

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 56514
APPLIED STANDARDS INSPECTION, INC.
RN102921160
Docket No. 2018-1100-IHW-E

Order Type:
Agreed Order

Media:
IHW

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
4781 Highway 69 South, Beaumont, Jefferson County

Type of Operation:
Inspection Business

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: April 12, 2024

Comments Received: None

Penalty Information

Total Penalty Assessed: \$22,312

Total Paid to General Revenue: \$22,312

Compliance History Classifications:
Person/CN - N/A
Site/RN - N/A

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): August 14, 2017

Complaint Information: The complainant stated that owners are illegally dumping hazardous materials onto the ground underneath storage sheds to reduce costs of disposal.

Date(s) of Investigation: August 16, 2017; June 29, 2018

Date(s) of NOV(s): February 1, 2018

Date(s) of NOE(s): August 3, 2018

Violation Information

1. Failed to maintain records of all Industrial Solid Waste (ISW) activities [30 TEX. ADMIN. CODE § 335.9(a)(1)].
2. Failed to conduct hazardous waste determinations and waste classifications [30 TEX. ADMIN. CODE §§ 335.503(a)(1), 335.504, and 335.62, and 40 C.F.R. § 262.11].
3. Failed to submit a written notice to the TCEQ which includes the type(s) of ISW or municipal hazardous waste to be recycled, the method of storage prior to recycling, and the nature of the recycling activity 90 days prior to engaging in such activities [30 TEX. ADMIN. CODE § 335.6(h)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

None

Technical Requirements:

1. Immediately begin maintaining records of all ISW activities.
2. Within 30 days:
 - a. Conduct waste determinations and waste classifications on all waste streams generated at the Facility; and
 - b. Provide notification which includes an accurate description of recycling activities.
3. Within 90 days submit written certification and include detailed supporting documentation to demonstrate compliance with Technical Requirement Nos. 1 and 2.

Litigation Information

Date Petition(s) Filed: April 25, 2023
Date(s) of Service: April 27, 2023
Date Answer(s) Filed: May 5, 2023
SOAH Referral Date: August 17, 2023
Hearing Date(s):
Preliminary hearing: October 26, 2023
Evidentiary hearing: March 19, 2023 (continued without being reset)
Settlement Date: March 7, 2024

Contact Information

TCEQ Attorneys: Taylor Pearson, Litigation Division, (512) 239-3400
Sheldon Wayne, Public Interest Counsel, (512) 239-6363
TCEQ Litigation Agenda Coordinator: Katherine McKenzie, Litigation Division, (512) 239-2575
TCEQ Enforcement Coordinator: Stephanie McCurley, Enforcement Division, (512) 239-2607
TCEQ Regional Contact: Ronald Hebert, Beaumont Regional Office, (409) 898-3838
Respondent Contact: Emmanuel Schwartz, President, APPLIED STANDARDS INSPECTION, INC.,
4781 Highway 69 South, Beaumont, Texas 77705
Respondent's Attorneys: John Morgan, Morgan Law Firm, 2175 North Street, Ste. 101,
Beaumont, Texas 77701;
Jennifer Riggs, Riggs & Ray, PC, 3307 Northland Drive, Ste. 215,
Austin, Texas 78731



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	6-Aug-2018	Screening	9-Aug-2018	EPA Due	13-Apr-2018
	PCW	1-Mar-2024				

RESPONDENT/FACILITY INFORMATION

Respondent	APPLIED STANDARDS INSPECTION, INC.	
Reg. Ent. Ref. No.	RN102921160	
Facility/Site Region	10-Beaumont	Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No.	56514	No. of Violations	3
Docket No.	2018-1100-IHW-E	Order Type	1660
Media Program(s)	Industrial and Hazardous Waste	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Stephanie McCurley
		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	\$21,250
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	5.0% Adjustment	Subtotals 2, 3, & 7	\$1,062
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Notes	Enhancement for one NOV with same/similar violations.
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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	\$1,974	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$22,000	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$22,312
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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	\$22,312
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$22,312
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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	\$22,312
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Screening Date 9-Aug-2018

Docket No. 2018-1100-IHW-E

PCW

Respondent APPLIED STANDARDS INSPECTION, INC.

Policy Revision 4 (April 2014)

Case ID No. 56514

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102921160

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Stephanie McCurley

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>)	1	5%
	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) 5%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with same/similar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 5%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 5%

Screening Date 9-Aug-2018

Docket No. 2018-1100-IHW-E

PCW

Respondent APPLIED STANDARDS INSPECTION, INC.

Policy Revision 4 (April 2014)

Case ID No. 56514

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102921160

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Stephanie McCurley

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 335.9(a)(1)

Violation Description Failed to maintain records of all industrial solid waste ("ISW") activities. Specifically, records relating to the description, character, and classification of each waste; the quantity of each waste generated per month; the quantity held in on-site storage; the quantity processed or disposed of during the year; the method of storage, processing or disposal; the quantity shipped offsite for storage, processing or disposal each calendar year, and the location of all ISW accumulation areas were not available.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR Release Harm Major Moderate Minor Actual Potential Percent 0.0%

>> Programmatic Matrix

Falsification Major Moderate Minor Percent 5.0%

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

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1 41 Number of violation days

daily weekly monthly quarterly semiannual annual single event x

Violation Base Penalty \$1,250

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

Before 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 \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$45

Violation Final Penalty Total \$1,313

This violation Final Assessed Penalty (adjusted for limits) \$1,313

Economic Benefit Worksheet

Respondent APPLIED STANDARDS INSPECTION, INC.
Case ID No. 56514
Reg. Ent. Reference No. RN102921160
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
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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	\$500	16-Aug-2017	2-Jun-2019	1.79	\$45	n/a	\$45
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to maintain records of all ISW activities. The Date Required is the initial investigation date and the Final Date is the estimated 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

\$500

TOTAL

\$45

Screening Date 9-Aug-2018

Docket No. 2018-1100-IHW-E

PCW

Respondent APPLIED STANDARDS INSPECTION, INC.

Policy Revision 4 (April 2014)

Case ID No. 56514

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102921160

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Stephanie McCurley

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 335.503(a)(1), 335.504, and 335.62, and 40 Code of Federal Regulations § 262.11

Violation Description Failed to conduct hazardous waste determinations and waste classifications. Specifically, hazardous waste determinations and waste classifications were not conducted for the spent fixer, spent developer, spent photo flo, spent stop bath, and rinse water.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

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

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 5

5 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$18,750

Five single events are recommended (one event for each waste stream).

Good Faith Efforts to Comply

0.0%

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 \$18,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,884

Violation Final Penalty Total \$19,688

This violation Final Assessed Penalty (adjusted for limits) \$19,688

Economic Benefit Worksheet

Respondent APPLIED STANDARDS INSPECTION, INC.
Case ID No. 56514
Reg. Ent. Reference No. RN102921160
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	Costs Saved	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)	\$21,000	16-Aug-2017	2-Jun-2019	1.79	\$1,884	n/a	\$1,884

Notes for DELAYED costs

Estimated cost to conduct waste determinations and waste classifications (\$4,200 for each waste stream). The Date Required is the initial investigation date and the Final Date is the estimated 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

\$21,000

TOTAL

\$1,884

Screening Date 9-Aug-2018

Docket No. 2018-1100-IHW-E

PCW

Respondent APPLIED STANDARDS INSPECTION, INC.

Policy Revision 4 (April 2014)

Case ID No. 56514

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102921160

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Stephanie McCurley

Violation Number 3

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

Violation Description

Failed to submit a written notice to the TCEQ which includes the type(s) of ISW or municipal hazardous waste to be recycled, the method of storage prior to recycling, and the nature of the recycling activity 90 days prior to engaging in such activities. Specifically, recycling notifications were not submitted for the recycling activity of spent fixer and recovered silver flake.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

41 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,250

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before 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 \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$45

Violation Final Penalty Total \$1,313

This violation Final Assessed Penalty (adjusted for limits) \$1,313

Economic Benefit Worksheet

Respondent APPLIED STANDARDS INSPECTION, INC.
Case ID No. 56514
Reg. Ent. Reference No. RN102921160
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	Costs Saved	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	\$500	16-Aug-2017	2-Jun-2019	1.79	\$45	n/a	\$45
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to provide notification which includes an accurate description of recycling activities. The Date Required is the initial investigation date and the Final Date is the estimated 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

\$500

TOTAL

\$45

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.



TCEQ Compliance History Report

Compliance History Report for CN601093560, RN102921160, Rating Year 2017 which includes Compliance History (CH) components from September 1, 2012, through August 31, 2017.

Customer, Respondent, or Owner/Operator: CN601093560, APPLIED STANDARDS INSPECTION, INC. **Classification:** NOT APPLICABLE **Rating:** N/A

Regulated Entity: RN102921160, Applied Standards Inspection **Classification:** NOT APPLICABLE **Rating:** N/A

Complexity Points: N/A **Repeat Violator:** N/A

CH Group: 14 - Other

Location: 4781 HIGHWAY 69 South in Beaumont, Jefferson County, Texas

TCEQ Region: REGION 10 - BEAUMONT

ID Number(s):
INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXP490353852 **INDUSTRIAL AND HAZARDOUS WASTE OTS REQUEST** 40080

Compliance History Period: September 01, 2012 to August 31, 2017 **Rating Year:** 2017 **Rating Date:** 09/01/2017

Date Compliance History Report Prepared: August 07, 2018

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: August 07, 2013 to August 07, 2018

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.
Name: Stephanie McCurley **Phone:** (512) 239-2607

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.

- 1 Date: 02/01/2018 (1435203)
- Self Report? NO Classification: Moderate
- Citation: 30 TAC Chapter 279 279.12
30 TAC Chapter 324, SubChapter A 324.4
- Description: Failure to properly manage used oil.
- Self Report? NO Classification: Major

Citation: 30 TAC Chapter 335, SubChapter A 335.9(a)(1)
Description: Failure to maintain monthly records of industrial solid waste generated per month.
Self Report? NO Classification: Major

Citation: 30 TAC Chapter 335, SubChapter C 335.62
30 TAC Chapter 335, SubChapter R 335.503(a)(1)
40 CFR Chapter 262, SubChapter I, PT 262, SubPT A 262.11
Description: Failure to conduct hazardous waste determinations and classifications on industrial solid wastes.
Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 335, SubChapter A 335.6(h)
Description: Failure to submit recycling notifications for the recycling activity of spent fixer and silver flake.
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter A 335.4
TWC Chapter 26 26.121
Description: Failure to prevent an unauthorized discharge of industrial solid waste.

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
APPLIED STANDARDS INSPECTION, INC.;
RN102921160

§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER

DOCKET NO. 2018-1100-IHW-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 APPLIED STANDARDS INSPECTION, INC. ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26 and TEX. HEALTH & SAFETY CODE ch. 361. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, represented by John Morgan and Jennifer Riggs together stipulate that:

1. Respondent owns and operates a piping and casing testing and inspection business located at 4781 Highway 69 South in Beaumont, Jefferson County, Texas (the "Facility"). The Facility contains and/or involves the management of industrial solid waste ("ISW"), as defined in TEX. HEALTH & SAFETY CODE ch. 361. 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 Respondent agree that 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 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 Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$22,312 is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid \$22,312 of the penalty.
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 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 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 August 16, 2017, and a record review conducted on June 29, 2018, an investigator documented that Respondent:
 - a. Failed to maintain records of all ISW activities, in violation of 30 TEX. ADMIN. CODE § 335.9(a)(1). Specifically, records relating to the description, character, and classification of each waste; the quantity of each waste generated per month; the quantity held in on-site storage; the quantity processed or disposed of during the year; the method of storage, processing or disposal; the quantity shipped offsite for storage, processing or disposal each calendar year, and the location of all ISW accumulation areas were not available;
 - b. Failed to conduct hazardous waste determinations and waste classifications, in violation of 30 TEX. ADMIN. CODE §§ 335.503(a)(1), 335.504, and 335.62, and 40 Code of Federal Regulations ("CFR") § 262.11. Specifically, hazardous waste determinations and waste classifications were not conducted for the spent fixer, spent developer, spent photo flo, spent stop bath, and rinse water; and
 - c. Failed to submit a written notice to the TCEQ which includes the type(s) of ISW or municipal hazardous waste to be recycled, the method of storage prior to recycling, and the nature of the recycling activity 90 days prior to engaging in such activities, in violation of 30 TEX. ADMIN. CODE § 335.6(h). Specifically, recycling notifications were not submitted for the recycling activity of spent fixer and recovered silver flake.

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 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 actions or penalties for violations which are not raised here.
2. Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Order, begin maintaining records of all ISW activities, in accordance with 30 TEX. ADMIN. CODE § 335.9;
 - b. Within 30 days after the effective date of this Order:
 - i. Conduct waste determinations and waste classifications on all waste streams generated at the Facility, in accordance with 30 TEX. ADMIN. CODE §§ 335.62, 335.503, and 335.504, and 40 CFR § 262.11; and
 - ii. Provide notification which includes an accurate description of recycling activities, in accordance with 30 TEX. ADMIN. CODE § 335.6; and
 - c. Within 90 days after the effective date of this Order, submit written certification and include detailed supporting documentation, including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions Nos. 2.a. through 2.b.ii. The certification 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 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 fine and imprisonment for knowing violations.”

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

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

and:

Waste Section Manager
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1830

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 Facility 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 Enforcement Division 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 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

Erin E. Chanallop
For the Executive Director

4/22/24
Date

PAY TO THE ORDER
OF STATE COMPTROLLER
TCEQ

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
- TCEQ seeking other relief as authorized by law.

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

Emmanuel Schwartz
Signature - Emmanuel Schwartz, President
APPLIED STANDARDS INSPECTION, INC.
4781 Highway 69 South
Beaumont, Texas 77705

3-7-24
Date

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