

House of Boats, Inc.  
RN102346285  
Docket No. 2013-1424-MLM-E

**Order Type:**

Agreed Order

**Media:**

MLM – Water Quality and Used Oil

**Small Business:**

Yes

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

160 Cove Harbor North, Rockport, Aransas County

**Type of Operation:**

temporary boat storage

**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:** January 2, 2015**Comments Received:** None**Penalty Information****Total Penalty Assessed:** \$13,350**Total Paid to General Revenue:** \$2,675**Total Due to General Revenue:** \$10,675

Payment Plan: 35 payments of \$305.00 each

**SEP Conditional Offset:** N/A**Compliance History Classifications:**

Person/CN – Satisfactory

Site/RN – Satisfactory

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

**House of Boats, Inc.**  
**RN102346285**  
**Docket No. 2013-1424-MLM-E**

**Investigation Information**

**Complaint Date(s):** May 17, 2013  
**Complaint Information:** Alleged 55-gallon barrels in close proximity to the harbor are leaking into the soil and are in deteriorated condition, and that the facility has issues with product storage, waste storage, poor housekeeping, and numerous leaks throughout the property.

**Date(s) of Investigation:** May 22, 2013  
**Date(s) of NOV(s):** N/A  
**Date(s) of NOE(s):** July 11, 2013

**Violation Information**

1. Failed to renew authorization to discharge storm water associated with industrial activities under the Texas Pollutant Discharge Elimination System ("TPDES") Multi-Sector General Permit ("MSGP") No. TXR050000 [40 C.F.R. § 122.26(c) and 30 TEX. ADMIN. CODE § 281.25(a)(4)].
2. Failed to label or mark clearly containers used to store used oil with the words "Used Oil" [40 C.F.R. § 279.22(c)(1) and 30 TEX. ADMIN. CODE § 324.1].

**Corrective Actions/Technical Requirements**

**Corrective Action(s) Completed:**

On June 17, 2013, Respondent submitted documentation demonstrating that used oil containers were properly labeled.

**Technical Requirements:**

1. Within 60 days, develop and implement a Storm Water Pollution Prevention Plan and submit a Notice of Intent letter to comply with the requirements of TPDES MSGP No. TXR050000.
2. Within 75 days submit certification to demonstrate compliance.

**Litigation Information**

**Date Petition(s) Filed:** May 13, 2014; June 17, 2014  
**Date Answer Filed:** N/A  
**Settlement Date:** December 2, 2014

**Contact Information**

**TCEQ Attorneys:** Jim Sallans, Litigation Division, (512) 239-3400  
Lena Roberts, Litigation Division, (512) 239-3400  
Isabel Segarra Treviño, Public Interest Counsel, (512) 239-6363

**TCEQ Enforcement Coordinator:** Michael Meyer, Enforcement Division, (512) 239-4492

**TCEQ Regional Contact:** Kelly Ruble, Corpus Christi Regional Office, (361) 825-3100

**Respondent Contact:** John Dzerk, President, House of Boats, Inc., 160 Cove Harbor North, Rockport, Texas 73831

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

<b>DATES</b>	<b>Assigned</b>	15-Jul-2013	<b>Screening</b>	19-Jul-2013	<b>EPA Due</b>	
	<b>PCW</b>	24-Mar-2014				

**RESPONDENT/FACILITY INFORMATION**

<b>Respondent</b>	HOUSE OF BOATS, INC.		
<b>Reg. Ent. Ref. No.</b>	RN102346285		
<b>Facility/Site Region</b>	14-Corpus Christi	<b>Major/Minor Source</b>	Minor

**CASE INFORMATION**

<b>Enf./Case ID No.</b>	47296	<b>No. of Violations</b>	1
<b>Docket No.</b>	2013-1424-MLM-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>	Used Oil	<b>Enf. Coordinator</b>	Michael Meyer
		<b>EC's Team</b>	Enforcement Team 6
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

**Penalty Calculation Section**

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$8,750
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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.

<b>Compliance History</b>	20.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$1,750
<b>Notes</b>	Enhancement for one order containing a denial of liability.		
<b>Culpability</b>	No 0.0% Enhancement	<b>Subtotal 4</b>	\$0
<b>Notes</b>	The Respondent does not meet the culpability criteria.		
<b>Good Faith Effort to Comply Total Adjustments</b>		<b>Subtotal 5</b>	\$0
<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
Total EB Amounts	\$229	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$2,000		

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$10,500
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	
	<b>Final Penalty Amount</b> \$10,500

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$10,500
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<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

<b>Notes</b>	Deferral not offered for non-expedited settlement.
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<b>PAYABLE PENALTY</b>	\$10,500
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<b>Screening Date</b>	19-Jul-2013	<b>Docket No.</b>	2013-1424-MLM-E	<b>PCW</b>
<b>Respondent</b>	HOUSE OF BOATS, INC.			<i>Policy Revision 3 (September 2011)</i>
<b>Case ID No.</b>	47296			<i>PCW Revision August 3, 2011</i>
<b>Reg. Ent. Reference No.</b>	RN102346285			
<b>Media [Statute]</b>	Water Quality			
<b>Enf. Coordinator</b>	Michael Meyer			

### Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	1	20%
	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**

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

>> **Final Compliance History Adjustment**

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

<b>Screening Date</b>	19-Jul-2013	<b>Docket No.</b>	2013-1424-MLM-E	<b>PCW</b>
<b>Respondent</b>	HOUSE OF BOATS, INC.			<i>Policy Revision 3 (September 2011)</i>
<b>Case ID No.</b>	47296			<i>PCW Revision August 3, 2011</i>
<b>Reg. Ent. Reference No.</b>	RN102346285			
<b>Media [Statute]</b>	Water Quality			
<b>Enf. Coordinator</b>	Michael Meyer			

**Violation Number**

**Rule Cite(s)**

**Violation Description**

**Base Penalty**

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

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

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="5.0%"/>
<b>Matrix Notes</b>	<input type="text" value="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 checked="" type="text" value="x"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

**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 w th 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** HOUSE OF BOATS, INC.  
**Case ID No.** 47296  
**Reg. Ent. Reference No.** RN102346285  
**Media** Water Quality  
**Violation No.** 1

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)	\$2,000	14-Nov-2011	28-Feb-2014	2.29	\$229	n/a	\$229

**Notes for DELAYED costs**  
 Estimated cost to submit a Notice of Intent ("NOI") and develop and implement a storm water pollution prevention plan to obtain a TPDES MSGP. The date required is the permit expiration 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      \$2,000

**TOTAL**      \$229



# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

<b>DATES</b>	<b>Assigned</b>	15-Jul-2013	<b>Screening</b>	19-Jul-2013	<b>EPA Due</b>	
	<b>PCW</b>	26-Mar-2014				

**RESPONDENT/FACILITY INFORMATION**

<b>Respondent</b>	HOUSE OF BOATS, INC.		
<b>Reg. Ent. Ref. No.</b>	RN102346285		
<b>Facility/Site Region</b>	14-Corpus Christi	<b>Major/Minor Source</b>	Minor

**CASE INFORMATION**

<b>Enf./Case ID No.</b>	47296	<b>No. of Violations</b>	1
<b>Docket No.</b>	2013-1424-MLM-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Used Oil	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>	Water Quality	<b>Enf. Coordinator</b>	Michael Meyer
		<b>EC's Team</b>	Enforcement Team 6
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$5,000

**Penalty Calculation Section**

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$3,000
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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.

<b>Compliance History</b>	20.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$600
<b>Notes</b>	Enhancement for one order containing a denial of liability.		
<b>Culpability</b>	No 0.0% Enhancement	<b>Subtotal 4</b>	\$0
<b>Notes</b>	The Respondent does not meet the culpability criteria.		
<b>Good Faith Effort to Comply Total Adjustments</b>		<b>Subtotal 5</b>	\$750
<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
Total EB Amounts	\$1	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$300		

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$2,850
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	
	<b>Final Penalty Amount</b> \$2,850

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$2,850
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<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

<b>Notes</b>	Deferral not offered for non-expedited settlement.
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<b>PAYABLE PENALTY</b>	\$2,850
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Screening Date 19-Jul-2013

Docket No. 2013-1424-MLM-E

PCW

Respondent HOUSE OF BOATS, INC.

Policy Revision 3 (September 2011)

Case ID No. 47296

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102346285

Media [Statute] Used Oil

Enf. Coordinator Michael Meyer

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	1	20%
	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) 20%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance History Notes

Enhancement for one order containing a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, &amp; 7) 20%

## &gt;&gt; Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 20%



<b>Screening Date</b>	19-Jul-2013	<b>Docket No.</b>	2013-1424-MLM-E	<b>PCW</b>
<b>Respondent</b>	HOUSE OF BOATS, INC.			<i>Policy Revision 3 (September 2011)</i>
<b>Case ID No.</b>	47296			<i>PCW Revision August 3, 2011</i>
<b>Reg. Ent. Reference No.</b>	RN102346285			
<b>Media [Statute]</b>	Used Oil			
<b>Enf. Coordinator</b>	Michael Meyer			

**Violation Number**

**Rule Cite(s)**

**Violation Description**

**Base Penalty**

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

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

>> **Programmatic Matrix**

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

**Good Faith Efforts to Comply**

Reduction

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input checked="" type="text" value="x"/>	<input type="text"/>
N/A	<input type="text"/>	(mark with x)

**Notes**

**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** HOUSE OF BOATS, INC.  
**Case ID No.** 47296  
**Reg. Ent. Reference No.** RN102346285  
**Media** Used Oil  
**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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### 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)	\$300	22-May-2013	17-Jun-2013	0.07	\$1	n/a	\$1

Notes for DELAYED costs

Estimated cost, at \$25 per container, to label 12 containers with the words "Used Oil". The date required is the investigation date, and the final date is the 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

\$300

**TOTAL**

\$1



# Compliance History Report

**PUBLISHED** Compliance History Report for CN602566895, RN102346285, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

<b>Customer, Respondent, or Owner/Operator:</b>	CN602566895, HOUSE OF BOATS, INC.	<b>Classification:</b> SATISFACTORY	<b>Rating:</b> 6.75
<b>Regulated Entity:</b>	RN102346285, HOUSE OF BOATS	<b>Classification:</b> SATISFACTORY	<b>Rating:</b> 6.75
<b>Complexity Points:</b>	5	<b>Repeat Violator:</b>	NO
<b>CH Group:</b>	14 - Other		
<b>Location:</b>	160 COVE HAVOR N ROCKPORT, TX 78382-7310, ARANSAS COUNTY		
<b>TCEQ Region:</b>	REGION 14 - CORPUS CHRISTI		
<b>ID Number(s):</b>	PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 51353		

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

**Date Compliance History Report Prepared:** July 17, 2013

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** July 17, 2008 to July 17, 2013

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

**Name:** Michael Meyer

**Phone:** (512) 239-4492

## 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:

- 1 Effective Date: 08/21/2010      ADMINORDER 2010-0604-WQ-E (1660 Order-Agreed Order With Denial)  
Classification: Moderate  
Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)  
Description: Field Citation-Failure to obtain a Multi-Sector General Permit (stormwater).

### 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.

N/A

**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  
HOUSE OF BOATS, INC.;  
RN102346285**

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**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER**

**DOCKET NO. 2013-1424-MLM-E**

### **I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding HOUSE OF BOATS, INC. ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26 and TEX. HEALTH & SAFETY CODE ch. 371. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent together stipulate that:

1. Respondent owns and operates a temporary boat storage business located at 160 Cove Harbor North in Rockport, Aransas County, Texas (the "Facility"). The Facility involves the management and/or the disposal of used oil as defined in TEX. HEALTH & SAFETY CODE ch. 371, and is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. The Executive Director and Respondent agree that TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.051 and 7.070, and that Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE chs. 7 and 26, TEX. HEALTH & SAFETY CODE ch. 371, and TCEQ rules.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of thirteen thousand three hundred fifty dollars (\$13,350.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid two thousand six hundred seventy-five dollars (\$2,675.00) of the penalty. The remaining amount of ten thousand six hundred seventy-five dollars (\$10,675.00) shall be paid in thirty-five (35) monthly payments of three hundred-five dollars (\$305.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until the penalty is paid in full. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Order, including the payment schedule, the Executive Director may accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. Respondent's failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance constitutes the failure by Respondent to timely and satisfactorily comply with all the terms of this Order.
5. 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.

6. The Executive Director and Respondent agree on a settlement of the matters addressed in this Order, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
7. 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 Respondent has not complied with one or more of the terms or conditions contained in this Order.
8. 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.
9. The provisions of this Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
10. The Executive Director recognizes that on June 17, 2013, Respondent submitted documentation demonstrating that all used oil containers at the Facility were properly marked in accordance with 30 TEX. ADMIN. CODE ch. 324.

## **II. ALLEGATIONS**

1. During an investigation conducted on May 22, 2013, an investigator documented that Respondent:
  - a. Failed to renew authorization to discharge storm water associated with industrial activities under the Texas Pollutant Discharge Elimination System ("TPDES") Multi Sector General Permit ("MSGP") No. TXR050000, in violation of 40 C.F.R. § 122.26(c) and 30 TEX. ADMIN. CODE § 281.25(a)(4). Specifically, the Facility's TPDES MSGP expired on November 14, 2011; and
  - b. Failed to label or mark clearly containers used to store used oil with the words "Used Oil", in violation of 40 C.F.R. § 279.22(c)(1) and 30 TEX. ADMIN. CODE § 324.1. Specifically, one 250 gallon used oil storage container and 11 used oil storage drums were not labeled or marked with the words "Used Oil".

## **III. DENIALS**

Respondent generally denies each Allegation in Section II.

## **IV. ORDERING PROVISIONS**

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

1. Respondent is assessed an administrative penalty as set forth in Section I, Paragraph 4. The payment of this penalty and Respondent's compliance with all of the requirements set forth in this Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations which are not raised here. Penalty payments shall be made payable to TCEQ and shall be sent with the notation "Re: HOUSE OF BOATS, INC., Docket No. 2013-1424-MLM-E" to:

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

2. Respondent shall undertake the following technical requirements:
  - a. Within 60 days after the effective date of this Order, develop and implement a Storm Water Pollution Prevention Plan and submit a Notice of Intent letter to comply with the requirements of TPDES MSGP No. TXR050000 to:

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

- b. Within 75 days after the effective date of this Order, submit written certification to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by Respondent, 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:

Kelly Ruble, Water Section Manager  
Corpus Christi Regional Office  
Texas Commission on Environmental Quality  
6300 Ocean Drive, NRC Building, Suite 1200  
Corpus Christi, Texas 78412-5839

3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by 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.
5. 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.
6. 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. Extension requests shall be sent to the Order Compliance Team at the address listed above.
7. This Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order, or (2) pursue violations of a statute within TCEQ's jurisdiction or of a rule adopted or an order or permit issued by the TCEQ under such a statute.
  8. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this 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 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.
  9. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Order is the date of hand delivery of the fully executed Order to Respondent, or three days after the date on which the Commission mails a copy of the fully executed Order to Respondent, whichever is earlier. The Chief Clerk shall provide a copy of the fully executed Order to each of the parties.



HOUSE OF BOATS, INC.  
Docket No. 2013-1424-MLM-E  
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**SIGNATURE PAGE**

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

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

*M. Sweeney*  
For the Executive Director

*January 15, 2015*  
Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, 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 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;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.

*[Signature]*  
Signature - John Dzerk, President  
HOUSE OF BOATS, INC.  
P.O. Box 1807  
Rockport, Texas 73831

*12/2/14*  
Date

If mailing address has changed, please check this box and provide the new address below:

PLEASE CHANGE MAILING ADDRESS TO:  
*HOUSE OF BOATS  
160 COVE HARBOR N  
ROCKPORT, TX 78382*