

Executive Summary – Enforcement Matter – Case No. 61323
Wabtec Manufacturing Solutions, LLC
RN106278385
Docket No. 2021-1205-IHW-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

IHW

Small Business:

No

Location(s) Where Violation(s) Occurred:

Wabtec Manufacturing Solutions, 16201 Three Wide Drive, Fort Worth, Denton County

Type of Operation:

Locomotive and off-highway vehicle components manufacturing facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

Texas Register Publication Date: March 25, 2022

Comments Received: No

Penalty Information

Total Penalty Assessed: \$11,250

Amount Deferred for Expedited Settlement: \$2,250

Total Paid to General Revenue: \$9,000

Total Due to General Revenue: \$0

Payment Plan: N/A

Compliance History Classifications:

Person/CN - Unclassified

Site/RN - Unclassified

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: January 2021

Investigation Information

Complaint Date(s): March 24, 2021

Complaint Information: Alleged that the Respondent was utilizing an unauthorized facility to process/dispose of industrial class 1 waste.

Date(s) of Investigation: April 21, 2021 through April 26, 2021

Date(s) of NOE(s): August 27, 2021

**Executive Summary – Enforcement Matter – Case No. 61323
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RN106278385
Docket No. 2021-1205-IHW-E**

Violation Information

Caused, suffered, allowed, or permitted the disposal of industrial solid waste (“ISW”) at an unauthorized facility. Specifically, the Respondent sent approximately 18,300 gallons total of ISW consisting of industrial Class I waste to Valicor Environmental Services, LLC located at 400 Della Drive, Hutchins, Dallas County, Texas on March 4, 2021, April 13, 2021, April 15, 2021, and April 29, 2021, which was not authorized to process or treat industrial Class I waste [30 TEX. ADMIN. CODE § 335.4].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent developed and implemented procedures designed to ensure that any ISW generated at the Facility is transported and disposed of only at authorized facilities on August 19, 2021.

Technical Requirements:

N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Karolyn Kent, Enforcement Division, Enforcement Team 6, MC 219, (512) 239-2536; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: Michael Bratt, Executive Plant Manager, Wabtec Manufacturing Solutions, LLC, 16201 Three Wide Drive, Fort Worth, Texas 76177-2161

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	30-Aug-2021	Screening	9-Sep-2021	EPA Due	
	PCW	13-Sep-2021				

RESPONDENT/FACILITY INFORMATION	
Respondent	Wabtec Manufacturing Solutions, LLC
Reg. Ent. Ref. No.	RN106278385
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	61323	No. of Violations	1
Docket No.	2021-1205-IHW-E	Order Type	1660
Media Program(s)	Industrial and Hazardous Waste	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Karolyn Kent
		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	\$15,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	0.0%	Adjustment	Subtotals 2, 3, & 7	\$0
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Notes: No adjustment for compliance history.

Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$3,750
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$2
 Estimated Cost of Compliance: \$100
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$11,250
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$11,250
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$11,250
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DEFERRAL	20.0%	Reduction	Adjustment	-\$2,250
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$9,000
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Screening Date 9-Sep-2021

Docket No. 2021-1205-IHW-E

PCW

Respondent Wabtec Manufacturing Solutions, LLC

Policy Revision 5 (January 28, 2021)

Case ID No. 61323

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN106278385

Media Industrial and Hazardous Waste

Enf. Coordinator Karolyn Kent

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

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

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Unclassified

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment for compliance history.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date 9-Sep-2021 **Docket No.** 2021-1205-IHW-E **PCW**
Respondent Wabtec Manufacturing Solutions, LLC *Policy Revision 5 (January 28, 2021)*
Case ID No. 61323 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN106278385
Media Industrial and Hazardous Waste
Enf. Coordinator Karolyn Kent

Violation Number 1
Rule Cite(s) 30 Tex. Admin. Code § 335.4
Violation Description Caused, suffered, allowed, or permitted the disposal of industrial solid waste ("ISW") at an unauthorized facility. Specifically, the Respondent sent approximately 18,300 gallons total of ISW consisting of industrial Class I waste to Valicor Environmental Services, LLC located at 400 Della Drive, Hutchins, Dallas County, Texas on March 4, 2021, April 13, 2021, April 15, 2021, and April 29, 2021, which was not authorized to process or treat industrial Class I 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 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 4 4 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$15,000

Four single events are recommended (one single event for each day with documented unauthorized shipments).

Good Faith Efforts to Comply 25.0% Reduction \$3,750

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

Notes The Respondent developed and implemented procedures designed to ensure that any ISW generated at the Facility is transported and disposed of only at authorized facilities on August 19, 2021, before the August 27, 2021 Notice of Enforcement.

Violation Subtotal \$11,250

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

Estimated EB Amount \$2 **Violation Final Penalty Total** \$11,250

This violation Final Assessed Penalty (adjusted for limits) \$11,250

Economic Benefit Worksheet

Respondent Wabtec Manufacturing Solutions, LLC
Case ID No. 61323
Reg. Ent. Reference No. RN106278385
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	4-Mar-2021	19-Aug-2021	0.46	\$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 delayed cost to develop and implement procedures to ensure that any ISW generated at the Facility is transported and disposed of only at authorized facilities. 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

The TCEQ is committed to accessibility.

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



Compliance History Report

Compliance History Report for CN604027466, RN106278385, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

Customer, Respondent, or Owner/Operator: CN604027466, Wabtec Manufacturing Solutions, LLC **Classification:** UNCLASSIFIED **Rating:** -----

Regulated Entity: RN106278385, Wabtec Manufacturing Solutions **Classification:** UNCLASSIFIED **Rating:** -----

Complexity Points: 9 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 16201 Three Wide Drive, Fort Worth, Denton County, Texas 76177-2161

TCEQ Region: REGION 04 - DFW METROPLEX

ID Number(s):

AIR NEW SOURCE PERMITS PERMIT 101386	AIR NEW SOURCE PERMITS AFS NUM 4812101738
PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 85135	STORMWATER PERMIT TXR05BP87
AIR EMISSIONS INVENTORY ACCOUNT NUMBER DFA233Y	POLLUTION PREVENTION PLANNING ID NUMBER P08889
INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 91601	INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXR000081315

Compliance History Period: September 01, 2016 to August 31, 2021 **Rating Year:** 2021 **Rating Date:** 09/01/2021

Date Compliance History Report Prepared: September 15, 2021

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: September 15, 2016 to September 15, 2021

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

Name: Karolyn Kent	Phone: (512) 239-2536
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Site and Owner/Operator History:

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

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

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

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

N/A

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

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

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
WABTEC MANUFACTURING
SOLUTIONS, LLC
RN106278385**

§
§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2021-1205-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 Wabtec Manufacturing Solutions, 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 a locomotive and off-highway vehicle components manufacturing facility located at 16201 Three Wide Drive in Fort Worth, Denton County, Texas (the "Facility"). The Facility 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 \$11,250 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$9,000 of the penalty and \$2,250 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 any ISW generated at the Facility is transported and disposed of only at authorized facilities on August 19, 2021.

II. ALLEGATIONS

During an investigation conducted on April 21 through 26, 2021, 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 § 335.4. Specifically, the Respondent sent approximately 18,300 gallons total of ISW consisting of industrial Class I waste to Valicor Environmental Services, LLC located at 400 Della Drive, Hutchins, Dallas County, Texas on March 4, 2021, April 13, 2021, April 15, 2021, and April 29, 2021, which was not authorized to process or treat industrial Class I 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: Wabtec Manufacturing Solutions, LLC, Docket No. 2021-1205-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 Facility 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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



For the Executive Director

6/27/2022

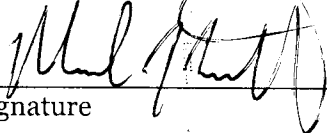
Date

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

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

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

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



Signature

2/8/22
Date

Michael J. Brett
Name (Printed or typed)
Authorized Representative of
Wabtec Manufacturing Solutions, LLC

Executive Plant Manager
Title

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

Instructions: Send the original, signed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Ordering Provision 1 of this Order.