

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.: 2007-1656-WQ-E TCEQ ID: RN104982251 CASE NO.: 34787**

**RESPONDENT NAME: RICHARD AYALA DBA ALL STATE AUTO & TRUCKING PARTS CORPUS CHRISTI**

<b>ORDER TYPE:</b>		
<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 type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	

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

**SITE WHERE VIOLATION(S) OCCURRED:** 3310 Agnes Street, Corpus Christi, Nueces County

**TYPE OF OPERATION:** Automobile salvage yard

**SMALL BUSINESS:**  Yes  No

**OTHER SIGNIFICANT MATTERS:** There are no complaints. There are no pending enforcement actions regarding this facility location.

**INTERESTED PARTIES:** No one other than the ED and the Respondent expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired on October 13, 2008. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Mr. Gary K. Shiu, Litigation Division, MC R-12, (713) 422-8916  
Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

**TCEQ Enforcement Coordinator:** Mr. Epifanio Villarreal, Water Enforcement Section, MC R-13, (210) 403-4033

**TCEQ Regional Contact:** Mr. David Kennebeck, Corpus Christi Regional Office, MC R-14, (361) 825-3111

**Respondent:** Mr. Richard Ayala, Owner, All State Auto & Truck Parts Corpus Christi,  
P.O. Box 5026, Corpus Christi, Texas 78405

**Respondent's Attorney:** Not represented by counsel on this enforcement matter.

**RESPONDENT NAME: RICHARD AYALA DBA  
ALL STATE AUTO & TRUCKING PARTS CORPUS CHRISTI  
DOCKET NO.: 2007-1656-WQ-E**

<b>VIOLATION SUMMARY CHART:</b>		
<b>VIOLATION INFORMATION</b>	<b>PENALTY CONSIDERATIONS</b>	<b>CORRECTIVE ACTIONS TAKEN/REQUIRED</b>
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> September 14, 2007</p> <p><b>Date of NOE Relating to this Case:</b> October 3, 2007</p> <p><b>Background Facts:</b> The EDPRP was filed June 20, 2008 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 June 24, 2008. The Respondent failed to answer the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p><b>Current Compliance Status:</b> Not yet in compliance.</p> <p><b>WQ:</b> Failed to obtain authorization to discharge storm water associated with industrial activity to water in the state through the multi-sector general permit or an individual permit [30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CFR § 122.26(c)].</p>	<p><b>Total Assessed:</b> \$1,050</p> <p><b>Total Deferred:</b> \$0</p> <p><input type="checkbox"/> Expedited Order  <input type="checkbox"/> Financial Inability to Pay  <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Due to General Revenue:</b> \$1,050</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><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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Technical Requirements:</b></p> <p>The Respondent shall:</p> <p>1. Within 30 days:</p> <p style="margin-left: 20px;">a. Develop and implement a Storm Water Pollution Prevention Plan to comply with the requirements of TPDES General Permit No. TXR050000; and</p> <p style="margin-left: 20px;">b. Submit a completed Notice of Intent.</p> <p>2. Within 45 days, submit written certification of compliance with these Ordering Provisions.</p>

**Penalty Calculation Worksheet (PCW)**  
 Policy Revision 2 (September 2002) PCW Revision September 19, 2007

<b>TCEQ</b> DATES	Assigned	5-Oct-2007	Screening	12-Oct-2007	EPA Due	
	PCW	28-Dec-2007				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	Richard Ayala dba All State Auto & Truck Parts Corpus Christi		
Reg. Ent. Ref. No.	RN104982251		
Facility/Site Region	14-Corpus Christi	Major/Minor Source	Minor

<b>CASE INFORMATION</b>				
Enf./Case ID No.	34787	No. of Violations	1	
Docket No.	2007-1656-WQ-E	Order Type	1660	
Media Program(s)	Water Quality	Enf. Coordinator	Epifanio Villarreal	
Multi-Media		EC's Team	EnforcementTeam 2	
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>\$1,000</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>	5% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$50</b>
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Notes: The penalty enhancement is due to one prior Notice of Violation containing a violation that is the same as or similar to the violation in the current enforcement action.

<b>Culpability</b>	No	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</b>	0% Reduction	<b>Subtotal 5</b>	<b>\$0</b>
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	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

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

Total EB Amounts	\$36	0% Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
Approx. Cost of Compliance	\$1,000	*Capped at the Total EB \$ Amount		

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$1,050</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0%	<b>Adjustment</b>	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount** **\$1,050**

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$1,050</b>
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<b>DEFERRAL</b>	0%	Reduction	<b>Adjustment</b>	<b>\$0</b>
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral not offered for non-expedited settlement.

<b>PAYABLE PENALTY</b>	<b>\$1,050</b>
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Screening Date 12-Oct-2007

Docket No. 2007-1656-WQ-E

PCW

Respondent Richard Ayala dba All State Auto & Truck Parts Corpus C

Policy Revision 2 (September 2002)

Case ID No. 34787

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN104982251

Media [Statute] Water Quality

Enf. Coordinator Epifanio Villarreal

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

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) 5%

>> 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 penalty enhancement is due to one prior Notice of Violation containing a violation that is the same as or similar to the violation in the current enforcement action.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

<b>Screening Date</b> 12-Oct-2007	<b>Docket No.</b> 2007-1656-WQ-E	<b>PCW</b>
<b>Respondent</b> Richard Ayala dba All State Auto & Truck Parts Corpus Christi	<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No.</b> 34787	<i>PCW Revision September 19, 2007</i>	
<b>Reg. Ent. Reference No.</b> RN104982251		
<b>Media [Statute]</b> Water Quality		
<b>Enf. Coordinator</b> Epifanio Villarreal		
<b>Violation Number</b> <input type="text" value="1"/>		
<b>Rule Cite(s)</b>	<input type="text" value="30 Tex. Admin. Code § 281.25(a)(4) and 40 Code of Federal Regulations § 122.26(c)"/>	
<b>Violation Description</b>	<input type="text" value="Failed to obtain authorization to discharge storm water associated with industrial activity to water in the state through the multi-sector general permit or an individual permit."/>	
<b>Base Penalty</b>		<input type="text" value="\$10,000"/>

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

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

**>> Programmatic Matrix**

	<b>Falsification</b>				
		Major	Moderate		Minor
	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>		<input type="text"/>
	<b>Percent</b>	<input type="text" value="10%"/>			
<b>Matrix Notes</b>	<input type="text" value="100% of the rule requirement was not met."/>				
				<b>Adjustment</b> <input type="text" value="\$9,000"/>	

**Violation Events**

Number of Violation Events	<input type="text" value="1"/>		<input type="text" value="28"/>	Number of violation days
<i>mark only one with an x</i>	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"/>		
			<b>Violation Base Penalty</b>	<input type="text" value="\$1,000"/>

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
Estimated EB Amount <input type="text" value="\$36"/>	Violation Final Penalty Total <input type="text" value="\$1,050"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$1,050"/>	

### Economic Benefit Worksheet

**Respondent** Richard Ayala dba All State Auto & Truck Parts Corpus Christi

**Case ID No.** 34787

**Reg. Ent. Reference No.** RN104982251

**Media** Water Quality

**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**

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	\$1,000	14-Sep-2007	1-Jun-2008	0.7	\$36	n/a	\$36
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the amount to prepare and implement a storm water pollution prevention plan and submittal of a completed notice of intent. Date required is the date of the investigation in which the violation was first documented. Final date is the estimated date of compliance.

**Avoided Costs**

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$36

# Compliance History

Customer/Respondent/Owner-Operator: CN603050907 AYALA, RICHARD Classification: AVERAGE Rating: 1.50  
Regulated Entity: RN104982251 ALL STATE AUTO & TRUCK PARTS Classification: AVERAGE Site Rating: 1.50  
CORPUS CHRISTI  
ID Number(s):  
Location: 3310 AGNES ST, CORPUS CHRISTI, TX Rating Date: September 01 07 Repeat Violator: NO  
TCEQ Region: REGION 14 - CORPUS CHRISTI  
Date Compliance History Prepared: October 12, 2007  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: October 12, 2002 to October 12, 2007  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Epi Villarreal Phone: (210) 403- 4033

## 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? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

## 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.)  
07/19/2006 (486135)  
10/03/2007 (595806)
  - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)  
Date: 07/19/2006 (486135)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)  
Description: Failure to obtain authorization to discharge storm water associated with an industrial activity.
  - F. Environmental audits.  
N/A
  - G. Type of environmental management systems (EMSs).  
N/A
  - H. Voluntary on-site compliance assessment dates.  
N/A
  - I. Participation in a voluntary pollution reduction program.  
N/A
  - J. Early compliance.  
N/A
- Sites Outside of Texas  
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING RICHARD AYALA  
DBA ALL STATE AUTO & TRUCK  
PARTS CORPUS CHRISTI;  
RN104982251**

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**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**DEFAULT ORDER  
DOCKET NO. 2007-1656-WQ-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. 7 and 26, 40 CODE OF FEDERAL REGULATIONS pt. 122, 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 Richard Ayala dba All State Auto & Truck Parts Corpus Christi (“Mr. Ayala”).

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

**FINDINGS OF FACT**

1. Mr. Ayala owns and operates an automobile salvage yard located at 3310 Agnes Street, Corpus Christi, Nueces County, Texas (the “Facility”).
2. The Facility has discharged waste into or adjacent to any water in the state or has committed another act that has caused or will cause pollution of any water in the state under the Texas Water Code.
3. During an inspection conducted on September 14, 2007, a TCEQ Corpus Christi Regional Office investigator documented that Mr. Ayala failed to obtain authorization to discharge storm water associated with industrial activity to water in the state through the multi-sector general permit or an individual permit.
4. Mr. Ayala received notice of the violation on or about October 8, 2007.
5. 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 Richard Ayala dba All State Auto & Truck Parts Corpus Christi” (the “EDPRP”) in the TCEQ Chief Clerk’s office on June 20, 2008.

6. By letter dated June 20, 2008, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Ayala with notice of the EDPRP. According to the return receipt “green card”, Mr. Ayala received notice of the EDPRP on June 24, 2008, as evidenced by the signature on the card.
7. More than 20 days have elapsed since Mr. Ayala received notice of the EDPRP, provided by the Executive Director. Mr. Ayala 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, Mr. Ayala is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, Mr. Ayala failed failed to obtain authorization to discharge storm water associated with industrial activity to water in the state through the multi-sector general permit or an individual permit, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c).
3. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director has timely served Mr. Ayala with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
4. As evidenced by Finding of Fact No. 7, Mr. Ayala has 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 Mr. Ayala and assess the penalty recommended by the Executive Director.
5. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Mr. Ayala 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.

6. An administrative penalty in the amount of one thousand fifty dollars (\$1,050.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
7. 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. Mr. Ayala is assessed an administrative penalty in the amount of one thousand fifty dollars (\$1,050.00) for violations of TEX. WATER CODE chs. 7 and 26 and 40 CODE OF FEDERAL REGULATIONS pt. 122, and rules of the TCEQ. The payment of this administrative penalty and Mr. Ayala'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: Richard Ayala dba All State Auto & Truck Parts Corpus Christi; Docket No. 2007-1656-WQ-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. Mr. Ayala shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Order, Mr. Ayala shall:
    - i. Develop and implement a Storm Water Pollution Prevention Plan to comply with the requirements of TPDES General Permit No. TXR050000; and
    - ii. Submit a completed Notice of Intent to in accordance with 30 TEX. ADMIN. CODE § 205.4:

Storm Water Pretreatment Team, MC 148  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

- b. Within 45 days after the effective date of this Order Mr. Ayala shall, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i. and 2.a.ii.

The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

David Kennebeck, Water Section Manager  
Corpus Christi Regional Office  
Texas Commission on Environmental Quality  
6300 Ocean Drive, Suite 1200  
Corpus Christi, Texas 78412-5503

3. All relief not expressly granted in this Order is denied.

4. The provisions of this Order shall apply to and be binding upon Mr. Ayala. Mr. Ayala 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 Mr. Ayala 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, Mr. Ayala's failure to comply is not a violation of this Order. Mr. Ayala shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Ayala shall notify the Executive Director within seven days after Mr. Ayala 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 Mr. Ayala shall be made in writing to the Executive Director. Extensions are not effective until Mr. Ayala 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 Mr. Ayala if the Executive Director determines that Mr. Ayala 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.

Richard Ayala dba All State Auto & Truck Parts Corpus Christi  
DOCKET NO. 2007-1656-WQ-E  
Page 6

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

**AFFIDAVIT OF PATRICK N. JACKSON**

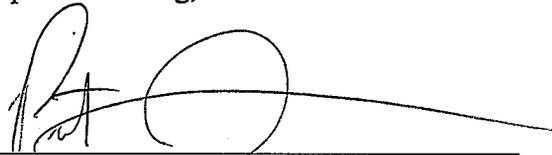
STATE OF TEXAS           §  
  §  
COUNTY OF TRAVIS       §

“My name is Patrick N. Jackson. 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, I 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 Richard Ayala dba All State Auto & Truck Parts Corpus Christi” (the “EDPRP”) with the Office of the Chief Clerk on June 20, 2008.

I sent the EDPRP to Mr. Ayala at his last known address on June 20, 2008 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card”, Mr. Ayala received notice of the EDPRP on June 24, 2008, as evidenced by the signature on the card.

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

  
\_\_\_\_\_  
Patrick N. Jackson  
Attorney  
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Patrick N. Jackson, 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 25 day of August, A.D., 2008.

Notary Stamp

  
\_\_\_\_\_  
Notary Signature

