

Executive Summary – Enforcement Matter – Case No. 41896
ALPHA OMEGA RECYCLING, INC.
RN100657543
Docket No. 2011-1015-IHW-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

IHW

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Alpha Omega Recycling, 315 West Whatley Road, White Oak, Gregg County

Type of Operation:

Metal bearing waste processing facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: October 26, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$18,750

Amount Deferred for Expedited Settlement: \$3,750

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$15,000

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 - High

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

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ALPHA OMEGA RECYCLING, INC.
RN100657543
Docket No. 2011-1015-IHW-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: April 6, 2011
Date(s) of NOE(s): May 31, 2011

Violation Information

1. Failed to prevent the shipment of industrial solid and hazardous waste to an unauthorized facility. Specifically, Respondent transported three shipments comprised of approximately 65,000 pounds of industrial and hazardous waste to a facility that did not have an EPA Identification Number and was not authorized to accept the waste for metal reclamation [30 TEX. ADMIN. CODE §§ 335.2(b) and 335.63(b), 40 CODE OF FEDERAL REGULATIONS (“CFR”) § 262.12(c) and Hazardous Waste Permit No. 50203, Provision No. II.C.1.h.].
2. Failed to prepare a manifest for off-site shipments of hazardous waste. Specifically, Respondent failed to manifest three shipments of waste shown to be characteristically hazardous for chromium by waste management profile sheets [30 TEX. ADMIN. CODE § 335.10(a) and 40 CFR § 262.20(a)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent has, in a letter to the TCEQ dated May 10, 2011, implemented the following corrective measures at the Facility:

- a. Removed both processed and unprocessed waste from the unauthorized facility and transported them back to Respondent’s Facility; and
- b. Implemented procedures and training regarding hazardous waste management and related activities.

Technical Requirements:

The Order will require Respondent to:

- a. Immediately, begin preparing and maintaining manifests; and
- b. Within 45 days, submit written certification demonstrating compliance.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A

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

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Michael Meyer, Enforcement Division,
Enforcement Team 6, MC 128, (512) 239-4492; Debra Barber, Enforcement Division,
MC 219, (512) 239-0412
TCEQ SEP Coordinator: N/A
Respondent: Heather Frost, Vice President, ALPHA OMEGA RECYCLING, INC., 315
Whatley Road, Longview, Texas 75604
Mark Wayne, President, ALPHA OMEGA RECYCLING, INC., 315 Whatley Road,
Longview, Texas 75604
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES Assigned PCW Screening EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent
 Reg. Ent. Ref. No.
 Facility/Site Region Major/Minor Source

CASE INFORMATION

Enf./Case ID No. No. of Violations
 Docket No. Order Type
 Media Program(s) Government/Non-Profit
 Multi-Media Enf. Coordinator
 EC's Team
 Admin. Penalty \$ Limit Minimum Maximum

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement **Subtotals 2, 3, & 7**

Notes

Culpability Enhancement **Subtotal 4**

Notes

Good Faith Effort to Comply Total Adjustments **Subtotal 5**

Economic Benefit Enhancement* **Subtotal 6**

Total EB Amounts
 Approx. Cost of Compliance *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT

DEFERRAL Reduction **Adjustment**

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

Notes

PAYABLE PENALTY

Screening Date 17-Jun-2011

Docket No. 2011-1015-IHW-E

PCW

Respondent ALPHA OMEGA RECYCLING, INC.

Policy Revision 2 (September 2002)

Case ID No. 41896

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100657543

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Michael Meyer

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	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 (<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)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

No adjustment for compliance history.

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

Screening Date 17-Jun-2011
Respondent ALPHA OMEGA RECYCLING, INC.
Case ID No. 41896

Docket No. 2011-1015-IHW-E

PCW

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

Reg. Ent. Reference No. RN100657543
Media [Statute] Industrial and Hazardous Waste
Enf. Coordinator Michael Meyer

Violation Number

Rule Cite(s)
 30 Tex. Admin. Code §§ 335.2(b) and 335.63(b), 40 Code of Federal Regulations ("CFR") § 262.12(c) and Hazardous Waste Permit No. 50203, Provision No. II.C.1.h.

Violation Description
 Failed to prevent the shipment of industrial solid and hazardous waste to an unauthorized facility. Specifically, the Respondent transported three shipments comprised of approximately 65,000 pounds of industrial and hazardous waste to a facility that did not have an EPA Identification Number and was not authorized to accept the waste for metal reclamation.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual		x		<input type="text" value="50%"/>
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					<input type="text" value="0%"/>
Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that protective of human health and environmental receptors as a result of the violation.					

Adjustment

Violation Events

Number of Violation Events 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 type="text"/>
	single event	<input checked="" type="text" value="x"/>

Violation Base Penalty

Three single events are recommended (one event per shipment).

Good Faith Efforts to Comply

<input type="text" value="25.0%"/>	Reduction	<input type="text" value="\$3,750"/>
	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input checked="" type="text" value="x"/>	<input type="text"/>
N/A	<input type="text"/>	(mark with x)

Notes
 The Respondent achieved compliance on May 10, 2011, prior to the Notice of Enforcement dated May 31, 2011.

Violation Subtotal

Economic Benefit (EB) for this violation

Estimated EB Amount

Statutory Limit Test

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent ALPHA OMEGA RECYCLING, INC.

Case ID No. 41896

Reg. Ent. Reference No. RN100657543

Media Industrial and Hazardous Waste

Violation No. 1

Percent Interest 5.0
Years of Depreciation 15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$2,000	25-Jan-2011	10-May-2011	0.29	\$29	n/a	\$29
Remediation/Disposal	\$2,200	25-Jan-2011	10-May-2011	0.29	\$32	n/a	\$32
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to develop and implement procedures to ensure that all waste and scrap material are transported only to facilities authorized to accept them, and the cost to transport waste materials back to the Respondent's facility. The Date Required is the date of the first shipment and the Final Date is the date of compliance.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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

\$4,200

TOTAL

\$60

Screening Date 17-Jun-2011
Respondent ALPHA OMEGA RECYCLING, INC.
Case ID No. 41896
Reg. Ent. Reference No. RN100657543
Media [Statute] Industrial and Hazardous Waste
Enf. Coordinator Michael Meyer
Violation Number 2

Docket No. 2011-1015-IHW-E

PCW

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

Rule Cite(s) 30 Tex. Admin. Code § 335.10(a) and 40 CFR § 262.20(a)

Violation Description Failed to prepare a manifest for off-site shipments of hazardous waste. Specifically, the Respondent failed to manifest three shipments of waste shown to be characteristically hazardous for chromium by waste management profile sheets.

Base Penalty \$10,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					0%
Potential					

>> **Programmatic Matrix**

Falsification	Harm			Percent
	Major	Moderate	Minor	
	x			25%

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

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events: 3 1 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$7,500

Three single events (one event for each shipment of waste) are 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 \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$13

Violation Final Penalty Total \$7,500

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

Economic Benefit Worksheet

Respondent ALPHA OMEGA RECYCLING, INC.
Case ID No. 41896
Reg. Ent. Reference No. RN100657543
Media Industrial and Hazardous Waste
Violation No. 2

Percent Interest 5.0
Years of Depreciation 15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$250	6-Apr-2011	30-Apr-2012	1.07	\$13	n/a	\$13
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 prepare and maintain manifests for three off-site shipments of waste. 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)

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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 \$250

TOTAL \$13

Compliance History

Customer/Respondent/Owner-Operator: CN600366611 ALPHA OMEGA RECYCLING, INC. Classification: AVERAGE Rating: 2.00
Regulated Entity: RN100657543 ALPHA OMEGA RECYCLING Classification: HIGH Site Rating: 0.00
ID Number(s): POLLUTION PREVENTION PLANNING ID NUMBER P06612
INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXD981514383
INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # 37531
(SWR)
INDUSTRIAL AND HAZARDOUS WASTE PERMIT 50203
Location: 315 W WHATLEY RD, WHITE OAK, TX, 75693
TCEQ Region: REGION 05 - TYLER
Date Compliance History Prepared: June 15, 2011
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: June 15, 2006 to June 15, 2011
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Michael Meyer Phone: (512) 239-4492

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: 9/1/2010 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.)
- | | | |
|---|------------|----------|
| 1 | 04/26/2007 | (554670) |
| 2 | 05/28/2008 | (670704) |
| 3 | 02/19/2010 | (792429) |
| 4 | 05/31/2011 | (912625) |
- 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.
06/08/2011
- 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
ALPHA OMEGA RECYCLING,
INC.
RN100657543**

§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2011-1015-IHW-E**

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding ALPHA OMEGA RECYCLING, INC. ("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 owns and operates a metal bearing waste processing facility at 315 West Whatley Road in White Oak, Gregg County, Texas (the "Facility").
2. The Facility involves or involved the management of industrial solid waste and hazardous waste 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 June 5, 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 Eighteen Thousand Seven Hundred Fifty Dollars (\$18,750) is assessed by the Commission in settlement of the violations alleged in

Section II ("Allegations"). The Respondent has paid Fifteen Thousand Dollars (\$15,000) of the administrative penalty and Three Thousand Seven Hundred Fifty Dollars (\$3,750) 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, in a letter to the TCEQ dated May 10, 2011, implemented the following corrective measures at the Facility:
 - a. Removed both processed and unprocessed waste from the unauthorized facility and transported them back to the Respondent's Facility;
 - b. Implemented procedures and training regarding hazardous waste management and related activities.
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:

1. Failed to prevent the shipment of industrial solid and hazardous waste to an unauthorized facility, in violation of 30 TEX. ADMIN. CODE §§ 335.2(b) and 335.63(b), 40 CODE OF FEDERAL REGULATIONS ("CFR") § 262.12(c) and Hazardous Waste Permit No. 50203, Provision No. II.C.1.h., as documented during an investigation conducted on April 6, 2011. Specifically, the Respondent transported three shipments comprised of approximately 65,000 pounds of industrial and hazardous waste to a facility that did not have an EPA Identification Number and was not authorized to accept the waste for metal reclamation.

2. Failed to prepare a manifest for off-site shipments of hazardous waste, in violation of 30 TEX. ADMIN. CODE § 335.10(a) and 40 CFR § 262.20(a), as documented during an investigation conducted on April 6, 2011. Specifically, the Respondent failed to manifest three shipments of waste shown to be characteristically hazardous for chromium by waste management profile sheets.

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: ALPHA OMEGA RECYCLING, INC., Docket No. 2011-1015-IHW-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Immediately begin preparing and maintaining manifests, in accordance with 30 TEX. ADMIN. CODE § 335.10(a) and 40 CFR § 262.20(a); and
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and order other records to demonstrate compliance with Ordering Provision No. 2.a. 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:

Waste Section Manager
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3734

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. 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.
7. 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.

8. 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

Pam Jorin
For the Executive Director

12/21/12
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.

Mark Wayne
Signature

10/27/11
Date

Mark Wayne
Name (Printed or typed)
Authorized Representative of
ALPHA OMEGA RECYCLING, INC.

President
Title

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