

Executive Summary – Enforcement Matter – Case No. 57654
Miller Environmental Services, LLC
RN107648925
Docket No. 2019-0632-IHW-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

IHW

Small Business:

No

Location(s) Where Violation(s) Occurred:

Miller Environmental Services, 401 Navigation Boulevard, Corpus Christi, Nueces County

Type of Operation:

Industrial cleaning and environmental services business

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: March 27, 2020

Comments Received: No

Penalty Information

Total Penalty Assessed: \$30,000

Amount Deferred for Expedited Settlement: \$6,000

Total Paid to General Revenue: \$24,000

Total Due to General Revenue: \$0

Payment Plan: N/A

Compliance History Classifications:

Person/CN - High

Site/RN - High

Major Source: No

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: January 11, 2019 and April 11, 2019

Date(s) of NOE(s): April 30, 2019

**Executive Summary – Enforcement Matter – Case No. 57654
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Violation Information

Caused, suffered, allowed, or permitted the disposal of industrial solid waste at an unauthorized facility. Specifically, the Respondent transported approximately 136,080 gallons of treated wastewater sludge across 29 shipments to a facility not authorized to accept industrial solid waste [30 TEX. ADMIN. CODE § 335.2(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent developed and implemented procedures designed to ensure that all industrial solid waste is transported and disposed of at authorized facilities on May 8, 2019.

Technical Requirements:

N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Tyler Richardson, Enforcement Division, Enforcement Team 7, MC 219, (512) 239-4872; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: Charles K. Miller, President, Miller Environmental Services, LLC, P.O. Box 5233, Corpus Christi, Texas 78408

Mike Kocian, Business Unit Manager, Miller Environmental Services, LLC, P.O. Box 5233, Corpus Christi, Texas 78408

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

DATES	Assigned	6-May-2019	Screening	6-May-2019	EPA Due	
	PCW	11-Oct-2019				

RESPONDENT/FACILITY INFORMATION

Respondent	Miller Environmental Services, LLC		
Reg. Ent. Ref. No.	RN107648925		
Facility/Site Region	14-Corpus Christi	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	57654	No. of Violations	1	
Docket No.	2019-0632-IHW-E	Order Type	1660	
Media Program(s)	Industrial and Hazardous Waste	Government/Non-Profit	No	
Multi-Media		Enf. Coordinator	Tyler Richardson	
		EC's Team	Enforcement Team 7	
Admin. Penalty \$ Limit	Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 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	<input type="text" value="\$2"/>
Estimated Cost of Compliance	<input type="text" value="\$100"/>

*Capped at the Total EB \$ Amount

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

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment **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-May-2019

Docket No. 2019-0632-IHW-E

PCW

Respondent Miller Environmental Services, LLC

Policy Revision 4 (April 2014)

Case ID No. 57654

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN107648925

Media Industrial and Hazardous Waste

Enf. Coordinator Tyler Richardson

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)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100%

Screening Date 6-May-2019

Docket No. 2019-0632-IHW-E

PCW

Respondent Miller Environmental Services, LLC

Policy Revision 4 (April 2014)

Case ID No. 57654

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN107648925

Media Industrial and Hazardous Waste

Enf. Coordinator Tyler Richardson

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 335.2(b)

Violation Description The Respondent caused, suffered, allowed, or permitted the disposal of industrial solid waste ("ISW") at an unauthorized facility. Specifically, the Respondent transported approximately 136,080 gallons of treated wastewater sludge across 29 shipments to a facility not authorized to accept industrial solid waste.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

Matrix Notes Human health or the environment will or could be exposed to 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 10 10 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$37,500

Ten single events are recommended, one for each day a shipment was transported.

Good Faith Efforts to Comply

10.0%

Reduction \$3,750

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

Notes The Respondent came into compliance on May 8, 2019, after the Notice of Enforcement dated April 30, 2019.

Violation Subtotal \$33,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$30,000

This violation Final Assessed Penalty (adjusted for limits) \$30,000

Economic Benefit Worksheet

Respondent Miller Environmental Services, LLC
Case ID No. 57654
Reg. Ent. Reference No. RN107648925
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	Costs Saved	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	\$100	2-Jan-2019	8-May-2019	0.35	\$2	n/a	\$2
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 to ensure that ISW is transported and disposed of only at authorized facilities (\$100). The Date Required is the first date of the unauthorized waste disposal and the Final Date is the date of compliance.

Avoided Costs **ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$100	TOTAL	\$2
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Compliance History Report

Compliance History Report for CN604704999, RN107648925, Rating Year 2018 which includes Compliance History (CH) components from September 1, 2013, through August 31, 2018.

Customer, Respondent, or Owner/Operator:	CN604704999, Miller Environmental Services, LLC	Classification: HIGH	Rating: 0.00
Regulated Entity:	RN107648925, Miller Environmental Services	Classification: HIGH	Rating: 0.00
Complexity Points:	1	Repeat Violator:	NO
CH Group:	14 - Other		
Location:	401 Navigation Boulevard in Corpus Christi, Nueces County, Texas		
TCEQ Region:	REGION 14 - CORPUS CHRISTI		
ID Number(s):			
INDUSTRIAL AND HAZARDOUS WASTE EPA ID	TXD981056054	INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR)	40736
Compliance History Period:	September 01, 2013 to August 31, 2018	Rating Year:	2018
		Rating Date:	09/01/2018
Date Compliance History Report Prepared:	May 06, 2019		
Agency Decision Requiring Compliance History:	Enforcement		
Component Period Selected:	May 06, 2014 to May 06, 2019		
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.			
Name:	Tyler Richardson	Phone:	(512) 239-4872

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.):

Item 1 September 03, 2015 (1222655)

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

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

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
MILLER ENVIRONMENTAL
SERVICES, LLC
RN107648925

§
§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2019-0632-IHW-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 Miller Environmental Services, LLC (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates an industrial cleaning and environmental services business located at 401 Navigation Boulevard in Corpus Christi, Nueces County, Texas (the "Business"). The Business involves or involved the management of industrial solid waste ("ISW") as defined in TEX. HEALTH & SAFETY CODE ch. 361.
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. HEALTH & SAFETY CODE ch. 361 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 \$30,000 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$24,000 of the penalty and \$6,000 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.
9. The Executive Director recognizes that the Respondent developed and implemented procedures designed to ensure that all ISW is transported and disposed of at authorized facilities on May 8, 2019.

II. ALLEGATIONS

During an investigation conducted on January 11, 2019 and a record review conducted on April 11, 2019, an investigator documented that the Respondent caused, suffered, allowed, or permitted the disposal of ISW at an unauthorized facility, in violation of 30 TEX. ADMIN. CODE § 335.2(b). Specifically, the Respondent transported approximately 136,080 gallons of treated wastewater sludge across 29 shipments to a facility not authorized to accept industrial solid waste.

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 No. 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: Miller Environmental Services, LLC, Docket No. 2019-0632-IHW-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. All relief not expressly granted in this Order is denied.
3. 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 Business operations referenced in this Order.
4. 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.
5. 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.
6. 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.
7. 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.

