

**Executive Summary – Enforcement Matter – Case No. 44632  
TEKNI-PLEX, INC.  
RN100215508  
Docket No. 2012-1629-AIR-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

AIR

**Small Business:**

No

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

Dolco Packaging, 4700 South Westmoreland Road, Dallas, Dallas County

**Type of Operation:**

Polystyrene foam package manufacturing plant

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** March 22, 2013

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$11,000

**Amount Deferred for Expedited Settlement:** \$2,200

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

**Total Paid to General Revenue:** \$8,800

**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 - Poor

**Major Source:** Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002 and September 2011

**Executive Summary – Enforcement Matter – Case No. 44632  
TEKNI-PLEX, INC.  
RN100215508  
Docket No. 2012-1629-AIR-E**

***Investigation Information***

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

**Complaint Information:** N/A

**Date(s) of Investigation:** May 25, 2012

**Date(s) of NOE(s):** June 19, 2012

***Violation Information***

1. Failed to submit a Permit Compliance Certification ("PCC") within 30 days after the end of the certification period. Specifically, the PCC for the certification period of July 28, 2010 through July 27, 2011 was not submitted [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.146(1) and (2), TEX. HEALTH & SAFETY CODE § 382.085(b) and Federal Operating Permit ("FOP") No. O2097, General Terms and Conditions ("GTC") and Special Terms and Conditions ("STC") No. 7].

2. Failed to submit a deviation report within 30 days after the end of the reporting period. Specifically, during the July 28, 2011 through January 27, 2012 reporting period, Respondent exceeded the permitted printing ink usage limit for calendar year 2011 and failed to submit a PCC, but Respondent had not submitted a deviation report by February 26, 2012 [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(B), TEX. HEALTH & SAFETY CODE § 382.085(b) and FOP No. O2097, GTC and STC No. 7].

3. Failed to limit printing ink usage to 6.3 tons per year. Specifically, Respondent used 7.62 tons of printing ink in calendar year 2011 [30 TEX. ADMIN. CODE § 116.115(c), TEX. HEALTH & SAFETY CODE § 382.085(b) and Air Permit No. 80166, Special Conditions No. 9].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

The Order will require Respondent to:

- a. Within 30 days, implement measures designed to ensure that the PCCs and semi-annual deviation reports are submitted in an accurate and timely manner;
- b. Within 45 days, certify compliance with the annual allowable printing ink usage rate in Air Permit No. 80166 or submit an administratively complete permit amendment application to increase the printing ink usage rate in Air Permit No. 80166;

**Executive Summary – Enforcement Matter – Case No. 44632  
TEKNI-PLEX, INC.  
RN100215508  
Docket No. 2012-1629-AIR-E**

- c. If a permit amendment application is submitted, respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the application within 30 days after the date of such requests, or by any other deadline specified in writing;
- d. Within 45 days, submit written certification demonstrating compliance with Ordering Provision a.; and
- e. If a permit application is submitted, then within 270 days, submit written certification that either the permit amendment has been obtained or that operation has ceased until such time that appropriate authorization is obtained.

***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:** Amancio R. Gutierrez, Enforcement Division, Enforcement Team 5, MC 149, (512) 239-3921; Debra Barber, Enforcement Division, MC 219, (512) 239-0412  
**TCEQ SEP Coordinator:** N/A  
**Respondent:** Marcus Hawn, Plant Manager, TEKNI-PLEX, INC., 4700 South Westmoreland Road, Dallas, Texas 75237  
**Respondent's Attorney:** N/A





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

<b>DATES</b>	<b>Assigned</b>	25-Jun-2012	<b>Screening</b>	18-Jul-2012	<b>EPA Due</b>	18-Jan-2013
	<b>PCW</b>	6-Dec-2012				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	TEKNI-PLEX, INC.
<b>Reg. Ent. Ref. No.</b>	RN100215508
<b>Facility/Site Region</b>	4-Dallas/Fort Worth
<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	44632	<b>No. of Violations</b>	1
<b>Docket No.</b>	2012-1629-AIR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Audra Benoit
		<b>EC's Team</b>	Enforcement Team 5
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$2,500**

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

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

**Compliance History** 10.0% Enhancement **Subtotals 2, 3, & 7** **\$250**

Notes: Enhancement for two NOVs 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** 0.0% Enhancement\* **Subtotal 6** **\$0**

Total EB Amounts \$48  
 Approx. Cost of Compliance \$500  
 \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$2,750**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount** **\$2,750**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$2,750**

**DEFERRAL** 20.0% Reduction **Adjustment** **-\$550**

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** **\$2,200**

Screening Date 18-Jul-2012

Docket No. 2012-1629-AIR-E

PCW

Respondent TEKNI-PLEX, INC.

Policy Revision 2 (September 2002)

Case ID No. 44632

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100215508

Media [Statute] Air

Enf. Coordinator Audra Benoit

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

**Adjustment Percentage (Subtotal 2)** 10%

#### >> 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

<b>Compliance History Notes</b>	Enhancement for two NOVs with same/similar violations.
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**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 10%

Screening Date 18-Jul-2012

Docket No. 2012-1629-AIR-E

PCW

Respondent TEKNI-PLEX, INC.

Policy Revision 2 (September 2002)

Case ID No. 44632

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100215508

Media [Statute] Air

Enf. Coordinator Audra Benoit

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 122.143(4) and 122.146(1) and (2), Tex. Health & Safety Code § 382.085(b) and Federal Operating Permit ("FOP") No. O2097, General Terms and Conditions ("GTC") and Special Terms and Conditions ("STC") No. 7

Violation Description

Failed to submit a Permit Compliance Certification ("PCC") within 30 days after the end of the certification period. Specifically, the PCC for the certification period of July 28, 2010 through July 27, 2011 was not submitted.

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% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

357 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 for the one missing certification.

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 \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$48

Violation Final Penalty Total \$2,750

This violation Final Assessed Penalty (adjusted for limits) \$2,750

# Economic Benefit Worksheet

**Respondent** TEKNI-PLEX, INC.  
**Case ID No.** 44632  
**Reg. Ent. Reference No.** RN100215508  
**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	27-Aug-2011	21-Jul-2013	1.90	\$48	n/a	\$48

Notes for DELAYED costs

Estimated cost to implement procedures to ensure the timely submittal of PCCs. The date required is the date the PCC was due. 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**

\$48



# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	25-Jun-2012	<b>Screening</b>	18-Jul-2012	<b>EPA Due</b>	
	<b>PCW</b>	8-Jan-2013				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	TEKNI-PLEX, INC.				
<b>Reg. Ent. Ref. No.</b>	RN100215508				
<b>Facility/Site Region</b>	4-Dallas/Fort Worth	<b>Major/Minor Source</b>	Major		

## CASE INFORMATION

<b>Enf./Case ID No.</b>	44632	<b>No. of Violations</b>	2
<b>Docket No.</b>	2012-1629-AIR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Audra Benoit
		<b>EC's Team</b>	Enforcement Team 5
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## 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** **10.0%** Enhancement **Subtotals 2, 3, & 7** **\$750**

Notes: Enhancement for two NOVs 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** **0.0%** Enhancement\* **Subtotal 6** **\$0**

Total EB Amounts **\$170**  
 Approx. Cost of Compliance **\$2,000**  
 \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$8,250**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount** **\$8,250**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$8,250**

**DEFERRAL** **20.0%** Reduction **Adjustment** **-\$1,650**

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** **\$6,600**

Screening Date 18-Jul-2012

Docket No. 2012-1629-AIR-E

PCW

Respondent TEKNI-PLEX, INC.

Policy Revision 3 (September 2011)

Case ID No. 44632

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100215508

Media [Statute] Air

Enf. Coordinator Audra Benoit

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

**Adjustment Percentage (Subtotal 2)** 10%

#### >> 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.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 10%

#### >> Final Compliance History Adjustment

**Final Adjustment Percentage \*capped at 100%** 10%

**Screening Date** 18-Jul-2012  
**Respondent** TEKNI-PLEX, INC.  
**Case ID No.** 44632

**Docket No.** 2012-1629-AIR-E

**PCW**

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

**Reg. Ent. Reference No.** RN100215508

**Media [Statute]** Air

**Enf. Coordinator** Audra Benoit

**Violation Number** 1

**Rule Cite(s)** 30 Tex. Admin. Code §§ 122.143(4) and 122.145(2)(B), Tex. Health & Safety Code § 382.085(b) and Federal Operating Permit No. O2097, General Terms and Conditions and Special Terms and Conditions No. 7

**Violation Description** Failed to submit a deviation report within 30 days after the end of the reporting period. Specifically, during the July 28, 2011 through January 27, 2012 reporting period, the Respondent exceeded the permitted printing ink usage limit for 2011 and failed to submit a Permit Compliance Certification ("PCC"), but the Respondent had not submitted a deviation report by February 26, 2012.

**Base Penalty** \$25,000

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

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
	x			15.0%

Matrix Notes

100% of the rule requirement was not met.

**Adjustment** \$21,250

\$3,750

**Violation Events**

Number of Violation Events 1      173 Number of violation days

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

**Violation Base Penalty** \$3,750

One single event is recommended for the one missing report.

**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** \$3,750

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

**Estimated EB Amount** \$35

**Statutory Limit Test**

**Violation Final Penalty Total** \$4,125

**This violation Final Assessed Penalty (adjusted for limits)** \$4,125

## Economic Benefit Worksheet

**Respondent** TEKNI-PLEX, INC.  
**Case ID No.** 44632  
**Reg. Ent. Reference No.** RN100215508  
**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	26-Feb-2012	21-Jul-2013	1.40	\$35	n/a	\$35

Notes for DELAYED costs

Estimated cost to implement procedures to ensure the timely submittal of PCCs and deviation reports. The date required is the date the PCC and deviation report were due. 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**

\$35

Screening Date 18-Jul-2012

Docket No. 2012-1629-AIR-E

PCW

Respondent TEKNI-PLEX, INC.

Policy Revision 3 (September 2011)

Case ID No. 44632

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100215508

Media [Statute] Air

Enf. Coordinator Audra Benoit

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 116.115(c), Tex. Health & Safety Code § 382.085(b) and Air Permit No. 80166, Special Conditions No. 9

Violation Description

Failed to limit printing ink usage to 6.3 tons per year. Specifically, the Respondent used 7.62 tons of printing ink in calendar year 2011.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Based on the excess ink usage, 98 pounds of volatile organic compounds were emitted. Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

91 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One quarterly event is recommended for the period of non-compliance from October 1, 2011 to December 31, 2011.

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 \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$135

Violation Final Penalty Total \$4,125

This violation Final Assessed Penalty (adjusted for limits) \$4,125

# Economic Benefit Worksheet

**Respondent** TEKNI-PLEX, INC.  
**Case ID No.** 44632  
**Reg. Ent. Reference No.** RN100215508  
**Media** Air  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

**Item Cost**   **Date Required**   **Final Date**   **Yrs**   **Interest Saved**   **Onetime Costs**   **EB Amount**  
**Item Description** 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)	\$1,500	1-Oct-2011	21-Jul-2013	1.81	\$135	n/a	\$135

**Notes for DELAYED costs**

Estimated cost to implement procedures to maintain compliance with the current ink usage limits or submit an amendment for Air Permit No. 80166. The date required is the initial date of non-compliance. 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

\$1,500

**TOTAL**

\$135



# Compliance History Report

**PUBLISHED** Compliance History Report for CN601571128, RN100215508, Rating Year 2011 which includes Compliance History (CH) components from September 1, 2006, through August 31, 2011.

<b>Customer, Respondent, or Owner/Operator:</b>	CN601571128, Tekni-Plex, Inc.	<b>Classification:</b> AVERAGE	<b>Rating:</b> 29.38
<b>Regulated Entity:</b>	RN100215508, DOLCO PACKAGING	<b>Classification:</b> POOR	<b>Rating:</b> 55.75
<b>Complexity Points:</b>	0	<b>Repeat Violator:</b> YES	
<b>CH Group:</b>	14 - Other		
<b>Location:</b>	4700 S WESTMORELAND RD DALLAS, TX 75237-1629, DALLAS COUNTY		
<b>TCEQ Region:</b>	REGION 04 - DFW METROPLEX		

**ID Number(s):**

<b>AIR OPERATING PERMITS</b> ACCOUNT NUMBER DB1276U	<b>AIR OPERATING PERMITS</b> PERMIT 2097
<b>AIR NEW SOURCE PERMITS</b> AFS NUM 4811300748	<b>AIR NEW SOURCE PERMITS</b> PERMIT 80166
<b>AIR NEW SOURCE PERMITS</b> ACCOUNT NUMBER DB1276U	<b>INDUSTRIAL AND HAZARDOUS WASTE</b> EPA ID TXR000020743
<b>STORMWATER</b> PERMIT TXR05T795	<b>AIR EMISSIONS INVENTORY</b> ACCOUNT NUMBER DB1276U

**Compliance History Period:** September 01, 2006 to August 31, 2011    **Rating Year:** 2011    **Rating Date:** 09/01/2011

**Date Compliance History Report Prepared:** November 01, 2012

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** August 21, 2007 to August 21, 2012

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**

**Name:** Audra Benoit    **Phone:** (409) 899-8799

**Site and Owner/Operator History:**

- 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 for #2, who is the current owner/operator? N/A
- 4) If YES for #2, 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

**Components (Multimedia) for the Site Are Listed in Sections A - J**

**A. Final Orders, court judgments, and consent decrees:**  
N/A

**B. Criminal convictions:**  
N/A

**C. Chronic excessive emissions events:**  
N/A

**D. The approval dates of investigations (CCEDS Inv. Track. No.):**

Item 1	December 17, 2007	(610435)
Item 2	January 08, 2008	(613187)
Item 3	February 25, 2008	(618372)
Item 4	April 07, 2009	(739723)
Item 5	June 30, 2010	(828687)

**E. Written notices of violations (NOV) (CEDS Inv. Track. No.):**

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

- |   |  |                          |
|---|--|--------------------------|
| 1 | Date: 05/14/2008 (654454)  | CN601571128              |
|   | Self Report? NO  | Classification: Moderate |
|   | Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)<br>5C THSC Chapter 382 382.085(b)  |                          |
|   | Description: 30 TAC 116.115(c) The facility failed to comply with the Special Conditions of their Permit #80166.   |                          |
|   |  |                          |
| 2 | Date: 05/18/2011 (914909)  | CN601571128              |
|   | Self Report? NO  | Classification: Moderate |
|   | Citation: 30 TAC Chapter 122, SubChapter B 122.146(2)<br>5C THSC Chapter 382 382.085(b)  |                          |
|   | Description: Failure to submit the self certification form no later than 30 days after the end of the certification period. The current certification period for Dolco Packaging was 7/27/09 to 7/27/10. A records review showed that the certification form was signed by the responsible official on 9/7/10. |                          |

**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  
TEKNI-PLEX, INC.  
RN100215508**

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

## **AGREED ORDER DOCKET NO. 2012-1629-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 TEKNI-PLEX, 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 polystyrene foam package manufacturing plant at 4700 South Westmoreland Road in Dallas, Dallas 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 June 24, 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 Eleven Thousand Dollars (\$11,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Eight Thousand Eight Hundred Dollars (\$8,800) of the administrative penalty and Two Thousand Two Hundred Dollars

- (\$2,200) 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 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 Plant, the Respondent is alleged to have:

1. Failed to submit a Permit Compliance Certification ("PCC") within 30 days after the end of the certification period, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.146(1) and (2), TEX. HEALTH & SAFETY CODE § 382.085(b) and Federal Operating Permit ("FOP") No. O2097, General Terms and Conditions ("GTC") and Special Terms and Conditions ("STC") No. 7, as documented during an investigation conducted on May 25, 2012. Specifically, the PCC for the certification period of July 28, 2010 through July 27, 2011 was not submitted.
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)(B), TEX. HEALTH & SAFETY CODE § 382.085(b) and FOP No. O2097, GTC and STC No. 7. Specifically, during the July 28, 2011 through January 27, 2012 reporting period, the Respondent exceeded the permitted printing ink usage limit for calendar year 2011 and failed to submit a PCC, but the Respondent had not submitted a deviation report by February 26, 2012.
3. Failed to limit printing ink usage to 6.3 tons per year, in violation of 30 TEX. ADMIN. CODE § 116.115(c), TEX. HEALTH & SAFETY CODE § 382.085(b) and Air Permit No. 80166, Special Conditions No. 9, as documented during an investigation conducted on May 25, 2012. Specifically, the Respondent used 7.62 tons of printing ink in calendar year 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: TEKNI-PLEX, INC., Docket No. 2012-1629-AIR-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, implement measures designed to ensure that the PCCs and semi-annual deviation reports are submitted in an accurate and timely manner;
  - b. Within 45 days after the effective date of this Agreed Order, certify compliance with the annual allowable printing ink usage rate in Air Permit No. 80166 as described below, or submit an administratively complete permit amendment application to increase the printing ink usage rate in Air Permit No. 80166, in accordance with 30 TEX. ADMIN. CODE § 116.111 to:

Air Permits Division, MC 162  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

- c. If a permit amendment application is submitted in accordance with Ordering Provision No. 2.b., respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the application within 30 days after the date of such requests, or by any other deadline specified in writing;
- d. Within 45 days after the effective date of this Agreed Order, submit written certification, as described below, to demonstrate compliance with Ordering Provision No. 2.a.;

- e. If a permit application is submitted in accordance with Ordering Provision No. 2.b., then within 270 days after the effective date of this Agreed Order, submit written certification as described below, that either the permit amendment has been obtained or that operation has ceased until such time that appropriate authorization is obtained; and
- f. The certifications required by Ordering Provision Nos. 2.b., 2.d., and 2.e. shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. The certifications 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:

Air Section Manager  
Dallas/Fort Worth Regional Office  
Texas Commission on Environmental Quality  
2309 Gravel Drive  
Fort Worth, Texas 76118-6951

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 Plant 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.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

*Pam Devere J*  
For the Executive Director

4/9/13  
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.

*[Signature]*  
Signature

2/12/13  
Date

Marus Hamm  
Name (Printed or typed)  
Authorized Representative of  
TEKNI-PLEX, INC.

Plant Manager  
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.