

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2007-0465-IHW-E **TCEQ ID:** RN102906534 **CASE NO.:** 33041

**RESPONDENT NAME:** H.O.T. Transport, Ltd.

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input checked="" type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> HOT Transport, 670 Farm-to-Market Road 2021, Lufkin, Angelina County</p> <p><b>TYPE OF OPERATION:</b> Chemical transporter</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> A complaint was received on October 5, 2006, alleging an unauthorized discharge of wastewater from the Respondent's property. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on May 18, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Mr. Michael Meyer, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-4492; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> Mr. David Overdorf, C.E.O., H.O.T. Transport, Ltd., P.O. Box 155241, Lufkin, Texas 75915  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input checked="" type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> October 5, 2006</p> <p><b>Date of Investigation Relating to this Case:</b> November 3 and November 20, 2006</p> <p><b>Date of NOV/NOE Relating to this Case:</b> February 2, 2007 (NOE)</p> <p><b>Background Facts:</b> This was a complaint investigation.</p> <p><b>WASTE</b></p> <p>1) Failure to prevent the unauthorized discharge of industrial solid waste into or adjacent to water in the state. Specifically, wastewater was observed overflowing from the wash rack and flowing across a gravel road on the Respondent's property. The wastewater was not observed to be discharging off-site [30 TEX. ADMIN. CODE § 335.4].</p> <p>2) Failure to conduct a hazardous waste determination. Specifically, the Respondent classified the waste being stored in its 6,000 gallon trailer tank as non-hazardous but was unable to provide any documentation to support this classification. The investigator collected samples from the Respondent's 6,000 gallon trailer tank during a follow-up investigation on November 20, 2006. Analysis of the samples indicated that the waste exhibited hazardous characteristics for ignitability (D001) and toxicity for benzene (D018) [30 TEX. ADMIN. CODE § 335.62 and 40 CODE OF FEDERAL REGULATIONS ("CFR") § 262.11].</p> <p>3) Failure to notify the Executive Director of waste regulated activities. Specifically, records provided by the Respondent indicated that it was generating in excess of one thousand (1,000) kilograms (two thousand two hundred pounds) of</p>	<p><b>Total Assessed:</b> \$15,000</p> <p><b>Total Deferred:</b> \$3,000  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$12,000</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input 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>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Immediately upon the effective date of this Agreed Order, cease the unauthorized discharge of industrial solid waste into or adjacent to water in the state and develop and implement procedures to prevent the recurrence of unauthorized discharges;</p> <p>b. Within 15 days after the effective date of this Agreed Order, develop and implement procedures to ensure the following:</p> <p>i. hazardous waste determinations are conducted on all wastestreams generated at the Facility;</p> <p>ii. any industrial solid waste generated on-site is transported and disposed of at an authorized facility;</p> <p>iii. a manifest is prepared for any wastes which are transported and disposed off-site; and</p> <p>iv. notify the TCEQ of regulated waste activities.</p> <p>c. Within 30 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a. and b.</p>

<p>industrial solid waste per month but the Respondent failed to update its Notice of Registration status as a large quantity generator [30 TEX. ADMIN. CODE § 335.6(c)].</p> <p>4) Failure to properly dispose of industrial solid waste at an authorized facility. Specifically, bills of lading provided by the Respondent indicated that 135,000 pounds (16,185 gallons) of Class I non-hazardous wastewater was transported to Quala Wash in Houston for disposal on August 26, 2005 and March 10 and November 13, 2006 [30 TEX. ADMIN. CODE § 335.11].</p> <p>5) Failure to manifest industrial solid waste. Specifically, bills of lading provided by the Respondent indicated that approximately 135,000 pounds (16,185 gallons) of unmanifested Class I non-hazardous wastewater had been transported to Quala Wash in Houston on August 26, 2005 and March 3 and November 13, 2006 [30 TEX. ADMIN. CODE § 335.10(a)(1)].</p>		
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Additional ID No(s): F1935





# Penalty Calculation Worksheet (PCW)

<b>DATES</b>	Assigned	5-Feb-2007	Screening	9-Mar-2007	EPA Due	
	PCW	22-Mar-2007				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	H.O.T. Transport, Ltd.		
Reg. Ent. Ref. No.	RN102906534		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor

<b>CASE INFORMATION</b>				
Enf./Case ID No.	33041	No. of Violations	5	
Docket No.	2007-0465-IHW-E	Order Type	1660	
Media Program(s)	Industrial and Hazardous Waste	Enf. Coordinator	Michael Meyer	
Multi-Media		EC's Team	EnforcementTeam 8	
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>\$15,000</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>	0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$0</b>
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Notes: There were no Orders or NOVs which were issued to the Respondent during the previous five years.

<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.

	0% Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts	\$6,688	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$7,915	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$15,000</b>
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### OTHER FACTORS AS JUSTICE MAY REQUIRE

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

Notes

<b>Final Penalty Amount</b>	<b>\$15,000</b>
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### STATUTORY LIMIT ADJUSTMENT

<b>Final Assessed Penalty</b>	<b>\$15,000</b>
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### DEFERRAL

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

20% Reduction	<b>Adjustment</b>	<b>-\$3,000</b>
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Notes

Deferral offered for expedited cases.

### PAYABLE PENALTY

**\$12,000**

Screening Date 9-Mar-2007

Docket No: 2007-0465-IHW-E

PCW

Respondent H.O.T. Transport, Ltd.

Policy Revision 2 (September 2002)

Case ID No. 33041

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN102906534

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Michael Meyer

### 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)	0	0%
	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) 0%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

There were no Orders or NOVs which were issued to the Respondent during the previous five years.

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

Screening Date 9-Mar-2007

Docket No. 2007-0465-IHW-E

PCW

Respondent H.O.T. Transport, Ltd.

Policy Revision 2 (September 2002)

Case ID No. 33041

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN102906534

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Michael Meyer

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 335.4

Violation Description

Failed to prevent the unauthorized discharge of industrial solid waste into or adjacent to water in the state, as documented during an investigation conducted on November 3, 2006. Specifically, wastewater was observed overflowing from the wash rack and flowing across a gravel road on the Respondent's property. The wastewater was not observed to be discharging off-site.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

Number of violation days 1

daily	
monthly	
quarterly	
semiannual	
annual	
single event	X

mark only one with an x

Violation Base Penalty \$1,000

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$45

Violation Final Penalty Total \$1,000

This violation Final Assessed Penalty (adjusted for limits) \$1,000

## Economic Benefit Worksheet

**Respondent:** H.O.T. Transport, Ltd.  
**Case ID No.:** 33041  
**Reg. Ent. Reference No.:** RN102906534  
**Media:** Industrial and Hazardous Waste  
**Violation No.:** 1

Percent Interest	Years of Depreciation
5.0	15

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

### 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	3-Nov-2006	30-Sep-2007	0.9	\$45	n/a	\$45

#### Notes for DELAYED costs

Estimated cost to develop and implement procedures to prevent unauthorized discharges of wastewater. The Date Required is the November 3, 2006 investigation and the Final Date is the estimated compliance date.

### 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 9-Mar-2007

Docket No. 2007-0465-IHW-E

PCW

Respondent H.O.T. Transport, Ltd.

Policy Revision 2 (September 2002)

Case ID No. 33041

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN102906534

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Michael Meyer

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 335.62 and 40 Code of Federal Regulations ("CFR") § 262.11

Violation Description

Failed to conduct a hazardous waste determination, as documented during an investigation conducted on November 20, 2006. Specifically, the Respondent classified the waste being stored in its 6,000 gallon trailer tank as non-hazardous but was unable to provide any documentation to support this classification. The investigator collected samples from the Respondent's 6,000 gallon trailer tank on November 20, 2006. Analysis of the samples indicated that the waste exhibited hazardous characteristics for ignitability and toxicity.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

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

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

116 Number of violation days

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

Violation Base Penalty \$2,500

One single event is recommended

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$53

Violation Final Penalty Total \$2,500

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

## Economic Benefit Worksheet

**Respondent:** H.O.T. Transport, Ltd.  
**Case ID No.:** 33041  
**Reg. Ent. Reference No.:** RN102906534  
**Media:** Industrial and Hazardous Waste  
**Violation No.:** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs.	Interest Saved	Onetime Costs	EB Amount
<small>No commas or \$</small>							

### 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)	\$500	26-Aug-2005	15-Oct-2007	2.1	\$53	n/a	\$53

Notes for DELAYED costs

Estimated cost to perform a hazardous waste determination on the wastewater contained in the 6,000 gallon trailer tank. The Date Required is the date of a bill of lading dated August 26, 2005 and the Final Date is the estimated compliance date.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

**TOTAL**

\$53

Screening Date 9-Mar-2007

Docket No. 2007-0465-IHW-E

PCW

Respondent H.O.T. Transport, Ltd.

Policy Revision 2 (September 2002)

Case ID No. 33041

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN102906534

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Michael Meyer

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 335.6(c)

Violation Description

Failed to notify the Executive Director of waste regulated activities as documented during an investigation conducted on November 20, 2006. Specifically, records provided by the Respondent indicated that it was generating in excess of 1,000 kilograms (2,200 pounds) of industrial solid waste per month but the Respondent failed to update its Notice of Registration status as a large quantity generator.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	X		

Percent 10%

Matrix Notes

100 percent of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

116 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$1,000

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$53

Violation Final Penalty Total \$1,000

This violation Final Assessed Penalty (adjusted for limits) \$1,000

## Economic Benefit Worksheet

**Respondent:** H.O.T. Transport, Ltd.  
**Case ID No.:** 33041  
**Reg. Ent. Reference No.:** RN102906534  
**Media:** Industrial and Hazardous Waste  
**Violation No.:** 3

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$500	26-Aug-2005	15-Oct-2007	2.1	\$53	n/a	\$53
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to update the Facility's Notice of Registration. The Date Required is the date of the first shipment of waste and the Final Date is the estimated compliance date.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$53

Screening Date 9-Mar-2007

Docket No. 2007-0465-IHW-E

PCW

Respondent H.O.T. Transport, Ltd.

Policy Revision 2 (September 2002)

Case ID No. 33041

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN102906534

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Michael Meyer

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 335.11

Violation Description

Failed to properly dispose of industrial solid waste at an authorized facility, as documented during an investigation conducted on November 20, 2006. Specifically, bills of lading provided by the Respondent indicated that 135,000 pounds (16,185 gallons) of Class I non-hazardous wastewater was transported to Quala Wash in Houston for disposal on August 26, 2005 and March 10 and November 13, 2006.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

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

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 3

3 Number of violation days

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

Violation Base Penalty \$7,500

Three single events are recommended (one event for each shipment).

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$6,259

Violation Final Penalty Total \$7,500

This violation Final Assessed Penalty (adjusted for limits) \$7,500

## Economic Benefit Worksheet

**Respondent:** H.O.T. Transport, Ltd.  
**Case ID No.:** 33041  
**Reg. Ent. Reference No.:** RN102906534  
**Media:** Industrial and Hazardous Waste  
**Violation No.:** 4

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				2.1	\$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]	\$5,665	26-Aug-2005	15-Oct-2007	2.1	\$594	\$5,665	\$6,259
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to remove and dispose of the waste(s) at an authorized facility. The estimate is based on 16,185 gallons of wastewater at a cost of 35 cents a gallon for disposal. The Date Required is the bill of lading dated August 26, 2005 and the Final Date is the estimated compliance date.

Approx. Cost of Compliance

\$5,665

**TOTAL**

\$6,259

Screening Date 9-Mar-2007

Docket No. 2007-0465-IHW-E

PCW

Respondent H.O.T. Transport, Ltd.

Policy Revision 2 (September 2002)

Case ID No. 33041

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN102906534

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Michael Meyer

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 335.10(a)(1)

Violation Description

Failed to manifest industrial solid waste, as documented during an investigation conducted on November 20, 2006. Specifically, bills of lading provided by the Respondent indicated that approximately 135,000 pounds (16,185 gallons) of unmanifested Class I non-hazardous wastewater had been transported to Quala Wash in Houston on August 26, 2005 and March 3 and November 13, 2006.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100 percent of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 3

3 Number of violation days

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

Violation Base Penalty \$3,000

Three single events are recommended (one for each shipment).

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$277

Violation Final Penalty Total \$3,000

This violation Final Assessed Penalty (adjusted for limits) \$3,000

## Economic Benefit Worksheet

**Respondent:** H.O.T. Transport, Ltd.  
**Case ID No.:** 33041  
**Reg. Ent. Reference No.:** RN102906534  
**Media:** Industrial and Hazardous Waste  
**Violation No.:** 5

Percent Interest	Years of Depreciation
5.0	15

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

### 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]	\$250	26-Aug-2005	15 Oct-2007	2.1	\$27	\$277	\$277
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to manifest three shipments of waste. The Date required is the date of the first shipment and the Final Date is the estimated compliance date.

Approx. Cost of Compliance

\$250

**TOTAL**

\$277

# Compliance History Report

Customer/Respondent/Owner-Operator:	CN601474547	H. O. T. Transport, Ltd.	Classification:	Rating:
Regulated Entity:	RN102906534	HOT TRANSPORT	Classification:	Site Rating:
ID Number(s):	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID		TXR000076943
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	ID NUMBER		F1935
Location:	670 FM 2021, LUFKIN, TX, 75901			
TCEQ Region:	REGION 10 - BEAUMONT			
Date Compliance History Prepared:	March 26, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	March 07, 2002 to March 06, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	<u>Michael Meyer</u>	Phone:	<u>239 - 4492</u>	

## Site Compliance History Components

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

### 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    02/02/2007    (532088)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)  
N/A
- 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  
H.O.T. TRANSPORT, LTD.  
RN102906534

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**AGREED ORDER**  
**DOCKET NO. 2007-0465-IHW-E**

**I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding H.O.T. Transport, Ltd. ("H.O.T.") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and H.O.T. appear before the Commission and together stipulate that:

1. H.O.T. owns and operates as a chemical transporter at 670 Farm-to-Market Road 2021 in Lufkin, Angelina County, Texas (the "Facility").
2. The Facility involves or involved the management of industrial solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. The Commission and H.O.T. agree that the Commission has jurisdiction to enter this Agreed Order, and that H.O.T. is subject to the Commission's jurisdiction.
4. H.O.T. received notice of the violations alleged in Section II ("Allegations") on or about February 7, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by H.O.T. of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Fifteen Thousand Dollars (\$15,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). H.O.T. has paid Twelve Thousand Dollars (\$12,000) of the administrative penalty and Three Thousand Dollars (\$3,000) is deferred contingent upon H.O.T.'s timely and satisfactory compliance with all the

terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If H.O.T. fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require H.O.T. to pay all or part of the deferred penalty.

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

## II. ALLEGATIONS

As owner and operator of the Facility, H.O.T. is alleged to have:

1. Failed to prevent the unauthorized discharge of industrial solid waste into or adjacent to water in the state, in violation of 30 TEX. ADMIN. CODE § 335.4, as documented during an investigation conducted on November 3, 2006. Specifically, wastewater was observed overflowing from the wash rack and flowing across a gravel road on H.O.T.'s property. The wastewater was not observed to be discharging off-site.
2. Failed to conduct a hazardous waste determination, as documented during an investigation conducted on November 20, 2006, in violation of 30 TEX. ADMIN. CODE § 335.62 and 40 CODE OF FEDERAL REGULATIONS ("CFR") § 262.11. Specifically, H.O.T. classified the waste being stored in its 6,000 gallon trailer tank as non-hazardous but was unable to provide any documentation to support this classification. The investigator collected samples from H.O.T.'s 6,000 gallon trailer tank during a follow-up investigation on November 20, 2006. Analysis of the samples indicated that the waste exhibited hazardous characteristics for ignitability (D001) and toxicity for benzene (D018).
3. Failed to notify the Executive Director of waste regulated activities, in violation of 30 TEX. ADMIN. CODE § 335.6(c), as documented during an investigation conducted on November 20, 2006. Specifically, records provided by H.O.T. indicated that it was generating in excess of one thousand (1,000) kilograms (two thousand two hundred pounds) of industrial solid waste per month but H.O.T. failed to update its Notice of Registration status as a large quantity generator.

4. Failed to properly dispose of industrial solid waste at an authorized facility, in violation of 30 TEX. ADMIN. CODE § 335.11, as documented during an investigation conducted on November 20, 2006. Specifically, bills of lading provided by H.O.T. indicated that 135,000 pounds (16,185 gallons) of Class I non-hazardous wastewater was transported to Quala Wash in Houston for disposal on August 26, 2005 and March 10 and November 13, 2006.
5. Failed to manifest industrial solid waste, in violation of 30 TEX. ADMIN. CODE § 335.10(a)(1), as documented during an investigation conducted on November 20, 2006. Specifically, bills of lading provided by H.O.T. indicated that approximately 135,000 pounds (16,185 gallons) of unmanifested Class I non-hazardous wastewater had been transported to Quala Wash in Houston on August 26, 2005 and March 3 and November 13, 2006.

### III. DENIALS

H.O.T. generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that H.O.T. pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and H.O.T.'s compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: H.O.T. Transport, Ltd., Docket No. 2007-0465-IHW-E" to:

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

2. It is further ordered that H.O.T. shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Agreed Order, cease the unauthorized discharge of industrial solid waste into or adjacent to water in the state and develop and implement procedures to prevent the recurrence of unauthorized discharges;
  - b. Within 15 days after the effective date of this Agreed Order, develop and implement procedures to ensure the following:
    - i. hazardous waste determinations are conducted on all wastestreams generated at the Facility, in accordance with 30 TEX. ADMIN. CODE § 335.62;

- ii. any industrial solid waste generated on-site is transported and disposed of at an authorized facility, in accordance with 30 TEX. ADMIN. CODE § 335.11;
  - iii. a manifest is prepared for any wastes which are transported and disposed off-site, in accordance with 30 TEX. ADMIN. CODE § 335.10(a)(1) and 40 CODE OF FEDERAL REGULATIONS § 262.20(a); and
  - iv. notify the TCEQ of regulated waste activities, in accordance with 30 TEX. ADMIN. CODE § 335.6(c).
- c. Within 30 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No(s). 2.a. and b. 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:

Industrial and Hazardous Waste Section, Manager  
Beaumont Regional Office  
Texas Commission on Environmental Quality  
3870 Eastex Freeway  
Beaumont, Texas 77703-1892

3. The provisions of this Agreed Order shall apply to and be binding upon H.O.T. H.O.T. is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If H.O.T. fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, H.O.T.'s failure to comply is not a violation of this Agreed Order. H.O.T. shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred.

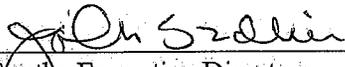
H.O.T. shall notify the Executive Director within seven days after H.O.T. becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by H.O.T. shall be made in writing to the Executive Director. Extensions are not effective until H.O.T. receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against H.O.T. in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to H.O.T., or three days after the date on which the Commission mails notice of the Order to H.O.T., whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

  
\_\_\_\_\_  
For the Executive Director

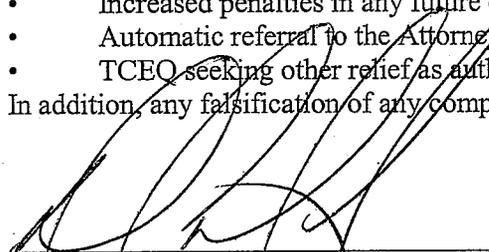
6/5/2009  
Date

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

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

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

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

  
\_\_\_\_\_  
Signature

5/2/07  
Date

DAVE OVERDORF  
Name (Printed or typed)  
Authorized Representative of  
H.O.T. Transport, Ltd.

CEO  
Title

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