

Executive Summary – Enforcement Matter – Case No. 44967
NCI Group, Inc.
RN100213545
Docket No. 2012-1847-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

NCI Building Systems, 7301 Fairview Street, Houston, Harris County

Type of Operation:

Metal fabrication plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: February 8, 2013

Comments Received: No

Penalty Information

Total Penalty Assessed: \$12,863

Amount Deferred for Expedited Settlement: \$2,572

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$10,291

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002 and September 2011

Executive Summary – Enforcement Matter – Case No. 44967

NCI Group, Inc.

RN100213545

Docket No. 2012-1847-AIR-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: May 7, 2012

Date(s) of NOE(s): August 21, 2012

Violation Information

1. Failed to submit the monthly gasoline throughput for 2010 and 2011 to maintain an exempt status. Specifically, the monthly gasoline throughput for 2010 and 2011 were due by January 31, 2011 and January 31, 2012 respectively, but were not submitted until May 9, 2012 [30 TEX. ADMIN. CODE §§ 115.247(2) and 122.143(4), Federal Operating Permit (“FOP”) No. O1773, Standard Terms and Conditions No. 5.B., and TEX. HEALTH & SAFETY CODE § 382.085(b)].

2. Failed to submit a deviation report within 30 days after the end of the reporting period. Specifically, the deviation report for the reporting period from November 28, 2010 through April 26, 2011 was not submitted until October 1, 2012 [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(C), FOP No. O1773, General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

3. Failed to submit the Permit Compliance Certification (“PCC”) within 30 days after the end of the certification period. Specifically, the PCC for the certification period from November 28, 2010 through April 26, 2011 was due on May 26, 2011 but was not submitted until December 27, 2011 [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.146(2), FOP No. O1773, General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent has implemented the following corrective measures:

a. On December 27, 2011, submitted the PCC for the certification period from November 28, 2010 through April 26, 2011, and completed training to ensure that future PCCs are submitted in a timely manner;

b. On May 9, 2012, submitted the 2010 and 2011 annual reports documenting the monthly gasoline throughput and completed training to ensure that the annual reports are submitted in a timely manner; and

**Executive Summary – Enforcement Matter – Case No. 44967
NCI Group, Inc.
RN100213545
Docket No. 2012-1847-AIR-E**

c. On October 1, 2012, submitted the semi-annual deviation report for the reporting period from November 28, 2010 through April 26, 2011, and conducted training to ensure that all future reports and deviations are submitted in a timely manner.

Technical Requirements:

N/A

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Nadia Hameed, Enforcement Division, Enforcement Team 5, MC R-12, (713) 767-3629; Debra Barber, Enforcement Division, MC 219, (512) 239-0412

TCEQ SEP Coordinator: N/A

Respondent: Todd Harbour, Vice President - Environmental Affairs, NCI Group, Inc., 7301 Fairview Street, Houston, Texas 77041

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

ICEQ

DATES	Assigned	28-Aug-2012	Screening	30-Aug-2012	EPA Due	18-May-2013
	PCW	18-Sep-2012				

RESPONDENT/FACILITY INFORMATION			
Respondent	NCI Group, Inc.		
Reg. Ent. Ref. No.	RN100213545		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	44967	No. of Violations	3
Docket No.	2012-1847-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Nadia Hameed
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$7,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **36.0%** Enhancement **Subtotals 2, 3, & 7** **\$2,700**

Notes

Enhancement for two NOVs with same/similar violations and 13 NOVs with dissimilar violations.

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

Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$1,500**

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

Total EB Amounts	\$171
Approx. Cost of Compliance	\$2,500

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$8,700**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$8,700**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$8,700**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$1,740**

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

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY **\$6,960**

Screening Date 30-Aug-2012

Docket No. 2012-1847-AIR-E

PCW

Respondent NCI Group, Inc.

Policy Revision 2 (September 2002)

Case ID No. 44967

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100213545

Media [Statute] Air

Enf. Coordinator Nadia Hameed

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>)	2	10%
	Other written NOVs	13	26%
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) 36%

>> 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 two NOVs with same/similar violations and 13 NOVs with dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 36%

Screening Date 30-Aug-2012

Docket No. 2012-1847-AIR-E

PCW

Respondent NCI Group, Inc.

Policy Revision 2 (September 2002)

Case ID No. 44967

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100213545

Media [Statute] Air

Enf. Coordinator Nadia Hameed

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 115.247(2) and 122.143(4), Federal Operating Permit ("FOP") No. O1773, Special Terms and Conditions No. 5.B. and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to submit the monthly gasoline throughput for 2010 to maintain an exempt status. Specifically, the monthly gasoline throughput for 2010 was due by January 31, 2011, but was not submitted until May 9, 2012.

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			25%

Matrix Notes

100 percent of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 464

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

Violation Base Penalty \$2,500

One single event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$625

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

Notes The Respondent completed the corrective actions on May 9, 2012, prior to the August 21, 2012 NOE.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$32

Violation Final Penalty Total \$2,775

This violation Final Assessed Penalty (adjusted for limits) \$2,775

Economic Benefit Worksheet

Respondent NCI Group, Inc.
Case ID No. 44967
Reg. Ent. Reference No. RN100213545
Media Air
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
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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)	\$500	31-Jan-2011	9-May-2012	1.27	\$32	n/a	\$32

Notes for DELAYED costs

Estimated expense to ensure that the monthly gasoline throughput for each year is provided in a timely manner. The Date Required is the date of the initial non-compliance and the Final Date is the date the corrective actions were completed.

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

\$32

Screening Date 30-Aug-2012

Docket No. 2012-1847-AIR-E

PCW

Respondent NCI Group, Inc.

Policy Revision 2 (September 2002)

Case ID No. 44967

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100213545

Media [Statute] Air

Enf. Coordinator Nadia Hameed

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code §§ 122.143(4) and 122.145(2)(C), FOP No. 01773, General Terms and Conditions, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to submit a deviation report within 30 days after the end of the reporting period. Specifically, the deviation report for the reporting period from November 28, 2010 through April 26, 2011 was not submitted until October 1, 2012.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes

100 percent of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

462 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$2,500

One single event is recommended.

Good Faith Efforts to Comply

10.0% Reduction

\$250

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

Notes

The Respondent completed the corrective actions on October 1, 2012, after the August 21, 2012 NOE.

Violation Subtotal \$2,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$34

Violation Final Penalty Total \$3,150

This violation Final Assessed Penalty (adjusted for limits) \$3,150

Economic Benefit Worksheet

Respondent NCI Group, Inc.
Case ID No. 44967
Reg. Ent. Reference No. RN100213545
Media Air
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
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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)	\$500	26-May-2011	1-Oct-2012	1.35	\$34	n/a	\$34

Notes for DELAYED costs

Estimated expense to ensure that the deviation reports are submitted in a timely manner. The Date Required is the date the report was due and the Final Date is the date the corrective actions were completed.

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

\$34

Screening Date 30-Aug-2012

Docket No. 2012-1847-AIR-E

PCW

Respondent NCI Group, Inc.

Policy Revision 2 (September 2002)

Case ID No. 44967

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100213545

Media [Statute] Air

Enf. Coordinator Nadia Hameed

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code §§ 122.143(4) and 122.146(2), FOP No. O1773, General Terms and Conditions, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to submit the Permit Compliance Certification ("PCC") within 30 days after the end of the certification period. Specifically, the PCC for the certification period from November 28, 2010 through April 26, 2011 was due on May 26, 2011 but was not submitted until December 27, 2011.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	X		

Percent 25%

Matrix Notes

100 percent of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

215 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$2,500

One single event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$625

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

Notes The Respondent completed the corrective actions on December 27, 2011, prior to the August 21, 2012 NOE.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$15

Violation Final Penalty Total \$2,775

This violation Final Assessed Penalty (adjusted for limits) \$2,775

Economic Benefit Worksheet

Respondent NCI Group, Inc.
Case ID No. 44967
Reg. Ent. Reference No. RN100213545
Media Air
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
<small>No commas or \$</small>							

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	26-May-2011	27-Dec-2011	0.59	\$15	n/a	\$15

Notes for DELAYED costs

Estimated expense to ensure that the PCC is submitted in a timely manner. The Date Required is the date of the certification was due and the Final Date is the date the corrective actions were completed.

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 \$15



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	30-Aug-2012	Screening	30-Aug-2012	EPA Due	18-May-2013
	PCW	18-Sep-2012				

RESPONDENT/FACILITY INFORMATION

Respondent	NCI Group, Inc.		
Reg. Ent. Ref. No.	RN100213545		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	44967	No. of Violations	1
Docket No.	2012-1847-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Nadia Hameed
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$3,750**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **36.0%** Enhancement **Subtotals 2, 3, & 7** **\$1,350**

Notes: Enhancement for two NOVs with same/similar violations and 13 NOVs with dissimilar violations.

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

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$937**

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

Total EB Amounts \$0
Approx. Cost of Compliance \$0
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$4,163**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$4,163**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$4,163**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$832**

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 **\$3,331**

Screening Date 30-Aug-2012

Docket No. 2012-1847-AIR-E

PCW

Respondent NCI Group, Inc.

Policy Revision 3 (September 2011)

Case ID No. 44967

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100213545

Media [Statute] Air

Enf. Coordinator Nadia Hameed

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>)	2	10%
	Other written NOVs	13	26%
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) 36%

>> **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 two NOVs with same/similar violations and 13 NOVs with dissimilar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 36%

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 36%

Screening Date 30-Aug-2012

Docket No. 2012-1847-AIR-E

PCW

Respondent NCI Group, Inc.

Policy Revision 3 (September 2011)

Case ID No. 44967

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100213545

Media [Statute] Air

Enf. Coordinator Nadia Hameed

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 115.247(2) and 122.143(4), Federal Operating Permit ("FOP") No. O1773, Standard Terms and Conditions No. 5.B., and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to submit the monthly gasoline throughput for 2011 to maintain an exempt status. Specifically, the monthly gasoline throughput for 2011 was due by January 31, 2012 but was not submitted until May 9, 2012.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	X		

Percent 15.0%

Matrix Notes

100 percent of the rule requirement was not met.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

99 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

mark only one with an x

Violation Base Penalty \$3,750

One single event is recommended

Good Faith Efforts to Comply

25.0% Reduction

\$937

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

Notes

The Respondent completed the corrective actions on May 9, 2012, prior to the August 21, 2012 NOE.

Violation Subtotal \$2,813

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$7

Violation Final Penalty Total \$4,163

This violation Final Assessed Penalty (adjusted for limits) \$4,163

Economic Benefit Worksheet

Respondent NCI Group, Inc.
Case ID No. 44967
Reg. Ent. Reference No. RN100213545
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	31-Jan-2012	9-May-2012	0.27	\$7	n/a	\$7

Notes for DELAYED costs

Estimated expense to ensure that the monthly gasoline throughput for each year is provided in a timely manner. The Date Required is the date of the initial non-compliance and the Final Date is the date the corrective actions were completed.

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 \$7

Compliance History Report

Customer/Respondent/Owner-Operator:	CN603418831 NCI Group, Inc.	Classification: AVERAGE	Rating: 0.34
Regulated Entity:	RN100213545 NCI BUILDING SYSTEMS	Classification: AVERAGE	Site Rating: 0.51
ID Number(s):	AIR OPERATING PERMITS AIR OPERATING PERMITS POLLUTION PREVENTION PLANNING AIR NEW SOURCE PERMITS AIR NEW SOURCE PERMITS AIR NEW SOURCE PERMITS AIR NEW SOURCE PERMITS PUBLIC WATER SYSTEM/SUPPLY WASTEWATER WASTEWATER WASTEWATER WASTEWATER WASTEWATER STORMWATER AIR EMISSIONS INVENTORY	ACCOUNT NUMBER PERMIT ID NUMBER PERMIT REGISTRATION ACCOUNT NUMBER AFS NUM REGISTRATION PERMIT EPA ID PERMIT EPA ID PERMIT ACCOUNT NUMBER	HG1413D 1773 P00426 17210 48749 HG1413D 4820101258 1012326 WQ0012552001 TX0090115 WQ0012552002 TX0117064 TXR05M145 HG1413D
Location:	7301 FAIRVIEW ST, HOUSTON, TX, 77041		
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	August 30, 2012		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	August 30, 2007 to August 30, 2012		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Nadia Hameed	Phone:	713-767-3629

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. If **YES**, 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 03/20/2012 (1004741)
 - 2 03/20/2012 (1005245)
 - 3 04/17/2012 (1011323)
 - 4 04/17/2012 (1011822)
 - 5 05/15/2012 (1017686)
 - 6 05/15/2012 (1018181)
 - 7 06/18/2012 (1025478)

8	06/18/2012	(1025922)
9	09/05/2007	(625401)
10	09/20/2007	(625402)
11	10/22/2007	(625404)
12	11/26/2007	(625406)
13	12/17/2007	(625408)
14	01/17/2008	(625410)
15	09/20/2007	(630479)
16	10/22/2007	(630481)
17	11/26/2007	(630483)
18	12/17/2007	(630485)
19	01/17/2008	(630487)
20	08/29/2008	(638225)
21	02/15/2008	(675667)
22	03/13/2008	(675668)
23	04/08/2008	(675669)
24	02/15/2008	(677043)
25	03/13/2008	(677044)
26	04/08/2008	(677045)
27	05/13/2008	(693992)
28	06/19/2008	(693993)
29	07/16/2008	(693994)
30	05/13/2008	(695673)
31	06/19/2008	(695674)
32	07/16/2008	(695675)
33	01/20/2009	(701976)
34	01/20/2009	(701983)
35	08/29/2008	(715325)
36	09/18/2008	(715326)
37	10/16/2008	(715327)
38	08/27/2008	(717222)
39	09/18/2008	(717223)
40	10/16/2008	(717224)
41	11/19/2008	(731131)
42	12/23/2008	(731132)
43	01/20/2009	(731133)
44	11/19/2008	(732587)
45	12/23/2008	(732588)
46	01/20/2009	(732589)
47	07/14/2009	(737195)
48	02/19/2009	(754412)
49	03/12/2009	(754413)
50	04/16/2009	(754414)
51	02/19/2009	(755877)
52	03/12/2009	(755878)
53	04/16/2009	(755879)
54	08/25/2009	(763184)

55	05/19/2009	(771674)
56	06/15/2009	(771675)
57	05/19/2009	(772868)
58	06/15/2009	(772869)
59	07/26/2010	(794243)
60	02/19/2010	(815102)
61	07/17/2009	(815103)
62	08/31/2009	(815104)
63	09/17/2009	(815105)
64	10/13/2009	(815106)
65	11/20/2009	(815107)
66	12/17/2009	(815108)
67	01/20/2010	(815109)
68	02/19/2010	(818767)
69	07/17/2009	(818768)
70	08/31/2009	(818769)
71	09/17/2009	(818770)
72	10/13/2009	(818771)
73	11/20/2009	(818772)
74	12/17/2009	(818773)
75	01/20/2010	(818774)
76	03/10/2010	(834494)
77	04/16/2010	(834495)
78	05/19/2010	(834496)
79	03/10/2010	(835821)
80	04/16/2010	(835822)
81	05/19/2010	(835823)
82	06/18/2010	(847382)
83	06/18/2010	(847793)
84	07/16/2010	(861818)
85	07/16/2010	(862196)
86	08/19/2010	(868242)
87	08/19/2010	(868794)
88	09/20/2010	(875157)
89	09/20/2010	(875668)
90	10/20/2010	(882769)
91	10/20/2010	(883219)
92	11/18/2010	(889174)
93	11/18/2010	(889633)
94	12/14/2010	(897551)
95	12/14/2010	(897999)
96	03/30/2011	(900091)
97	01/19/2011	(903442)
98	01/19/2011	(903899)
99	04/13/2011	(905483)
100	04/13/2011	(905484)
101	02/18/2011	(910356)
102	02/18/2011	(910789)

103 03/11/2011 (917572)
 104 03/11/2011 (918047)
 105 06/07/2011 (924198)
 106 04/19/2011 (928691)
 107 04/19/2011 (930175)
 108 05/16/2011 (939281)
 109 05/16/2011 (939754)
 110 06/17/2011 (946685)
 111 06/17/2011 (947171)
 112 07/20/2011 (953944)
 113 07/20/2011 (954421)
 114 08/29/2011 (955493)
 115 08/16/2011 (955503)
 116 09/01/2010 (960537)
 117 09/01/2010 (961005)
 118 09/20/2011 (966594)
 119 09/20/2011 (967099)
 120 10/19/2011 (972606)
 121 10/19/2011 (973064)
 122 11/17/2011 (978750)
 123 11/17/2011 (979193)
 124 12/20/2011 (985586)
 125 12/20/2011 (986036)
 126 08/21/2012 (989325)
 127 01/17/2012 (991866)
 128 01/17/2012 (992387)
 129 02/09/2012 (999232)
 130 02/09/2012 (999700)

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

Date: 12/31/2007 (625410)CN603418831
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: 08/29/2008 (638225) CN603418831
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
 30 TAC Chapter 122, SubChapter B 122.146(2)
 5C THSC Chapter 382 382.058(b)
 FOP No. O-01773 General Terms and Condit OP
 FOP No. O-01773 Spec. Terms and Cond. 9 OP
 Description: Failure to submit Permit Compliance Certification Permit on time.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 122, SubChapter B 122.143
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.058(b)
 FOP NO. O-01773 General Terms and Condit OP
 FOP No. O-01773 Spec. Terms and Cond.9 OP
 Description: Failure to Submit Deviation Reports on time.

Date: 01/16/2009 (701983) CN603418831
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 317 317.4(a)(8)
30 TAC Chapter 317 317.7(i)
Description: Failure to test and certify the backflow prevention device in the last twelve months. The backflow prevention device was tested on October 5, 2007.

Date: 01/20/2009 (701976) CN603418831
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 317 317.4(a)(8)
30 TAC Chapter 317 317.7(i)
Description: Failure to test and certify the backflow prevention device in the last twelve months. The backflow prevention device was tested on October 5, 2007.

Date: 01/31/2009 (755877) CN603418831
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 06/29/2009 (763184) CN603418831
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(2)
Description: Operating Practices for Public Water Systems
Failure to maintain the map of the distribution system current so that valves and mains may be easily located.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.121
Description: Monitoring Plans
Failure by the regulated entity to develop and maintain an up-to-date system monitoring plan.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.42(a)(1)
Description: Capacity Requirements
Failure to provide sufficient plant capacity to accommodate the maximum daily demand of your system.

Date: 07/14/2009 (737195) CN603418831
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter A 101.10(e)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Description: Failure to submit the 2008 emission inventory by the due date of March 31, 2009 (Category B3 violation).

Date: 01/31/2010 (815102) CN603418831
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2010 (835823) CN603418831
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 02/28/2011 (917572) CN603418831
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 02/28/2011 (918047) CN603418831
Self Report? YES Classification: Moderate

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

Date: 03/31/2011 (928691) CN603418831
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 04/11/2011 (905483) CN603418831
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Effluent Limit & Monit. Reqmnts No. 2. OP
Description: Failure to maintain compliance with effluent permit limits for chlorine residual.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Monitoring & Report Reqmnts No. 5. OP
Description: Failure to ensure the flow meter was accurately measuring the flow rate.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Effluent Limits & Monitor Reqmnts No. 1. OP
Description: Failure to maintain compliance with permit effluent limits for ammonia-nitrogen (NH3-N).
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Monitoring & Report. Reqmnts No. 7c. OP
Description: Failure to provide noncompliance notification as required by the permit.

Date: 08/16/2011 (955503) CN603418831
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 08/29/2011 (955493) CN603418831
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

- 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
NCI GROUP, INC.
RN100213545**

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

**AGREED ORDER
DOCKET NO. 2012-1847-AIR-E**

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding NCI Group, Inc. ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a metal fabrication plant at 7301 Fairview Street in Houston, Harris County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Executive Director 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 August 26, 2012.
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 Twelve Thousand Eight Hundred Sixty-Three Dollars (\$12,863) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Ten Thousand Two Hundred Ninety-One Dollars (\$10,291) of the administrative penalty and Two Thousand Five

Hundred Seventy-Two Dollars (\$2,572) 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 and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:
 - a. On December 27, 2011, submitted the Permit Compliance Certification ("PCC") for the certification period from November 28, 2010 through April 26, 2011, and completed training to ensure that future PCCs are submitted in a timely manner;
 - b. On May 9, 2012, submitted the 2010 and 2011 annual reports documenting the monthly gasoline throughput and completed training to ensure that the annual reports are submitted in a timely manner; and
 - c. On October 1, 2012, submitted the semi-annual deviation report for the reporting period from November 28, 2010 through April 26, 2011, and conducted training to ensure that all future reports and deviations are submitted in a timely manner.
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 Plant, the Respondent is alleged to have:

1. Failed to submit the monthly gasoline throughput for 2010 and 2011 to maintain an exempt status, in violation of 30 TEX. ADMIN. CODE §§ 115.247(2) and 122.143(4), Federal Operating Permit ("FOP") No. O1773, Standard Terms and Conditions No. 5.B., and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted

on May 7, 2012. Specifically, the monthly gasoline throughput for 2010 and 2011 were due by January 31, 2011 and January 31, 2012 respectively, but were not submitted until May 9, 2012.

2. Failed to submit a deviation report within 30 days after the end of the reporting period, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(C), FOP No. O1773, General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on May 7, 2012. Specifically, the deviation report for the reporting period from November 28, 2010 through April 26, 2011 was not submitted until October 1, 2012.
3. Failed to submit the PCC within 30 days after the end of the certification period, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.146(2), FOP No. O1773, General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on May 7, 2012. Specifically, the PCC for the certification period from November 28, 2010 through April 26, 2011 was due on May 26, 2011 but was not submitted until December 27, 2011.

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: NCI Group, Inc., Docket No. 2012-1847-AIR-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. 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 Plant operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

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

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Pam Daurig
For the Executive Director

2/18/13
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.

Toda Harbour
Signature

12/18/12
Date

Toda Harbour
Name (Printed or typed)
Authorized Representative of
NCI Group, Inc.

VP, Environmental Affairs
Title

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