

**Executive Summary – Enforcement Matter – Case No. 49044**

**Pergan Marshall LLC**

**RN102498714**

**Docket No. 2014-1067-MLM-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

MLM - IHW, MSW, and UIC

**Small Business:**

No

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

Pergan Marshall, 710 Bussey Road, Marshall, Harrison County

**Type of Operation:**

Organic peroxide 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:** July 24, 2015

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$92,482

**Amount Deferred for Expedited Settlement:** \$18,495

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

**Total Paid to General Revenue:** \$2,062

**Total Due to General Revenue:** \$71,925

Payment Plan: 35 payments of \$2,055 each

**Supplemental Environmental Project ("SEP") Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - High

Site/RN - High

**Major Source:** Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** April 2014

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**Pergan Marshall LLC**

**RN102498714**

**Docket No. 2014-1067-MLM-E**

***Investigation Information***

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

**Complaint Information:** N/A

**Date(s) of Investigation:** June 5, 2014

**Date(s) of NOE(s):** July 8, 2014

***Violation Information***

1. Failed to update the Facility's Notice of Registration ("NOR") regarding all waste management units. Specifically, the NOR was not updated to reflect the current unit status for the waste management units [30 TEX. ADMIN. CODE § 335.6(c)].
2. Failed to make arrangements, agreements, or contracts for emergency services with local authorities [30 TEX. ADMIN. CODE § 335.112(a)(2) and 40 CODE OF FEDERAL REGULATIONS ("CFR") § 265.37].
3. Failed to ensure that each container and tank used to store hazardous waste is labeled or marked clearly with the words "Hazardous Waste". Specifically, the hazardous waste tanks in the waste storage area were not labeled or marked clearly with the words "Hazardous Waste" [30 TEX. ADMIN. CODE § 335.69(a)(3) and 40 CFR § 262.34(a)(3)].
4. Failed to maintain the hazardous waste tank secondary containment system free of cracks or gaps and failed to maintain the impermeable coating or lining of the secondary containment system to prevent the migration of the hazardous waste into the concrete [30 TEX. ADMIN. CODE § 335.112(a)(9) and 40 CFR § 265.193(d)(1), (e)(1)(iii), and (e)(2)(iv)].
5. Failed to keep hazardous waste containers closed except when adding or removing waste. Specifically, there were several containers in the container storage area ("CSA") and satellite accumulation areas which were not closed [30 TEX. ADMIN. CODE §§ 335.69(a)(1)(A) and 335.112(a)(8) and 40 CFR § 265.173(a)].
6. Failed to prevent the unauthorized discharge of industrial waste. Specifically, waste was discharged to the ground adjacent to the secondary containment in the waste storage area and used oil storage area, as well as to the ground adjacent to the sump and pipechase for Waste Disposal Well ("WDW") 243 [30 TEX. ADMIN. CODE § 335.4].
7. Failed to conduct weekly inspections of all CSA's looking for leaking containers and for deterioration of containers caused by corrosion or other factors [30 TEX. ADMIN. CODE § 335.112(a)(8) and 40 CFR § 265.174].
8. Failed to document the date and nature of any repairs or other remedial actions for the CSA [30 TEX. ADMIN. CODE § 335.112(a)(1) and 40 CFR § 265.15(d)].

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**Pergan Marshall LLC**

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9. Failed to remove any unauthorized discharges of hazardous waste into the secondary containment system of the hazardous waste tank within 24 hours [30 TEX. ADMIN. CODE § 335.112(a)(9) and 40 CFR § 265.196(b)(2)].

10. Failed to designate the correct waste code on the hazardous waste manifests. Specifically, there were no waste codes for each waste on any of the manifests at the Facility [30 TEX. ADMIN. CODE § 335.10(c)].

11. Failed to properly maintain and use continuous recording devices to record the injection pressure at WDW243. Specifically, there were no recording pens on the circular data recording chart for the injection pressure at WDW243 [30 TEX. ADMIN. CODE § 331.64(d), 40 CFR § 146.67(f), and WDW Permit No. WDW243, Section IX].

12. Failed to obtain a permit to operate an injection well. Specifically, the individual authorized permits for WDW180 and WDW243 expired on May 18, 2014 [30 TEX. ADMIN. CODE §§ 331.3 and 331.7, 40 CFR § 144.11, TEX. WATER CODE § 27.011, and WDW Permit Nos. WDW180 and WDW243].

13. Failed to mark or clearly label used oil storage containers with the words "Used Oil" [30 TEX. ADMIN. CODE § 324.1 and 40 CFR § 279.22(c)(1)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Respondent has implemented the following corrective measures:

a. Submitted documentation to the TCEQ Tyler Regional Office demonstrating that the Respondent has made arrangements for emergency services with the local authorities on June 11, 2014;

b. Submitted documentation to the TCEQ Tyler Regional Office demonstrating that all containers and tanks storing hazardous waste at the Facility have been clearly labeled or marked with the words "Hazardous Waste" on June 11, 2014;

c. Submitted documentation to the TCEQ Tyler Regional Office demonstrating that the secondary containment systems at the Facility have been repaired on June 20, 2014;

d. Submitted documentation to the TCEQ Tyler Regional Office demonstrating that procedures have been developed and implemented designed to ensure that containers of hazardous waste remain closed except when adding or removing waste on June 13, 2014;

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**Docket No. 2014-1067-MLM-E**

- e. Submitted documentation to the TCEQ Tyler Regional Office demonstrating that the unauthorized discharges of industrial waste adjacent to the waste storage area and WDW243 have been properly abated as of June 20, 2014;
- f. Submitted documentation to the TCEQ Tyler Regional Office demonstrating that procedures have been developed and implemented designed to ensure weekly inspections of the CSA are being conducted on June 12, 2014;
- g. Submitted documentation to the TCEQ Tyler Regional Office demonstrating that procedures have been developed and implemented designed to ensure all repairs and/or remedial actions taken at the CSA are properly documented on June 12, 2014;
- h. Submitted documentation to the TCEQ Tyler Regional Office demonstrating that procedures have been developed and implemented designed to ensure all hazardous waste manifests are fully and accurately completed on June 12, 2014;
- i. Submitted documentation to the TCEQ Tyler Regional Office demonstrating that the continuous recording devices at the Facility have been repaired on June 27, 2014;
- j. Labeled all used oil containers at the Facility with the words "Used Oil" on June 5, 2014;
- k. Submitted a closure plan ("Closure Plan") for WDW180 on May 7, 2014, and revised the Closure Plan on July 24 and September 3, 2014;
- l. Completed plugging and abandonment of WDW180 on October 10, 2014;
- m. Submitted the closure report ("Closure Report") for WDW180 on November 6, 2014 and revised the Closure Report on March 20, 2015;
- n. Ceased injecting wastes into WDW243 on October 24, 2014;
- o. Submitted a Closure Plan for WDW243 on February 12, 2015 and revised the Closure Plan on February 20, 2015;
- p. Completed plugging and abandonment of WDW243 on March 19, 2015; and
- q. Submitted the Closure Report for WDW243 on April 24, 2015.

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**Pergan Marshall LLC**  
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**Docket No. 2014-1067-MLM-E**

**Technical Requirements:**

The Order will require the Respondent to:

a. Within 30 days:

i. Update the Facility's NOR to accurately reflect the current unit status for all waste management units;

ii. Remove and properly dispose of all unauthorized discharges of hazardous waste in the secondary containment systems; and

iii. Develop and implement procedures designed to ensure that all unauthorized discharges of hazardous waste into the secondary containment systems at the Facility are removed within 24 hours.

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

c. Within 180 days, complete well closure and post-closure care activities and the approved closure, post-closure care, and corrective action.

d. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning Closure Plans, Post-Closure Care Plans, and Corrective Action Plans for WDW180 and WDW243 within 30 days after the date of such requests, or by any other deadline specified in writing.

e. Within 195 days, submit written certification to demonstrate compliance with c.

***Litigation Information***

**Date Petition(s) Filed:** N/A

**Date Answer(s) Filed:** N/A

**SOAH Referral Date:** N/A

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

**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Keith Frank, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-1203; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

**TCEQ SEP Coordinator:** N/A

**Respondent:** Timothy Rens, Manufacturing Director, Pergan Marshall LLC, 710 Bussey Road, Marshall, Texas 75670-2676

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





# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

<b>TCEQ</b>	<b>DATES</b>	<b>Assigned</b>	8-Jul-2014	<b>Screening</b>	11-Jul-2014	<b>EPA Due</b>	31-Jan-2015
	<b>PCW</b>		21-Apr-2015				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Pergan Marshall LLC
<b>Reg. Ent. Ref. No.</b>	RN102498714
<b>Facility/Site Region</b>	5-Tyler
<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	49044	<b>No. of Violations</b>	12
<b>Docket No.</b>	2014-1067-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>	Underground Injection Control & Used Oil	<b>Enf. Coordinator</b>	Keith Frank
		<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>	<b>\$75,000</b>
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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>	-10.0% Reduction	<b>Subtotals 2, 3, &amp; 7</b>	<b>-\$7,500</b>
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<b>Notes</b>	Reduction for high performer classification.
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<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	<b>\$0</b>
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<b>Notes</b>	The Respondent does not meet the culpability criteria.
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<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>-\$13,123</b>
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<b>Economic Benefit</b>	50.0% Enhancement*	<b>Subtotal 6</b>	<b>\$37,500</b>
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Total EB Amounts	\$40,801	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$513,425	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$91,877</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.5%	<b>Adjustment</b>	<b>\$442</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	Recommended enhancement to capture the avoided cost of compliance associated with violation no. 7.
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<b>Final Penalty Amount</b>	<b>\$92,319</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$92,319</b>
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	<b>-\$18,463</b>
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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 offered for expedited settlement.
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<b>PAYABLE PENALTY</b>	<b>\$73,856</b>
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Screening Date 11-Jul-2014

Docket No. 2014-1067-MLM-E

PCW

Respondent Pergan Marshall LLC

Policy Revision 4 (April 2014)

Case ID No. 49044

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102498714

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Keith Frank

### 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> )	1	-1%
	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)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance History Notes

Reduction for high performer classification.

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

>> Final Compliance History Adjustment

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

Screening Date 11-Jul-2014

Docket No. 2014-1067-MLM-E

PCW

Respondent Pergan Marshall LLC

Policy Revision 4 (April 2014)

Case ID No. 49044

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102498714

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Keith Frank

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 335.6(c)

Violation Description Failed to update the Facility's Notice of Registration ("NOR") regarding all waste management units. Specifically, the NOR was not updated to reflect the current unit status for the waste management units.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (0.0%)

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (15.0%)

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

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1 Number of violation days 36

Table for frequency: daily, weekly, monthly, quarterly, semiannual, annual, single event (marked with x)

Violation Base Penalty \$3,750

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Table for Good Faith Efforts: Extraordinary, Ordinary, N/A (marked with x)

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

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$79

Violation Final Penalty Total \$5,275

This violation Final Assessed Penalty (adjusted for limits) \$5,275

## Economic Benefit Worksheet

**Respondent** Pergan Marshall LLC  
**Case ID No.** 49044  
**Reg. Ent. Reference No.** RN102498714  
**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	\$1,000	5-Jun-2014	31-Dec-2015	1.57	\$79	n/a	\$79
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 update the Facility's NOR. Date Required is 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**

<b>Approx. Cost of Compliance</b>	\$1,000	<b>TOTAL</b>	\$79
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**Screening Date** 11-Jul-2014  
**Respondent** Pergan Marshall LLC  
**Case ID No.** 49044  
**Reg. Ent. Reference No.** RN102498714  
**Media [Statute]** Industrial and Hazardous Waste  
**Enf. Coordinator** Keith Frank

**Docket No.** 2014-1067-MLM-E

**PCW**

Policy Revision 4 (April 2014)  
 PCW Revision March 26, 2014

**Violation Number**

**Rule Cite(s)** 30 Tex. Admin. Code § 335.112(a)(2) and 40 Code of Federal Regulations ("CFR") § 265.37

**Violation Description** Failed to make arrangements, agreements, or contracts for emergency services with local authorities.

**Base Penalty**

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

**OR**

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="30.0%"/>
Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>

**Matrix Notes** Human health or the environment will or could be exposed to pollutants that would exceed levels that are protective of human health or environmental receptors as a result of the violation.

**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" value="x"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

**Violation Base Penalty**

One monthly event is recommended based on documentation of the violation during the June 6, 2014 investigation to the June 11, 2014 date of compliance.

**Good Faith Efforts to Comply**

**Reduction**

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

**Notes** The Respondent came into compliance on June 11, 2014, prior to the Notice of Enforcement ("NOE") dated July 8, 2014.

**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** Pergan Marshall LLC  
**Case ID No.** 49044  
**Reg. Ent. Reference No.** RN102498714  
**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)	\$1,000	6-Jun-2014	11-Jun-2014	0.01	\$1	n/a	\$1

Notes for DELAYED costs

Estimated cost to make arrangements for emergency services with local authorities. Date Required is the investigation date. 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

\$1,000

**TOTAL**

\$1

**Screening Date** 11-Jul-2014  
**Respondent** Pergan Marshall LLC  
**Case ID No.** 49044  
**Reg. Ent. Reference No.** RN102498714  
**Media [Statute]** Industrial and Hazardous Waste  
**Enf. Coordinator** Keith Frank

**Docket No.** 2014-1067-MLM-E

**PCW**

Policy Revision 4 (April 2014)  
 PCW Revision March 26, 2014

**Violation Number** 3

**Rule Cite(s)** 30 Tex. Admin. Code § 335.69(a)(3) and 40 CFR § 262.34(a)(3)

**Violation Description**

Failed to ensure that each container and tank used to store hazardous waste is labeled or marked clearly with the words "Hazardous Waste". Specifically, the hazardous waste tanks in the waste storage area were not labeled or marked clearly with the words "Hazardous Waste".

**Base Penalty** \$25,000

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

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

**Percent** 0.0%

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor
	X		

**Percent** 15.0%

Matrix Notes

100% of the rule requirement was not met.

**Adjustment** \$21,250

\$3,750

**Violation Events**

Number of Violation Events 1

6 Number of violation days

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

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

One monthly event is recommended based on documentation of the violation during the June 5, 2014 investigation to the June 11, 2014 date of compliance.

**Good Faith Efforts to Comply**

25.0%

Reduction \$937

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

Notes: The Respondent came into compliance on June 11, 2014, prior to the NOE dated July 8, 2014.

**Violation Subtotal** \$2,813

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

**Statutory Limit Test**

**Estimated EB Amount** \$0

**Violation Final Penalty Total** \$4,334

**This violation Final Assessed Penalty (adjusted for limits)** \$4,334

## Economic Benefit Worksheet

**Respondent** Pergan Marshall LLC  
**Case ID No.** 49044  
**Reg. Ent. Reference No.** RN102498714  
**Media** Industrial and Hazardous Waste  
**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$100	5-Jun-2014	11-Jun-2014	0.02	\$0	n/a	\$0

**Notes for DELAYED costs**

Estimated cost to label or mark all containers and tanks storing hazardous waste at the Facility with the words "Hazardous Waste". Date Required is the investigation date. Final Date is the date of compliance.

### Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

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

\$100

**TOTAL**

\$0

Screening Date 11-Jul-2014

Docket No. 2014-1067-MLM-E

PCW

Respondent Pergan Marshall LLC

Policy Revision 4 (April 2014)

Case ID No. 49044

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102498714

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Keith Frank

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 335.112(a)(9) and 40 CFR § 265.193(d)(1), (e)(1)(iii), and (e)(2)(iv)

Violation Description Failed to maintain the hazardous waste tank secondary containment system free of cracks or gaps and failed to maintain the impermeable coating or lining of the secondary containment system to prevent the migration of the hazardous waste into the concrete.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 30.0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants that would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 1

15 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$7,500

One monthly event is recommended based on documentation of the violation during the June 5, 2014 investigation to the June 20, 2014 date of compliance.

Good Faith Efforts to Comply

25.0%

Reduction \$1,875

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

Notes

The Respondent came into compliance on June 20, 2014, prior to the NOE dated July 8, 2014.

Violation Subtotal \$5,625

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$14

Violation Final Penalty Total \$8,666

This violation Final Assessed Penalty (adjusted for limits) \$8,666

## Economic Benefit Worksheet

**Respondent** Pergan Marshall LLC  
**Case ID No.** 49044  
**Reg. Ent. Reference No.** RN102498714  
**Media** Industrial and Hazardous Waste  
**Violation No.** 4

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$5,000	5-Jun-2014	20-Jun-2014	0.04	\$1	\$14	\$14
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to repair the secondary containment system at the Facility. Date Required is the investigation date. Final Date is the date of compliance.

### Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

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

\$14

Screening Date 11-Jul-2014

Docket No. 2014-1067-MLM-E

PCW

Respondent Pergan Marshall LLC

Policy Revision 4 (April 2014)

Case ID No. 49044

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102498714

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Keith Frank

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code §§ 335.69(a)(1)(A) and 335.112(a)(8) and 40 CFR § 265.173(a)

Violation Description

Failed to keep hazardous waste containers closed except when adding or removing waste. Specifically, there were several containers in the container storage area ("CSA") and satellite accumulation areas which were not closed.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 30.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants that would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 1

8 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$7,500

One monthly event is recommended based on documentation of the violation during the June 5, 2014 investigation to the June 13, 2014 date of compliance.

Good Faith Efforts to Comply

25.0%

Reduction \$1,875

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

Notes

The Respondent came into compliance on June 13, 2014, prior to the NOE dated July 8, 2014.

Violation Subtotal \$5,625

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$8,666

This violation Final Assessed Penalty (adjusted for limits) \$8,666

## Economic Benefit Worksheet

**Respondent** Pergan Marshall LLC  
**Case ID No.** 49044  
**Reg. Ent. Reference No.** RN102498714  
**Media** Industrial and Hazardous Waste  
**Violation No.** 5

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	5-Jun-2014	13-Jun-2014	0.02	\$1	n/a	\$1

Notes for DELAYED costs

Estimated cost to develop and implement procedures designed to ensure that containers are closed except when adding or removing waste. Date Required is the investigation date. Final Date is the date of compliance.

### Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

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

\$1

**Screening Date** 11-Jul-2014  
**Respondent** Pergan Marshall LLC  
**Case ID No.** 49044  
**Reg. Ent. Reference No.** RN102498714  
**Media [Statute]** Industrial and Hazardous Waste  
**Enf. Coordinator** Keith Frank

**Docket No.** 2014-1067-MLM-E

**PCW**

Policy Revision 4 (April 2014)  
 PCW Revision March 26, 2014

**Violation Number** 6

**Rule Cite(s)** 30 Tex. Admin. Code § 335.4

**Violation Description**

Failed to prevent the unauthorized discharge of industrial waste. Specifically, waste was discharged to the ground adjacent to the secondary containment in the waste storage area and used oil storage area, as well as to the ground adjacent to the sump and pipechase for Waste Disposal Well ("WDW") WDW243.

**Base Penalty** \$25,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual			X	15.0%
	Potential				

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
					0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

**Adjustment** \$21,250

\$3,750

**Violation Events**

Number of Violation Events   Number of violation days

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

**Violation Base Penalty** \$7,500

Two quarterly events are recommended (one for each discharge location) based on documentation of the violation during the June 5, 2014 investigation to the June 20, 2014 date of compliance.

**Good Faith Efforts to Comply**

**25.0%** Reduction \$1,875

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

Notes: The Respondent came into compliance on June 20, 2014, prior to the NOE dated July 8, 2014.

**Violation Subtotal** \$5,625

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

**Statutory Limit Test**

**Estimated EB Amount** \$10

**Violation Final Penalty Total** \$8,666

**This violation Final Assessed Penalty (adjusted for limits)** \$8,666

## Economic Benefit Worksheet

**Respondent** Pergan Marshall LLC  
**Case ID No.** 49044  
**Reg. Ent. Reference No.** RN102498714  
**Media** Industrial and Hazardous Waste  
**Violation No.** 6

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	\$5,000	5-Jun-2014	20-Jun-2014	0.04	\$10	n/a	\$10
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs** Estimated cost to properly abate the discharges adjacent to the waste storage area and WDW243. Date Required is the investigation date. 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	\$5,000	<b>TOTAL</b>	\$10
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Screening Date 11-Jul-2014

Docket No. 2014-1067-MLM-E

PCW

Respondent Pergan Marshall LLC

Policy Revision 4 (April 2014)

Case ID No. 49044

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102498714

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Keith Frank

Violation Number 7

Rule Cite(s)

30 Tex. Admin. Code § 335.112(a)(8) and 40 CFR § 265.174

Violation Description

Failed to conduct weekly inspections of all CSA's looking for leaking containers and for deterioration of containers caused by corrosion or other factors.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 15.0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

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

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

6 Number of violation days

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

Violation Base Penalty \$3,750

One quarterly event is recommended based on documentation of the violation during the June 6, 2014 investigation to the June 12, 2014 date of compliance.

Good Faith Efforts to Comply

25.0%

Reduction \$937

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

Notes The Respondent came into compliance on June 12, 2014, prior to the NOE dated July 8, 2014.

Violation Subtotal \$2,813

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$443

Violation Final Penalty Total \$4,334

This violation Final Assessed Penalty (adjusted for limits) \$4,334

## Economic Benefit Worksheet

**Respondent** Pergan Marshall LLC  
**Case ID No.** 49044  
**Reg. Ent. Reference No.** RN102498714  
**Media** Industrial and Hazardous Waste  
**Violation No.** 7

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$1,000	6-Jun-2014	12-Jun-2014	0.02	\$1	n/a	\$1

**Notes for DELAYED costs**

Estimated cost to develop and implement procedures designed to ensure weekly inspections of the CSA are conducted. Date Required is the investigation date. Final Date is the date of compliance.

### Avoided Costs

#### ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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]	\$400	1-Apr-2013	6-Jun-2014	2.10	\$42	\$400	\$442
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

Estimated avoided cost of conducting weekly inspections (\$50 per inspection) for the weeks of April 1, July 8, August 26, and September 2, 2013, and March 3, April 14, April 21, and April 28, 2014. Date Required is the date of the first missed inspection. Final Date is the investigation date.

**Approx. Cost of Compliance**

\$1,400

**TOTAL**

\$443

**Screening Date** 11-Jul-2014  
**Respondent** Pergan Marshall LLC  
**Case ID No.** 49044  
**Reg. Ent. Reference No.** RN102498714  
**Media [Statute]** Industrial and Hazardous Waste  
**Enf. Coordinator** Keith Frank

**Docket No.** 2014-1067-MLM-E

**PCW**

Policy Revision 4 (April 2014)  
 PCW Revision March 26, 2014

**Violation Number** 8

**Rule Cite(s)** 30 Tex. Admin. Code § 335.112(a)(1) and 40 CFR § 265.15(d)

**Violation Description** Failed to document the date and nature of any repairs or other remedial actions for the CSA.

**Base Penalty** \$25,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> **Programmatic Matrix**

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			15.0%
100% of the rule requirement was not met.					

**Adjustment** \$21,250

\$3,750

**Violation Events**

Number of Violation Events  Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

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

One single event is recommended.

**Good Faith Efforts to Comply**

**Reduction** \$937

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

**Notes** The Respondent came into compliance on June 12, 2014, prior to the NOE dated July 8, 2014.

**Violation Subtotal** \$2,813

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

**Statutory Limit Test**

**Estimated EB Amount** \$1

**Violation Final Penalty Total** \$4,334

**This violation Final Assessed Penalty (adjusted for limits)** \$4,334

## Economic Benefit Worksheet

**Respondent** Pergan Marshall LLC  
**Case ID No.** 49044  
**Reg. Ent. Reference No.** RN102498714  
**Media** Industrial and Hazardous Waste  
**Violation No.** 8

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$1,000	6-Jun-2014	12-Jun-2014	0.02	\$1	n/a	\$1
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 develop and implement procedures designed to ensure all repairs and/or remedial actions taken at the CSA are properly documented. Date Required is the investigation date. Final Date is the date of compliance.

### Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

**TOTAL**

\$1

**Screening Date** 11-Jul-2014  
**Respondent** Pergan Marshall LLC  
**Case ID No.** 49044  
**Reg. Ent. Reference No.** RN102498714  
**Media [Statute]** Industrial and Hazardous Waste  
**Enf. Coordinator** Keith Frank

**Docket No.** 2014-1067-MLM-E

**PCW**

Policy Revision 4 (April 2014)  
 PCW Revision March 26, 2014

**Violation Number** 9

**Rule Cite(s)** 30 Tex. Admin. Code § 335.112(a)(9) and 40 CFR § 265.196(b)(2)

**Violation Description**

Failed to remove any unauthorized discharges of hazardous waste into the secondary containment system of the hazardous waste tank within 24 hours.

**Base Penalty** \$25,000

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

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

**Percent** 15.0%

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor

**Percent** 0.0%

**Matrix Notes**

Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

**Adjustment** \$21,250

\$3,750

**Violation Events**

Number of Violation Events 1

36 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

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

One quarterly event is recommended based on documentation of the violation during the June 5, 2014 investigation to the July 11, 2014 screening date.

**Good Faith Efforts to Comply**

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

**Notes**

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

**Violation Subtotal** \$3,750

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

**Statutory Limit Test**

**Estimated EB Amount** \$315

**Violation Final Penalty Total** \$5,275

**This violation Final Assessed Penalty (adjusted for limits)** \$5,275

## Economic Benefit Worksheet

**Respondent** Pergan Marshall LLC  
**Case ID No.** 49044  
**Reg. Ent. Reference No.** RN102498714  
**Media** Industrial and Hazardous Waste  
**Violation No.** 9

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$3,000	5-Jun-2014	31-Dec-2015	1.57	\$236	n/a	\$236
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,000	5-Jun-2014	31-Dec-2015	1.57	\$79	n/a	\$79

**Notes for DELAYED costs**

Estimated cost to remove and properly dispose of the unauthorized hazardous waste discharge into the secondary containment (\$3,000). Estimated cost to develop and implement procedures designed to ensure that all unauthorized discharges of hazardous waste into the secondary containment system of a hazardous waste tank are removed within 24 hours (\$1,000). Date Required is 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)**

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

\$4,000

**TOTAL**

\$315

**Screening Date** 11-Jul-2014  
**Respondent** Pergan Marshall LLC  
**Case ID No.** 49044  
**Reg. Ent. Reference No.** RN102498714  
**Media [Statute]** Industrial and Hazardous Waste  
**Enf. Coordinator** Keith Frank

**Docket No.** 2014-1067-MLM-E

**PCW**

Policy Revision 4 (April 2014)  
 PCW Revision March 26, 2014

**Violation Number** 10

**Rule Cite(s)**

30 Tex. Admin. Code § 335.10(c)

**Violation Description**

Failed to designate the correct waste code on the hazardous waste manifests. Specifically, there were no waste codes for each waste on any of the manifests at the Facility.

**Base Penalty** \$25,000

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

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

**Percent** 0.0%

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor
	X		

**Percent** 15.0%

Matrix Notes

100% of the rule requirement was not met.

**Adjustment** \$21,250

\$3,750

**Violation Events**

Number of Violation Events 1

6 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

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

One single event is recommended.

**Good Faith Efforts to Comply**

25.0%

Reduction \$937

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

Notes: The Respondent came into compliance on June 12, 2014, prior to the NOE dated July 8, 2014.

**Violation Subtotal** \$2,813

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

**Statutory Limit Test**

**Estimated EB Amount** \$1

**Violation Final Penalty Total** \$4,334

**This violation Final Assessed Penalty (adjusted for limits)** \$4,334

## Economic Benefit Worksheet

**Respondent** Pergan Marshall LLC  
**Case ID No.** 49044  
**Reg. Ent. Reference No.** RN102498714  
**Media Violation No.** Industrial and Hazardous Waste 10

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)	\$1,000	6-Jun-2014	12-Jun-2014	0.02	\$1	n/a	\$1

**Notes for DELAYED costs**

Estimated cost to develop and implement procedures designed to ensure all hazardous waste manifests are fully and accurately completed. Date Required is the investigation date. 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

\$1,000

**TOTAL**

\$1

Screening Date 11-Jul-2014

Docket No. 2014-1067-MLM-E

PCW

Respondent Pergan Marshall LLC

Policy Revision 4 (April 2014)

Case ID No. 49044

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102498714

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Keith Frank

Violation Number 11

Rule Cite(s) 30 Tex. Admin. Code § 331.64(d), 40 CFR § 146.67(f), and WDW Permit No. WDW243, Section IX

Violation Description Failed to properly maintain and use continuous recording devices to record the injection pressure at WDW243. Specifically, there were no recording pens on the circular data recording chart for the injection pressure at WDW243.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 30.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes Human health or the environment will or could be exposed to pollutants that would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 1

22 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$7,500

One monthly event is recommended based on documentation of the violation during the June 5, 2014 investigation to the June 27, 2014 date of compliance.

Good Faith Efforts to Comply

25.0%

Reduction \$1,875

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

Notes

The Respondent came into compliance on June 27, 2014, prior to the NOE dated July 8, 2014.

Violation Subtotal \$5,625

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4

Violation Final Penalty Total \$8,666

This violation Final Assessed Penalty (adjusted for limits) \$8,666

# Economic Benefit Worksheet

**Respondent** Pergan Marshall LLC  
**Case ID No.** 49044  
**Reg. Ent. Reference No.** RN102498714  
**Media** Industrial and Hazardous Waste  
**Violation No.** 11

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	\$1,000	5-Jun-2014	27-Jun-2014	0.06	\$0	\$4	\$4
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to ensure all continuous recording devices are maintained and used in proper operating condition at the Facility. Date Required is the investigation date. 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

\$1,000

**TOTAL**

\$4

**Screening Date** 11-Jul-2014  
**Respondent** Pergan Marshall LLC  
**Case ID No.** 49044  
**Reg. Ent. Reference No.** RN102498714  
**Media [Statute]** Industrial and Hazardous Waste  
**Enf. Coordinator** Keith Frank

**Docket No.** 2014-1067-MLM-E

**PCW**

Policy Revision 4 (April 2014)  
 PCW Revision March 26, 2014

**V12**  
**Rule Cite(s)**

30 Tex. Admin. Code §§ 331.3 and 331.7, 40 CFR § 144.11, Tex. Water Code § 27.011, and WDW Permit Nos. WDW180 and WDW243

**Violation Description**

Failed to obtain a permit to operate an injection well. Specifically, the individual authorized permits for WDW180 and WDW243 expired on May 18, 2014.

**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** 15.0%

Matrix Notes

100% of the rule requirement was not met.

**Adjustment** \$21,250

\$3,750

**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 checked="" type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
single event	<input type="text"/>	

**Violation Base Penalty** \$15,000

Four monthly events are recommended based on documentation of the violation from the May 18, 2014 permit expiration date to the July 11, 2014 screening date. Two monthly events are recommended for each permit for the specified date range.

**Good Faith Efforts to Comply**

0.0%

Reduction \$0

Before NOE/NOV NOE/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"/>	(mark with x)

Notes

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

**Violation Subtotal** \$15,000

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

**Statutory Limit Test**

**Estimated EB Amount** \$39,934

**Violation Final Penalty Total** \$21,101

**This violation Final Assessed Penalty (adjusted for limits)** \$21,101

## Economic Benefit Worksheet

**Respondent** Pergan Marshall LLC  
**Case ID No.** 49044  
**Reg. Ent. Reference No.** RN102498714  
**Media** Industrial and Hazardous Waste  
**Violation No.** 12

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)	\$243,511	18-May-2014	31-Dec-2015	1.62	\$19,748	n/a	\$19,748
Other (as needed)	\$248,914	18-May-2014	31-Dec-2015	1.62	\$20,186	n/a	\$20,186

**Notes for DELAYED costs**

Estimated cost to submit a closure plan, cease operating, complete closure, and complete post-closure activities of WDW180 (\$243,511) and WDW243 (\$248,914). Dates Required are the permit expiration dates. Final Dates are the dates of closure.

### 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	\$492,425				<b>TOTAL</b>	\$39,934
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# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

<b>DATES</b>	<b>Assigned</b>	8-Jul-2014	<b>Screening</b>	11-Jul-2014	<b>EPA Due</b>	31-Jan-2015
	<b>PCW</b>	28-Jul-2014				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Pergan Marshall LLC
<b>Reg. Ent. Ref. No.</b>	RN102498714
<b>Facility/Site Region</b>	5-Tyler
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	49044	<b>No. of Violations</b>	1
<b>Docket No.</b>	2014-1067-MLM-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Used Oil	<b>Government/Non-Profit</b>	No
	Industrial and Hazardous Waste &	<b>Enf. Coordinator</b>	Keith Frank
<b>Multi-Media</b>	Underground Injection Control	<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>	\$250
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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>	-10.0% Reduction	<b>Subtotals 2, 3, &amp; 7</b>	-\$25
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<b>Notes</b>	Reduction for high performer classification.
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<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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<b>Notes</b>	The Respondent does not meet the culpability criteria.
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<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	-\$62
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$0	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$50	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$163
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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>	
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<b>Final Penalty Amount</b>	\$163
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$163
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	-\$32
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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 offered for expedited settlement.
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<b>PAYABLE PENALTY</b>	\$131
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**Screening Date** 11-Jul-2014  
**Respondent** Pergan Marshall LLC  
**Case ID No.** 49044  
**Reg. Ent. Reference No.** RN102498714  
**Media [Statute]** Used Oil  
**Enf. Coordinator** Keith Frank

**Docket No.** 2014-1067-MLM-E

**PCW**

Policy Revision 4 (April 2014)  
 PCW Revision March 26, 2014

### 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> )	1	-1%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)**

>> **Repeat Violator (Subtotal 3)**

**Adjustment Percentage (Subtotal 3)**

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

**Adjustment Percentage (Subtotal 7)**

>> **Compliance History Summary**

**Compliance History Notes**

Reduction for high performer classification.

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

>> **Final Compliance History Adjustment**

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

**Screening Date** 11-Jul-2014  
**Respondent** Pergan Marshall LLC  
**Case ID No.** 49044  
**Reg. Ent. Reference No.** RN102498714  
**Media [Statute]** Used Oil  
**Enf. Coordinator** Keith Frank

**Docket No.** 2014-1067-MLM-E

**PCW**

Policy Revision 4 (April 2014)  
 PCW Revision March 26, 2014

**Violation Number**

**Rule Cite(s)** 30 Tex. Admin. Code § 324.1 and 40 Code of Federal Regulations § 279.22(c)(1)

**Violation Description** Failed to mark or clearly label used oil storage containers with the words "Used Oil".

**Base Penalty**

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

OR

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

**Percent**

>> **Programmatic Matrix**

Falsification	Harm		
	Major	Moderate	Minor
<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text"/>

**Percent**

Matrix Notes

100% of the rule requirement was not met.

**Adjustment**

**Violation Events**

Number of Violation Events

Number of violation days

mark only one with an x	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input checked="" type="checkbox"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

**Violation Base Penalty**

One monthly event is recommended based on documentation of the violation during the June 5, 2014 investigation to the June 5, 2014 date of compliance.

**Good Faith Efforts to Comply**

Reduction

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

Notes

The Respondent came into compliance on June 5, 2014, prior to the Notice of Enforcement dated July 8, 2014.

**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** Pergan Marshall LLC  
**Case ID No.** 49044  
**Reg. Ent. Reference No.** RN102498714  
**Media** Used Oil  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

### 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	5-Jun-2014	5-Jun-2014	0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to label the used oil container. Date Required is the investigation date. 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

\$50

**TOTAL**

\$0

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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 CN603202813, RN102498714, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

**Customer, Respondent, or Owner/Operator:** CN603202813, Pergan Marshall LLC      **Classification:** HIGH      **Rating:** 0.00  
**Regulated Entity:** RN102498714, Pergan Marshall      **Classification:** HIGH      **Rating:** 0.00  
**Complexity Points:** 12      **Repeat Violator:** NO  
**CH Group:** 05 - Chemical Manufacturing  
**Location:** 710 BUSSEY RD MARSHALL, TX 75670-2676, HARRISON COUNTY  
**TCEQ Region:** REGION 05 - TYLER

## ID Number(s):

<b>POLLUTION PREVENTION PLANNING ID NUMBER</b> P00789	<b>PUBLIC WATER SYSTEM/SUPPLY REGISTRATION</b> 1020053
<b>UNDERGROUND INJECTION CONTROL PERMIT</b> WDW180	<b>UNDERGROUND INJECTION CONTROL PERMIT</b> WDW243
<b>UNDERGROUND INJECTION CONTROL PERMIT</b> WDW399	<b>AIR NEW SOURCE PERMITS PERMIT</b> 31510
<b>AIR NEW SOURCE PERMITS REGISTRATION</b> 43826	<b>AIR NEW SOURCE PERMITS REGISTRATION</b> 46520
<b>AIR NEW SOURCE PERMITS REGISTRATION</b> 46572	<b>AIR NEW SOURCE PERMITS REGISTRATION</b> 47628
<b>AIR NEW SOURCE PERMITS REGISTRATION</b> 49772	<b>AIR NEW SOURCE PERMITS ACCOUNT NUMBER</b> HH0043K
<b>AIR NEW SOURCE PERMITS REGISTRATION</b> 53732	<b>AIR NEW SOURCE PERMITS AFS NUM</b> 4820300044
<b>AIR NEW SOURCE PERMITS REGISTRATION</b> 70146	<b>AIR NEW SOURCE PERMITS REGISTRATION</b> 55966
<b>WATER LICENSING LICENSE</b> 1020053	<b>STORMWATER PERMIT</b> TXR05BK27
<b>INDUSTRIAL AND HAZARDOUS WASTE EPA ID</b> TXD049213127	<b>INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE</b> REGISTRATION # (SWR) 30997
<b>AIR EMISSIONS INVENTORY ACCOUNT NUMBER</b> HH0043K	

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

**Date Compliance History Report Prepared:** July 11, 2014

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** July 11, 2009 to July 11, 2014

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

**Name:** Keith Frank

**Phone:** (512) 239-1203

## Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

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

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

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

**C. Chronic excessive emissions events:**

N/A

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

Item 1	July 16, 2009	(759792)
Item 2	September 21, 2009	(764664)
Item 3	May 04, 2010	(789867)
Item 4	August 30, 2010	(844360)
Item 5	September 17, 2010	(844030)
Item 6	December 09, 2010	(880021)
Item 7	January 25, 2011	(880963)
Item 8	January 27, 2011	(887344)
Item 9	June 17, 2011	(924310)
Item 10	November 17, 2011	(964995)
Item 11	February 02, 2012	(981432)
Item 12	June 13, 2012	(1009672)
Item 13	August 08, 2012	(1022922)
Item 14	December 20, 2012	(1051822)
Item 15	January 30, 2013	(1055059)
Item 16	July 09, 2013	(1101232)
Item 17	January 23, 2014	(1140175)
Item 18	March 31, 2014	(1151644)
Item 19	June 24, 2014	(1177962)

**E. Written notices of violations (NOV) (CEEDS 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:**

Notice of Intent Date: 01/15/2013 (1059526)

No DOV Associated

**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  
PERGAN MARSHALL LLC  
RN102498714**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2014-1067-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 Pergan Marshall LLC ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE chs. 361 and 371 and TEX. WATER CODE chs. 7 and 27. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent, represented by Christopher D. Smith of the law firm of Thompson & Knight LLP, together stipulate that:

1. The Respondent owns and operates an organic peroxide manufacturing facility at 710 Bussey Road in Marshall, Harrison County, Texas (the "Facility").
2. The Facility involves or involved the management of hazardous waste and used oil as defined in TEX. HEALTH & SAFETY CODE chs. 361 and 371. The Respondent is utilizing injection wells as that term is defined in TEX. WATER CODE § 27.002(11).
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about July 13, 2014.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Ninety-Two Thousand Four Hundred Eighty-Two Dollars (\$92,482) is assessed by the Commission in settlement of the

violations alleged in Section II ("Allegations"). The Respondent has paid Two Thousand Sixty-Two Dollars (\$2,062) of the administrative penalty and Eighteen Thousand Four Hundred Ninety-Five Dollars (\$18,495) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Seventy-One Thousand Nine Hundred Twenty-Five Dollars (\$71,925) of the administrative penalty shall be payable in 35 monthly payments of Two Thousand Fifty-Five Dollars (\$2,055) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
  - a. Submitted documentation to the TCEQ Tyler Regional Office demonstrating that the Respondent has made arrangements for emergency services with the local authorities on June 11, 2014;
  - b. Submitted documentation to the TCEQ Tyler Regional Office demonstrating that all containers and tanks storing hazardous waste at the Facility have been clearly labeled or marked with the words "Hazardous Waste" on June 11, 2014;
  - c. Submitted documentation to the TCEQ Tyler Regional Office demonstrating that the secondary containment systems at the Facility have been repaired on June 20, 2014;
  - d. Submitted documentation to the TCEQ Tyler Regional Office demonstrating that procedures have been developed and implemented designed to ensure that containers of hazardous waste remain closed except when adding or removing waste on June 13, 2014;
  - e. Submitted documentation to the TCEQ Tyler Regional Office demonstrating that the unauthorized discharges of industrial waste adjacent to the waste storage area

- and Waste Disposal Well ("WDW") WDW243 have been properly abated as of June 20, 2014;
- f. Submitted documentation to the TCEQ Tyler Regional Office demonstrating that procedures have been developed and implemented designed to ensure weekly inspections of the container storage area ("CSA") are being conducted on June 12, 2014;
  - g. Submitted documentation to the TCEQ Tyler Regional Office demonstrating that procedures have been developed and implemented designed to ensure all repairs and/or remedial actions taken at the CSA are properly documented on June 12, 2014;
  - h. Submitted documentation to the TCEQ Tyler Regional Office demonstrating that procedures have been developed and implemented designed to ensure all hazardous waste manifests are fully and accurately completed on June 12, 2014;
  - i. Submitted documentation to the TCEQ Tyler Regional Office demonstrating that the continuous recording devices at the Facility have been repaired on June 27, 2014;
  - j. Labeled all used oil containers at the Facility with the words "Used Oil" on June 5, 2014;
  - k. Submitted a closure plan ("Closure Plan") for WDW180 on May 7, 2014, and revised the Closure Plan on July 24 and September 3, 2014;
  - l. Completed plugging and abandonment of WDW180 on October 10, 2014;
  - m. Submitted the closure report ("Closure Report") for WDW180 on November 6, 2014 and revised the Closure Report on March 20, 2015;
  - n. Ceased injecting wastes into WDW243 on October 24, 2014;
  - o. Submitted a Closure Plan for WDW243 on February 12, 2015 and revised the Closure Plan on February 20, 2015;
  - p. Completed plugging and abandonment of WDW243 on March 19, 2015; and
  - q. Submitted the Closure Report for WDW243 on April 24, 2015.
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 update the Facility's Notice of Registration ("NOR") regarding all waste management units, in violation of 30 TEX. ADMIN. CODE § 335.6(c), as documented during an investigation conducted on June 5, 2014. Specifically, the NOR was not updated to reflect the current unit status for the waste management units.
2. Failed to make arrangements, agreements, or contracts for emergency services with local authorities, in violation of 30 TEX. ADMIN. CODE § 335.112(a)(2) and 40 CODE OF FEDERAL REGULATIONS ("CFR") § 265.37, as documented during an investigation conducted on June 6, 2014.
3. Failed to ensure that each container and tank used to store hazardous waste is labeled or marked clearly with the words "Hazardous Waste", in violation of 30 TEX. ADMIN. CODE § 335.69(a)(3) and 40 CFR § 262.34(a)(3), as documented during an investigation conducted on June 5, 2014. Specifically, the hazardous waste tanks in the waste storage area were not labeled or marked clearly with the words "Hazardous Waste".
4. Failed to maintain the hazardous waste tank secondary containment system free of cracks or gaps and failed to maintain the impermeable coating or lining of the secondary containment system to prevent the migration of the hazardous waste into the concrete, in violation of 30 TEX. ADMIN. CODE § 335.112(a)(9) and 40 CFR § 265.193(d)(1), (e)(1)(iii), and (e)(2)(iv), as documented during an investigation conducted on June 5, 2014.
5. Failed to keep hazardous waste containers closed except when adding or removing waste, in violation of 30 TEX. ADMIN. CODE §§ 335.69(a)(1)(A) and 335.112(a)(8) and 40 CFR § 265.173(a), as documented during an investigation conducted on June 5, 2014. Specifically, there were several containers in the CSA and satellite accumulation areas which were not closed.
6. Failed to prevent the unauthorized discharge of industrial waste, in violation of 30 TEX. ADMIN. CODE § 335.4, as documented during an investigation conducted on June 5, 2014. Specifically, waste was discharged to the ground adjacent to the secondary containment in the waste storage area and used oil storage area, as well as to the ground adjacent to the sump and pipechase for WDW243.
7. Failed to conduct weekly inspections of all CSA's looking for leaking containers and for deterioration of containers caused by corrosion or other factors, in violation of 30 TEX. ADMIN. CODE § 335.112(a)(8) and 40 CFR § 265.174, as documented during an investigation conducted on June 6, 2014.

8. Failed to document the date and nature of any repairs or other remedial actions for the CSA, in violation of 30 TEX. ADMIN. CODE § 335.112(a)(1) and 40 CFR § 265.15(d), as documented during an investigation conducted on June 6, 2014.
9. Failed to remove any unauthorized discharges of hazardous waste into the secondary containment system of the hazardous waste tank within 24 hours, in violation of 30 TEX. ADMIN. CODE § 335.112(a)(9) and 40 CFR § 265.196(b)(2), as documented during an investigation conducted on June 5, 2014.
10. Failed to designate the correct waste code on the hazardous waste manifests, in violation of 30 TEX. ADMIN. CODE § 335.10(c), as documented during an investigation conducted on June 6, 2014. Specifically, there were no waste codes for each waste on any of the manifests at the Facility.
11. Failed to properly maintain and use continuous recording devices to record the injection pressure at WDW243, in violation of 30 TEX. ADMIN. CODE § 331.64(d), 40 CFR § 146.67(f), and WDW Permit No. WDW243, Section IX, as documented during an investigation conducted on June 5, 2014. Specifically, there were no recording pens on the circular data recording chart for the injection pressure at WDW243.
12. Failed to obtain a permit to operate an injection well, in violation of 30 TEX. ADMIN. CODE §§ 331.3 and 331.7, 40 CFR § 144.11, TEX. WATER CODE § 27.011, and WDW Permit Nos. WDW180 and WDW243, as documented during an investigation conducted on June 5, 2014. Specifically, the individual authorized permits for WDW180 and WDW243 expired on May 18, 2014.
13. Failed to mark or clearly label used oil storage containers with the words "Used Oil", in violation of 30 TEX. ADMIN. CODE § 324.1 and 40 CFR § 279.22(c)(1), as documented during an investigation conducted on June 5, 2014.

### III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Pergan Marshall LLC, Docket No. 2014-1067-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. Update the Facility's NOR to accurately reflect the current unit status for all waste management units, in accordance with 30 TEX. ADMIN. CODE § 335.6;
  - ii. Remove and properly dispose of all unauthorized discharges of hazardous waste in the secondary containment systems; and
  - iii. Develop and implement procedures designed to ensure that all unauthorized discharges of hazardous waste into the secondary containment systems at the Facility are removed within 24 hours, in accordance with 30 TEX. ADMIN. CODE § 335.112 and 40 CFR § 265.196.
- b. Within 45 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.e. below to demonstrate compliance with Ordering Provision No. 2.a.
- c. Within 180 days after the effective date of this Agreed Order, complete well closure and post-closure care activities, in accordance with 30 TEX. ADMIN. CODE §§ 331.44, 331.46 and 331.68, and the approved closure, post-closure care, and corrective action.
- d. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning Closure Plans, Post-Closure Care Plans, and Corrective Action Plans for WDW180 and WDW243 within 30 days after the date of such requests, or by any other deadline specified in writing.
- e. Within 195 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.c. 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 I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Waste Section Manager  
Tyler Regional Office  
Texas Commission on Environmental Quality  
2916 Teague Drive  
Tyler, Texas 75701-3734

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

*Roma Maria J*  
For the Executive Director

11/3/15  
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.

*Timothy F. Rens*  
Signature

6/16/15  
Date

Timothy F. RENS  
Name (Printed or typed)  
Authorized Representative of  
Pergan Marshall LLC

Mgr. Director NA  
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.