

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 55069
MORGAN BUILDING & SPA MANUFACTURING CORPORATION
RN101924793
Docket No. 2017-1326-MLM-E

Order Type:

Agreed Order

Media:

MLM: MSW, ISW, IHW, and AIR

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

144 County Road 118, Hallettsville, Lavaca County

Type of Operation:

portable building manufacturing plant

Other Significant Matters:

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

Texas Register Publication Date: October 5, 2018

Comments Received: None

Penalty Information

Total Penalty Assessed: \$25,996

Total Paid to General Revenue: \$726

Total Due to General Revenue: \$25,270

Payment Plan: 35 payments of \$722 each

Compliance History Classifications:

Person/CN – Unclassified
Site/RN – Unclassified

Major Source: Yes (PCW 2)

Statutory Limit Adjustment: None

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): June 5, 2017

Complaint Information: Complainant alleged a large mound of debris containing fiberglass particles on property, and green storm water running onto complainant's property. Complainant was concerned about water contaminating their property and water well.

Date(s) of Investigation: June 15, 2017

Date(s) of NOV(s): N/A

Date(s) of NOE(s): August 1, 2017

Violation Information

1. Caused, suffered, allowed or permitted the unauthorized storage, processing, and/or disposal of MSW, ISW, and IHW at the Plant. Specifically, approximately 38,265 cubic yards of MSW, ISW, and IHW consisting of sheetrock, wood, mattresses, metal, polyvinyl chloride pipe, insulation, empty totes, cardboard, paper, plastics, household trash, spas, fluorescent lightbulbs, and styrofoam were being stored, processed, and/or disposed of at the Plant [30 TEX. ADMIN. CODE §§ 330.15(c), 335.4, and 335.43(a)].
2. Caused, suffered, allowed, or permitted outdoor burning within the State of Texas. Specifically, approximately 108 cubic yards of waste were burned at the Plant [TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 111.201].
3. Failed to obtain authorization under a Texas Pollutant Discharge Elimination System (“TPDES”) General Permit (“GP”) to discharge storm water associated with industrial activities [TEX. WATER CODE § 26.121, 30 TEX. ADMIN. CODE § 281.25(a)(4), and 40 C.F.R. § 122.26(c)].
4. Failed to obtain scrap tire storage site registration for the Plant prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in enclosed and lockable containers. Specifically, approximately 600 scrap tires were stored on the ground at the Plant [TEX. HEALTH & SAFETY CODE § 361.112(a) and 30 TEX. ADMIN. CODE §§ 328.56(d)(2) and 328.60(a)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

None

Technical Requirements:

1. Immediately:
 - a. Cease any burning of additional waste at the Plant;
 - b. Cease any unauthorized storage, processing, and/or disposal of additional waste at the Plant; and
 - c. Cease any storage of additional used and/or scrap tires at the Plant until proper authorization is obtained.
2. Within 30 days:
 - a. Register the Plant as a scrap tire storage facility; or
 - b. Reduce the number of scrap tires stored at the Plant to less than 500 on the ground or 2,000 tires in enclosed and lockable containers.
3. Within 45 days, submit written certification to demonstrate compliance with Technical Requirements Nos. 1.a. through 1.c., and 2.a. and 2.b.
4. Within 60 days:
 - a. Develop and implement a Storm Water Pollution Prevention Plan to comply with the requirements of TPDES GP No. TXR050000; and
 - b. Submit a Notice of Intent through the State of Texas Environmental Electronic Reporting System, to obtain coverage under TPDES GP No. TXR050000.
5. Within 75 days, submit written certification to demonstrate compliance with Technical Requirements Nos. 4.a. and 4.b.
6. Within 365 days, remove all unauthorized waste stored and/or disposed of at the Plant.
7. Within 380 days, submit written certification to demonstrate compliance with Technical Requirement No. 6.

**EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE No. 55069
MORGAN BUILDING & SPA MANUFACTURING CORPORATION
RN101924793
Docket No. 2017-1326-MLM-E**

Litigation Information

Date Petition Filed: January 24, 2018
Date Green Card(s) Signed: January 25, 2018
Date Answer(s) Filed: February 13, 2018
SOAH Referral Date: March 21, 2018
Hearing Date(s):
 Preliminary hearing: May 3, 2018
 Evidentiary hearing: September 26, 2018 (scheduled)
Settlement Date: September 7, 2018

Contact Information

TCEQ Attorneys: Jess Robinson, Litigation Division, (512) 239-3400
 Sheldon Wayne, Public Interest Counsel, (512) 239-6363
TCEQ Litigation Division Agenda Coordinator: Janice Hernandez, (512) 239-2575
TCEQ Enforcement Coordinator: Epifanio Villarreal, Enforcement Division, (361) 825-3421
TCEQ Regional Contact: Tim Perdue, Corpus Christi Regional Office, (361) 825-3100
Respondent Contact: Guy Morgan, President, MORGAN BUILDING & SPA MANUFACTURING CORPORATION, P.O. Box 660280, Dallas, Texas 75266
Respondent's Attorney: Hicks Morgan, 12700 Hillcrest Road, Suite 291, Dallas, Texas 75230

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Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	7-Aug-2017	Screening	9-Aug-2017	EPA Due	
	PCW	4-Dec-2017				

RESPONDENT/FACILITY INFORMATION

Respondent	MORGAN BUILDING & SPA MANUFACTURING CORPORATION		
Reg. Ent. Ref. No.	RN101924793		
Facility/Site Region	14-Corpus Christi	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	55069	No. of Violations	3	
Docket No.	2017-1326-MLM-E	Order Type	1660	
Media Program(s)	Industrial and Hazardous Waste	Government/Non-Profit	No	
Multi-Media	Municipal Solid Waste; Air; Water Quality; and Waste Tires	Enf. Coordinator	Keith Frank	
		EC's Team	Enforcement Team 6	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$11,250**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **0.0%** Adjustment **Subtotals 2, 3, & 7** **\$0**

Notes	No adjustment for compliance history.
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Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$0**

Economic Benefit **50.0%** Enhancement* **Subtotal 6** **\$5,625**

Total EB Amounts	\$28,151	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$601,217	

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$16,875**

OTHER FACTORS AS JUSTICE MAY REQUIRE **9.6%** Adjustment **\$1,621**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Recommended enhancement to capture the avoided costs of compliance associated with Violation No. 2.
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Final Penalty Amount **\$18,496**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$18,496**

DEFERRAL **0.0%** Reduction Adjustment **\$0**

Reduces the Final Assessed Penalty by the indicated percentage.

Notes	Deferral not offered for non-expedited settlement.
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PAYABLE PENALTY **\$18,496**

Screening Date 9-Aug-2017**Docket No.** 2017-1326-MLM-E**PCW****Respondent** MORGAN BUILDING & SPA MANUFACTURING CORPORATION**Case ID No.** 55069

Policy Revision 4 (April 2014)

Reg. Ent. Reference No. RN101924793

PCW Revision March 26, 2014

Media [Statute] Industrial and Hazardous Waste**Enf. Coordinator** Keith Frank**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>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%>> **Repeat Violator (Subtotal 3)**

No

Adjustment Percentage (Subtotal 3) 0%>> **Compliance History Person Classification (Subtotal 7)**

Unclassified

Adjustment Percentage (Subtotal 7) 0%>> **Compliance History Summary****Compliance History Notes**

No adjustment for compliance history.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%>> **Final Compliance History Adjustment****Final Adjustment Percentage *capped at 100%** 0%

Screening Date	9-Aug-2017	Docket No.	2017-1326-MLM-E	PCW
Respondent	MORGAN BUILDING & SPA MANUFACTURING CORPORATION			<i>Policy Revision 4 (April 2014)</i>
Case ID No.	55069			<i>PCW Revision March 26, 2014</i>
Reg. Ent. Reference No.	RN101924793			
Media [Statute]	Industrial and Hazardous Waste			
Enf. Coordinator	Keith Frank			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Good Faith Efforts to Comply Reduction

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

Notes

Violation Subtotal

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent MORGAN BUILDING & SPA MANUFACTURING CORPORATION
Case ID No. 55069
Reg. Ent. Reference No. RN101924793
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
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$594,596	15-Jun-2017	4-May-2018	0.88	\$26,309	n/a	\$26,309
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to remove and dispose of approximately 38,265 cubic yards of MSW, ISW, and IHW at an authorized facility. 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

Approx. Cost of Compliance \$594,596

TOTAL \$26,309

Screening Date 9-Aug-2017 **Docket No.** 2017-1326-MLM-E **PCW**
Respondent MORGAN BUILDING & SPA MANUFACTURING CORPORATION *Policy Revision 4 (April 2014)*
Case ID No. 55069 *PCW Revision March 26, 2014*
Reg. Ent. Reference No. RN101924793
Media [Statute] Industrial and Hazardous Waste
Enf. Coordinator Keith Frank

Violation Number
Rule Cite(s) 30 Tex. Admin. Code § 111.201 and Tex. Health & Safety Code § 382.085(b)
Violation Description Caused, suffered, allowed, or permitted outdoor burning within the State of Texas. Specifically, approximately 108 cubic yards of waste were burned at the Plant.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text" value="5.0%"/>
	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 Human health or the environment has been exposed to insignificant amounts of pollutants which do not 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

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

Violation Base Penalty

One single event is recommended.

Good Faith Efforts to Comply Reduction

	Before 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" 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 MORGAN BUILDING & SPA MANUFACTURING CORPORATION
Case ID No. 55069
Reg. Ent. Reference No. RN101924793
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
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$1,621	14-Jun-2017	15-Jun-2017	0.00	\$0	\$1,621	\$1,621
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to have properly disposed of approximately 108 cubic yards waste at an authorized facility rather than burning. Date Required is one day prior to the investigation date. Final Date is the investigation date.

Approx. Cost of Compliance \$1,621

TOTAL \$1,621

Screening Date	9-Aug-2017	Docket No.	2017-1326-MLM-E	PCW
Respondent	MORGAN BUILDING & SPA MANUFACTURING CORPORATION			<i>Policy Revision 4 (April 2014)</i>
Case ID No.	55069			<i>PCW Revision March 26, 2014</i>
Reg. Ent. Reference No.	RN101924793			
Media [Statute]	Industrial and Hazardous Waste			
Enf. Coordinator	Keith Frank			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent <input type="text" value="5.0%"/>
		<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	
	100% of the rule requirement was not met.				

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

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

Notes

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent MORGAN BUILDING & SPA MANUFACTURING CORPORATION
Case ID No. 55069
Reg. Ent. Reference No. RN101924793
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
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$5,000	15-Jun-2017	4-May-2018	0.88	\$221	n/a	\$221
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to develop and implement a stormwater pollution prevention plan; submit a Notice of Intent and the associated fees; and to obtain authorization to discharge stormwater under a TPDES GP No. TXR050000. 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

Approx. Cost of Compliance \$5,000

TOTAL \$221



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	7-Aug-2017	Screening	9-Aug-2017	EPA Due	
	PCW	4-Dec-2017				

RESPONDENT/FACILITY INFORMATION

Respondent	MORGAN BUILDING & SPA MANUFACTURING CORPORATION	
Reg. Ent. Ref. No.	RN101924793	
Facility/Site Region	14-Corpus Christi	Major/Minor Source Major

CASE INFORMATION

Enf./Case ID No.	55069	No. of Violations	1
Docket No.	2017-1326-MLM-E	Order Type	1660
Media Program(s)	Waste Tires	Government/Non-Profit	No
Multi-Media	Industrial and Hazardous Waste; Municipal Solid Waste; Air; and Water Quality	Enf. Coordinator	Keith Frank
		EC's Team	Enforcement Team 6
Admin. Penalty \$	Limit Minimum \$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$7,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	0.0% Adjustment	Subtotals 2, 3, & 7	\$0
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Notes	No adjustment for compliance history.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$442	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$10,000	

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

Notes	
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Final Penalty Amount	\$7,500
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$7,500
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DEFERRAL	0.0% Reduction Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes	Deferral not offered for non-expedited settlement.
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PAYABLE PENALTY	\$7,500
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Screening Date 9-Aug-2017

Docket No. 2017-1326-MLM-E

PCW

Respondent MORGAN BUILDING & SPA MANUFACTURING CORPORATION

Policy Revision 4 (April 2014)

Case ID No. 55069

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101924793

Media [Statute] Waste Tires

Enf. Coordinator Keith Frank

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>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Unclassified

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment for compliance history.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date	9-Aug-2017	Docket No.	2017-1326-MLM-E	PCW
Respondent	MORGAN BUILDING & SPA MANUFACTURING CORPORATION			<i>Policy Revision 4 (April 2014)</i>
Case ID No.	55069			<i>PCW Revision March 26, 2014</i>
Reg. Ent. Reference No.	RN101924793			
Media [Statute]	Waste Tires			
Enf. Coordinator	Keith Frank			
Violation Number	1			
Rule Cite(s)	30 Tex. Admin. Code §§ 328.56(d)(2) and 328.60(a) and Tex. Health & Safety Code § 361.112(a)			
Violation Description	Failed to obtain a scrap tire storage site registration for the Plant prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in enclosed and lockable containers. Specifically, approximately 600 scrap tires were stored on the ground at the Plant.			
		Base Penalty	\$25,000	

>> Environmental, Property and Human Health Matrix

OR	Harm				
	Release	Major	Moderate	Minor	
	Actual				Percent 0.0%
	Potential				

>> 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 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$7,500

Two monthly events are recommended based on documentation of the violation from the June 15, 2017 investigation to the August 9, 2017 screening date.

Good Faith Efforts to Comply Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	

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

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$442 **Violation Final Penalty Total** \$7,500

This violation Final Assessed Penalty (adjusted for limits) \$7,500

Economic Benefit Worksheet

Respondent MORGAN BUILDING & SPA MANUFACTURING CORPORATION
Case ID No. 55069
Reg. Ent. Reference No. RN101924793
Media Waste Tires
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$10,000	15-Jun-2017	4-May-2018	0.88	\$442	n/a	\$442
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to obtain a scrap tire storage site registration for the Plant. 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

Approx. Cost of Compliance \$10,000

TOTAL \$442

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 CN603300609, RN101924793, Rating Year 2016 which includes Compliance History (CH) components from September 1, 2011, through August 31, 2016.

Customer, Respondent, or Owner/Operator: CN603300609, MORGAN BUILDING & SPA MANUFACTURING CORPORATION **Classification:** UNCLASSIFIED **Rating:** -----

Regulated Entity: RN101924793, Hallettsville Plant **Classification:** UNCLASSIFIED **Rating:** -----

Complexity Points: 5 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 144 COUNTY ROAD 118 HALLETTSVILLE, TX 77964-4980, LAVACA COUNTY

TCEQ Region: REGION 14 - CORPUS CHRISTI

ID Number(s):

AIR NEW SOURCE PERMITS PERMIT 22401 **AIR NEW SOURCE PERMITS REGISTRATION 25733**

AIR NEW SOURCE PERMITS ACCOUNT NUMBER LE0061J **POLLUTION PREVENTION PLANNING ID NUMBER P07166**

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

Date Compliance History Report Prepared: August 09, 2017

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: August 09, 2012 to August 09, 2017

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

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

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

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

N/A

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

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

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
MORGAN BUILDING & SPA
MANUFACTURING CORPORATION;
RN101924793**

§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2017-1326-MLM-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding MORGAN BUILDING & SPA MANUFACTURING CORPORATION ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26, and TEX. HEALTH & SAFETY CODE chs. 361 and 382. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, represented by Hicks Morgan, together stipulate that:

1. Respondent owns and operates a portable building manufacturing plant located at 144 County Road 118 in Hallettsville, Lavaca County, Texas (the "Plant"). The Plant contains and/or involves the management of industrial solid waste ("ISW"), hazardous waste, and municipal solid waste ("MSW"), including scrap tires, as defined in TEX. HEALTH & SAFETY CODE ch. 361. The Plant consists of one or more sources, as defined in TEX. HEALTH & SAFETY CODE § 382.003(12). The Plant is near or adjacent to water in the state, as defined in TEX. WATER CODE § 26.001(5).
2. The Executive Director and Respondent agree the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that Respondent is subject to the 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, TEX. HEALTH & SAFETY CODE chs. 361 and 382, 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 Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of twenty-five thousand nine hundred ninety-six dollars (\$25,996.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid seven hundred twenty-six dollars (\$726.00) of the penalty. The remaining amount of twenty-five thousand two hundred seventy dollars (\$25,270.00) shall be paid in thirty-five (35) monthly payments of seven hundred twenty-two dollars (\$722.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Order. The subsequent payments shall each be paid not later than

30 days following the due date of the previous payment until the penalty is paid in full. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Order, including the payment schedule, the Executive Director may, at his 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, Respondent's failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance constitutes the failure by Respondent to timely and satisfactorily comply with all the terms of this Order.

5. The Executive Director and Respondent agree on a settlement of the matters addressed in this Order, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). 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 Respondent has not complied with one or more of the terms or conditions contained 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 full compliance with all the terms and conditions set forth in this Order, whichever is later.

II. ALLEGATIONS

1. During an investigation conducted on and around June 15, 2017, an investigator documented that Respondent:
 - a. Caused, suffered, allowed, or permitted the unauthorized storage, processing, and/or disposal of MSW, ISW, and industrial hazardous waste at the Plant, in violation of 30 TEX. ADMIN. CODE §§ 330.15(c), 335.4, and 335.43(a). Specifically, approximately 38,265 cubic yards of MSW, ISW, and IHW consisting of sheetrock, wood, mattresses, metal, polyvinyl chloride pipe, insulation, empty totes, cardboard, paper, plastics, household trash, spas, fluorescent lightbulbs, and styrofoam were being stored, processed, and/or disposed of at the Plant;
 - b. Caused, suffered, allowed, or permitted outdoor burning within the State of Texas, in violation of TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 111.201. Specifically, approximately 108 cubic yards of waste were burned at the Plant;
 - c. Failed to obtain authorization under a Texas Pollutant Discharge Elimination System ("TPDES") General Permit ("GP") to discharge storm water associated with industrial activities, in violation of TEX. WATER CODE § 26.121, 30 TEX. ADMIN. CODE § 281.25(a)(4), and 40 C.F.R. § 122.26(c); and

- d. Failed to obtain scrap tire storage site registration for the Plant prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in enclosed and lockable containers, in violation of TEX. HEALTH & SAFETY CODE § 361.112(a) and 30 TEX. ADMIN. CODE §§ 328.56(d)(2) and 328.60(a). Specifically, approximately 600 scrap tires were stored on the ground at the Plant.

III. DENIALS

Respondent generally denies each Allegation in Section II.

IV. ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty as set forth in Section I, Paragraph 4. The payment of this penalty and Respondent's compliance with all the requirements set forth in this Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations not raised here. Penalty payments shall be made payable to the TCEQ and shall be sent with the notation "Re: MORGAN BUILDING & SPA MANUFACTURING CORPORATION, Docket No. 2017-1326-MLM-E" to:

Financial Administration Division
Revenue Operations Section
Texas Commission on Environmental Quality
Attention: Cashier's Office, MC 214
P.O. Box 13088
Austin, Texas 78711-3088
2. Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Order:
 - i. Cease any burning of additional waste at the Plant;
 - ii. Cease any unauthorized storage, processing, and/or disposal of additional waste at the Plant; and
 - iii. Cease any storage of additional used and/or scrap tires at the Plant until proper authorization is obtained.
 - b. Within 30 days after the effective date of this Order, either:
 - i. Register the Plant as a scrap tire storage facility, in accordance with 30 TEX. ADMIN. CODE § 328.60; or
 - ii. Reduce the number of scrap tires stored at the Plant to less than 500 on the ground or 2,000 tires in enclosed and lockable containers, in accordance with 30 TEX. ADMIN. CODE § 328.60.
 - c. Within 45 days after the effective date of this Order, submit written certification, in accordance with Ordering Provision No. 2.h., to demonstrate compliance with Ordering Provisions Nos. 2.a.i. through 2.a.iii., and 2.b.

- d. Within 60 days after the effective date of this Order:
 - i. Develop and implement a Storm Water Pollution Prevention Plan to comply with the requirements of TPDES GP No. TXR050000; and
 - ii. Submit a Notice of Intent through the State of Texas Environmental Electronic Reporting System, to obtain coverage under TPDES GP No. TXR050000.
- e. Within 75 days after the effective date of this Order, submit written certification, in accordance with Ordering Provision No. 2.h., to demonstrate compliance with Ordering Provisions Nos. 2.d.i. and 2.d.ii.
- f. Within 365 days after the effective date of this Order, remove all unauthorized waste stored and/or disposed of at the Plant, and dispose of it at an authorized facility.
- g. Within 380 days after the effective date of this Order, submit written certification, in accordance with Ordering Provision No. 2.h., to demonstrate compliance with Ordering Provision No. 2.f.
- h. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by Respondent, and shall include the following certification language:

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

The written certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions shall be sent to:

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

and:

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

- 3. All relief not expressly granted in this Order is denied.

4. The duties and provisions imposed by this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Plant operations referenced in this Order.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Order Compliance Team at the address listed above.
6. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
7. This Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order, or (2) pursue violations of a statute within the TCEQ's jurisdiction or of a rule adopted or an order or permit issued by the TCEQ under such a statute.
8. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. 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

Margi Lizarde

For the Executive Director

Oct. 11, 2018

Date

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

I also understand that failure to comply with the Ordering Provisions in this Order and/or failure to timely pay the penalty amount may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's office of any future enforcement actions; and
- The TCEQ seeking other relief as authorized by law.

In addition, I understand that any falsification of any compliance documents may result in criminal prosecution.

Guy Morgan

Signature - Guy Morgan, President
MORGAN BUILDING & SPA
MANUFACTURING CORPORATION
P.O. Box 660280
Dallas, Texas 75266

9/7/18

Date

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