, either
 - ii. Submit a closure plan for all hazardous waste storage tanks and associated units at the Facility, including secondary containment structures, in accordance with 30 TEX. ADMIN. CODE §§ 335.8, 335.112(6), and 335.118;
- or
- iii. Submit an administratively complete IHW permit modification request for storage of hazardous waste for more than 90 days, in accordance with 30 TEX. ADMIN. CODE §§ 305.69, 305.125(8), and 335.69, and IHW Permit No. 50308, Provision II.A.1. to:

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

- f. Within 120 days after the effective date of this Order, Walker Wood shall submit certification of compliance with either Ordering Provisions 2.e.i., and 2.e.ii. or 2.e.iii., as described in Ordering Provision 2.b.
- g. Within 180 days after the effective date of this Order, Walker Wood shall submit written certification as described in Ordering Provision 2.b. that either authorization to store hazardous waste for greater than 90 days has been obtained or that operation has ceased until such time that authorization is obtained, and
- h. Walker Wood shall submit copies of all certifications, correspondence, reports, and documentation required by Ordering Provisions Nos. 2.b., 2.d.ii., 2.e.i. through 2.e.iii., 2.f., and 2.g. 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:

Mr. Derek Eades, Waste Section Manager
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1892

- 3. All relief not expressly granted in this Order is denied.
- 4. The provisions of this Order shall apply to and be binding upon Walker Wood. Walker Wood is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.

5. If Walker Wood fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Walker Wood's failure to comply is not a violation of this Order. Walker Wood shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Walker Wood shall notify the Executive Director within seven days after Walker Wood becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Walker Wood shall be made in writing to the Executive Director. Extensions are not effective until Walker Wood receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Walker Wood if the Executive Director determines that Walker Wood has not complied with one or more of the terms or conditions in this Order.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF BARHAM A. RICHARD

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

“My name is Barham A. Richard. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

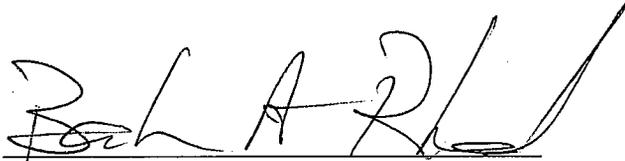
On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Walker Wood Preserving, Inc.” (the “EDPRP”) was filed with the Office of the Chief Clerk on May 9, 2008, October 28, 2008, and January 7, 2009.

The first EDPRP was mailed to Walker Wood at its last known address on May 9, 2008, via certified mail, return receipt requested, and via first class mail, postage prepaid. Both the certified mail and the first class mail were returned unclaimed.

The second EDPRP was mailed to Walker Wood at its last known address on October 28, 2008, via certified mail, return receipt requested, and via first class mail, postage prepaid. Both the certified mail and the first class mail were returned unclaimed.

The third EDPRP was mailed to Walker Wood at its last known address on January 7, 2009, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” Walker Wood received notice of the EDPRP on January 29, 2007, as evidenced by the signature on the card.

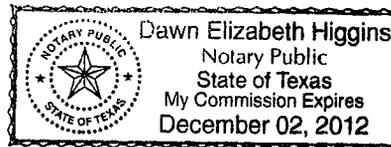
More than 20 days have elapsed since Walker Wood received notice of the EDPRP. Walker Wood failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.”



Barham A. Richard, Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Barham A. Richard, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 16th day of March, A.D., 2009.


Notary Signature

NOTARY WITHOUT BOND