

**Executive Summary – Enforcement Matter – Case No. 54685
TEXAS BARGE & BOAT, INC.
RN102037959
Docket No. 2017-0957-IWD-E**

Order Type:

1660

Findings Order Justification:

N/A

Media:

IWD

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Texas Barge & Boat Freeport Facility, approximately 2.5 miles south of the intersection of State Highway 288 and County Road 242A, Freeport, Brazoria County

Type of Operation:

Barge cleaning and marine vessel repair facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: No

Texas Register Publication Date: February 2, 2018

Comments Received: No

Penalty Information

Total Penalty Assessed: \$20,700

Amount Deferred for Expedited Settlement: \$4,140

Total Paid to General Revenue: \$16,560

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major/Minor Source: Minor

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: April 13, 2017

Date(s) of NOE(s): May 24, 2017

**Executive Summary – Enforcement Matter – Case No. 54685
TEXAS BARGE & BOAT, INC.
RN102037959
Docket No. 2017-0957-IWD-E**

Violation Information

Failed to comply with permitted effluent limitations for total copper and total suspended solids [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit ("TPDES") No. WQ0004696000, Effluent Limitations and Monitoring Requirements No. 1, Outfall No. 005].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to within 220 days submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0004696000, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall include detailed supporting documentation demonstrating compliance with permitted effluent limitations.

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Farhaud Abbaszadeh, Enforcement Division, Enforcement Team 1, MC 219, (512) 239-0779; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: Mickey Tiner, President, TEXAS BARGE & BOAT, INC., P.O. Box 2107, Freeport, Texas 77542

Rick Tiner, Vice President, TEXAS BARGE & BOAT, INC., P.O. Box 2107, Freeport, Texas 77542

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES Assigned PCW Screening EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent
 Reg. Ent. Ref. No.
 Facility/Site Region Major/Minor Source

CASE INFORMATION

Enf./Case ID No. No. of Violations
 Docket No. Order Type
 Media Program(s) Government/Non-Profit
 Multi-Media Enf. Coordinator
 EC's Team

Admin. Penalty \$ Limit Minimum Maximum

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Adjustment Subtotals 2, 3, & 7

Notes

Culpability Enhancement Subtotal 4

Notes

Good Faith Effort to Comply Total Adjustments Subtotal 5

Economic Benefit Enhancement* Subtotal 6

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

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

Reduces or enhances the Final Subtotal by the Indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL Reduction Adjustment

Reduces the Final Assessed Penalty by the Indicated percentage.

Notes

PAYABLE PENALTY

Screening Date 6-Jun-2017

Docket No. 2017-0957-IWD-E

PCW

Respondent TEXAS BARGE & BOAT, INC.

Policy Revision 4 (April 2014)

Case ID No. 54685

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102037959

Media [Statute] Water Quality

Enf. Coordinator Farhaud Abbaszadeh

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	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>)	4	20%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	3	60%
	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%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
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

Enhancement for four months of self-reported effluent violations, two NOVs with dissimilar violations, and three orders with denial of liability.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100%

Screening Date 6-Jun-2017
 Respondent TEXAS BARGE & BOAT, INC.
 Case ID No. 54685

Docket No. 2017-0957-IWD-E

PCW

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

Reg. Ent. Reference No. RN102037959
 Media [Statute] Water Quality
 Enf. Coordinator Farhaud Abbaszadeh

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit ("TPDES") No. WQ0004696000, Effluent Limitations and Monitoring Requirements No. 1, Outfall No. 005

Violation Description Failed to comply with permitted effluent limitations, as shown in the attached effluent violation table.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text" value="15.0%"/>
	Potential	<input type="text"/>	<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

A simplified model was used to evaluate total copper to determine whether the discharged amounts of pollutants exceeded levels that are protective of human health or the environment. Total suspended solids was also considered. As a result of these discharges, human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Three monthly events are recommended.

Good Faith Efforts to Comply

Reduction

Before NOE/NOV NOE/NOV to EDRP/ Settlement Offer

Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	<input type="text"/>

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

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent TEXAS BARGE & BOAT, INC.
Case ID No. 54685
Reg. Ent. Reference No. RN102037959
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$10,000	31-Mar-2016	2-Sep-2018	2.42	\$1,212	n/a	\$1,212

Notes for DELAYED costs
 Estimated cost to determine the cause of noncompliance and to make any necessary adjustments or repairs to achieve compliance with permitted effluent limitations. Date required is the first month of noncompliance. 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
 (Empty box for notes)

Approx. Cost of Compliance \$10,000
TOTAL \$1,212

TEXAS BARGE & BOAT, INC.
TPDES Permit No. WQ0004696000; RN102037959
Docket No. 2017-0957-IWD-E; Case No. 54685

Effluent Violation Table		
	Total Copper Daily Average Concentration	Total Suspended Solids Daily Maximum Concentration
Month/Year	Limit = 0.007 mg/L	Limit = 100 mg/L
March 2016	0.00976	502
October 2016	0.019	c
January 2017	0.0106	c

c= compliant

mg/L = milligrams per liter

The TCEQ is committed to accessibility.

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



Compliance History Report

Compliance History Report for CN600129183, RN102037959, Rating Year 2016 which includes Compliance History (CH) components from September 1, 2011, through August 31, 2016.

Customer, Respondent, or Owner/Operator: CN600129183, Texas Barge & Boat, Inc. **Classification:** SATISFACTORY **Rating:** 5.63

Regulated Entity: RN102037959, Texas Barge & Boat Freeport Facility **Classification:** SATISFACTORY **Rating:** 5.63

Complexity Points: 18 **Repeat Violator:** NO

CH Group: 14 - Other

Location: Approximately 2.5 miles south of the intersection of State Highway 288 and County Road 242A in Brazoria County, Texas

TCEQ Region: REGION 12 - HOUSTON

ID Number(s):

AIR OPERATING PERMITS ACCOUNT NUMBER BL0423N
INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 81437
PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 64696
AIR NEW SOURCE PERMITS PERMIT 22106
AIR NEW SOURCE PERMITS AFS NUM 4803900126
STORMWATER PERMIT TXR05DI52
WASTEWATER EPA ID TX0126322
POLLUTION PREVENTION PLANNING ID NUMBER P06988

AIR OPERATING PERMITS PERMIT 1698
INDUSTRIAL AND HAZARDOUS WASTE EPA ID TX0000095695
AIR NEW SOURCE PERMITS ACCOUNT NUMBER BL0423N
AIR NEW SOURCE PERMITS REGISTRATION 91856
STORMWATER PERMIT TXR05P327
WASTEWATER PERMIT WQ0004696000
AIR EMISSIONS INVENTORY ACCOUNT NUMBER BL0423N

Compliance History Period: September 01, 2011 to August 31, 2016 **Rating Year:** 2016 **Rating Date:** 09/01/2016

Date Compliance History Report Prepared: July 25, 2017

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: July 25, 2012 to July 25, 2017

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

Name: Cheryl Thompson

Phone: (817) 588-5886

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

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

A. Final Orders, court judgments, and consent decrees:

- 1 Effective Date: 02/24/2013 ADMINORDER 2012-1167-AIR-E (1660 Order-Agreed Order With Denial)
 Classification: Minor
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
 30 TAC Chapter 122, SubChapter B 122.145(2)(A)
 5C THSC Chapter 382 382.085(b)
 Rqmt Prov: General Terms and Conditions OP
 Description: Failure to report all instances of deviations.
 Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Condition 17D(1) PERMIT
Special Terms and Conditions No. 12 OP

Description: Failure to limit the withdrawal rate of the vapor collection system to no more than 27,600 standard cubic feet per hour ("scf/hr") when emissions are being vented to the flare.

2 Effective Date: 06/27/2016 ADMINORDER 2015-1410-AIR-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.146(2)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: General Terms & Conditions OP
ST&C 15 OP

Description: Failure to submit Permit Compliance Certification (PCC) on time (B3)

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(C)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: General Terms & Conditions OP

Description: Failure to submit semi-annual deviation report on time (B3)

See addendum for information regarding federal actions.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	August 22, 2012	(1040139)	Item 24	September 22, 2014	(1207872)
Item 2	August 30, 2012	(1023589)	Item 25	October 23, 2014	(1214277)
Item 3	September 21, 2012	(1049123)	Item 26	December 30, 2014	(1205602)
Item 4	October 22, 2012	(1070529)	Item 27	January 07, 2015	(1226342)
Item 5	December 27, 2012	(1070531)	Item 28	January 08, 2015	(1226343)
Item 6	January 22, 2013	(1070530)	Item 29	March 18, 2015	(1244323)
Item 7	February 11, 2013	(1083453)	Item 30	March 27, 2015	(1250714)
Item 8	March 18, 2013	(1091469)	Item 31	June 03, 2015	(1264369)
Item 9	May 20, 2013	(1108847)	Item 32	December 01, 2015	(1303925)
Item 10	June 27, 2013	(1112405)	Item 33	January 07, 2016	(1310914)
Item 11	July 23, 2013	(1119360)	Item 34	January 21, 2016	(1310915)
Item 12	August 20, 2013	(1127110)	Item 35	February 26, 2016	(1327040)
Item 13	September 23, 2013	(1131645)	Item 36	March 23, 2016	(1333829)
Item 14	October 21, 2013	(1137390)	Item 37	March 28, 2016	(1315143)
Item 15	November 21, 2013	(1142813)	Item 38	May 26, 2016	(1347765)
Item 16	December 23, 2013	(1149228)	Item 39	June 22, 2016	(1354176)
Item 17	January 23, 2014	(1155333)	Item 40	July 18, 2016	(1361165)
Item 18	February 24, 2014	(1162657)	Item 41	August 18, 2016	(1367589)
Item 19	April 22, 2014	(1176454)	Item 42	September 22, 2016	(1374340)
Item 20	May 22, 2014	(1182700)	Item 43	October 20, 2016	(1380468)
Item 21	June 23, 2014	(1189568)	Item 44	December 20, 2016	(1392557)
Item 22	July 18, 2014	(1201609)	Item 45	January 18, 2017	(1399175)
Item 23	August 26, 2014	(1201610)	Item 46	May 18, 2017	(1427299)

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

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

1 Date: 10/20/2016 (1363183)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(E)(iii)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)

SC 3 PERMIT
ST&C 12 & 18 OP

Description: Failure to make copies of permits available at the request of personnel from TCEQ. (Category C3)

- 2 Date: 10/31/2016 (1386434)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
- 3 Date: 01/31/2017 (1406081)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
- 4 Date: 02/13/2017 (1371825)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
FOP ST&C 12 PERMIT
NSR SC 13 PERMIT
Description: Failure to conduct all painting and abrasive blasting operations within semi-enclosed shrouds. (Category B19g1)
- Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
FOP ST&C 12 OP
NSR SC 38 PERMIT
Description: Failure to clean up spills immediately using appropriate procedures. (Category B19g1)
- Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
FOP ST&C 12 OP
FOP ST&C 1A OP
NSR SC 1 PERMIT
Description: Failure to maintain EPN: FLARE1 emissions below the VOC pounds per hour (lb/hr) Maximum Allowable Emission Rate (MAER) limit. (Category B14)
- Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
FOP ST&C 12 OP
FOP ST&C 1A OP
NSR SC 1 PERMIT
Description: Failure to maintain EPN: CAS1 emissions below the VOC, Methylene Chloride, and Perchloroethylene pounds per hour (lb/hr) Maximum Allowable Emission Rate (MAER) limit. (Category B14)
- Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
FOP ST&C 12 OP
FOP ST&C 1A OP
NSR SC 1 PERMIT
Description: Failure to maintain EPN: DRYDOCK1/DRYDOCK2/DRYDOCK3 emissions below the VOC pounds per hour (lb/hr) Maximum Allowable Emission Rate (MAER) limit. (Category B14)
- Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
FOP ST&C 12 OP
NSR SC 23D PERMIT
Description: Failure to replace fresh canister for EPN: CAS1 following a breakthrough. (Category B19g1)

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 FOP ST&C 12 OP
 NSR SC 9 PERMIT
 Description: Failure to record visible emissions on a quarterly basis. (Category B3)

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 FOP ST&C 12 OP
 NSR SC 33Q PERMIT
 Description: Failure to record weekly inspections for carbon build up on EPN: CAS1. (Category B3)

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 FOP ST&C 12 OP
 NSR SC 33R PERMIT
 Description: Failure to record audible, visual, and/or olfactory (AVO) inspections on all piping components at least weekly. (Category B3)

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
 30 TAC Chapter 122, SubChapter B 122.145(2)(A)
 5C THSC Chapter 382 382.085(b)
 FOP General Terms and Conditions OP
 Description: Failure to report all instances of non-compliance in the deviation reports. (Category B3)

5 Date: 02/28/2017 (1413176)
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

6 Date: 03/31/2017 (1419653)
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits:
 N/A

G. Type of environmental management systems (EMSs):
 N/A

H. Voluntary on-site compliance assessment dates:
 N/A

I. Participation in a voluntary pollution reduction program:
 N/A

J. Early compliance:
 N/A

Sites Outside of Texas:
 N/A

Addendum to Compliance History Federal Enforcement Actions

Reg Entity Name: TEXAS BARGE INC

Reg Entity Add: 4115 EAST FLOODGATE RD

Reg Entity City: FREEPORT

Reg Entity No: RN102037959

EPA Case No: 06-2013-0910

Order Issue Date (yyyymmdd): 20130508

Case Result: Final Order With Penalty

Statute: RCRA

Sect of Statute: 3002

Classification: Minor

Program: Gen Hazardous Waste M **Citation:**

Violation Type:

Cite Sect:

Cite Part:

Enforcement Action: Administrative Penalty Order With or Without Inj

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
TEXAS BARGE & BOAT, INC.
RN102037959

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2017-0957-IWD-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 TEXAS BARGE & BOAT, INC. (the "Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a barge cleaning and marine vessel repair facility located approximately 2.5 miles south of the intersection of State Highway 288 and County Road 242A in Brazoria County, Texas (the "Facility"). The Facility is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$20,700 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$16,560 of the penalty and \$4,140 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order. The deferred amount shall be waived only upon full compliance with all the terms and conditions contained in this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms or requirements contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.

5. 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). Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
6. The Executive Director 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 Order.
7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.

II. ALLEGATIONS

During a record review conducted on April 13, 2017, an investigator documented that the Respondent failed to comply with permitted effluent limitations, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit ("TPDES") No. WQ0004696000, Effluent Limitations and Monitoring Requirements No. 1, Outfall No. 005, as shown in the effluent violation table below:

	Total Copper Daily Average Concentration	Total Suspended Solids Daily Maximum Concentration
Month/Year	Limit = 0.007 mg/L	Limit = 100 mg/L
March 2016	0.00976	502
October 2016	0.019	c
January 2017	0.0106	c

c= compliant

mg/L = milligrams per liter

III. DENIALS

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

IV. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: TEXAS BARGE & BOAT, INC., Docket No. 2017-0957-IWD-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. The Respondent shall, within 220 days after the effective date of this Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0004696000, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with permitted effluent limitations. The certification shall be signed by the Respondent and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of 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:

Water Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Street, Suite H
Houston, Texas 77023-1452

3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this 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.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by 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. Extension requests shall be sent to the Order Compliance Team at the address listed above.
7. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively,

the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

9. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

Pam Moncrie Jr

For the Executive Director

6/25/18

Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, 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.

Rick Tinsler

Signature

01 DEC 2017

Date

Rick Tinsler

Name (Printed or typed)
Authorized Representative of
TEXAS BARGE & BOAT, INC.

VICE PRESIDENT

Title

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