

Executive Summary – Enforcement Matter – Case No. 40019
TEXAS INDUSTRIAL BOX MAINTENANCE, INC.
RN103071825
Docket No. 2010-1133-IHW-E

Order Type:
Agreed Order

Findings Order Justification:
N/A

Media:
IHW

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
15335 Market Street, Channelview, Harris County

Type of Operation:
waste container cleaning and repair facility

Other Significant Matters:

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

Texas Register Publication Date: September 2, 2011

Comments Received: None

Penalty Information

Total Penalty Assessed: \$19,890

Amount Deferred for Expedited Settlement: N/A

Amount Deferred for Financial Inability to Pay: N/A

Total Paid to General Revenue: \$1,007

Total Due to General Revenue: \$18,883

Payment Plan: 23 payments of \$821 each

SEP Conditional Offset: N/A

Compliance History Classifications:
Person/CN – Average
Site/RN – Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: March 16, 2010
Date(s) of NOV(s): N/A
Date(s) of NOE(s): May 19, 2010

Violation Information

1. Failed to obtain a permit for the storage and processing of industrial waste [30 TEX. ADMIN. CODE § 335.2(b) and 40 C.F.R. § 268.50(a)(3)].
2. Failed to keep records of all hazardous and industrial solid waste activities [30 TEX. ADMIN. CODE § 335.9(a)(1)].
3. Failed to submit and provide accurate Annual Waste Summaries (AWSs) [30 TEX. ADMIN. CODE § 335.9(a)(2)].
4. Failed to update the Facility's Notice of Registration (NOR) [30 TEX. ADMIN. CODE § 335.6(c)].
5. Failed to submit documentation demonstrating proper closure of waste management units [30 TEX. ADMIN. CODE § 335.8(b)].
6. Failed to conduct hazardous waste determinations and classifications [30 TEX. ADMIN. CODE § 335.62 and 40 C.F.R. § 262.11].
7. Failed to properly complete all manifests for the shipment of hazardous and Class 1 wastes [30 TEX. ADMIN. CODE § 335.10(c)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

1. Immediately:
 - a. Cease the processing and storage of any additional unauthorized hazardous waste at the Facility; and
 - b. Remove all accumulated unauthorized waste from the Facility and dispose of it at an authorized facility.
2. Within 30 days:
 - a. Develop and implement procedures to ensure that records of all hazardous and industrial solid waste activities are kept at the Facility and available for review;
 - b. Submit AWSs for calendar years 2005 and 2007, and submit an amended AWS for calendar year 2006 to include the correct waste codes for oil contaminated wastewater and hazardous sludge;
 - c. Conduct waste determinations and classifications on all waste streams at the Facility;
 - d. Submit corrected copies of all manifests generated at the Facility in the past three years which have incorrect TWCs;
 - e. Submit documentation verifying that former tank unit nos. 1 and 2 have been properly closed; and

Executive Summary – Enforcement Matter – Case No. 40019
TEXAS INDUSTRIAL BOX MAINTENANCE, INC.
RN103071825
Docket No. 2010-1133-IHW-E

- f. Update the Facility's NOR to accurately reflect the Facility type and all waste management units and wastes at the Facility.
3. Within 45 days, submit written certification demonstrating compliance.

Litigation Information

Date Petition(s) Filed: February 24, 2011
Date Answer(s) Filed: June 17, 2011
SOAH Referral Date: July 21, 2011
Hearing Date(s):
Preliminary Hearing: September 1, 2011
Evidentiary Hearing: N/A
Settlement Date: August 3, 2011

Contact Information

TCEQ Attorneys: Jennifer Cook, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400

TCEQ SEP Coordinator: N/A

TCEQ Enforcement Coordinator: Wallace Myers, Waste Enforcement Section, (512) 239- 6580

TCEQ Regional Contact: Nicole Bealle, Houston Regional Office, (713) 767-3623

Respondent: Kim Deyoung, President, Texas Industrial Box Maintenance, Inc., 410 Lake Pointe Forest Dr., Seabrook, Texas 77586

Respondent's Attorney: N/A

THIS PAGE INTENTIONALLY LEFT BLANK



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	24-May-2010			
	PCW	10-Dec-2010	Screening	26-May-2010	EPA Due

RESPONDENT/FACILITY INFORMATION					
Respondent	TEXAS INDUSTRIAL BOX MAINTENANCE, INC.				
Reg. Ent. Ref. No.	RN103071825				
Facility/Site Region	12-Houston	Major/Minor Source	Minor		

CASE INFORMATION					
Enf./Case ID No.	40019	No. of Violations	7		
Docket No.	2010-1133-IHW-E	Order Type	1660		
Media Program(s)	Industrial and Hazardous Waste	Government/Non-Profit	No		
Multi-Media		Enf. Coordinator	Wallace Myers		
		EC's Team	Enforcement Team 7		
Admin. Penalty \$ Limit	Minimum	\$0	Maximum	\$10,000	

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$19,500
---	-------------------	----------

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	2.0% Enhancement	Subtotals 2, 3, & 7	\$390
---------------------------	------------------	--------------------------------	-------

Notes	Enhancement for one NOV with dissimilar violations.
--------------	---

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
--------------------	----	------------------	-------------------	-----

Notes	The Respondent does not meet the culpability criteria.
--------------	--

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
--	-------------------	-----

Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
-------------------------	-------------------	-------------------	-----

Total EB Amounts	\$281	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$5,050	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$19,890
-----------------------------	-----------------------	----------

OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
---	------	-------------------	-----

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
--------------	--

Final Penalty Amount	\$19,890
-----------------------------	----------

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$19,890
-----------------------------------	-------------------------------	----------

DEFERRAL	0.0%	Reduction	Adjustment	\$0
-----------------	------	-----------	-------------------	-----

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.
--------------	--

PAYABLE PENALTY	\$19,890
------------------------	----------

Screening Date 26-May-2010

Docket No. 2010-1133-IHW-E

PCW

Respondent TEXAS INDUSTRIAL BOX MAINTENANCE, INC.

Policy Revision 2 (September 2002)

Case ID No. 40019

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103071825

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Wallace Myers

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	1	2%
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%
<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) 2%

>> 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

Enhancement for one NOV with dissimilar violations.

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

Screening Date 26-May-2010

Docket No. 2010-1133-IHW-E

PCW

Respondent TEXAS INDUSTRIAL BOX MAINTENANCE, INC.

Policy Revision 2 (September 2002)

Case ID No. 40019

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103071825

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Wallace Myers

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 335.2(b) and 40 Code of Federal Regulations § 268.50(a)(3)

Violation Description

Failed to obtain a permit for the storage and processing of industrial waste. Specifically, the Respondent was handling and cleaning Resource Conservation and Recovery Act ("RCRA") non-empty containers and storing the resulting waste residues without authorization.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 71 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,000

One quarterly event is recommended based on documentation of the violation during the March 16, 2010 investigation to the May 26, 2010 screening date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDRP/Settlement
	Extraordinary	
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$28

Violation Final Penalty Total \$1,020

This violation Final Assessed Penalty (adjusted for limits) \$1,020

Economic Benefit Worksheet

Respondent TEXAS INDUSTRIAL BOX MAINTENANCE, INC.
Case ID No. 40019
Reg. Ent. Reference No. RN103071825
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
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	16-Mar-2010	26-Apr-2011	1.11	\$28	n/a	\$28

Notes for DELAYED costs

Estimated cost to dispose of unauthorized waste at an authorized facility. The date required is the investigation date and the final date is the estimated date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$28

Screening Date 26-May-2010 **Docket No.** 2010-1133-IHW-E **PCW**
Respondent TEXAS INDUSTRIAL BOX MAINTENANCE, INC. *Policy Revision 2 (September 2002)*
Case ID No. 40019 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN103071825
Media [Statute] Industrial and Hazardous Waste
Enf. Coordinator Wallace Myers

Violation Number 2
Rule Cite(s) 30 Tex. Admin. Code § 335.9(a)(1)
Violation Description Failed to keep records of all hazardous and industrial solid waste activities. Specifically, secondary manifests correlating the quantity of waste drums received with the original manifests of waste drums generated were not available for review.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent
	Major	Moderate	Minor	
	Actual			
Potential				0%

>> Programmatic Matrix

				Percent
Falsification	Major	Moderate	Minor	
	x			10%

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 71 Number of violation days

<i>mark only one with an x</i>	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$1,000

One single event is recommended.

Good Faith Efforts to Comply 0.0% Reduction \$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

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

Estimated EB Amount \$28 **Violation Final Penalty Total** \$1,020

This violation Final Assessed Penalty (adjusted for limits) \$1,020

Economic Benefit Worksheet

Respondent TEXAS INDUSTRIAL BOX MAINTENANCE, INC.
Case ID No. 40019
Reg. Ent. Reference No. RN103071825
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
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	16-Mar-2010	26-Apr-2011	1.11	\$28	n/a	\$28
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to maintain waste records. The date required is the investigation date and the final date is the estimated date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$28

Screening Date 26-May-2010 **Docket No.** 2010-1133-IHW-E **PCW**
Respondent TEXAS INDUSTRIAL BOX MAINTENANCE, INC. *Policy Revision 2 (September 2002)*
Case ID No. 40019 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN103071825
Media [Statute] Industrial and Hazardous Waste
Enf. Coordinator Wallace Myers

Violation Number
Rule Cite(s)
Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
		<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	
<input type="text" value="100% of the rule requirement was not met."/>					

Adjustment

Violation Events

<input type="text" value="3"/>	<input type="text" value="3"/>	Number of violation days
<i>mark only one with an x</i>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input checked="" type="text" value="x"/>
single event	<input type="text"/>	
		Violation Base Penalty <input type="text" value="\$3,000"/>

Good Faith Efforts to Comply Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	<input type="text" value="(mark with x)"/>
Notes	<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>	

Violation Subtotal

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 TEXAS INDUSTRIAL BOX MAINTENANCE, INC.
Case ID No. 40019
Reg. Ent. Reference No. RN103071825
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
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	16-Mar-2010	26-Apr-2011	1.11	\$28	n/a	\$28

Notes for DELAYED costs

Estimated cost to submit accurate AWSs. The date required is the investigation date and the final date is the estimated date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$28

Screening Date 26-May-2010

Docket No. 2010-1133-IHW-E

PCW

Respondent TEXAS INDUSTRIAL BOX MAINTENANCE, INC.

Policy Revision 2 (September 2002)

Case ID No. 40019

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103071825

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Wallace Myers

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 335.6(c)

Violation Description

Failed to update the Facility's Notice of Registration ("NOR"). Specifically, the Respondent failed to update the NOR in areas related to: the Facility's description to transfer facility and receiver of hazardous and non-hazardous waste, update waste management units for several waste streams including waste streams 0001205 and 0002105H, inactivate waste streams that are no longer generated, add waste streams for rinse waters stored in the 5,000 gallon trailer and the 10,000 gallon tank, update the status of two 7,000 gallon tanks which are no longer on-site, and add the 10,000 gallon tank and list its intended use, add the 5,000 gallon trailer and list its intended use, add a container unit to manage hazardous rinse waters, and add the sump used in the wash bay.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			10%

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 71

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$1,000

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$28

Violation Final Penalty Total \$1,020

This violation Final Assessed Penalty (adjusted for limits) \$1,020

Economic Benefit Worksheet

Respondent TEXAS INDUSTRIAL BOX MAINTENANCE, INC.
Case ID No. 40019
Reg. Ent. Reference No. RN103071825
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				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	16-Mar-2010	26-Apr-2011	1.11	\$28	n/a	\$28

Notes for DELAYED costs

Estimated cost to update the Facility's NOR. The date required is the investigation date and the final date is the estimated date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$28

Screening Date 26-May-2010 **Docket No.** 2010-1133-IHW-E **PCW**
Respondent TEXAS INDUSTRIAL BOX MAINTENANCE, INC. *Policy Revision 2 (September 2002)*
Case ID No. 40019 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN103071825
Media [Statute] Industrial and Hazardous Waste
Enf. Coordinator Wallace Myers

Violation Number 5
Rule Cite(s) 30 Tex. Admin. Code § 335.8(b)
Violation Description Failed to submit documentation demonstrating proper closure of waste management units. Specifically, NOR unit nos. 001 and 002 had been removed from the Facility and no documentation had been submitted demonstrating proper closure of these units.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				25%
	Potential	x			

>> 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 of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 3 71 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$7,500

Three monthly events are recommended based on documentation of the violation during the March 16, 2010 investigation to the May 26, 2010 screening date.

Good Faith Efforts to Comply 0.0% Reduction \$0

	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 for this violation.

Violation Subtotal \$7,500

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

Estimated EB Amount \$111 **Violation Final Penalty Total** \$7,650

This violation Final Assessed Penalty (adjusted for limits) \$7,650

Economic Benefit Worksheet

Respondent TEXAS INDUSTRIAL BOX MAINTENANCE, INC.
Case ID No. 40019
Reg. Ent. Reference No. RN103071825
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
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$2,000	16-Mar-2010	26-Apr-2011	1.11	\$111	n/a	\$111

Notes for DELAYED costs

Estimated cost to prepare and submit a closure report demonstrating proper closure for NOR unit nos. 001 and 002. The date required is the investigation date and the final date is the estimated date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,000

TOTAL

\$111

Screening Date 26-May-2010 **Docket No.** 2010-1133-IHW-E **PCW**
Respondent TEXAS INDUSTRIAL BOX MAINTENANCE, INC. *Policy Revision 2 (September 2002)*
Case ID No. 40019 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN103071825
Media [Statute] Industrial and Hazardous Waste
Enf. Coordinator Wallace Myers

Violation Number 6
Rule Cite(s) 30 Tex. Admin. Code § 335.62 and 40 Code of Federal Regulations § 262.11
Violation Description Failed to conduct hazardous waste determinations and classifications. Specifically, hazardous waste determinations and classifications were not performed for the rinse waters stored in the 10,000 gallon and 5,000 gallon containers.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				25%
	Potential	x			

>> 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 of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2 2 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$5,000

Two single events are recommended (one for each waste stream).

Good Faith Efforts to Comply 0.0% Reduction \$0

	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 for this violation.

Violation Subtotal \$5,000

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

Estimated EB Amount \$56

Violation Final Penalty Total \$5,100

This violation Final Assessed Penalty (adjusted for limits) \$5,100

Economic Benefit Worksheet

Respondent TEXAS INDUSTRIAL BOX MAINTENANCE, INC.
Case ID No. 40019
Reg. Ent. Reference No. RN103071825
Media 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
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,000	16-Mar-2010	26-Apr-2011	1.11	\$56	n/a	\$56

Notes for DELAYED costs

Estimated cost to conduct waste determinations for the contents of the 10,000 and 5,000 gallon storage containers. The date required is the investigation date and the final date is the estimated date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$56

Screening Date 26-May-2010 **Docket No.** 2010-1133-IHW-E **PCW**
Respondent TEXAS INDUSTRIAL BOX MAINTENANCE, INC. *Policy Revision 2 (September 2002)*
Case ID No. 40019 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN103071825
Media [Statute] Industrial and Hazardous Waste
Enf. Coordinator Wallace Myers

Violation Number
Rule Cite(s)
Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
		<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	
<input type="text" value="100% of the rule requirement was not met."/>					

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

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

Violation Base Penalty

Good Faith Efforts to Comply Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	<input type="text" value="(mark with x)"/>

Notes

Violation Subtotal

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 TEXAS INDUSTRIAL BOX MAINTENANCE, INC.
Case ID No. 40019
Reg. Ent. Reference No. RN103071825
Media 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				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$50	16-Mar-2010	26-Apr-2011	1.11	\$3	n/a	\$3
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to properly complete and submit manifests. The date required is the investigation date and the final date is the estimated date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$50

TOTAL

\$3

Compliance History Report

Customer/Respondent/Owner-Operator:	CN602800690 TEXAS INDUSTRIAL BOX MAINTENANCE, INC.	Classification: AVERAGE	Rating: 3.00
Regulated Entity:	RN103071825 Texas Industrial Box Maintenance	Classification: AVERAGE	Site Rating: 3.00
ID Number(s):	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXR000049841
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	87074
	AIR NEW SOURCE PERMITS	REGISTRATION	90508
Location:	15335 MARKET ST, CHANNELVIEW, TX, 77530		
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	May 26, 2010		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	May 26, 2005 to May 26, 2010		

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

Name: Wallace Myers Phone: 512-239-6580

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
6. Rating Date: 9/1/2009 Repeat Violator: NO

Components (Multimedia) for the Site:

- A. Final Enforcement Orders, court judgments, 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.)
N/A
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 Date: 07/29/2009 (759279)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)
 5C THSC Chapter 382 382.085(b)
 Description: Failure to obtain authorization for vessel cleaning activities. 116.110(a) (Category B18)
 - 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

THIS PAGE INTENTIONALLY LEFT BLANK

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
TEXAS INDUSTRIAL BOX
MAINTENANCE, INC.;
RN103071825**

**§
§
§
§
§
§**

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2010-1133-IHW-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding Texas Industrial Box Maintenance, Inc. ("Respondent") under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE ch. 361. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent appear before the Commission and together stipulate that:

1. Respondent owns and operates a waste container cleaning and repair facility located at 15335 Market Street in Channelview, Harris County, Texas (the "Facility"). The Facility involves the management and/or the disposal of industrial solid waste and industrial hazardous waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 361 and TCEQ rules.
3. The Executive Director and Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondent is subject to the Commission's jurisdiction.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of nineteen thousand eight hundred ninety dollars (\$19,890.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid one thousand seven dollars (\$1,007.00) of the administrative penalty. The remaining amount of eighteen thousand eight hundred eighty-three dollars (\$18,883.00) of the administrative penalty shall be payable in twenty-three (23) monthly payments of eight hundred twenty-one dollars (\$821.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate

the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Respondent's failure to meet the payment schedule of this Agreed Order constitutes the failure by Respondent to timely and satisfactorily comply with all of the terms of this Agreed Order.

6. 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.
7. The Executive Director of the TCEQ and Respondent agree on a settlement of the matters addressed in this Agreed Order, subject to the approval of the Commission.
8. 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 Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
9. 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.
10. 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

1. During an investigation conducted on March 16, 2010, a TCEQ Houston Regional Office investigator documented that Respondent:
 - a. Failed to obtain a permit for the storage and processing of industrial waste. Specifically, Respondent was handling and cleaning Resource Conservation and Recovery Act (RCRA) non-empty containers and storing the resulting waste residues without authorization, in violation of 30 TEX. ADMIN. CODE § 335.2(b) and 40 C.F.R. § 268.50(a)(3);
 - b. Failed to keep records of all hazardous and industrial solid waste activities. Specifically, secondary manifests correlating the quantity of waste drums received with the original manifests of waste drums generated were not available for review, in violation of 30 TEX. ADMIN. CODE § 335.9(a)(1);
 - c. Failed to submit and provide accurate Annual Waste Summaries (AWSs). Specifically, AWSs were not submitted for the calendar years 2005 and 2007, and incorrect waste code (WC) information was provided for WCs 00012051 and 9191609H on the AWS for 2006, in violation of 30 TEX. ADMIN. CODE § 335.9(a)(2);
 - d. Failed to update the Facility's Notice of Registration (NOR). Specifically, Respondent failed to update the NOR in areas related to: the Facility's description to transfer facility and receiver of hazardous and non-hazardous waste; update waste management units for several waste streams, including waste streams 0001205 and 0002105H, waste streams that are no longer generated, new waste streams for rinse waters stored in a new 5,000 gallon trailer and a new 10,000 gallon tank; two 7,000 gallon tanks which are no longer at the Facility; a new 10,000 gallon tank and its intended use; a new 5,000 gallon trailer and its intended use; a new container unit to manage

- hazardous rinse waters; and a new sump used in the wash bay, in violation of 30 TEX. ADMIN. CODE § 335.6(c);
- e. Failed to submit documentation demonstrating proper closure of waste management units. Specifically, NOR unit nos. 001 and 002 had been removed from the Facility and no documentation had been submitted demonstrating proper closure of these units, in violation of 30 TEX. ADMIN. CODE § 335.8(b);
 - f. Failed to conduct hazardous waste determinations and classifications. Specifically, hazardous waste determinations and classifications were not performed on the rinse waters stored in a 10,000 gallon container and a 5,000 gallon container, in violation of 30 TEX. ADMIN. CODE § 335.62 and 40 C.F.R. § 262.11; and
 - g. Failed to properly complete all manifests for the shipment of hazardous and Class 1 wastes. Specifically, Respondent incorrectly listed Texas Waste Code ("TWC") 00012031 (non-halogenated solvent) on manifest 003798055JJK instead of TWC 00012051 (oil-water emulsion or mixture), in violation of 30 TEX. ADMIN. CODE § 335.10(c).
2. Respondent received notice of the violations on or about May 24, 2010.

III. DENIALS

Respondent generally denies each Allegation in Section II.

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Respondent pay an administrative penalty as set forth in Section I, Paragraph 5, above. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective actions or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Texas Industrial Box Maintenance, Inc., Docket No. 2010-1133-IHW-E" to:

Financial Administration Division, Revenues Section
Texas Commission on Environmental Quality
Attention: Cashier's Office, MC 214
P.O. Box 13088
Austin, Texas 78711-3088
2. Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, Respondent shall:
 - i. Cease the processing and storage of any additional unauthorized hazardous waste at the Facility (Allegation 1.a.); and
 - ii. Remove all accumulated unauthorized waste from the Facility and dispose of it at an authorized facility (Allegation 1.a.).

- b. Within 30 days after the effective date of this Agreed Order, Respondent shall:
- i. Develop and implement procedures to ensure that records of all hazardous and industrial solid waste activities are kept at the Facility and available for review, including but not limited to secondary manifests to correlate with original manifests regarding the quantity of waste received and generated at the Facility, in accordance with 30 TEX. ADMIN. CODE §§ 335.9(a)(1) (Allegation 1.b.);
 - ii. Submit AWSs for calendar years 2005 and 2007, and submit an amended AWS for calendar year 2006 to include the correct waste codes for oil contaminated wastewater and hazardous sludge, in accordance with 30 TEX. ADMIN. CODE § 335.9 (Allegation 1.c.);
 - iii. Conduct waste determinations and classifications on all waste streams at the Facility, in accordance with 30 TEX. ADMIN. CODE § 335.62 and 40 C.F.R. § 262.11 (Allegation 1.f.);
 - iv. Submit corrected copies of all manifests generated at the Facility in the past three years which have incorrect TWCs, including but not limited to manifest 003798055JJK, in accordance with 30 TEX. ADMIN. CODE § 335.10 (Allegation 1.g.);
 - v. Submit documentation verifying that former tank unit nos. 1 and 2 have been properly closed, in accordance with 30 TEX. ADMIN. CODE § 335.8 (Allegation 1.e.) to:

Remediation Division, MC127
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
 - vi. Update the Facility's NOR to accurately reflect the Facility type and all waste management units and wastes at the Facility, in accordance with 30 TEX. ADMIN. CODE § 335.6 (Allegation 1.d.) to:

Registration and Reporting Section
Permitting & Registration Support Division, MC129
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
- c. Within 45 days after the effective date of this Agreed Order, Respondent shall submit written certification and detailed supporting documentation, in accordance with Ordering Provision No. 2.d., below, to demonstrate compliance with Ordering Provisions Nos. 2.a.i. through 2.b.vi.
- d. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall 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."

Respondent shall submit the written certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

Waste Section Manager
Texas Commission on Environmental Quality
Houston Regional Office
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

3. All relief not expressly granted in this Agreed Order is denied.
4. The duties and provisions imposed by this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Agreed Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent 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 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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission" "owner" "person" "writing" and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails notice of this Agreed Order to Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Aug. 2, 2011 2:15PM Legacee Environmental

No. 0877 P. 9

Texas Industrial Box Maintenance, Inc,
Docket No. 2010-1133-IHW-E
Page 7

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

[Handwritten Signature]

For the Executive Director

9/13/2011

Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of Texas Industrial Box Maintenance, Inc., 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 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;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.

Signature

Name (Printed or typed)

Authorized representative of
Texas Industrial Box Maintenance, Inc.

[Handwritten Signature]
KIMA Devoung

Date

Title

8/3/11

owner / Resident