Executive Summary – Enforcement Matter – Case No. 41121
STANDARD WASTE SERVICES, LLC
RN100684059
Docket No. 2011-0246-MSW-E

Order Type:
1660 Agreed Order
Findings Order Justification:
N/A
Media:
MSW
Small Business:
Yes
Location(s) Where Violation(s) Occurred:
Standard Waste Services, 5610 Farm-to-Market 1346, San Antonio, Bexar County
Type of Operation:
Municipal solid waste ("MSW") recycling facility
Other Significant Matters:
Additional Pending Enforcement Actions: No
Past-Due Penalties: No
Other: N/A
Interested Third-Parties: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.
Texas Register Publication Date: June 10, 2011
Comments Received: No

Penalty Information

Total Penalty Assessed: $2,000
Amount Deferred for Expedited Settlement: $400
Amount Deferred for Financial Inability to Pay: $0
Total Paid to General Revenue: $1,600
Total Due to General Revenue: $0
Payment Plan: N/A
SEP Conditional Offset: $0
Name of SEP: N/A
Compliance History Classifications:
Person/CN - Average
Site/RN - Average by Default
Major Source: No
Statutory Limit Adjustment: N/A
Applicable Penalty Policy: September 2002

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Investigation Information

Complaint Date(s): October 21, 2010
Complaint Information: A complaint was received alleging accumulation of waste that could be visible from the road.
Date(s) of Investigation: November 23, 2010
Date(s) of NOE(s): January 24, 2011

Violation Information

Failed to obtain a permit or other authorization prior to conducting storage, processing, or disposal of MSW. Specifically, the Respondent stored approximately 5,000 cubic yards of waste in the yard without authorization [30 TEX. ADMIN. CODE § 330.7(a)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Executive Director recognizes that the Respondent has:

a. Submitted a Notice of Intent to operate an indoor recycling facility on January 19, 2011 and removed the waste that was stored outdoors; and

b. Sold the property on February 18, 2011.

Technical Requirements:

N/A

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Andrea Park, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-4575; Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495
TCEQ SEP Coordinator: N/A
Respondent: Louis Sabia, President, STANDARD WASTE SERVICES, LLC, 5610 Farm-to-Market 1346, San Antonio, Texas 78220
Respondent's Attorney: N/A

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) — *PCW Revision October 30, 2008*

TCEQ

DATES					
Assigned	24-Jan-2011				
PCW	3-Feb-2011	**Screening**	3-Feb-2011	**EPA Due**	

RESPONDENT/FACILITY INFORMATION

Respondent	STANDARD WASTE SERVICES, LLC		
Reg. Ent. Ref. No.	RN100684059		
Facility/Site Region	13-San Antonio	**Major/Minor Source**	Minor

CASE INFORMATION

Enf./Case ID No.	41121	**No. of Violations**	1
Docket No.	2011-0246-MSW-E	**Order Type**	1660
Media Program(s)	Municipal Solid Waste	**Government/Non-Profit**	No
Multi-Media		**Enf. Coordinator**	Andrea Park
		EC's Team	Enforcement Team 6

Admin. Penalty $ Limit Minimum $0 **Maximum** $10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — ***Subtotal 1*** **$2,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **0.0%** Enhancement — ***Subtotals 2, 3, & 7*** **$0**

Notes: No adjustment for compliance history.

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 $215
Approx. Cost of Compliance $5,000

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 — ***Final Subtotal*** **$2,000**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** — ***Adjustment*** **$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **$2,000**

STATUTORY LIMIT ADJUSTMENT — ***Final Assessed Penalty*** **$2,000**

DEFERRAL **20.0%** Reduction — ***Adjustment*** **-$400**

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY **$1,600**

Screening Date 3-Feb-2011 **Docket No.** 2011-0246-MSW-E **PCW**

Respondent STANDARD WASTE SERVICES, LLC *Policy Revision 2 (September 2002)*

Case ID No. 41121 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN100684059

Media [Statute] Municipal Solid Waste

Enf. Coordinator Andrea Park

Compliance History Worksheet

>> Compliance History *Site* Enhancement (Subtotal 2)

Component	Number of...	*Enter Number Here*	Adjust.
NOVs	Written notices of violation ("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)

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

No adjustment for compliance history.

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

Screening Date 3-Feb-2011 **Docket No.** 2011-0246-MSW-E **PCW**

Respondent STANDARD WASTE SERVICES, LLC *Policy Revision 2 (September 2002)*

Case ID No. 41121 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN100684059

Media [Statute] Municipal Solid Waste

Enf. Coordinator Andrea Park

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 330.7(a)

Violation Description Failed to obtain a permit or other authorization prior to conducting storage, processing, or disposal of municipal solid waste ("MSW"). Specifically, the Respondent stored approximately 5,000 cubic yards of waste in the yard without authorization.

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% of the rule requirement was not met.

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events 2 | 57 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $2,000

Two monthly events are recommended from the November 23, 2010 investigation to the January 19, 2011 compliance date.

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 meet the good faith criteria for this violation.

Violation Subtotal $2,000

Economic Benefit (EB) for this violation

Estimated EB Amount $215

Statutory Limit Test

Violation Final Penalty Total $2,000

This violation Final Assessed Penalty (adjusted for limits) $2,000

Economic Benefit Worksheet

Respondent STANDARD WASTE SERVICES, LLC
Case ID No. 41121
Req. Ent. Reference No. RN100684059
Media Municipal Solid Waste
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	$5,000	23-Nov-2010	3-Oct-2011	0.86	$215	n/a	$215
Other (as needed)				0.00	$0	n/a	$0

Notes for DELAYED costs Estimated cost to obtain a permit to continue Facility operations. 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 $5,000

TOTAL $215

Compliance History

Customer/Respondent/Owner-Operator:	CN603398942	STANDARD WASTE SERVICES, LLC	Classification: AVERAGE	Rating: 1.50
Regulated Entity:	RN100684059	Standard Waste Services	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	INDUSTRIAL AND HAZARDOUS WASTE	SOLID WASTE REGISTRATION # (SWR)	33984	
	MUNICIPAL SOLID WASTE NON PERMITTED	ID NUMBER	UNA455130215	
	STORMWATER	PERMIT	TXRNEW005	
Location:	5610 FM RD 1346, SAN ANTONIO, TX, 78220			
TCEQ Region:	REGION 13 - SAN ANTONIO			
Date Compliance History Prepared:	February 09, 2011			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	February 09, 2006 to February 09, 2011			

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

Name: Andrea Park Phone: (512) 239-4575

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
2. Has there been a (known) change in ownership/operator of the site during the compliance period? Yes
3. If Yes, who is the current owner/operator? Standard Waste Services, LLC
4. If Yes, who was/were the prior owner(s)/operator(s)? Consolidated Foundry Inc.
5. When did the change(s) in owner or operator occur? 07/08/2010
6. Rating Date: 9/1/2010 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.)

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	**§**	**BEFORE THE**
ENFORCEMENT ACTION	**§**	
CONCERNING	**§**	**TEXAS COMMISSION ON**
STANDARD WASTE SERVICES,	**§**	
LLC	**§**	
RN100684059	**§**	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2011-0246-MSW-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 STANDARD WASTE SERVICES, LLC ("the Respondent") 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 the Respondent appear before the Commission and together stipulate that:

1. The Respondent owned and operated a municipal solid waste ("MSW") recycling facility at 5610 Farm-to-Market Road 1346 in San Antonio, Bexar County, Texas (the "Facility").

2. The Facility involves or involved the management of MSW as defined in TEX. HEALTH & SAFETY CODE ch. 361.

3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.

4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about January 30, 2011.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Two Thousand Dollars ($2,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations").

The Respondent has paid One Thousand Six Hundred Dollars ($1,600) of the administrative penalty and Four Hundred Dollars ($400) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.

8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.

9. The Executive Director recognizes that the Respondent has:

   a. Submitted a Notice of Intent to operate an indoor recycling facility on January 19, 2011 and removed the waste that was stored outdoors; and

   b. Sold the property on February 18, 2011.

10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to obtain a permit or other authorization prior to conducting storage, processing, or disposal of MSW, in violation of 30 TEX. ADMIN. CODE § 330.7(a), as documented during an investigation conducted on November 23, 2010. Specifically, the Respondent stored approximately 5,000 cubic yards of waste in the yard without authorization.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: STANDARD WASTE SERVICES, LLC, Docket No. 2011-0246-MSW-E" to:

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

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent.

3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

4. 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.

5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

_____ 6/24/2011
For the Executive Director 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.

_____ 6-15-11
Signature Date

Louis Sabia Pres.
Name (Printed or typed) Title
Authorized Representative of
STANDARD WASTE SERVICES, LLC

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.