

Executive Summary – Enforcement Matter – Case No. 42491
SWEETWATER CORPORATION
RN102413705
Docket No. 2011-1636-MLM-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MLM - IHW

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Sweetwater Corporation, 2624 Wilson Road, Humble, Harris County

Type of Operation:

Hazardous waste transfer facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: September 28, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$91,962

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$85,813

Total Paid to General Revenue: \$199

Total Due to General Revenue: \$5,950

Payment Plan: 35 payments of \$170 each

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

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SWEETWATER CORPORATION
RN102413705
Docket No. 2011-1636-MLM-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: May 16, 2011 and May 26, 2011

Date(s) of NOE(s): August 31, 2011

Violation Information

1. Failed to prevent the unauthorized storage of hazardous waste at a transfer facility. Specifically, shipments of hazardous waste were stored more than ten days at the Facility [30 TEX. ADMIN. CODE §§ 335.43(a) and 335.94(a) and 40 CODE OF FEDERAL REGULATIONS (“CFR”) § 263.12].
2. Failed to prevent the unauthorized discharge of industrial solid waste. Specifically, one area of stained soil was observed near box trailer ZK0008 and two spills were observed in the warehouse [30 TEX. ADMIN. CODE § 335.4].
3. Failed to maintain aisle space to allow the unobstructed movement of personnel, fire protective equipment, spill control equipment, and decontamination equipment to any area of the Facility [30 TEX. ADMIN. CODE § 335.112(a)(2) and 40 CFR § 265.35].
4. Failed to store containers holding ignitable or reactive waste at least 50 feet from the Facility's property line. Specifically, containers of ignitable waste were being stored outdoors approximately 13 feet from the property line abutting Wilson Road [30 TEX. ADMIN. CODE § 335.112(a)(8) and 40 CFR § 265.176].
5. Failed to control entry to unknowing and unauthorized persons and livestock, at all times, to the active portion of the Facility. Specifically, hazardous wastes were being stored in an unfenced outdoor area without a means of controlling entry to the Facility [30 TEX. ADMIN. CODE § 335.112(a)(1) and 40 CFR § 265.14(b)].
6. Failed to conduct weekly inspections of container storage areas (“CSAs”) for leaking containers and deterioration of containers caused by corrosion or other factors [30 TEX. ADMIN. CODE § 335.112(a)(8) and 40 CFR § 265.174].
7. Failed to transfer hazardous waste from a container in poor condition to a container that is in good condition. Specifically, several cardboard boxes containing hazardous waste appeared wet and structurally unsound and several metal and plastic drums containing hazardous waste were bulging, dented or corroded [30 TEX. ADMIN. CODE § 335.112(a)(8) and 40 CFR § 265.171].
8. Failed to have Facility personnel successfully complete an annual refresher training program regarding emergency response and proper management of hazardous waste [30 TEX. ADMIN. CODE § 335.112(a)(1) and 40 CFR § 265.16(c)].

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9. Failed to ship universal waste for disposal within one year of the date of accumulation. Specifically, a box trailer containing 70 drums of paint-related universal waste which was managed from June 18, 2008 through October 22, 2009, and approximately 2 dozen 55-gallon metal drums and boxes exceeded the one year accumulation limit [30 TEX. ADMIN. CODE § 335.262(c)(1) and 40 CFR § 273.35(a)].

10. Failed to properly contain paint or paint-related waste. Specifically, one drum of paint-related waste was open in the warehouse at the Facility and three 55 gallon drums labeled “Universal Waste-Painted Related Waste” stored outdoors were dented, corroded, and did not appear structurally sound [30 TEX. ADMIN. CODE § 335.262(c)(2)].

11. Failed to have a valid registration with the TCEQ prior to storing, processing, recycling or disposing of used oil filters. Specifically, two drums of used oil filters were being stored at the Facility [30 TEX. ADMIN. CODE § 328.24(a)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require Respondent to:

a. Immediately:

- i. Cease any additional discharge of waste at the Facility;
- ii. Cease storing additional hazardous waste at the Facility for greater than ten days without authorization;
- iii. Ensure that all containers storing universal waste remain closed except when adding or removing waste; and
- iv. Begin conducting weekly inspections of CSAs and cease storing hazardous waste in containers which are leaking and not in good condition.

b. Within 30 days:

- i. Provide annual training to Facility personnel for emergency response and proper management of hazardous waste;
- ii. Begin properly storing containers, including but not limited to, maintaining sufficient aisle space and ensuring containers holding ignitable waste are 50 feet from the Facility’s property line;

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- iii. Control entry to the active portion of the Facility to ensure unknowing and unauthorized persons and livestock are prevented from entering;
 - iv. Develop and implement procedures to ensure all universal waste is shipped for disposal within one year of the date of accumulation to an authorized facility;
 - v. Remove all hazardous waste stored for greater than ten days at the Facility and dispose of it at an authorized facility;
 - vi. Remove all universal waste stored for greater than one year at the Facility and dispose of it at an authorized facility; and
 - vii. Submit a properly completed used oil and used oil filter registration form.
- c. Within 90 days, submit an Affected Property Assessment Report to the Executive Director for approval. If response actions are necessary, comply with all applicable requirements of the Texas Risk Reduction Program found in 30 TEX. ADMIN. CODE ch. 350 which may include: plans, reports and notices under Subchapter E (30 TEX. ADMIN. CODE §§ 350.92 to 350.96); financial assurance (30 TEX. ADMIN. CODE § 350.33(1)); and Institutional Controls under Subchapter F.
- d. Within 105 days, submit written certification demonstrating compliance.

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: Elvia Maske, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-0789; Debra Barber, Enforcement Division, MC 219, (512) 239-0412
TCEQ SEP Coordinator: N/A
Respondent: Jonathan Ponter, President, SWEETWATER CORPORATION, 2624 Wilson Road, Humble, Texas 77396
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 *Capped at the Total EB \$ Amount
 Approx. Cost of Compliance

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 Final Assessed Penalty

DEFERRAL Reduction Adjustment

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

Notes

PAYABLE PENALTY

Screening Date 13-Sep-2011

Docket No. 2011-1636-MLM-E

PCW

Respondent SWEETWATER CORPORATION

Policy Revision 2 (September 2002)

Case ID No. 42491

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102413705

Media [Statute] Used Oil Filter

Enf. Coordinator Philip Aldridge

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	1	2%
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

Enhancement for one NOV with dissimilar violations.

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

Screening Date 13-Sep-2011

Docket No. 2011-1636-MLM-E

PCW

Respondent SWEETWATER CORPORATION

Policy Revision 2 (September 2002)

Case ID No. 42491

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102413705

Media [Statute] Used Oil Filter

Enf. Coordinator Philip Aldridge

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 328.24(a)

Violation Description Failed to have a valid registration with the TCEQ prior to storing, processing, recycling or disposing of used oil filters. Specifically, two drums of used oil filters were being stored at the Facility.

Base Penalty \$2,500

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	X			10%

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

Adjustment \$2,250

\$250

Violation Events

Number of Violation Events 4 120 Number of violation days

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

Violation Base Penalty \$1,000

Four monthly events are recommended from the May 16, 2011 investigation date to the September 13, 2011 screening 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 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 \$0

Violation Final Penalty Total \$1,020

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

Economic Benefit Worksheet

Respondent SWEETWATER CORPORATION
Case ID No. 42491
Red. Ent. Reference No. RN102413705
Media Used Oil Filter
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	\$100	16-May-2011	13-Jun-2011	0.08	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to prepare and submit a Used Oil Handler Registration. The Date Required is date of the investigation 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

\$100

TOTAL

\$0



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	6-Sep-2011	Screening	13-Sep-2011	EPA Due	
	PCW	26-Sep-2011				

RESPONDENT/FACILITY INFORMATION	
Respondent	SWEETWATER CORPORATION
Reg. Ent. Ref. No.	RN102413705
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	42491	No. of Violations	8
Docket No.	2011-1636-MLM-E	Order Type	1660
Media Program(s)	Industrial and Hazardous Waste	Government/Non-Profit	No
Multi-Media	Used Oil Filter	Enf. Coordinator	Philip Aldridge
		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** **\$58,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **5.0%** Enhancement **Subtotals 2, 3, & 7** **\$2,900**

Notes: Enhancement for one NOV with same/similar 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 **50.0%** Enhancement* **Subtotal 6** **\$29,000**

Total EB Amounts **\$57,555**
 Approx. Cost of Compliance **\$309,395**
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$89,900**

OTHER FACTORS AS JUSTICE MAY REQUIRE **1.2%** **Adjustment** **\$1,042**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement to capture the avoided cost of compliance associated with violation nos. 5 and 6.

Final Penalty Amount **\$90,942**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$90,942**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$18,188**

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY **\$72,754**

Screening Date 13-Sep-2011

Docket No. 2011-1636-MLM-E

PCW

Respondent SWEETWATER CORPORATION

Policy Revision 2 (September 2002)

Case ID No. 42491

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102413705

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Philip Aldridge

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>)	1	5%
	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%

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) 5%

>> 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 same/similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 13-Sep-2011

Docket No. 2011-1636-MLM-E

PCW

Respondent SWEETWATER CORPORATION

Policy Revision 2 (September 2002)

Case ID No. 42491

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102413705

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Phillip Aldridge

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 335.43(a) and 335.94(a) and 40 Code of Federal Regulations ("CFR") § 263.12

Violation Description Failed to prevent the unauthorized storage of hazardous waste at a transfer facility. Specifically, shipments of hazardous waste were stored more than ten days at the Facility.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			10%

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 13 1139 Number of violation days

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

Violation Base Penalty \$13,000

Thirteen quarterly events are recommended from the violation begin date of July 31, 2008 to the September 13, 2011 screening date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Reduction	
	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 \$13,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$55,242

Violation Final Penalty Total \$20,384

This violation Final Assessed Penalty (adjusted for limits) \$20,384

Economic Benefit Worksheet

Respondent SWEETWATER CORPORATION
Case ID No. 42491
Reg. Ent. Reference No. RN102413705
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	\$285,395	31-Jul-2008	13-Jun-2012	3.87	\$55,242	n/a	\$55,242
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to dispose of 500 containers of hazardous waste at an authorized Facility. The Date Required is the date the violation was first documented 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

\$285,395

TOTAL

\$55,242

Screening Date 13-Sep-2011

Docket No. 2011-1636-MLM-E

PCW

Respondent SWEETWATER CORPORATION

Policy Revision 2 (September 2002)

Case ID No. 42491

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102413705

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Philip Aldridge

Violation Number 2

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

Violation Description Failed to prevent the unauthorized discharge of industrial solid waste. Specifically, one area of stained soil was observed near box trailer ZK0008 and two spills were observed in the warehouse.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do 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 2

120 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,000

Two quarterly events are recommended from the May 16, 2011 investigation date to the September 13, 2011 screening 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 not meet the good faith criteria for this violation.

Violation Subtotal \$2,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,079

Violation Final Penalty Total \$3,136

This violation Final Assessed Penalty (adjusted for limits) \$3,136

Economic Benefit Worksheet

Respondent SWEETWATER CORPORATION
Case ID No. 42491
Reg. Ent. Reference No. RN102413705
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				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$20,000	16-May-2011	13-Jun-2012	1.08	\$1,079	n/a	\$1,079
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to conduct an environmental assessment and complete an Affected Property Assessment Report at the Facility. The Date Required is the date of the investigation 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

\$20,000

TOTAL

\$1,079

Screening Date 13-Sep-2011

Docket No. 2011-1636-MLM-E

PCW

Respondent SWEETWATER CORPORATION

Policy Revision 2 (September 2002)

Case ID No. 42491

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102413705

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Phillip Aldridge

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 335.112(a)(2) and (a)(8) and 40 CFR §§ 265.35 and 265.176

Violation Description

Failed to maintain aisle space to allow the unobstructed movement of personnel, fire protective equipment, spill control equipment, and decontamination equipment to any area of the Facility. Also, failed to store containers holding ignitable or reactive waste at least 50 feet from the Facility's property line. Specifically, containers of ignitable waste were being stored outdoors approximately 13 feet from the property line abutting Wilson Road.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 4

110 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$10,000

Four monthly events are recommended from the May 26, 2011 investigation date to the September 13, 2011 screening 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 not meet the good faith criteria for this violation.

Violation Subtotal \$10,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$74

Violation Final Penalty Total \$15,680

This violation Final Assessed Penalty (adjusted for limits) \$15,680

Economic Benefit Worksheet

Respondent SWEETWATER CORPORATION
Case ID No. 42491
Reg. Ent. Reference No. RN102413705
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	\$1,000	26-May-2011	13-Jun-2012	1.05	\$4	\$70	\$74
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to maintain sufficient aisle space and store containers at least 50 feet from the Facility's property line. 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

\$74

Screening Date 13-Sep-2011

Docket No. 2011-1636-MLM-E

PCW

Respondent SWEETWATER CORPORATION

Policy Revision 2 (September 2002)

Case ID No. 42491

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102413705

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Phillip Aldridge

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code § 335.112(a)(1) and 40 CFR § 265.14(b)

Violation Description

Failed to control entry to unknowing and unauthorized persons and livestock, at all times, to the active portion of the Facility. Specifically, hazardous wastes were being stored in an unfenced outdoor area without a means of controlling entry to the Facility.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 4

120 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$10,000

Four monthly events are recommended from the May 16, 2011 investigation date to the September 13, 2011 screening 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 not meet the good faith criteria for this violation.

Violation Subtotal \$10,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$15,680

This violation Final Assessed Penalty (adjusted for limits) \$15,680

Economic Benefit Worksheet

Respondent SWEETWATER CORPORATION
Case ID No. 42491
Reg. Ent. Reference No. RN102413705
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
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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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Economic benefit included in violation no. 1.

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

\$0

TOTAL

\$0

Screening Date 13-Sep-2011

Docket No. 2011-1636-MLM-E

PCW

Respondent SWEETWATER CORPORATION

Policy Revision 2 (September 2002)

Case ID No. 42491

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102413705

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Philip Aldridge

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 335.112(a)(8) and 40 CFR §§ 265.171 and 265.174

Violation Description

Failed to conduct weekly inspections of container storage areas ("CSAs") for leaking containers and deterioration of containers caused by corrosion or other factors. Also, failed to transfer hazardous waste from a container in poor condition to a container that is in good condition. Specifically, several cardboard boxes containing hazardous waste appeared wet and structurally unsound and several metal and plastic drums containing hazardous waste were bulging, dented or corroded.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 4

120 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$10,000

Four monthly events are recommended from the May 16, 2011 investigation date to the September 13, 2011 screening 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 not meet the good faith criteria for this violation.

Violation Subtotal \$10,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$538

Violation Final Penalty Total \$15,680

This violation Final Assessed Penalty (adjusted for limits) \$15,680

Economic Benefit Worksheet

Respondent SWEETWATER CORPORATION
Case ID No. 42491
Reg. Ent. Reference No. RN102413705
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	\$500	16-May-2011	13-Jun-2012	1.08	\$2	\$36	\$38
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to conduct weekly inspections of CSAs and replace hazardous waste containers not in good condition. 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)	\$500	9-May-2011	16-May-2011	0.00	\$0	\$500	\$500

Notes for AVOIDED costs

Estimated cost of conducting weekly inspections of CSAs. The Date Required is one week prior to the investigation date and the Final Date is the investigation date.

Approx. Cost of Compliance

\$1,000

TOTAL

\$538

Screening Date 13-Sep-2011

Docket No. 2011-1636-MLM-E

PCW

Respondent SWEETWATER CORPORATION

Policy Revision 2 (September 2002)

Case ID No. 42491

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102413705

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Philip Aldridge

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code § 335.112(a)(1) and 40 CFR § 265.16(c)

Violation Description Failed to have Facility personnel successfully complete an annual refresher training program regarding emergency response and proper management of hazardous waste. Specifically, the last annual refresher training provided was August 8, 2009.

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

365 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

mark only one with an x

Violation Base Penalty \$1,000

One annual event for the 12-month period preceding the May 16, 2011 investigation.

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 \$569

Violation Final Penalty Total \$1,568

This violation Final Assessed Penalty (adjusted for limits) \$1,568

Economic Benefit Worksheet

Respondent SWEETWATER CORPORATION
Case ID No. 42491
Reg. Ent. Reference No. RN102413705
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)	\$500	16-May-2011	13-Jun-2012	1.08	\$27	n/a	\$27

Notes for DELAYED costs

Estimated cost to conduct an annual review training. 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)	\$500	10-Aug-2010	16-May-2011	1.68	\$42	\$500	\$542

Notes for AVOIDED costs

Estimated cost to conduct an annual review training. The Date Required is the date annual training was due and the Final Date is the investigation date.

Approx. Cost of Compliance

\$1,000

TOTAL

\$569

Screening Date 13-Sep-2011
Respondent SWEETWATER CORPORATION
Case ID No. 42491
Reg. Ent. Reference No. RN102413705
Media [Statute] Industrial and Hazardous Waste
Enf. Coordinator Phillip Aldridge

Docket No. 2011-1636-MLM-E

PCW

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

Violation Number

Rule Cite(s)

Violation Description Failed to ship universal waste for disposal within one year of the date of accumulation. Specifically, a box trailer containing 70 drums of paint-related universal waste which was managed from June 18, 2008 through October 22, 2009, and approximately 2 dozen 55-gallon metal drums and boxes exceeded the one year accumulation limit.

Base Penalty

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="25%"/>
Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

Matrix Notes

Adjustment

Violation Events

<input type="text" value="4"/>	<input type="text" value="120"/>	Number of violation days	
<i>mark only one with an x</i>	daily	<input type="text"/>	Violation Base Penalty <input type="text" value="\$10,000"/>
	weekly	<input type="text"/>	
	monthly	<input checked="" type="checkbox"/>	
	quarterly	<input type="text"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input type="text"/>	

Good Faith Efforts to Comply

0.0% 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="checkbox"/>	(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 SWEETWATER CORPORATION
Case ID No. 42491
Reg. Ent. Reference No. RN102413705
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

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				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-May-2011	13-Jun-2012	1.08	\$27	n/a	\$27

Notes for DELAYED costs

Estimated cost to develop and implement procedures to ensure that all universal wastes are shipped for disposal within one year of accumulation. 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

\$500

TOTAL

\$27

Screening Date 13-Sep-2011

Docket No. 2011-1636-MLM-E

PCW

Respondent SWEETWATER CORPORATION

Policy Revision 2 (September 2002)

Case ID No. 42491

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102413705

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Philip Aldridge

Violation Number 8

Rule Cite(s) 30 Tex. Admin. Code § 335.262(c)(2)

Violation Description

Failed to properly contain paint or paint-related waste. Specifically, one drum of paint-related waste was open in the warehouse at the Facility and three 55 gallon drums labeled "Universal Waste-Painted Related Waste" stored outdoors were dented, corroded, and did not appear structurally sound.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				5%
Potential			X	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

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

Adjustment \$9,500

\$500

Violation Events

4 120 Number of violation days

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

Violation Base Penalty \$2,000

Four single events are recommended (one for each drum).

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 \$2,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$27

Violation Final Penalty Total \$3,136

This violation Final Assessed Penalty (adjusted for limits) \$3,136

Economic Benefit Worksheet

Respondent SWEETWATER CORPORATION
Case ID No. 42491
Reg. Ent. Reference No. RN102413705
Media Industrial and Hazardous Waste
Violation No. 8

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Oncetime 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-May-2011	13-Jun-2012	1.08	\$27	n/a	\$27

Notes for DELAYED costs

Estimated cost to contain the paint related waste in closed 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

\$500

TOTAL

\$27

Compliance History

Customer/Respondent/Owner-Operator: CN600298657 Sweetwater Corporation Classification: AVERAGE Rating: 1.00
Regulated Entity: RN102413705 Sweetwater Corporation Classification: AVERAGE Site Rating: 1.00
ID Number(s): INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # 87001
INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXR000048579
Location: 2624 WILSON RD, HUMBLE, TX, 77396
TCEQ Region: REGION 12 - HOUSTON
Date Compliance History Prepared: September 12, 2011
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: September 12, 2006 to September 12, 2011
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Philip Aldridge Phone: (512) 239-0855

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.
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	08/20/2008	(686488)
2	08/31/2011	(780050)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	07/10/2008 (686488)	CN600298657
Self Report?	NO	Classification: Moderate
Citation:	30 TAC Chapter 335, SubChapter D 335.94(a) 40 CFR Chapter 263, SubChapter I, PT 263, SubPT C 263.12	
Description:	Failure to comply with hazardous waste transporter and transfer facility standards by storing manifested hazardous wastes for longer than 10 days.	
 - 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
SWEETWATER CORPORATION
RN102413705**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2011-1636-MLM-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 SWEETWATER CORPORATION ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE chs. 361 and 371 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 hazardous waste transfer facility at 2624 Wilson Road in Humble, Harris County, Texas (the "Facility").
2. The Facility involves or involved the management of industrial hazardous waste and used oil as defined in TEX. HEALTH & SAFETY CODE chs. 361 and 371.
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 September 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 Ninety-One Thousand Nine Hundred Sixty-Two Dollars (\$91,962) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Financial Assurance Section of the Commission's Financial Administration Division reviewed financial documentation submitted by the Respondent and determined that the Respondent is unable to pay part of the administrative penalty. Therefore, Eighty Five Thousand Eight Hundred Thirteen Dollars (\$85,813) of the penalty 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, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The Respondent has paid One Hundred Ninety-Nine Dollars (\$199) of the undeferred administrative penalty. The remaining amount of Five Thousand Nine Hundred Fifty Dollars (\$5,950) of the administrative penalty shall be payable in 35 monthly payments of One Hundred Seventy Dollars (\$170) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's 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, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

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 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.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to prevent the unauthorized storage of hazardous waste at a transfer facility, in violation of 30 TEX. ADMIN. CODE §§ 335.43(a) and 335.94(a) and 40 CODE OF FEDERAL REGULATIONS ("CFR") § 263.12, as documented during an investigation conducted on May 16, 2011. Specifically, shipments of hazardous waste were stored more than ten days at the Facility.
2. Failed to prevent the unauthorized discharge of industrial solid waste, in violation of 30 TEX. ADMIN. CODE § 335.4, as documented during an investigation conducted on May 16, 2011. Specifically, one area of stained soil was observed near box trailer ZK0008 and two spills were observed in the warehouse.
3. Failed to maintain aisle space to allow the unobstructed movement of personnel, fire protective equipment, spill control equipment, and decontamination equipment to any area of the Facility, in violation of 30 TEX. ADMIN. CODE § 335.112(a)(2) and 40 CFR § 265.35 as documented during an investigation conducted on May 26, 2011.
4. Failed to store containers holding ignitable or reactive waste at least 50 feet from the Facility's property line, in violation of 30 TEX. ADMIN. CODE § 335.112(a)(8) and 40 CFR § 265.176 as documented during an investigation conducted on May 26, 2011. Specifically, containers of ignitable waste were being stored outdoors approximately 13 feet from the property line abutting Wilson Road.
5. Failed to control entry to unknowing and unauthorized persons and livestock, at all times, to the active portion of the Facility, in violation of 30 TEX. ADMIN. CODE § 335.112(a)(1) and 40 CFR § 265.14(b) as documented during an investigation conducted on May 16, 2011. Specifically, hazardous wastes were being stored in an unfenced outdoor area without a means of controlling entry to the Facility.
6. Failed to conduct weekly inspections of container storage areas ("CSAs") for leaking containers and deterioration of containers caused by corrosion or other factors, in violation of 30 TEX. ADMIN. CODE § 335.112(a)(8) and 40 CFR § 265.174, as documented during an investigation conducted on May 16, 2011.
7. Failed to transfer hazardous waste from a container in poor condition to a container that is in good condition, in violation of 30 TEX. ADMIN. CODE § 335.112(a)(8) and 40 CFR § 265.171, as documented during an investigation conducted on May 16, 2011. Specifically, several cardboard boxes containing hazardous waste appeared wet and structurally unsound and several metal and plastic drums containing hazardous waste were bulging, dented or corroded.
8. Failed to have Facility personnel successfully complete an annual refresher training program regarding emergency response and proper management of hazardous waste, in violation of 30 TEX. ADMIN. CODE § 335.112(a)(1) and 40 CFR § 265.16(c), as documented during an investigation conducted on May 16, 2011.
9. Failed to ship universal waste for disposal within one year of the date of accumulation, in violation of 30 TEX. ADMIN. CODE § 335.262(c)(1) and 40 CFR § 273.35(a), as documented during an investigation conducted on May 16, 2011. Specifically, a box trailer containing 70 drums of paint-related universal waste which was managed from

June 18, 2008 through October 22, 2009, and approximately 2 dozen 55-gallon metal drums and boxes exceeded the one year accumulation limit.

10. Failed to properly contain paint or paint-related waste, in violation of 30 TEX. ADMIN. CODE § 335.262(c)(2), as documented during an investigation conducted on May 16, 2011. Specifically, one drum of paint-related waste was open in the warehouse at the Facility and three 55 gallon drums labeled "Universal Waste-Painted Related Waste" stored outdoors were dented, corroded, and did not appear structurally sound.
11. Failed to have a valid registration with the TCEQ prior to storing, processing, recycling or disposing of used oil filters, in violation of 30 TEX. ADMIN. CODE § 328.24(a), as documented during an investigation conducted on May 16, 2011. Specifically, two drums of used oil filters were being stored at the Facility.

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: SWEETWATER CORPORATION, Docket No. 2011-1636-MLM-E" to:

Financial Administration Division, Revenue Operations 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 upon the effective date of this Agreed Order:
 - i. Cease any additional discharge of waste at the Facility;
 - ii. Cease storing additional hazardous waste at the Facility for greater than ten days without authorization;
 - iii. Ensure that all containers storing universal waste remain closed except when adding or removing waste, in accordance with 30 TEX. ADMIN. CODE § 335.262;

- iv. Begin conducting weekly inspections of CSAs and cease storing hazardous waste in containers which are leaking and not in good condition, in accordance with 30 TEX. ADMIN. CODE § 335.112 and 40 CFR §§ 265.171 and 265.174;
- b. Within 30 days of the effective date of this Agreed Order:
 - i. Provide annual training to Facility personnel for emergency response and proper management of hazardous waste, in accordance with 30 TEX. ADMIN. CODE § 335.112(a)(1) and 40 CFR § 265.16;
 - ii. Begin properly storing containers, including but not limited to, maintaining sufficient aisle space and ensuring containers holding ignitable waste are 50 feet from the Facility's property line, in accordance with 30 TEX. ADMIN. CODE § 335.112 and 40 CFR §§ 265.35 and 265.176;
 - iii. Control entry to the active portion of the Facility to ensure unknowing and unauthorized persons and livestock are prevented from entering, in accordance with 30 TEX. ADMIN. CODE § 335.112 and 40 CFR § 265.14;
 - iv. Develop and implement procedures to ensure all universal waste is shipped for disposal within one year of the date of accumulation to an authorized facility, in accordance with 30 TEX. ADMIN. CODE § 335.262 and 40 CFR § 273.35;
 - v. Remove all hazardous waste stored for greater than ten days at the Facility and dispose of it at an authorized facility;
 - vi. Remove all universal waste stored for greater than one year at the Facility and dispose of it at an authorized facility;
 - vii. Submit a properly completed used oil and used oil filter registration form to:

Used Oil and Recycling Program
Registration and Reporting Section, MC-129
Texas Commission on Environmental Quality
P.O. Box 13087, Austin, Texas 78711-3087
- c. Within 90 days after the effective date of this Agreed Order submit an Affected Property Assessment Report, pursuant to 30 TEX. ADMIN. CODE § 350.91, to the Executive Director for approval. If response actions are necessary, comply with all applicable requirements of the Texas Risk Reduction Program found in 30 TEX. ADMIN. CODE ch. 350 which may include: plans, reports and notices under Subchapter E (30 TEX. ADMIN. CODE §§ 350.92 to 350.96); financial assurance (30 TEX. ADMIN. CODE § 350.33(1)); and Institutional Controls under Subchapter F, submit report to:

Environmental Cleanup Section
Remediation Division MC-221
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- d. Within 105 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i through 2.c. 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
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. 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


For the Executive Director

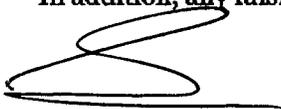
11/16/12
Date

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.



Signature

JULY 30, 2012
Date

JONATHAN PONTOK
Name (Printed or typed)
Authorized Representative of
SWEETWATER CORPORATION

PR.
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.