

TRI Recycling, Inc.
RN105962682
Docket No. 2013-0293-MLM-E

Order Type:

Default Order

Media:

MLM – WQ and MSW

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

4700 Burleson Road, Austin, Travis County

Type of Operation:

waste recycling facility

Other Significant Matters:

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

Texas Register Publication Date: March 28, 2014**Comments Received:** None

Penalty Information

Total Penalty Assessed: \$8,515**Total Paid to General Revenue:** \$0**Total Due to General Revenue:** \$8,515**Compliance History Classifications:**

Person/CN – High
Site/RN – Unclassified

Major Source: No**Statutory Limit Adjustment:** None**Applicable Penalty Policy:** September 2011

Investigation Information

Complaint Date(s): N/A**Date(s) of Investigation:** October 18, 2012**Date(s) of NOV(s):** N/A**Date(s) of NOE(s):** December 18, 2012

TRI Recycling, Inc.
RN105962682
Docket No. 2013-0293-MLM-E

Violation Information

1. Failed to maintain the required recycling records and make them immediately available for inspection upon request by agency personnel [30 TEX. ADMIN. CODE § 328.5(f) and (g)].
2. Failed to make available a copy of the Fire Prevention and Suppression Plan to the local fire prevention authority having jurisdiction over the Facility for review and coordination [30 TEX. ADMIN. CODE § 328.5(h)].
3. Failed to obtain authorization to discharge storm water associated with industrial activities [30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 C.F.R. § 122.26(c)].
4. Failed to demonstrate acceptable financial assurance for closure of the Facility [30 TEX. ADMIN. CODE § 328.5(f)(3)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

None

Technical Requirements:

1. Immediately, begin maintaining all recycling records and ensure they are made immediately available for inspection upon request by agency personnel.
2. Within 30 days:
 - a. Develop and begin implementing a storm water pollution prevention plan and submit a Notice of Intent to comply with the requirements of TPDES MSGP No. TXR050000;
 - b. Develop and implement a Fire Prevention and Suppression Plan that shall be made available to the local fire prevention authority having jurisdiction over the Facility for review and coordination; and
 - c. Submit documentation that demonstrates acceptable financial assurance for the closure of the Facility.
3. Within 45 days, submit written certification to demonstrate compliance.

Litigation Information

Date Petition(s) Filed: September 29, 2013; November 13, 2013

Date Green Card(s) Signed: Unclaimed; November 22, 2013

Date Answer(s) Filed: N/A

Contact Information

TCEQ Attorneys: Jennifer Cook, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Blas Coy, Public Interest Counsel, (512) 239-6363

TCEQ Enforcement Coordinator: Clinton Sims, Enforcement Division, (512) 239-6933

TCEQ Regional Contact: David Mann, Austin Regional Office, (254) 761-3002

Respondent: Gerard Acuna, Director, TRI Recycling, Inc., 607 Baylor Street, Austin, Texas 78703

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	7-Jan-2013		
	PCW	9-Aug-2013	Screening	16-Jan-2013
			EPA Due	

RESPONDENT/FACILITY INFORMATION	
Respondent	TRI Recycling, Inc.
Reg. Ent. Ref. No.	RN105962682
Facility/Site Region	11-Austin
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	46145	No. of Violations	4
Docket No.	2013-0293-MLM-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	No
Multi-Media	Water Quality	Enf. Coordinator	Judy Kluge
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$7,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1	
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.	
Compliance History	Subtotals 2, 3, & 7
-8.0% Enhancement	-\$600

Notes: Reduction for high performer classification and enhancement for one NOV containing dissimilar violations.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$1,112
 Approx. Cost of Compliance: \$6,324
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$6,900
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OTHER FACTORS AS JUSTICE MAY REQUIRE	23.4%	Adjustment	\$1,615
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: The executive director recommends an upward adjustment to offset the reduction for compliance history and an enhancement to capture the avoided cost of compliance associated with violation no. 4.

Final Penalty Amount: \$8,515

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$8,515
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$8,515
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Screening Date 16-Jan-2013

Docket No. 2013-0293-MLM-E

PCW

Respondent TRI Recycling, Inc.

Policy Revision 3 (September 2011)

Case ID No. 46145

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN105962682

Media [Statute] Municipal Solid Waste

Enf. Coordinator Judy Kluge

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

Reduction for high performer classification and enhancement for one NOV containing dissimilar violations.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100%

Screening Date	16-Jan-2013	Docket No.	2013-0293-MLM-E	PCW
Respondent	TRI Recycling, Inc.			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	46145			<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No.	RN105962682			
Media [Statute]	Municipal Solid Waste			
Enf. Coordinator	Judy Kluge			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent <input type="text" value="0.0%"/>	
	Release	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent <input type="text" value="5.0%"/>
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="text" value="x"/>

Violation Base Penalty

Good Faith Efforts to Comply 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="text" value="x"/>	(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 TRI Recycling, Inc.
Case ID No. 46145
Reg. Ent. Reference No. RN105962682
Media 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	\$1,000	18-Oct-2012	16-Aug-2013	0.83	\$41	n/a	\$41
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 recycling records. 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 \$41

Screening Date 16-Jan-2013
Respondent TRI Recycling, Inc.
Case ID No. 46145
Reg. Ent. Reference No. RN105962682
Media [Statute] Municipal Solid Waste
Enf. Coordinator Judy Kluge

Docket No. 2013-0293-MLM-E

PCW

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="5.0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="text" value="x"/>

Violation Base Penalty

Good Faith Efforts to Comply

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="text" value="x"/>	(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 TRI Recycling, Inc.
Case ID No. 46145
Reg. Ent. Reference No. RN105962682
Media Violation No. Municipal Solid Waste
 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	\$2,500	18-Oct-2012	16-Sep-2013	0.91	\$114	n/a	\$114
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost to prepare and submit a copy of the Fire Prevention and Suppression plan to the local fire prevention authority. 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 \$2,500

TOTAL \$114

Screening Date 16-Jan-2013
Respondent TRI Recycling, Inc.
Case ID No. 46145
Reg. Ent. Reference No. RN105962682
Media [Statute] Municipal Solid Waste
Enf. Coordinator Judy Kluge

Docket No. 2013-0293-MLM-E

PCW

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 281.25(a)(4) and 40 Code of Federal Regulations § 122.26(c)

Violation Description

Failed to obtain authorization to discharge storm water associated with industrial activities under the Texas Pollution Discharge Elimination System ("TPDES") Multi-Sector General Permit ("MSGP") No. TXR050000.

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 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 3

90 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

Three monthly events are recommended from the October 18, 2012 investigation to the January 16, 2013 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 \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$91

Violation Final Penalty Total \$4,258

This violation Final Assessed Penalty (adjusted for limits) \$4,258

Economic Benefit Worksheet

Respondent TRI Recycling, Inc.
Case ID No. 46145
Reg. Ent. Reference No. RN105962682
Media Violation No. Municipal Solid Waste
 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				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	\$2,000	18-Oct-2012	16-Sep-2013	0.91	\$91	n/a	\$91
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs
 Estimated cost to submit a Notice of Intent and develop and implement a storm water pollution prevention plan to obtain a TPDES MSGP. The date required is the investigation date, and the final date is the estimated compliance date.

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 \$2,000

TOTAL \$91

Screening Date 16-Jan-2013
Respondent TRI Recycling, Inc.
Case ID No. 46145
Reg. Ent. Reference No. RN105962682
Media [Statute] Municipal Solid Waste
Enf. Coordinator Judy Kluge

Docket No. 2013-0293-MLM-E

PCW

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

Violation Number

Rule Cite(s)

30 Tex. Admin. Code § 328.5(f)(3)

Violation Description

Failed to demonstrate acceptable financial assurance for closure of the Facility.

Base Penalty

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

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor
<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>

Percent

Matrix Notes

100% of the rule requirement was not met.

Adjustment

Violation Events

Number of Violation Events

Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="text" value="x"/>

Violation Base Penalty

One single event is recommended.

Good Faith Efforts to Comply

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="text" value="x"/>	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

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 TRI Recycling, Inc.
Case ID No. 46145
Reg. Ent. Reference No. RN105962682
Media 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
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

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]	\$824	18-Oct-2011	18-Oct-2012	1.00	\$41	\$824	\$865
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to obtain adequate financial assurance. The date required is one year prior to the investigation date, and the final date is the investigation date.

Approx. Cost of Compliance \$824

TOTAL \$865



Compliance History Report

PUBLISHED Compliance History Report for CN603583857, RN105962682, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator:	CN603583857, TRI Recycling, Inc.	Classification: HIGH	Rating: 0.00
Regulated Entity:	RN105962682, TRI RECYCLING INC	Classification: UNCLASSIFIED	Rating: -----
Complexity Points:	4	Repeat Violator:	NO
CH Group:	14 - Other		
Location:	4700 BURLESON RD AUSTIN, TX 78744-1234, TRAVIS COUNTY		
TCEQ Region:	REGION 11 - AUSTIN		

ID Number(s):
MUNICIPAL SOLID WASTE PROCESSING PERMIT 100262

Compliance History Period: September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

Date Compliance History Report Prepared: February 11, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: February 11, 2008 to February 11, 2013

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.
Name: Andrea Park **Phone:** (713) 422-8970

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? NO
- 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.):**
N/A
- E. Written notices of violations (NOV) (CCEDS 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:	09/24/2012	(1030479)	CN603583857
	Self Report?	NO	Classification:	Major
	Citation:	30 TAC Chapter 328, SubChapter A 328.4(b)(3)(B)(ii)		
	Description:	The complainant alleged that a recycling facility was storing materials outdoors creating an unsafe environment due to the restriction of water runoff, increase in rodents and a potential fire hazard since it is next to a petroleum business.		

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
TRI RECYCLING, INC.;
RN105962682**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2013-0293-MLM-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition, filed pursuant to TEX. WATER CODE chs. 7 and 26, TEX. HEALTH & SAFETY CODE ch. 361, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is TRI Recycling, Inc. ("Respondent").

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

FINDINGS OF FACT

1. Respondent owns and operates a waste recycling facility located at 4700 Burluson Road in Austin, Travis County, Texas (the "Facility"). The Facility involves the management and/or the disposal of municipal solid waste ("MSW") as defined in TEX. HEALTH & SAFETY CODE ch. 361. The Facility adjoins, is contiguous with, surrounds, or is near or adjacent to state water as defined in TEX. WATER CODE § 26.001(5).
2. During an investigation conducted on October 18, 2012, a TCEQ Austin Regional Office investigator documented that Respondent:
 - a. Failed to maintain the required recycling records and make them immediately available for inspection upon request by agency personnel;
 - b. Failed to make available a copy of the Fire Prevention and Suppression Plan to the local fire prevention authority having jurisdiction over the Facility for review and coordination;
 - c. Failed to obtain authorization to discharge storm water associated with industrial activities under the Texas Pollution Discharge Elimination System ("TPDES") Multi-Sector General Permit ("MSGP") No. TXR050000; and
 - d. Failed to demonstrate acceptable financial assurance for closure of the Facility.
3. Respondent received notice of the violations on or about December 23, 2012.
4. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of TRI Recycling, Inc." (the "EDPRP") in the TCEQ Chief Clerk's office on September 29, 2013.

5. The EDPRP was mailed to Respondent's last known address on September 29, 2013, via certified mail, return receipt requested, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed."
6. The Executive Director re-filed the EDPRP in the TCEQ Chief Clerk's office on November 13, 2013.
7. By letter dated November 13, 2013, sent to Respondent's last known address via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to the return receipt "green card," Respondent received notice of the EDPRP on November 22, 2013, as evidenced by the signature on the card.
8. More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26, TEX. HEALTH & SAFETY CODE ch. 361, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to maintain the required recycling records and make them immediately available for inspection upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 328.5(f) and (g).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to make available a copy of the Fire Prevention and Suppression Plan to the local fire prevention authority having jurisdiction over the Facility for review and coordination, in violation of 30 TEX. ADMIN. CODE § 328.5(h).
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to obtain authorization to discharge storm water associated with industrial activities, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 C.F.R. § 122.26(c).
5. As evidenced by Finding of Fact No. 2.d., Respondent failed to demonstrate acceptable financial assurance for closure of the Facility, in violation of 30 TEX. ADMIN. CODE § 328.5(f)(3).
6. As evidenced by Findings of Fact Nos. 4 through 7, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
7. As evidenced by Finding of Fact No. 8, Respondent failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.
8. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
9. An administrative penalty in the amount of eight thousand five hundred fifteen dollars (\$8,515.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.

10. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty in the amount of eight thousand five hundred fifteen dollars (\$8,515.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here.
2. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: TRI Recycling, Inc.; Docket No. 2013-0293-MLM-E" to:

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

3. Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Order, Respondent shall begin maintaining all recycling records and ensure they are made immediately available for inspection upon request by agency personnel.
 - b. Within 30 days after the effective date of this Order, Respondent shall:
 - i. Develop and begin implementing a storm water pollution prevention plan and submit a Notice of Intent to comply with the requirements of TPDES MSGP No. TXR050000 to:

Storm Water and Pretreatment Team, MC148
Texas Commission on Environmental Quality
Storm Water Processing Center, MC 228
P.O. Box 13087
Austin, Texas 78711-3087

- ii. Develop and implement a Fire Prevention and Suppression Plan that shall be made available to the local fire prevention authority having jurisdiction over the Facility for review and coordination, in accordance with 30 TEX. ADMIN. CODE § 328.5(h); and
 - iii. Submit documentation that demonstrates acceptable financial assurance for the closure of the Facility, in accordance with 30 TEX. ADMIN. CODE § 328.5(d) to:

Financial Assurance Team, MC 184
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- c. Within 45 days after the effective date of this Order, Respondent shall submit written certification to demonstrate compliance with Ordering Provisions Nos. 3.a. through 3.b.iii. The certification required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall 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 fine and imprisonment for knowing violations."

Respondent shall submit the written certification and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

Order Compliance Team
Texas Commission on Environmental Quality
Enforcement Division, MC 149A
P.O. Box 13087
Austin, Texas 78711-3087

and:

David Mann, Waste Section Manager
Austin Regional Office
Texas Commission on Environmental Quality
12100 Park 35 Circle, Bldg A, Rm 179
Austin TX 78753

4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
6. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
7. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

8. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
9. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
10. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

S I G N A T U R E P A G E

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF JENNIFER COOK

STATE OF TEXAS

§
§
§

COUNTY OF TRAVIS

"My name is Jennifer Cook. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

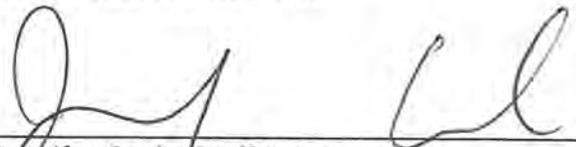
On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of TRI Recycling, Inc." (the "EDPRP") was filed in the TCEQ Chief Clerk's office on September 29, 2013.

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On behalf of the Executive Director of the Texas Commission on Environmental Quality, the EDPRP was re-filed in the TCEQ Chief Clerk's office on November 13, 2013.

The EDPRP was mailed to Respondent's last known address on November 13, 2013, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on November 22, 2013, as evidenced by the signature on the card.

More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing."



Jennifer Cook, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Jennifer Cook, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 25th day of February, A.D. 2014.



Notary without Bond¹



Notary Signature