

Star Container Company Inc.

RN105726475

Docket No. 2019-0679-IHW-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Indifference to legal duty based on violation of a previous order.

Media:

IHW

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

699 Jordan Road, Mason, Mason County (the "Site")

Type of Operation:

plastic regrind facility

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 1, 2022
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Comments Received:	None
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Penalty Information

Total Penalty Assessed:	\$76,500
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Deferred for Financial Inability to Pay:	\$72,900
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Total Paid to General Revenue:	\$100
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Total Due to General Revenue:	\$3,500
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Payment Plan:	35 payments of \$100 each
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Compliance History Classifications:

Person/CN - Satisfactory
Site/RN - Satisfactory

Major Source:	No
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Statutory Limit Adjustment:	None
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Applicable Penalty Policy:	April 2014
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Investigation Information

Complaint Date(s):	September 12, 2018
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<i>Complaint Information:</i>	Complaint alleging unauthorized activities.
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Date(s) of Investigation:	October 15, 2018
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Date(s) of NOV(s):	N/A
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Date(s) of NOE(s):	December 10, 2018
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Star Container Company Inc.

RN105726475

Docket No. 2019-0679-IHW-E

Violation Information

Respondent caused, suffered, allowed, or permitted the unauthorized disposal of industrial solid waste (“ISW”) [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE §§ 335.2 and 335.4, and TCEQ Agreed Order Docket No. 2016-1084-MLM-E, Ordering Provisions Nos. 2.a., 2.b., and 2.c.].

Corrective Actions/Technical Requirements**Corrective Action(s) Completed:**

None

Technical Requirements:

1. Immediately:
 - a. Cease accepting, storing, processing, or disposing of additional unauthorized ISW at the Site. For the purpose of these Technical Requirements, “ISW” includes material that is discharged, spilled, leaked, or otherwise disposed of at the Site (whether or not containerized) and that cannot be shown to be recycled, including by one of the methods listed under 30 TEX. ADMIN. CODE § 335.1(154)(F) or (H); and
 - b. Cease accepting potentially recyclable material at the Site until: 90 days after written notification is submitted to the TCEQ in accordance with Technical Requirement No. 4.a., or upon the TCEQ’s acknowledgment of such notification; or until all such material accumulated at the Site is properly disposed of at an authorized facility in accordance with Technical Requirement No. 5.a. For the purpose of these Technical Requirements, “potentially recyclable material” includes material accumulated at the Site that can be shown to be recycled, including by one of the methods listed under 30 TEX. ADMIN. CODE §335.1(154)(F) or (H).
2. Within 30 days, develop and implement procedures to prevent any material, including ISW and potentially recyclable material, from being discharged, spilled, leaked, or otherwise disposed of without authorization as a result of operations at the Site.
3. Within 45 days, submit written certification to demonstrate compliance with Technical Requirements Nos. 1.a., 1.b., and 2.
4. Storing potentially recyclable material.
 - a. Within 30 days, provide written notification of the Site’s recycling activities by submitting a complete and accurate Notification Form for Receiving and Recycling Hazardous or Industrial Waste (Form TCEQ-0524). If a complete and accurate notification is not submitted to the TCEQ, all potentially recyclable material at the Site will be considered ISW that shall be properly disposed of in accordance with Technical Requirement No. 5.a.;
 - b. Within 45 days, begin placing all potentially recyclable material accumulated at the Site in one or more storage units. The storage units must be in good condition, with no leaks, and attached with labels indicating the effective date of the Order. If placing a label on a storage unit is not practicable, the accumulation period shall be documented through an inventory log for that storage unit;
 - c. Within 365 days, complete placing all potentially recyclable material accumulated at the Site in one or more storage units. If any potentially recyclable material is not placed in a storage unit within 365 days, such material will be considered ISW that shall be properly disposed of in accordance with Technical Requirement No. 5.a.; and
 - d. Within 380 days, submit written certification to demonstrate compliance with Technical Requirements Nos. 4.a. through 4.c.

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5. Properly disposing of ISW.

- a. Within 770 days, remove all ISW from the Site and dispose of it at an authorized facility. The following potentially recyclable material will be considered ISW that shall be removed and properly disposed of within 770 days:
 - i. All potentially recyclable material at the Site, if a complete and accurate notification of the Site's recycling activities is not submitted to the TCEQ in accordance with Technical Requirement No. 4.a.; and
 - ii. Any potentially recyclable material that is not timely placed in a storage unit in accordance with Technical Requirements Nos. 4.b. and 4.c.;
- b. Within 900 days, remove all soil contaminated with polyethylene, carbon material, talc, or other ISW at the Site, and dispose of it at an authorized facility; and
- c. Within 915 days, submit written certification to demonstrate compliance with Technical Requirements Nos. 5.a. and 5.b.

6. Recycling potentially recyclable material. If a complete and accurate notification of the Site's recycling activities is submitted to the TCEQ in accordance with Technical Requirement No. 4.a., the following requirements apply:

- a. Ensure that, within 570 days, at least 75% (by weight or volume) of the potentially recyclable material accumulated at the Site as of the effective date of this Order is recycled, in accordance with 30 TEX. ADMIN. CODE § 335.17(a)(8). In calculating the percentage of turnover, the 75% requirement is to be applied to each material of the same type that is recycled in the same way;
- b. If less than 75% (by weight or volume) of potentially recyclable material of the same type is timely recycled in accordance with Technical Requirement No. 6.a., all material of that type accumulated at the Site as of the effective date of this Order will be considered ISW and shall be removed from the Site and disposed of at an authorized facility within 700 days; and
- c. Within 715 days, submit written certification to demonstrate compliance with Technical Requirements Nos. 6.a. and 6.b.

7. Determining TRRP applicability and potential response actions.

- a. Within 360 days, conduct an investigation to determine whether response actions at the Site are necessary under the Texas Risk Reduction Program ("TRRP"), 30 TEX. ADMIN. CODE ch. 350, and submit the investigation results;
- b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the investigation results within 15 days after the date of such requests or by any other deadline specified in writing by the TCEQ;
- c. If the TCEQ determines that response actions pursuant to 30 TEX. ADMIN. CODE ch. 350 are necessary, submit, by the deadline prescribed by the TCEQ, an Affected Property Assessment Report ("APAR");
- d. If the TCEQ determines that the APAR indicates that additional response actions are necessary:
 - i. Comply with all applicable requirements of TRRP by the deadline prescribed by the TCEQ, which may include: plans, reports, and notices under Subchapter E (30 TEX. ADMIN. CODE §§ 350.92 to 350.96); financial assurance (30 TEX. ADMIN. CODE § 350.33(l)); and institutional controls under Subchapter F (30 TEX. ADMIN. CODE § 350.111);
 - ii. Perform the necessary response actions in accordance with all approved plans and/or schedules as directed by the TCEQ; and
 - iii. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the APAR and any response actions within 15 days after the date of such requests or by any other deadline specified in writing by the TCEQ; and

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- e. Within 15 days after the completion of Technical Requirements Nos. 7.c. and 7.d., if applicable, submit written certification to demonstrate compliance with Technical Requirements Nos. 7.c. and 7.d.

Litigation Information

Date Petition(s) Filed: December 2, 2019
Date Answer(s) Filed: December 18, 2019
SOAH Referral Date: March 4, 2020
Hearing Date(s):
Preliminary hearing: June 4, 2020
Settlement Date: February 17, 2022

Contact Information

TCEQ Attorneys: Clayton Smith, Litigation Division, (512) 239-3400
Garrett Arthur, Public Interest Counsel, (512) 239-6363
TCEQ Litigation Agenda Coordinator: Katherine McKenzie, Litigation Division, (512) 239-2575
TCEQ Enforcement Coordinator: Berenice Munoz, Enforcement, (915) 834-4976
TCEQ Regional Contact: Christopher Mayben, San Angelo Regional Office, (325) 659-6704
Respondent Contact: Stuart Jordan, Operations Manager, Star Container Company Inc., 699 Jordan Road, Mason, Texas 76856
Respondent's Attorney: Roger B. Borgelt, Borgelt Law, 614 South Capital of Texas Highway, Austin, Texas 78746



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	17-Dec-2018	Screening	15-Jan-2019	EPA Due	
	PCW	16-Apr-2019				

RESPONDENT/FACILITY INFORMATION	
Respondent	Star Container Company Inc.
Reg. Ent. Ref. No.	RN105726475
Facility/Site Region	8-San Angelo
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	52707	No. of Violations	1
Docket No.	2019-0679-IHW-E	Order Type	Findings
Media Program(s)	Industrial and Hazardous Waste	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Berenice Munoz
		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	\$63,750
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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	20.0% Adjustment	Subtotals 2, 3, & 7	\$12,750
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Notes	Enhancement for one Agreed Order containing a denial of liability.
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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	\$502	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$10,100	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$76,500
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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	\$76,500
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$76,500
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DEFERRAL	0.0% Reduction Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes	No deferral is recommended for Findings Orders.
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PAYABLE PENALTY	\$76,500
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Screening Date 15-Jan-2019

Docket No. 2019-0679-IHW-E

PCW

Respondent Star Container Company Inc.

Case ID No. 52707

Policy Revision 4 (April 2014)

Reg. Ent. Reference No. RN105726475

PCW Revision March 26, 2014

Media Industrial and Hazardous Waste

Enf. Coordinator Berenice Munoz

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>)	1	20%
	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) 20%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one Agreed Order containing a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 20%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 20%

Screening Date 15-Jan-2019
Respondent Star Container Company Inc.
Case ID No. 52707
Reg. Ent. Reference No. RN105726475
Media Industrial and Hazardous Waste
Enf. Coordinator Berenice Munoz

Docket No. 2019-0679-IHW-E

PCW

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

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 335.2 and 335.4, Tex. Water Code § 26.121(a)(1), and TCEQ Agreed Order Docket No. 2016-1084-MLM-E, Provision Nos. 2.a, 2.b, and 2.c

Violation Description
 The Respondent caused, suffered, allowed, or permitted the unauthorized disposal of industrial solid waste ("ISW"). Specifically discharges of polyethylene, carbon material, talc, and associated ruptured containers, were noted in the storage and processing areas; discolored water was noted in the stormwater retention pond, as well as in a stormwater conveyance that channels surface water from storage areas to an off-site area east of the Site, where water discoloration and polyethylene pellets were also present; and additional discharges associated with an unauthorized burn area consisted of discolored soil and incompletely combusted waste items including, but not limited to, nails, etc. were observed at the Site.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

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

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 17 510 Number of violation days

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$63,750

17 monthly events are recommended from the August 23, 2017 effective date of the Commission Agreed Order Docket No. 2016-1084-MLM-E to the January 15, 2019 screening date.

Good Faith Efforts to Comply

0.0%
 Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Reduction \$0

Extraordinary		
Ordinary		
N/A	X	

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

Violation Subtotal \$63,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$502

Violation Final Penalty Total \$76,500

This violation Final Assessed Penalty (adjusted for limits) \$76,500

Economic Benefit Worksheet

Respondent Star Container Company Inc.
Case ID No. 52707
Reg. Ent. Reference No. RN105726475
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				0.00	\$0	n/a	\$0
Training/Sampling	\$100	15-Oct-2018	13-Oct-2019	0.99	\$5	n/a	\$5
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	15-Oct-2018	13-Oct-2019	0.99	\$497	n/a	\$497

Notes for DELAYED costs

Estimated delayed cost to develop and implement procedures to prevent any future discharges of unauthorized ISW from operations at the Site (\$100), and to submit a report demonstrating the applicability of Texas Risk Reduction Program ("TRRP") to the Executive Director, and to comply with all applicable requirements of TRRP (\$10,000). The Dates Required are the investigation date and the Final Dates are 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

\$10,100

TOTAL

\$502

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 CN604941799, RN105726475, Rating Year 2018 which includes Compliance History (CH) components from September 1, 2013, through August 31, 2018.

Customer, Respondent, or Owner/Operator: CN604941799, Star Container Company Inc. **Classification:** SATISFACTORY **Rating:** 35.75

Regulated Entity: RN105726475, Star Container **Classification:** SATISFACTORY **Rating:** 35.75

Complexity Points: 3 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 699 Jordan Road, Mason, Mason County, Texas 76856-3608

TCEQ Region: REGION 08 - SAN ANGELO

ID Number(s):

AIR QUALITY NON PERMITTED ID NUMBER
R08105726475

AIR NEW SOURCE PERMITS REGISTRATION 141101

STORMWATER PERMIT TXR05CS80

MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER
R08105726475

Compliance History Period: September 01, 2013 to August 31, 2018 **Rating Year:** 2018 **Rating Date:** 09/01/2018

Date Compliance History Report Prepared: December 25, 2018

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: December 25, 2013 to December 25, 2018

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

Name: Berenice Munoz

Phone: (915) 834-4976

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO

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

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

1 Effective Date: 08/23/2017 ADMINORDER 2016-1084-MLM-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
30 TAC Chapter 335, SubChapter A 335.4

Description: Caused, suffered, allowed, or permitted the unauthorized disposal of ISW at the Facility.

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter C 335.62
30 TAC Chapter 335, SubChapter R 335.503
30 TAC Chapter 335, SubChapter R 335.504
40 CFR Chapter 262, SubChapter I, PT 262, SubPT A 262.11

Description: Failure to conduct hazardous waste determinations and waste classifications.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)
5C THSC Chapter 382 382.0518(a)
5C THSC Chapter 382 382.085(b)

Description: Failure to obtain authorization to construct and operate a source of air emissions.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1 May 10, 2017 (1409896)

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

Component Appendices

Appendix A

All NOVs Issued During Component Period 12/25/2013 and 12/25/2018

1	Date:	11/09/2015	(1287233)	Classification:	Moderate
	Self Report?	NO	For Informational Purposes Only		
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)(1) 30 TAC Chapter 335, SubChapter A 335.4			
	Description:	Caused, suffered, allowed, or permitted the unauthorized disposal of ISW at the Facility.			
				Classification:	Moderate
	Self Report?	NO	For Informational Purposes Only		
	Citation:	30 TAC Chapter 111, SubChapter B 111.201 5C THSC Chapter 382 382.085(b)			
	Description:	Failure to comply with the general prohibitions regarding outdoor burning.			
				Classification:	Moderate
	Self Report?	NO	For Informational Purposes Only		
	Citation:	30 TAC Chapter 335, SubChapter C 335.62 30 TAC Chapter 335, SubChapter R 335.503 30 TAC Chapter 335, SubChapter R 335.504 40 CFR Chapter 262, SubChapter I, PT 262, SubPT A 262.11			
	Description:	Failure to conduct hazardous waste determinations and waste classifications.			
				Classification:	Moderate
	Self Report?	NO	For Informational Purposes Only		
	Citation:	30 TAC Chapter 116, SubChapter B 116.110(a)			

5C THSC Chapter 382 382.0518(a)
5C THSC Chapter 382 382.085(b)
Description: Failure to obtain authorization to construct and operate a source of air emissions.

2* Date: 11/28/2017 (1448824) Classification: Moderate

Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 111, SubChapter B 111.201
5C THSC Chapter 382 382.085(b)
Description: Failure to comply with General Prohibition requirements concerning outdoor burning.

Classification: Moderate
Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 330, SubChapter A 330.15(a)
30 TAC Chapter 330, SubChapter A 330.15(c)
Description: Failure to comply with General Prohibition requirements concerning municipal solid waste.

* NOVs applicable for the Compliance History rating period 9/1/2013 to 8/31/2018

Appendix B

All Investigations Conducted During Component Period December 25, 2013 and December 25, 2018

(1313983)
Item 1 February 26, 2016** For Informational Purposes Only
(1336889)
Item 2 June 09, 2016** For Informational Purposes Only
(1409896)
Item 3* May 10, 2017** For Informational Purposes Only
(1467190)
Item 4 February 12, 2018** For Informational Purposes Only
(1477734)
Item 5 March 21, 2018** For Informational Purposes Only

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2013 and 08/31/2018.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN ENFORCEMENT
ACTION CONCERNING
STAR CONTAINER COMPANY INC.;
RN105726475

§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER

DOCKET NO. 2019-0679-IHW-E

On _____, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Star Container Company Inc. ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, represented by Roger B. Borgelt of the law firm Borgelt Law, presented this Order to the Commission.

Respondent understands that it has certain procedural rights at certain points in the enforcement process, including the right to formal notice of violations, to request an evidentiary hearing, receive notice of an evidentiary hearing, and a right to appeal. By entering into this Order, Respondent agrees to waive all notice and procedural rights which might otherwise be authorized or required in this action.

It is further understood and agreed that 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. The duties and responsibilities imposed by this Order are binding upon Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Respondent owns and operates a plastic regrind facility located at 699 Jordan Road in Mason, Mason County, Texas (the "Site"). The Site contains and/or involves the management of industrial solid waste ("ISW"), as defined in TEX. HEALTH & SAFETY CODE ch. 361. Additionally, the Site is near or adjacent to water in the state, as defined in TEX. WATER CODE § 26.001(5).
2. Following an investigation conducted on October 15, 2018, TCEQ staff determined that Respondent caused, suffered, allowed, or permitted the unauthorized disposal of ISW. Specifically, TCEQ staff observed: discharges of polyethylene, carbon material, talc, and associated ruptured containers in the Site's storage and processing areas; discolored water in the Site's stormwater retention pond, as well as in a stormwater conveyance that channels surface water from the Site's storage areas to an off-site area east of the Site, where water discoloration and polyethylene pellets were also present; and additional discharges associated with an unauthorized burn area at the Site that consisted of discolored soil and incompletely combusted waste items, including nails.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 361, TEX. WATER CODE ch. 26, and the rules of the TCEQ.

2. As evidenced by Finding of Fact No. 2, Respondent caused, suffered, allowed, or permitted the unauthorized disposal of ISW, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE §§ 335.2 and 335.4, and TCEQ Agreed Order Docket No. 2016-1084-MLM-E, Ordering Provisions Nos. 2.a., 2.b., and 2.c.
3. Pursuant to TEX. WATER CODE § 7.051, TCEQ has the authority to assess an administrative penalty against Respondent for violations of state statutes within TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of seventy-six thousand five hundred dollars (\$76,500.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Revenue Operations Section of TCEQ's Financial Administration Division reviewed the financial documentation submitted by Respondent and determined that Respondent is unable to pay all or part of the penalty. Therefore, seventy-two thousand nine hundred dollars (\$72,900.00) of the penalty is deferred contingent upon Respondent's timely and satisfactory compliance with all the terms of this Order and shall be waived only upon full compliance with all the terms and conditions contained in this Order.

Respondent paid one hundred dollars (\$100.00) of the three-thousand-six-hundred-dollar (\$3,600.00) undeferred penalty. The remaining amount of three thousand five hundred dollars (\$3,500.00) of the undeferred penalty shall be paid in thirty-five (35) monthly payments of one hundred dollars (\$100.00) 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 and conditions of this Order and the Executive Director may demand payment of all or part of the deferred penalty amount.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty as set forth in Conclusion of Law No. 4 for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondent's compliance with all requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions 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: Star Container Company Inc., Docket No. 2019-0679-IHW-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. ISW. Cease accepting, storing, processing, or disposing of additional unauthorized ISW at the Site. For the purpose of these Ordering Provisions, "ISW" includes material that is discharged, spilled, leaked, or otherwise disposed of at the Site (whether or not containerized) and that cannot be shown to be recycled, including by one of the methods listed under 30 TEX. ADMIN. CODE § 335.1(154)(F) or (H); and
- ii. Potentially recyclable material. Cease accepting potentially recyclable material at the Site until: 90 days after written notification is submitted to the TCEQ in accordance with Ordering Provision No. 2.d.i., or upon the TCEQ's acknowledgment of such notification; or until all such material accumulated at the Site is properly disposed of at an authorized facility in accordance with Ordering Provision No. 2.e.i. For the purpose of these Ordering Provisions, "potentially recyclable material" includes material accumulated at the Site that can be shown to be recycled, including by one of the methods listed under 30 TEX. ADMIN. CODE § 335.1(154)(F) or (H).
- b. Within 30 days after the effective date of this Order, develop and implement procedures to prevent any material, including ISW and potentially recyclable material, from being discharged, spilled, leaked, or otherwise disposed of without authorization as a result of operations at the Site.
- 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., 2.a.ii., and 2.b.
- d. Storing potentially recyclable material.

- i. Within 30 days after the effective date of this Order, provide written notification of the Site's recycling activities, in accordance with 30 TEX. ADMIN. CODE § 335.6, by submitting a complete and accurate Notification Form for Receiving and Recycling Hazardous or Industrial Waste (Form TCEQ-0524), to:

Industrial and Hazardous Waste Permits Division
Waste Permits Section, MC 130
P.O. Box 13087
Austin, Texas 78711-3087

If a complete and accurate notification is not submitted to the TCEQ, all potentially recyclable material at the Site will be considered ISW that shall be properly disposed of in accordance with Ordering Provision No. 2.e.i.;

- ii. Within 45 days after the effective date of this Order, begin placing all potentially recyclable material accumulated at the Site in one or more storage units, in accordance with 30 TEX. ADMIN. CODE § 335.17(a)(8). The storage units must be in good condition, with no leaks, and attached with labels indicating the effective date of this Order. If placing a label on a storage unit is not practicable, the accumulation period shall be documented through an inventory log for that storage unit;
- iii. Within 365 days after the effective date of this Order, complete placing all potentially recyclable material accumulated at the Site in one or more storage units. If any potentially recyclable material is not placed in a storage unit within 365 days after the effective date of this Order, such material will be considered ISW that shall be properly disposed of in accordance with Ordering Provision No. 2.e.i.; and

- iv. 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 Provisions Nos. 2.d.i. through 2.d.iii.
- e. Properly disposing of ISW.
 - i. Within 770 days after the effective date of this Order, remove all ISW from the Site and dispose of it at an authorized facility. The following potentially recyclable material will be considered ISW that shall be removed and properly disposed of within 770 days after the effective date of this Order:
 - A. All potentially recyclable material at the Site, if a complete and accurate notification of the Site's recycling activities is not submitted to the TCEQ in accordance with Ordering Provision No. 2.d.i.; and
 - B. Any potentially recyclable material that is not timely placed in a storage unit in accordance with Ordering Provisions Nos. 2.d.ii. and 2.d.iii.;
 - ii. Within 900 days after the effective date of this Order, remove all soil contaminated with polyethylene, carbon material, talc, or other ISW at the Site, and dispose of it at an authorized facility; and
 - iii. Within 915 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.e.i. and 2.e.ii.
- f. Recycling potentially recyclable material. If a complete and accurate notification of the Site's recycling activities is submitted to the TCEQ in accordance with Ordering Provision No. 2.d.i., the following requirements apply:
 - i. Ensure that, within 570 days after the effective date of this Order, at least 75% (by weight or volume) of the potentially recyclable material accumulated at the Site as of the effective date of this Order is recycled, in accordance with 30 TEX. ADMIN. CODE § 335.17(a)(8). In calculating the percentage of turnover, the 75% requirement is to be applied to each material of the same type that is recycled in the same way;
 - ii. If less than 75% (by weight or volume) of potentially recyclable material of the same type is timely recycled in accordance with Ordering Provision No. 2.f.i., all material of that type accumulated at the Site as of the effective date of this Order will be considered ISW and shall be removed from the Site and disposed of at an authorized facility within 700 days after the effective date of this Order; and
 - iii. Within 715 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.f.i. and 2.f.ii.
- g. Determining TRRP applicability and potential response actions.
 - i. Within 360 days after the effective date of this Order, conduct an investigation to determine whether response actions at the Site are necessary under the Texas Risk Reduction Program ("TRRP"), 30 TEX. ADMIN. CODE ch. 350, and submit the investigation results to the Order Compliance Team at the address listed below in Ordering Provision No. 2.h. The investigation results shall be accompanied by detailed supporting

- documentation, including photographs, receipts, and/or other records, shall be signed by Respondent, and shall include the certification language found in Ordering Provision No. 2.h.;
- ii. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the investigation results within 15 days after the date of such requests or by any other deadline specified in writing by the TCEQ;
 - iii. If the TCEQ determines that response actions pursuant to 30 TEX. ADMIN. CODE ch. 350 are necessary, Respondent shall submit, by the deadline prescribed by the TCEQ, an Affected Property Assessment Report ("APAR"), pursuant to 30 TEX. ADMIN. CODE § 350.91, to the Order Compliance Team at the address listed below in Ordering Provision No. 2.h. and to any additional addresses as directed by the TCEQ;
 - iv. If the TCEQ determines that the APAR indicates that additional response actions are necessary, the Respondent shall:
 - A. Comply with all applicable requirements of TRRP by the deadline prescribed by the TCEQ, which may include: plans, reports, and notices under Subchapter E (30 TEX. ADMIN. CODE §§ 350.92 to 350.96); financial assurance (30 TEX. ADMIN. CODE § 350.33(l)); and institutional controls under Subchapter F (30 TEX. ADMIN. CODE § 350.111);
 - B. Perform the necessary response actions in accordance with all approved plans and/or schedules as directed by the TCEQ; and
 - C. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the APAR and any response actions within 15 days after the date of such requests or by any other deadline specified in writing by the TCEQ; and
 - v. Within 15 days after the completion of Ordering Provisions Nos. 2.g.iii. and 2.g.iv., if applicable, submit written certification, in accordance with Ordering Provision No. 2.h, to demonstrate compliance with Ordering Provisions Nos. 2.g.iii. and 2.g.iv.
- 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 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:

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

and:

Waste Section Manager
San Angelo Regional Office
Texas Commission on Environmental Quality
622 South Oakes, Suite K
San Angelo, Texas 76903-7035

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 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 Office of the Attorney General of the State of Texas ("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 TCEQ under such a statute. The Executive Director may, without further notice or hearing, refer this matter to the OAG for further enforcement proceedings if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
8. 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.
9. 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.
10. 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.

11. 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. Chamallop

04/18/22

For the Executive Director

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
- TCEQ seeking other relief as authorized by law.

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

Stuart A. Jordan
Signature - ~~Susan G. Jordan, President~~
Star Container Company Inc. *Signed by POA*
699 Jordan Road
Mason, Texas 76856

02/17/2022
Date

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