

**Executive Summary – Enforcement Matter – Case No. 42656**

**Igloo Products Corp.**

**RN101919280**

**Docket No. 2011-1806-IWD-E**

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

**Media:**

IWD

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

Katy Plant, located at 30603 Katy-Brookshire Road adjacent to and south of United States Highway 90, approximately 750 feet west of the Willow Fork of Buffalo Bayou, Waller County

**Type of Operation:**

Plastic container manufacturing plant with an associated wastewater treatment facility

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** February 3, 2012

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$13,620

**Amount Deferred for Expedited Settlement:** \$0

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$13,620

**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

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002

**Executive Summary – Enforcement Matter – Case No. 42656**

**Igloo Products Corp.**

**RN101919280**

**Docket No. 2011-1806-IWD-E**

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** August 22, 2011

**Date(s) of NOE(s):** September 2, 2011

***Violation Information***

Failed to comply with permitted effluent limits for oil and grease, flow, total suspended solids, and 5-day biochemical oxygen demand [Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0002229000, Effluent Limitations and Monitoring Requirements No. 1 for Outfalls 001, 101, and 201, 30 TEX. ADMIN. CODE § 305.125(1) and TEX. WATER CODE § 26.121(a)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

The Order will require the Respondent to, within 90 days, submit certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0002229000, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted limitations.

***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:** Cheryl Thompson, Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5886; Debra Barber, Enforcement Division, MC 219, (512) 239-0412

**TCEQ SEP Coordinator:** N/A

**Respondent:** Al Payton, Environmental Health & Safety Manager, Igloo Products Corp., 777 Igloo Road, Katy, Texas 77494

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

<b>DATES</b>	<b>Assigned</b>	19-Sep-2011	<b>Screening</b>	27-Sep-2011	<b>EPA Due</b>	
	<b>PCW</b>	29-Sep-2011				

<b>RESPONDENT/FACILITY INFORMATION</b>			
<b>Respondent</b>	Igloo Products Corp.		
<b>Reg. Ent. Ref. No.</b>	RN101919280		
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	42656	<b>No. of Violations</b>	1
<b>Docket No.</b>	2011-1806-IWD-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Cheryl Thompson
		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$6,000**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History** **127.0%** Enhancement **Subtotals 2, 3, & 7** **\$7,620**

Notes: Enhancement for 16 months of self-reported violations, one NOV with same/similar violations, one NOV with dissimilar violations and two orders with denial of liability.

**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 \$792  
Approx. Cost of Compliance \$10,000  
\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$13,620**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount** **\$13,620**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$13,620**

**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:

No deferral is recommended for Findings Orders.

**PAYABLE PENALTY** **\$13,620**

**Screening Date** 27-Sep-2011

**Docket No.** 2011-1806-IWD-E

**PCW**

**Respondent** Igloo Products Corp.

Policy Revision 2 (September 2002)

**Case ID No.** 42656

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN101919280

**Media [Statute]** Water Quality

**Enf. Coordinator** Cheryl Thompson

### 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 ( <i>number of NOVs meeting criteria</i> )	17	85%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 127%

>> **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 16 months of self-reported violations, one NOV with same/similar violations, one NOV with dissimilar violations and two orders with denial of liability.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 127%

**Screening Date** 27-Sep-2011  
**Respondent** Igloo Products Corp.  
**Case ID No.** 42656  
**Reg. Ent. Reference No.** RN101919280  
**Media [Statute]** Water Quality  
**Enf. Coordinator** Cheryl Thompson  
**Violation Number** 1

**Docket No.** 2011-1806-IWD-E

**PCW**

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

**Rule Cite(s)** Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0002229000, Effluent Limitations and Monitoring Requirements No. 1 for Outfalls 001, 101, and 201, 30 Tex. Admin. Code § 305.125(1) and Tex. Water Code § 26.121(a)

**Violation Description** Failed to comply with permitted effluent limits, as documented during a record review conducted on August 22, 2011. See attached table.

**Base Penalty** \$10,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual			X	10%
	Potential				

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
					0%

**Matrix Notes** Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of this violation.

**Adjustment** \$9,000

\$1,000

**Violation Events**

Number of Violation Events   Number of violation days

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

**Violation Base Penalty** \$6,000

Six quarterly events are recommended (one quarter for Outfall 001, two quarters for Outfall 101, and three quarters for Outfall 201).

**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** \$6,000

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$792

**Violation Final Penalty Total** \$13,620

**This violation Final Assessed Penalty (adjusted for limits)** \$13,620

## Economic Benefit Worksheet

**Respondent** Igloo Products Corp.  
**Case ID No.** 42656  
**Req. Ent. Reference No.** RN101919280  
**Media** Water Quality  
**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)	\$10,000	31-Dec-2010	31-Jul-2012	1.58	\$792	n/a	\$792

**Notes for DELAYED costs**

The estimated cost to evaluate the causes of the effluent violations and to implement necessary rehabilitation to the wastewater treatment system. Date required is the month the first non-compliant excursion was documented. Final date is the expected 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

\$10,000

**TOTAL**

\$792





## Compliance History

Customer/Respondent/Owner-Operator:	CN601048085 Igloo Products Corp.	Classification: AVERAGE	Rating: 6.04
Regulated Entity:	RN101919280 KATY PLANT	Classification: AVERAGE	Site Rating: 3.17
ID Number(s):	AIR NEW SOURCE PERMITS	PERMIT	7303
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	WB0012T
	AIR NEW SOURCE PERMITS	AFS NUM	4847300007
	WASTEWATER	PERMIT	WQ0002229000
	WASTEWATER	EPA ID	TX0079057
	AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	WB0012T
Location:	located at 30603 Katy-Brookshire Road adjacent to and south of U.S. Highway 90, approximately 750 feet west of the Willow Fork of Buffalo Bayou, Waller County, Texas		
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	September 29, 2011		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	September 29, 2006 to September 29, 2011		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Cheryl Thompson	Phone:	(817) 588-5886

### 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: 9/1/2011 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.

Effective Date: 12/22/2006                      ADMINORDER 2003-1357-IWD-E  
 Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Effluent Limits PERMIT  
 Description: Failure to comply with the permit limit for Total Selenium daily average (mg/l) at Outfall 001A for the monitoring periods ending 03/31/2002 and 06/30/2002. These violations meet referral criteria.

Effective Date: 06/04/2010                      ADMINORDER 2009-1726-IWD-E  
 Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Effluent Limits PERMIT  
 Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data. Specifically, the Respondent submitted self-reported data indicating their daily average concentration of total suspended solids level for the monitoring period ending in February 2009 was 28.75 milligrams

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)  
 Rqmt Prov: Effluent Reporting Requirements PERMIT

Description: Failure to timely submit effluent monitoring results at the intervals specified in the permit as documented by a TCEQ record review. Specifically, the Respondent failed to timely submit the annual DMR for total chromium and total zinc at outfalls 401 and 201 for the monitoring period ending August 31, 2008.

Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)  
 Rqmt Prov: Effluent Reporting Requirements PERMIT

Description: Failure to timely submit effluent monitoring results at the intervals specified in the permit as documented by a TCEQ record review. Specifically, the Respondent failed to submit the DMR parameter data for dissolved oxygen for the monitoring period ending March 31, 2009 and for general fecal coliform for the monitoring periods ending May 31, 2008, June 30, 2008, July 31, 2008, and August 31, 2008.

- 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.)

2	10/25/2006	(550279)
3	11/22/2006	(550280)
4	01/15/2007	(550281)
5	02/20/2007	(585717)
6	03/19/2007	(585718)
7	04/19/2007	(585719)
8	05/22/2007	(585720)
9	06/21/2007	(585721)
10	07/23/2007	(604621)
11	08/22/2007	(604622)
12	09/21/2007	(604623)
13	10/24/2007	(623859)
14	11/30/2007	(623860)
15	02/21/2008	(675024)
16	03/24/2008	(675025)
17	01/03/2008	(675026)
18	01/28/2008	(675027)
19	04/23/2008	(693374)
20	05/22/2008	(693375)
21	06/27/2008	(714622)
22	08/04/2008	(714623)
23	08/19/2008	(714624)
24	09/24/2008	(714625)
25	10/23/2008	(730575)
26	12/03/2008	(730576)
27	12/29/2008	(730577)
28	01/22/2009	(730578)
29	02/24/2009	(753794)
30	04/22/2009	(753795)
31	10/09/2009	(765503)
32	04/22/2009	(771179)
33	05/21/2009	(771180)
34	06/08/2010	(799824)
35	02/11/2010	(813483)
36	06/19/2009	(813484)
37	07/24/2009	(813485)
38	07/21/2009	(813486)
39	09/22/2009	(813487)
40	10/21/2009	(813488)
41	11/19/2009	(813489)
42	12/23/2009	(813490)
43	03/19/2010	(833968)
44	04/19/2010	(833969)
45	05/20/2010	(833970)
46	06/21/2010	(847219)
47	09/17/2010	(864501)
48	07/21/2010	(868034)
49	08/20/2010	(868035)
50	01/20/2010	(868036)
51	09/20/2010	(874976)
52	10/18/2010	(882582)
53	11/22/2010	(889009)
54	12/27/2010	(897372)
55	01/20/2011	(903262)
56	05/23/2011	(907688)
57	02/22/2011	(910181)
58	03/18/2011	(917395)
59	04/20/2011	(928187)
60	05/16/2011	(939090)

61 06/23/2011 (946472)  
 62 09/02/2011 (950314)  
 63 07/28/2011 (953753)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 10/31/2006 (550280) CN601048085  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2007 (585720) CN601048085  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 07/31/2007 (604622) CN601048085  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 08/31/2007 (604623) CN601048085  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2007 (675027) CN601048085  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2008 (675024) CN601048085  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

Date 02/29/2008 (675025) CN601048085  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

Date 03/31/2008 (693374) CN601048085  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

Date 02/28/2009 (753795) CN601048085  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

Date 03/31/2009 (771179) CN601048085  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

Date 04/30/2010 (833970) CN601048085  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

Date 06/08/2010 (799824) CN601048085  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Effluent Limits & Monit. Reqmnts. No. 2. OP  
 Description: Failure to maintain compliance with effluent permit limits for chlorine residual.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 319, SubChapter A 319.11(a)  
 Description: Failure to properly conduct chlorine residual analyses.

Date 12/31/2010 (903262) CN601048085  
 Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter  
Date 02/28/2011 (917395) CN601048085  
Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter  
Date 03/31/2011 (928187) CN601048085  
Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter  
Date 05/23/2011 (907688) CN601048085  
Self Report? NO Classification: Minor

Citation: Effluent Limitations and Monitoring #1 PERMIT  
Description: Failure to accurately measure flow from Outfall 201 and/or Outfall 401.  
Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)  
Description: Failure to accurately submit effluent data on monthly Discharge Monitoring Report.  
Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)  
Other Requirements #11A PERMIT  
Description: Failure to maintain a log of fecal coliform samples.  
Date 05/31/2011 (946472) CN601048085  
Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter  
Date 06/30/2011 (953753) CN601048085  
Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

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  
IGLOO PRODUCTS CORP.  
RN101919280**

**§ BEFORE THE  
§ TEXAS COMMISSION ON  
§ ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2011-1806-IWD-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Igloo Products Corp. ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

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

**I. FINDINGS OF FACT**

1. The Respondent owns and operates a plastic container manufacturing plant with an associated wastewater treatment facility located at 30603 Katy-Brookshire Road adjacent to and south of United States Highway 90, approximately 750 feet west of the Willow Fork of Buffalo Bayou in Waller County, Texas (the "Facility").

2. The Respondent has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. During a record review on August 22, 2011, TCEQ staff documented that the Respondent exceeded the permitted effluent limits as shown in the table below:

<i>Month/Year</i>	Oil & Grease Daily Max. (Outfall 001)	BOD <sub>5</sub> Daily Max. Conc. (Outfall 101)	Flow (Outfall 101)	TSS Daily Avg. Conc. (Outfall 201)	TSS Daily Max. Conc. (Outfall 201)
	15 mg/L	45 mg/L	0.05 MGD	30 mg/L	60 mg/L
<b>December 2010</b>	26.2	c	c	c	c
<b>February 2011</b>	c	c	c	c	101
<b>March 2011</b>	c	58.2	c	c	c
<b>May 2011</b>	c	c	c	68.25	253
<b>June 2011</b>	c	c	0.061	65.8	301

mg/L= milligrams per liter; BOD<sub>5</sub> = biochemical oxygen demand (5-day); TSS = total suspended solids; c= compliant; Avg. = average; Conc. =concentration; MGD= million gallons per day; Max. = maximum

4. The Respondent received notice of the violations on September 7, 2011.

## II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to comply with permitted effluent limits, in violation of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0002229000, Effluent Limitations and Monitoring Requirements No. 1 for Outfalls 001, 101, and 201, 30 TEX. ADMIN. CODE § 305.125(1) and TEX. WATER CODE § 26.121(a).
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Thirteen Thousand Six Hundred Twenty Dollars (\$13,620) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid the Thirteen Thousand Six Hundred Twenty Dollar (\$13,620) administrative penalty.

### III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of Thirteen Thousand Six Hundred Twenty Dollars (\$13,620) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Igloo Products Corp., Docket No. 2011-1806-IWD-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 the Respondent shall, within 90 days after the effective date of this Agreed Order, submit certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0002229000, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted limitations. 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 fines 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:

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

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent 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 the 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, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent 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 the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
7. 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.
8. 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

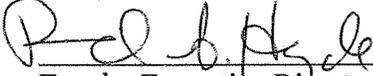
Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

9. 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.
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

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

2/22/12  
\_\_\_\_\_  
Date

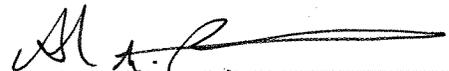
I, the undersigned, have read and understand the attached Agreed Order in the matter of Igloo Products Corp. I am authorized to agree to the attached Agreed Order on behalf of Igloo Products Corp., and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Igloo Products Corp. waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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 DEC 11  
\_\_\_\_\_  
Date

AL M. PAYTON  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Igloo Products Corp.

EH & S MANAGER  
\_\_\_\_\_  
Title

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