

**Executive Summary – Enforcement Matter – Case No. 48160  
DE DIETRICH (USA), INC.  
RN101634590  
Docket No. 2014-0102-MLM-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

MLM - IHW, WQ

**Small Business:**

Yes

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

De Dietrich, 3920 Farm-to-Market Road 3386, Corpus Christi, Nueces County

**Type of Operation:**

Special industry machinery manufacturing facility

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** May 23, 2014

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$10,500

**Amount Deferred for Expedited Settlement:** \$2,100

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

**Total Paid to General Revenue:** \$8,400

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Unclassified

Site/RN - Unclassified

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2011

***Investigation Information***

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

**Complaint Information:** N/A

**Date(s) of Investigation:** December 11, 2013

**Date(s) of NOE(s):** January 9, 2014

**Executive Summary – Enforcement Matter – Case No. 48160**  
**DE DIETRICH (USA), INC.**  
**RN101634590**  
**Docket No. 2014-0102-MLM-E**

***Violation Information***

1. Failed to conduct hazardous waste determinations and waste classifications. Specifically, a hazardous waste determination was not conducted on "pot wash" water, hydrostatic test waste water, and condensate water [30 TEX. ADMIN. CODE §§ 335.62, 335.503 and 335.504 and 40 CODE OF FEDERAL REGULATIONS ("CFR") § 262.11].
2. Failed to properly contain and keep universal lamp and paint waste containers closed and secured. Specifically, five fluorescent lamp containers were left open, six lamps were not placed in containers, three 55-gallon drums containing paint waste were left open, and lids on two 55-gallon drums containing paint waste were not secured [30 TEX. ADMIN. CODE §§ 335.261(a) and 335.262(c)(2)(A) and 40 CFR § 273.13(d)].
3. Failed to label universal waste paint and lamp containers. Specifically, three 55-gallon drums containing paint waste were not labeled with the words "Universal Waste - Paint and Paint-Related Wastes" and with the earliest date the universal waste became a waste. In addition, eleven containers managing universal waste lamps were not labeled with the words "Universal Waste-Lamp(s)", or "Waste Lamp(s)", or "Used Lamp(s)" and with the accumulation start date, and six uncontainerized lamps were not labeled with the words "Universal Waste-Lamp(s)", or "Waste Lamp(s)", or "Used Lamp(s)" [30 TEX. ADMIN. CODE §§ 335.261(a) and 335.262(c)(2)(F) and 40 CFR §§ 273.14(e) and 273.15(c)(1)].
4. Failed to label or mark containers used to store used oil with the words "Used Oil." Specifically, two 55-gallon drums and a tote containing used oil were not labeled [30 TEX. ADMIN. CODE § 324.6 and 40 CFR § 279.22(c)(1)].
5. Failed to obtain authorization to discharge storm water associated with industrial activities under the Texas Pollutant Discharge Elimination System ("TPDES") Multi-Sector Industrial General Permit ("MSGP") No. TXR050000 [30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CFR § 122.26(c) and (g)].
6. Failed to maintain documentation relating to hazardous waste determinations and waste classifications on site for each waste stream generated [30 TEX. ADMIN. CODE § 335.513 and 40 CFR §§ 262.40(c) and 273.14(e)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Executive Summary – Enforcement Matter – Case No. 48160**  
**DE DIETRICH (USA), INC.**  
**RN101634590**  
**Docket No. 2014-0102-MLM-E**

**Technical Requirements:**

The Order will require the Respondent to:

a. Within 30 days:

i. Conduct waste determinations and classifications on all waste streams generated at the Facility;

ii. Develop and implement procedures to ensure that containers used to store universal waste are kept closed and secured except when adding or removing waste;

iii. Develop and implement procedures to ensure that containers used to store universal waste are marked with a beginning accumulation date and labeled with the words "Universal Waste – Paint and Paint Related Wastes" or with the words with the words "Universal Waste-Lamp(s)," or "Waste Lamp(s)", or "Used Lamp(s)," as applicable;

iv. Develop and implement procedures to ensure that containers and tanks used to store used oil are labeled or marked with the words "Used Oil;"

v. Develop and implement a storm water pollution prevention plan;

vi. Submit a completed Notice of Intent for coverage under TPDES MSGP No. TXR050000; and

vii. Develop and implement procedures to ensure that all documentation relating to hazardous waste determinations and waste classifications is kept on site at the Facility for each waste stream generated.

b. Within 45 days, submit written certification to demonstrate compliance with a.

c. Within 75 days, submit written certification that authorization has been obtained under TPDES MSGP No. TXR050000.

***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

**Executive Summary – Enforcement Matter – Case No. 48160  
DE DIETRICH (USA), INC.  
RN101634590  
Docket No. 2014-0102-MLM-E**

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Thomas Greimel, Enforcement Division,  
Enforcement Team 7, MC 128, (512) 239-5690; Candy Garrett, Enforcement Division,  
MC 219, (512) 239-1456

**TCEQ SEP Coordinator:** N/A

**Respondent:** Donald Doell, President, DE DIETRICH (USA), INC., P.O. Box 10069,  
Corpus Christi, Texas 78460

Jack Sullivan, Director of Operations, DE DIETRICH (USA), INC., P.O. Box 10069,  
Corpus Christi, Texas 78460

**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>	13-Jan-2014		
	<b>PCW</b>	24-Jan-2014	<b>Screening</b>	22-Jan-2014
			<b>EPA Due</b>	

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	DE DIETRICH (USA), INC.
<b>Reg. Ent. Ref. No.</b>	RN101634590
<b>Facility/Site Region</b>	14-Corpus Christi
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	48160	<b>No. of Violations</b>	1
<b>Docket No.</b>	2014-0102-MLM-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>	IHW and Used Oil	<b>Enf. Coordinator</b>	Thomas Greimel
		<b>EC's Team</b>	Enforcement Team 7
<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**

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

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

**Compliance History**  Enhancement **Subtotals 2, 3, & 7**

Notes

**Culpability**   Enhancement **Subtotal 4**

Notes

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5**

**Economic Benefit**  Enhancement\* **Subtotal 6**

Total EB Amounts    
 Estimated Cost of Compliance    
 \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal**

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL**  Reduction **Adjustment**

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

Notes

**PAYABLE PENALTY**

Screening Date 22-Jan-2014

Docket No. 2014-0102-MLM-E

PCW

Respondent DE DIETRICH (USA), INC.

Policy Revision 3 (September 2011)

Case ID No. 48160

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101634590

Media [Statute] Water Quality

Enf. Coordinator Thomas Greimel

### 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> )	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 judgments or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Unclassified

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment for compliance history.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

>> Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 0%

Screening Date 22-Jan-2014

Docket No. 2014-0102-MLM-E

PCW

Respondent DE DIETRICH (USA), INC.

Policy Revision 3 (September 2011)

Case ID No. 48160

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101634590

Media [Statute] Water Quality

Enf. Coordinator Thomas Greimel

Violation Number 1

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

Violation Description Failed to obtain authorization to discharge storm water associated with industrial activities under the Texas Pollutant Discharge Elimination System ("TPDES") Multi-Sector Industrial 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	Harm		
	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 2 Number of violation days 42

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,500

Two monthly events are recommended based on the documentation of the violation during the December 11, 2013 investigation to the January 22, 2014 screening date.

Good Faith Efforts to Comply

0.0%

Reduction \$0

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

Notes

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

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$180

Violation Final Penalty Total \$2,500

This violation Final Assessed Penalty (adjusted for limits) \$2,500

# Economic Benefit Worksheet

**Respondent** DE DIETRICH (USA), INC.  
**Case ID No.** 48160  
**Reg. Ent. Reference No.** RN101634590  
**Media** Water Quality  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$5,000	11-Dec-2013	31-Aug-2014	0.72	\$180	n/a	\$180
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

Estimated cost to develop and implement a storm water pollution prevention plan, and to submit a Notice of Intent and obtain authorization to discharge storm water associated with industrial activities. Date required is the date of the investigation. 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

\$5,000

**TOTAL**

\$180



# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

<b>DATES</b>	<b>Assigned</b>	13-Jan-2014	<b>Screening</b>	22-Jan-2014	<b>EPA Due</b>	
	<b>PCW</b>	24-Jan-2014				

<b>RESPONDENT/FACILITY INFORMATION</b>			
<b>Respondent</b>	DE DIETRICH (USA), INC.		
<b>Reg. Ent. Ref. No.</b>	RN101634590		
<b>Facility/Site Region</b>	14-Corpus Christi	<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	48160	<b>No. of Violations</b>	4
<b>Docket No.</b>	2014-0102-MLM-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Industrial and Hazardous Waste	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>	Water Quality and Used Oil	<b>Enf. Coordinator</b>	Thomas Greimel
		<b>EC's Team</b>	Enforcement Team 7
<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** **0.0%** Enhancement **Subtotals 2, 3, & 7** **\$0**

Notes: No adjustment for compliance history.

**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	\$124	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$3,100	

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$7,500**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount** **\$7,500**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$7,500**

**DEFERRAL** **20.0%** Reduction **Adjustment** **-\$1,500**

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** **\$6,000**

Screening Date 22-Jan-2014

Docket No. 2014-0102-MLM-E

PCW

Respondent DE DIETRICH (USA), INC.

Policy Revision 3 (September 2011)

Case ID No. 48160

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101634590

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Thomas Greimel

### 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> )	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) 0%

#### >> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

#### >> Compliance History Person Classification (Subtotal 7)

Unclassified

Adjustment Percentage (Subtotal 7) 0%

#### >> Compliance History Summary

Compliance History Notes

No adjustment for compliance history.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

#### >> Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 0%

Screening Date 22-Jan-2014

Docket No. 2014-0102-MLM-E

PCW

Respondent DE DIETRICH (USA), INC.

Policy Revision 3 (September 2011)

Case ID No. 48160

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101634590

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Thomas Greimel

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 335.62, 335.503 and 335.504 and 40 Code of Federal Regulations ("CFR") § 262.11

Violation Description Failed to conduct hazardous waste determinations and waste classifications. Specifically, a hazardous waste determination was not conducted on "pot wash" water, hydrostatic test waste water, and condensate water.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				3.0%
Potential			x	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

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

Adjustment \$24,250

\$750

Violation Events

Number of Violation Events 3 Number of violation days 42

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

Violation Base Penalty \$2,250

Three single events are recommended (one per waste stream).

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$2,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$54

Violation Final Penalty Total \$2,250

This violation Final Assessed Penalty (adjusted for limits) \$2,250

## Economic Benefit Worksheet

**Respondent** DE DIETRICH (USA), INC.  
**Case ID No.** 48160  
**Reg. Ent. Reference No.** RN101634590  
**Media** Industrial and Hazardous Waste  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	11-Dec-2013	31-Aug-2014	0.72	\$54	n/a	\$54

#### Notes for DELAYED costs

Estimated cost to perform a waste determination and classification on "pot wash" water, hydrostatic test waste water, and condensate water. The Date Required is the investigation date. 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**

\$54

Screening Date 22-Jan-2014

Docket No. 2014-0102-MLM-E

PCW

Respondent DE DIETRICH (USA), INC.

Policy Revision 3 (September 2011)

Case ID No. 48160

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101634590

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Thomas Greimel

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 335.261(a) and 335.262(c)(2)(A) and 40 CFR § 273.13(d)

Violation Description

Failed to properly contain and keep universal lamp and paint waste containers closed and secured. Specifically, five fluorescent lamp containers were left open, six lamps were not placed in containers, three 55-gallon drums containing paint waste were left open, and lids on two 55-gallon drums containing paint waste were not secured.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			X

Percent 3.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

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

Adjustment \$24,250

\$750

Violation Events

Number of Violation Events 2

42 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

mark only one with an x

Violation Base Penalty \$1,500

Two single events are recommended (one each for unsecured lamps and paints).

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$1,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$18

Violation Final Penalty Total \$1,500

This violation Final Assessed Penalty (adjusted for limits) \$1,500

# Economic Benefit Worksheet

**Respondent** DE DIETRICH (USA), INC.  
**Case ID No.** 48160  
**Reg. Ent. Reference No.** RN101634590  
**Media** Industrial and Hazardous Waste  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	11-Dec-2013	31-Aug-2014	0.72	\$18	n/a	\$18

Notes for DELAYED costs

Estimated cost to properly secure universal waste containers. The Date Required is the investigation date. 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**

\$18

Screening Date 22-Jan-2014

Docket No. 2014-0102-MLM-E

PCW

Respondent DE DIETRICH (USA), INC.

Policy Revision 3 (September 2011)

Case ID No. 48160

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101634590

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Thomas Greimel

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code §§ 335.261(a) and 335.262(c)(2)(F) and 40 CFR §§ 273.14(e) and 273.15(c)(1)

Violation Description

Failed to label universal waste paint and lamp containers. Specifically, three 55-gallon drums containing paint waste were not labeled with the words "Universal Waste - Paint and Paint-Related Wastes" and with the earliest date the universal waste became a waste. In addition, eleven containers managing universal waste lamps were not labeled with the words "Universal Waste-Lamp(s)", or "Waste Lamp(s)", or "Used Lamp(s)" and with the accumulation start date, and six uncontainerized lamps were not labeled with the words "Universal Waste-Lamp(s)", or "Waste Lamp(s)", or "Used Lamp(s)".

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 2

42 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,500

Two monthly events are recommended based on the documentation of the violation during the December 11, 2013 investigation to the January 22, 2014 screening date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$18

Violation Final Penalty Total \$2,500

This violation Final Assessed Penalty (adjusted for limits) \$2,500

# Economic Benefit Worksheet

**Respondent** DE DIETRICH (USA), INC.  
**Case ID No.** 48160  
**Reg. Ent. Reference No.** RN101634590  
**Media** Industrial and Hazardous Waste  
**Violation No.** 3

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	11-Dec-2013	31-Aug-2014	0.72	\$18	n/a	\$18

Notes for DELAYED costs

Estimated cost to label universal waste containers. The Date Required is the investigation date. 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**

\$18

**Screening Date** 22-Jan-2014  
**Respondent** DE DIETRICH (USA), INC.  
**Case ID No.** 48160  
**Reg. Ent. Reference No.** RN101634590  
**Media [Statute]** Industrial and Hazardous Waste  
**Enf. Coordinator** Thomas Greimel

**Docket No.** 2014-0102-MLM-E

**PCW**

Policy Revision 3 (September 2011)  
 PCW Revision August 3, 2011

**Violation Number** 4  
**Rule Cite(s)** 30 Tex. Admin. Code § 335.513 and 40 CFR §§ 262.40(c) and 273.14(e)  
**Violation Description** Failed to maintain documentation relating to hazardous waste determinations and waste classifications on site for each waste stream generated.

**Base Penalty** \$25,000

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

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

**>> Programmatic Matrix**

Falsification	Harm			Percent
	Major	Moderate	Minor	
	x			5.0%

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

**Adjustment** \$23,750

\$1,250

**Violation Events**

Number of Violation Events: 1      42 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

**Violation Base Penalty** \$1,250

One single event is recommended.

**Good Faith Efforts to Comply**

**0.0%** Reduction

\$0

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

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

**Violation Subtotal** \$1,250

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

**Statutory Limit Test**

**Estimated EB Amount** \$33

**Violation Final Penalty Total** \$1,250

**This violation Final Assessed Penalty (adjusted for limits)** \$1,250

## Economic Benefit Worksheet

**Respondent** DE DIETRICH (USA), INC.  
**Case ID No.** 48160  
**Reg. Ent. Reference No.** RN101634590  
**Media** Industrial and Hazardous Waste  
**Violation No.** 4

<b>Percent Interest</b>	<b>Years of Depreciation</b>
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	\$600	11-Dec-2013	22-Jan-2015	1.12	\$33	n/a	\$33
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 on-site records relating to hazardous waste determinations and waste classifications. The Date Required is the investigation date. 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

\$600

**TOTAL**

\$33



# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

<b>DATES</b>	<b>Assigned</b>	13-Jan-2014			
	<b>PCW</b>	24-Jan-2014	<b>Screening</b>	22-Jan-2014	<b>EPA Due</b>

<b>RESPONDENT/FACILITY INFORMATION</b>					
<b>Respondent</b>	DE DIETRICH (USA), INC.				
<b>Reg. Ent. Ref. No.</b>	RN101634590				
<b>Facility/Site Region</b>	14-Corpus Christi	<b>Major/Minor Source</b>	Minor		

<b>CASE INFORMATION</b>					
<b>Enf./Case ID No.</b>	48160	<b>No. of Violations</b>	1		
<b>Docket No.</b>	2014-0102-MLM-E	<b>Order Type</b>	1660		
<b>Media Program(s)</b>	Used Oil	<b>Government/Non-Profit</b>	No		
<b>Multi-Media</b>	IHW and Water Quality	<b>Enf. Coordinator</b>	Thomas Greimel		
		<b>EC's Team</b>	Enforcement Team 7		
<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>	\$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.

<b>Compliance History</b>	0.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$0
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Notes: No adjustment for compliance history.

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts \$2  
 Approx. Cost of Compliance \$50  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$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.

Notes:

<b>Final Penalty Amount</b>	\$500
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$500
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	-\$100
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$400
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Screening Date 22-Jan-2014

Docket No. 2014-0102-MLM-E

PCW

Respondent DE DIETRICH (USA), INC.

Policy Revision 3 (September 2011)

Case ID No. 48160

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101634590

Media [Statute] Used Oil

Enf. Coordinator Thomas Greimel

### 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> )	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)** 0%

#### >> Repeat Violator (Subtotal 3)

No

**Adjustment Percentage (Subtotal 3)** 0%

#### >> Compliance History Person Classification (Subtotal 7)

Unclassified

**Adjustment Percentage (Subtotal 7)** 0%

#### >> Compliance History Summary

Compliance History Notes

No adjustment for compliance history.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 0%

#### >> Final Compliance History Adjustment

**Final Adjustment Percentage \*capped at 100%** 0%

Screening Date 22-Jan-2014

Docket No. 2014-0102-MLM-E

PCW

Respondent DE DIETRICH (USA), INC.

Policy Revision 3 (September 2011)

Case ID No. 48160

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101634590

Media [Statute] Used Oil

Enf. Coordinator Thomas Greimel

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 324.6 and 40 Code of Federal Regulations § 279.22(c)(1)

Violation Description

Failed to label or mark containers used to store used oil with the words "Used Oil." Specifically, two 55-gallon drums and a tote containing used oil were not labeled.

Base Penalty \$5,000

>> 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 \$4,750

\$250

Violation Events

Number of Violation Events 2

42 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$500

Two monthly events are recommended, from the December 11, 2013 investigation date to the January 22, 2014 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 \$500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$500

This violation Final Assessed Penalty (adjusted for limits) \$500

# Economic Benefit Worksheet

**Respondent** DE DIETRICH (USA), INC.  
**Case ID No.** 48160  
**Reg. Ent. Reference No.** RN101634590  
**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
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)	\$50	11-Dec-2013	31-Aug-2014	0.72	\$2	n/a	\$2

Notes for DELAYED costs

Estimated cost to label three unlabeled containers. Date Required is the date of the investigation date. 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

\$50

**TOTAL**

\$2

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



# Compliance History Report

**PUBLISHED** Compliance History Report for CN600877559, RN101634590, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

**Customer, Respondent, or Owner/Operator:** CN600877559, DE DIETRICH (USA), INC. **Classification:** UNCLASSIFIED **Rating:** -----

**Regulated Entity:** RN101634590, De Dietrich **Classification:** UNCLASSIFIED **Rating:** -----

**Complexity Points:** 1 **Repeat Violator:** NO

**CH Group:** 14 - Other

**Location:** 3920 FM 3386 CORPUS CHRISTI, TX 78410, NUECES COUNTY

**TCEQ Region:** REGION 14 - CORPUS CHRISTI

**ID Number(s):**  
INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXD988033213  
INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 39647

**Compliance History Period:** September 01, 2008 to August 31, 2013 **Rating Year:** 2013 **Rating Date:** 09/01/2013

**Date Compliance History Report Prepared:** January 22, 2014

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** January 22, 2009 to January 22, 2014

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

**Name:** Thomas Greimel

**Phone:** (512) 239-5690

**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? YES
- 3) If YES for #2, who is the current owner/operator? DE DIETRICH (USA), INC. OWNER OPERATOR since 11/26/2008  
DEDIETRICH INC OWNER since 7/17/1992
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? DE Dietrich (USA), Inc., OWNER OPERATOR, 9/20/1996 to 11/25/2008
- 5) If YES, when did the change(s) in owner or operator occur? 11/26/2008

**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.

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  
DE DIETRICH (USA), INC.  
RN101634590**

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

**AGREED ORDER  
DOCKET NO. 2014-0102-MLM-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 DE DIETRICH (USA), INC. ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE chs. 361 and 371 and TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a special industry machinery manufacturing facility at 3920 Farm-to-Market Road 3386 in Corpus Christi, Nueces County, Texas (the "Facility").
2. The Facility involves or involved the management of industrial solid waste, municipal solid waste, and used oil as defined in TEX. HEALTH & SAFETY CODE chs. 361 and 371.
3. The Respondent has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
4. 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.
5. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about January 14, 2014.

6. 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.
7. An administrative penalty in the amount of Ten Thousand Five Hundred Dollars (\$10,500) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Eight Thousand Four Hundred Dollars (\$8,400) of the administrative penalty and Two Thousand One Hundred Dollars (\$2,100) 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.
8. 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.
9. 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).
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

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

1. Failed to conduct hazardous waste determinations and waste classifications, in violation of 30 TEX. ADMIN. CODE §§ 335.62, 335.503 and 335.504 and 40 CODE OF FEDERAL REGULATIONS ("CFR") § 262.11, as documented during an investigation conducted on December 11, 2013. Specifically, a hazardous waste determination was not conducted on "pot wash" water, hydrostatic test waste water, and condensate water.
2. Failed to properly contain and keep universal lamp and paint waste containers closed and secured, in violation of 30 TEX. ADMIN. CODE §§ 335.261(a) and 335.262(c)(2)(A) and 40 CFR § 273.13(d), as documented during an investigation conducted on December 11, 2013. Specifically, five fluorescent lamp containers were left open, six lamps were not placed in containers, three 55-gallon drums containing paint waste were left open, and lids on two 55-gallon drums containing paint waste were not secured.

3. Failed to label universal waste paint and lamp containers, in violation of 30 TEX. ADMIN. CODE §§ 335.261(a) and 335.262(c)(2)(F) and 40 CFR §§ 273.14(e) and 273.15(c)(1), as documented during an investigation conducted on December 11, 2013. Specifically, three 55-gallon drums containing paint waste were not labeled with the words "Universal Waste - Paint and Paint-Related Wastes" and with the earliest date the universal waste became a waste. In addition, eleven containers managing universal waste lamps were not labeled with the words "Universal Waste-Lamp(s)", or "Waste Lamp(s)", or "Used Lamp(s)" and with the accumulation start date, and six uncontainerized lamps were not labeled with the words "Universal Waste-Lamp(s)", or "Waste Lamp(s)", or "Used Lamp(s)."
4. Failed to label or mark containers used to store used oil with the words "Used Oil", in violation of 30 TEX. ADMIN. CODE § 324.6 and 40 CFR § 279.22(c)(1), as documented during an investigation conducted on December 11, 2013. Specifically, two 55-gallon drums and a tote containing used oil were not labeled.
5. Failed to obtain authorization to discharge storm water associated with industrial activities under the Texas Pollutant Discharge Elimination System ("TPDES") Multi-Sector Industrial General Permit ("MSGP") No. TXR050000, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CFR § 122.26(c) and (g), as documented during an investigation conducted on December 11, 2013.
6. Failed to maintain documentation relating to hazardous waste determinations and waste classifications on site for each waste stream generated, in violation of 30 TEX. ADMIN. CODE § 335.513 and 40 CFR §§ 262.40(c) and 273.14(e), as documented during an investigation conducted on December 11, 2013.

### 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 7 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: DE DIETRICH (USA), INC., Docket No. 2014-0102-MLM-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order:
  - i. Conduct waste determinations and classifications on all waste streams generated at the Facility, in accordance with 30 TEX. ADMIN. CODE §§ 335.62, 335.503 and 335.504, and 40 CFR § 262.11;
  - ii. Develop and implement procedures to ensure that containers used to store universal waste are kept closed and secured except when adding or removing waste, in accordance 30 TEX. ADMIN. CODE §§ 335.261 and 335.262 and 40 CFR § 273.13;
  - iii. Develop and implement procedures to ensure that containers used to store universal waste are marked with a beginning accumulation date and labeled with the words "Universal Waste – Paint and Paint Related Wastes" or with the words with the words "Universal Waste-Lamp(s)," or "Waste Lamp(s)", or "Used Lamp(s)", as applicable, in accordance with 30 TEX. ADMIN. CODE §§ 335.261 and 335.262 and 40 CFR §§ 273.14 and 273.15;
  - iv. Develop and implement procedures to ensure that containers and tanks used to store used oil are labeled or marked with the words "Used Oil", in accordance with 30 TEX. ADMIN. CODE § 324.6 and 40 CFR § 279.22;
  - v. Develop and implement a storm water pollution prevention plan, in accordance with TPDES MSGP No. TXR050000 and 30 Tex. Admin. Code § 281.25;
  - vi. Submit a completed Notice of Intent for coverage under TPDES MSGP No. TXR050000 to:

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

Respond completely and adequately, as determined by TCEQ, to any requests for additional information concerning the Notice of Intent and address any deficiencies identified by the Wastewater Permitting Section within 30 days of such request or by any other deadline specified in writing.

- vii. Develop and implement procedures to ensure that all documentation relating to hazardous waste determinations and waste classifications is kept on site at the Facility for each waste stream generated, in accordance with 30 TEX. ADMIN. CODE § 335.513 and 40 CFR §§ 273.14 and 262.4.
- b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision Nos. 2.a.i. through 2.a.vii, as described in Ordering Provision No. 2.c. below.
- c. Within 75 days after the effective date of this Agreed Order, submit written certification that authorization has been obtained under TPDES MSGP No. TXR050000. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Waste Section Manager  
Corpus Christi Regional Office  
Texas Commission on Environmental Quality  
6300 Ocean Drive, Suite 1200  
Corpus Christi, Texas 78412-5503

- 3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
- 4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent

shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

Ramona Mowrey  
For the Executive Director

6/22/15  
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.

D. Doell  
Signature

03/25/14  
Date

DONALD DOELL  
Name (Printed or typed)  
Authorized Representative of  
DE DIETRICH (USA), INC.

PRESIDENT  
Title

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