

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 61646
 PREMIUM CUTS LAWN SERVICE AND MAINTENANCE, INC.
 RN104525662
 DOCKET No. 2022-0019-MSW-E

Order Type:
 Agreed Order

Media:
 MSW; Used Oil

Small Business:
 Yes

Location(s) Where Violation(s) Occurred:
 5411 Gregg Lane, Manor, Travis County

Type of Operation:
 landscaping and unauthorized municipal solid waste ("MSW") recycling 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: May 24, 2024

Comments Received: None

Penalty Information

Total Penalty Assessed: \$30,343
Total Paid to General Revenue: \$2,335
Total Due to General Revenue: \$28,008

Payment Plan: 12 payments of \$2,334 each

Compliance History Classifications:
 Person/CN - Not Applicable
 Site/RN - Not Applicable

Major Source: No
Statutory Limit Adjustment: None
Applicable Penalty Policy: January 28, 2021

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: August 6, 2021
Date(s) of NOV(s): N/A
Date(s) of NOE(s): October 8, 2021

**EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 61646
PREMIUM CUTS LAWN SERVICE AND MAINTENANCE, INC.
RN104525662
DOCKET No. 2022-0019-MSW-E**

Violation Information

1. Failed to submit a notice of intent ("NOI") to operate an MSW recycling facility at least 90 days prior to the commencement of recycling activities at the Facility [30 TEX. ADMIN. CODE § 328.5(b)].
2. Failed to establish and maintain financial assurance for closure of the Facility that stores combustible materials outdoors [30 TEX. ADMIN. CODE §§ 328.5(d) and 37.921(a)].
3. Failed to have a fire prevention and suppression plan and make it available to the local fire prevention authority [30 TEX. ADMIN. CODE § 328.5(h)].
4. Caused, suffered, allowed, or permitted the unauthorized disposal of MSW [30 TEX. ADMIN. CODE § 330.15(c)].
5. Failed to clean up and properly manage a release of used oil to the environment [30 TEX. ADMIN. CODE § 324.15 and 40 C. F.R. § 279.22(d)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

None

Technical Requirements:

1. Immediately cease accepting and processing additional recyclable materials at the Facility until such time that all requirements of an NOI are approved.
2. Within 30 days:
 - a. Submit an NOI to operate a recycling facility;
 - b. Submit documentation that demonstrates acceptable financial assurance for the closure of the facility;
 - c. Develop and submit a fire prevention and suppression plan to the local fire prevention authority; and
 - d. Remove the used oil contamination from the facility using appropriate measures, and dispose of it at an authorized facility.
3. In lieu of 2.a., 2.b., and 2.c., within 30 days remove all accumulated combustible MSW from the Facility and dispose of it at an authorized facility.
4. Within 60 days remove all MSW including but not limited to all metal and plastic 55-gallon drum waste containers and one 275-gallon tote from the Facility and dispose of it at an authorized facility.
5. Within 75 days submit written certification to demonstrate compliance with Technical Requirements 1, 2.a. through 2.d. and 4. or 1, 2.d., 3 and 4.

Litigation Information

| | |
|--------------------------------|------------------------------|
| Date Petition(s) Filed: | March 21, 2023; May 11, 2023 |
| Date(s) of Service: | unclaimed; unclaimed |
| Date Answer(s) Filed: | September 12, 2023 |
| SOAH Referral Date: | February 14, 2024; |
| Settlement Date: | April 25, 2024 |

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 61646
PREMIUM CUTS LAWN SERVICE AND MAINTENANCE, INC.
RN104525662
DOCKET NO. 2022-0019-MSW-E

Contact Information

TCEQ Attorneys: Misty James, 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: Ken Moller, Enforcement Division, (512) 239-6111

TCEQ Regional Contact: Elijah Gandee, Austin Regional Office, (512) 339-2929

Respondent Contact: Jorge Gonzalez, President, PREMIUM CUTS LAWN SERVICE AND MAINTENANCE,
INC., 5411 Gregg Lane, Manor, Texas 78653

Respondent's Attorney: N/A

THIS PAGE INTENTIONALLY LEFT BLANK



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

| | | | | | | |
|--------------|-----------------|-------------|------------------|-------------|----------------|--|
| DATES | Assigned | 11-Oct-2021 | Screening | 20-Nov-2021 | EPA Due | |
| | PCW | 3-Jan-2022 | | | | |

| | |
|--|---|
| RESPONDENT/FACILITY INFORMATION | |
| Respondent | PREMIUM CUTS LAWN SERVICE AND MAINTENANCE, INC. |
| Reg. Ent. Ref. No. | RN104525662 |
| Facility/Site Region | 11-Austin |
| Major/Minor Source | Minor |

| | | | |
|--|-----------------------|------------------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 61646 | No. of Violations | 4 |
| Docket No. | 2022-0019-MSW-E | Order Type | 1660 |
| Media Program(s) | Municipal Solid Waste | Government/Non-Profit | No |
| Multi-Media | | Enf. Coordinator | Ken Moller |
| | | 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 | \$27,500 |
|---|-------------------|----------|

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

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

Notes: No adjustment for compliance history.

| | | | | | |
|--------------------|----|------|-------------|-------------------|-----|
| Culpability | No | 0.0% | Enhancement | Subtotal 4 | \$0 |
|--------------------|----|------|-------------|-------------------|-----|

Notes: The Respondent does not meet the culpability criteria.

| | | |
|--|-------------------|-----|
| Good Faith Effort to Comply Total Adjustments | Subtotal 5 | \$0 |
|--|-------------------|-----|

| | | | | |
|-------------------------|------|--------------|-------------------|-----|
| Economic Benefit | 0.0% | Enhancement* | Subtotal 6 | \$0 |
|-------------------------|------|--------------|-------------------|-----|

Total EB Amounts: \$1,848
 Estimated Cost of Compliance: \$11,359
 *Capped at the Total EB \$ Amount

| | | |
|-----------------------------|-----------------------|----------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$27,500 |
|-----------------------------|-----------------------|----------|

| | | | |
|---|------|------------|---------|
| OTHER FACTORS AS JUSTICE MAY REQUIRE | 4.9% | Adjustment | \$1,343 |
|---|------|------------|---------|

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided cost of compliance associated with Violation No. 2.

| | |
|-----------------------------|----------|
| Final Penalty Amount | \$28,843 |
|-----------------------------|----------|

| | | |
|-----------------------------------|-------------------------------|----------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$28,843 |
|-----------------------------------|-------------------------------|----------|

| | | | | |
|-----------------|------|-----------|------------|-----|
| DEFERRAL | 0.0% | Reduction | Adjustment | \$0 |
|-----------------|------|-----------|------------|-----|

Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral not offered for non-expedited settlement.

| | |
|------------------------|----------|
| PAYABLE PENALTY | \$28,843 |
|------------------------|----------|

| | | | | |
|--------------------------------|---|-------------------|-----------------|---|
| Screening Date | 20-Nov-2021 | Docket No. | 2022-0019-MSW-E | PCW |
| Respondent | PREMIUM CUTS LAWN SERVICE AND MAINTENANCE, INC. | | | <i>Policy Revision 5 (January 28, 2021)</i> |
| Case ID No. | 61646 | | | <i>PCW Revision February 11, 2021</i> |
| Reg. Ent. Reference No. | RN104525662 | | | |
| Media | Municipal Solid Waste | | | |
| Enf. Coordinator | Ken Moller | | | |

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)

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 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 | 20-Nov-2021 | Docket No. | 2022-0019-MSW-E | PCW |
| Respondent | PREMIUM CUTS LAWN SERVICE AND MAINTENANCE, INC. | | | |
| Case ID No. | 61646 | <i>Policy Revision 5 (January 28, 2021)</i> | | |
| Reg. Ent. Reference No. | RN104525662 | <i>PCW Revision February 11, 2021</i> | | |
| Media | Municipal Solid Waste | | | |
| Enf. Coordinator | Ken Moller | | | |
| Violation Number | 1 | | | |
| Rule Cite(s) | 30 Tex. Admin. Code § 328.5(b) | | | |
| Violation Description | Failed to submit a notice of intent ("NOI") to operate a municipal solid waste ("MSW") recycling facility at least 90 days prior to the commencement of recycling activities at the Site. Specifically, the Respondent collected and stored approximately 6,659 cubic yards of combustible wood materials at the Facility for recycling without providing prior notice to the TCEQ. | | | |
| Base Penalty | \$25,000 | | | |

>> Environmental, Property and Human Health Matrix

| | | | | | |
|-----------|----------------|-------|----------|-------|----------------|
| OR | Harm | | | | Percent |
| | Release | Major | Moderate | Minor | |
| | Actual | | | | |
| Potential | | | | | |

>> Programmatic Matrix

| | | | | |
|----------------------|-------|----------|-------|----------------|
| Falsification | Major | Moderate | Minor | Percent |
| | x | | | 10.0% |

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

Adjustment \$22,500

\$2,500

Violation Events

Number of Violation Events: 2 106 Number of violation days

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | |
| quarterly | x |
| semiannual | |
| annual | |
| single event | |

Violation Base Penalty \$5,000

Two quarterly events are recommended from the August 6, 2021 investigation date to the November 20, 2021 screening date.

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 \$5,000

| | |
|--|---------------------------------------|
| Economic Benefit (EB) for this violation | Statutory Limit Test |
| Estimated EB Amount \$251 | Violation Final Penalty Total \$5,244 |
| This violation Final Assessed Penalty (adjusted for limits) \$5,244 | |

Economic Benefit Worksheet

Respondent PREMIUM CUTS LAWN SERVICE AND MAINTENANCE, INC.
Case ID No. 61646
Reg. Ent. Reference No. RN104525662
Media Municipal Solid Waste
Violation No. 1

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Costs Saved | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|-------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|-------------|-----------|

Delayed Costs

| | | | | | | | |
|--------------------------|---------|------------|------------|------|-------|-----|-------|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/Construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | \$5,000 | 6-Aug-2021 | 7-Aug-2022 | 1.00 | \$251 | n/a | \$251 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Estimated cost to submit an NOI to conduct recycling activities. The Date Required is the 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

\$5,000

TOTAL

\$251

| | | | | |
|--------------------------------|--|---------------------|-----------------|--------------------------------------|
| Screening Date | 20-Nov-2021 | Docket No. | 2022-0019-MSW-E | PCW |
| Respondent | PREMIUM CUTS LAWN SERVICE AND MAINTENANCE, INC. | | | |
| Case ID No. | 61646 | | | Policy Revision 5 (January 28, 2021) |
| Reg. Ent. Reference No. | RN104525662 | | | PCW Revision February 11, 2021 |
| Media | Municipal Solid Waste | | | |
| Enf. Coordinator | Ken Moller | | | |
| Violation Number | 2 | | | |
| Rule Cite(s) | 30 Tex. Admin. Code §§ 328.5(d) and 37.921(a) | | | |
| Violation Description | Failed to establish and maintain financial assurance for closure of the Facility that stores combustible materials outdoors. | | | |
| | | Base Penalty | \$25,000 | |

| | | | | | |
|---|---|-------------------|-------------|-------|----------------|
| >> Environmental, Property and Human Health Matrix | | | | | |
| OR | | Release | Harm | | |
| | | Major | Moderate | Minor | |
| | Actual | | | | Percent |
| | Potential | | | | 0.0% |
| >> Programmatic Matrix | | | | | |
| | Falsification | Major | Moderate | Minor | |
| | | x | | | Percent |
| | | | | | 10.0% |
| Matrix Notes | 100% of the rule requirement was not met. | | | | |
| | | Adjustment | \$22,500 | | |
| | | | \$2,500 | | |

| | | | | |
|-------------------------|----------------------------------|-----|--|-------------------------------|
| Violation Events | | | | |
| | Number of Violation Events | 1 | | Number of violation days |
| | | 106 | | |
| | daily | | | |
| | weekly | | | |
| | monthly | | | |
| | quarterly | | | |
| | semiannual | | | |
| | annual | | | |
| | single event | x | | Violation Base Penalty |
| | | | | \$2,500 |
| | 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 | \$2,500 | | |

| | | | |
|---|---------|--|---------|
| Economic Benefit (EB) for this violation | | Statutory Limit Test | |
| Estimated EB Amount | \$1,568 | Violation Final Penalty Total | \$2,622 |
| | | This violation Final Assessed Penalty (adjusted for limits) | \$2,622 |

Economic Benefit Worksheet

Respondent PREMIUM CUTS LAWN SERVICE AND MAINTENANCE, INC.
Case ID No. 61646
Reg. Ent. Reference No. RN104525662
Media Municipal Solid 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 |
|------------------|-----------|---------------|------------|-----|----------------|-------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|-------------|-----------|

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) | \$4,483 | 6-Aug-2021 | 7-Aug-2022 | 1.00 | \$225 | n/a | \$225 |

Notes for DELAYED costs

Estimated delayed cost to provide financial assurance for closure of the Facility. The Date Required is the 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 | \$4,483 | 6-Aug-2021 | 20-Nov-2021 | 0.29 | \$41 | \$1,302 | \$1,343 |
| ONE-TIME avoided costs | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Estimated avoided cost to provide financial assurance for closure of the Facility. The Date Required is the investigation date, and the Final Date is the screening date.

Approx. Cost of Compliance

\$5,785

TOTAL

\$1,568

| | | | | |
|--------------------------------|---|--|-----------------|------------|
| Screening Date | 20-Nov-2021 | Docket No. | 2022-0019-MSW-E | PCW |
| Respondent Case ID No. | 61646 | PREMIUM CUTS LAWN SERVICE AND MAINTENANCE, INC. | | |
| Reg. Ent. Reference No. | RN104525662 | Policy Revision 5 (January 28, 2021) PCW Revision February 11, 2021 | | |
| Media | Municipal Solid Waste | | | |
| Enf. Coordinator | Ken Moller | | | |
| Violation Number | 3 | | | |
| Rule Cite(s) | 30 Tex. Admin. Code § 328.5(h) | | | |
| Violation Description | Failed to have a fire prevention and suppression plan and make it available to the local fire prevention authority. | | | |
| Base Penalty | \$25,000 | | | |

>> Environmental, Property and Human Health Matrix

| | | | | | |
|-----------|----------------|-------|----------|-------|----------------|
| OR | Harm | | | | Percent |
| | Release | Major | Moderate | Minor | |
| | Actual | | | | |
| | Potential | x | | | 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: 2 106 Number of violation days

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | |
| quarterly | x |
| semiannual | |
| annual | |
| single event | |

Violation Base Penalty \$7,500

Two quarterly events are recommended from the August 6, 2021 investigation date to the November 20, 2021 screening date.

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 \$7,500

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount \$13 **Violation Final Penalty Total** \$7,866

This violation Final Assessed Penalty (adjusted for limits) \$7,866

Economic Benefit Worksheet

Respondent PREMIUM CUTS LAWN SERVICE AND MAINTENANCE, INC.
Case ID No. 61646
Reg. Ent. Reference No. RN104525662
Media Municipal Solid 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 |
|------------------|-----------|---------------|------------|-----|----------------|-------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|-------------|-----------|

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) | \$250 | 6-Aug-2021 | 7-Aug-2022 | 1.00 | \$13 | n/a | \$13 |

Notes for DELAYED costs

Estimated delayed cost to develop and submit a fire prevention and suppression plan to the local fire prevention authority. The Date Required is the 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

\$250

TOTAL

\$13

| | | | | |
|--------------------------------|---|---------------------|-----------------|--------------------------------------|
| Screening Date | 20-Nov-2021 | Docket No. | 2022-0019-MSW-E | PCW |
| Respondent | PREMIUM CUTS LAWN SERVICE AND MAINTENANCE, INC. | | | Policy Revision 5 (January 28, 2021) |
| Case ID No. | 61646 | | | PCW Revision February 11, 2021 |
| Reg. Ent. Reference No. | RN104525662 | | | |
| Media | Municipal Solid Waste | | | |
| Enf. Coordinator | Ken Moller | | | |
| Violation Number | 4 | | | |
| Rule Cite(s) | 30 Tex. Admin. Code § 330.15(c) | | | |
| Violation Description | Caused, suffered, allowed, or permitted the unauthorized disposal of MSW. Specifically, approximately eighty unlabeled waste containers consisting of metal and plastic 55-gallon drums, as well as one 275-gallon tote that each contained unknown liquid substances were observed to have been disposed of at the Facility without authorization. | | | |
| | | Base Penalty | \$25,000 | |

| | | | | | |
|---|---|-------------------|-------------|-------|----------------|
| >> Environmental, Property and Human Health Matrix | | | | | |
| OR | | Release | Harm | | |
| | | Major | Moderate | Minor | |
| | Actual | | x | | Percent |
| | Potential | | | | 25.0% |
| >> 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 | \$18,750 | | |
| | | | \$6,250 | | |

| | | | | |
|-------------------------|--|---|-----|-------------------------------|
| Violation Events | | | | |
| | Number of Violation Events | 2 | | Number of violation days |
| | | | 106 | |
| | daily | | | |
| | weekly | | | |
| | monthly | | | |
| | quarterly | x | | Violation Base Penalty |
| | semiannual | | | \$12,500 |
| | annual | | | |
| | single event | | | |
| | Two quarterly events are recommended from the August 6, 2021 investigation date to the November 20, 2021 screening date. | | | |

| | | | | |
|-------------------------------------|--|-----------------------------------|------------------|-----|
| 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 | \$12,500 | |

| | | | |
|---|------|--|----------|
| Economic Benefit (EB) for this violation | | Statutory Limit Test | |
| Estimated EB Amount | \$16 | Violation Final Penalty Total | \$13,110 |
| | | This violation Final Assessed Penalty (adjusted for limits) | \$13,110 |

Economic Benefit Worksheet

Respondent PREMIUM CUTS LAWN SERVICE AND MAINTENANCE, INC.
Case ID No. 61646
Reg. Ent. Reference No. RN104525662
Media Municipal Solid Waste
Violation No. 4

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Costs Saved | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|-------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|-------------|-----------|

Delayed Costs

| | | | | | | | |
|--------------------------|-------|------------|------------|------|------|-----|------|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/Construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | \$324 | 6-Aug-2021 | 7-Aug-2022 | 1.00 | \$16 | n/a | \$16 |
| 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 remove all MSW, including but not limited to all metal and plastic 55-gallon drum waste containers and one 275-gallon tote from the Facility and dispose of it at an authorized facility. The Date Required is the 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

\$324

TOTAL

\$16



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

| | | | | | | |
|--------------|-----------------|-------------|------------------|-------------|----------------|--|
| DATES | Assigned | 11-Oct-2021 | Screening | 20-Nov-2021 | EPA Due | |
| | PCW | 3-Jan-2022 | | | | |

| | |
|--|---|
| RESPONDENT/FACILITY INFORMATION | |
| Respondent | PREMIUM CUTS LAWN SERVICE AND MAINTENANCE, INC. |
| Reg. Ent. Ref. No. | RN104525662 |
| Facility/Site Region | 11-Austin |
| Major/Minor Source | Minor |

| | | | |
|--|-----------------|------------------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 61646 | No. of Violations | 1 |
| Docket No. | 2022-0019-MSW-E | Order Type | 1660 |
| Media Program(s) | Used Oil | Government/Non-Profit | No |
| Multi-Media | | Enf. Coordinator | Ken Moller |
| | | EC's Team | Enforcement Team 7 |
| Admin. Penalty \$ Limit Minimum | \$0 | Maximum | \$5,000 |

Penalty Calculation Section

| | | |
|---|-------------------|----------------|
| TOTAL BASE PENALTY (Sum of violation base penalties) | Subtotal 1 | \$1,500 |
|---|-------------------|----------------|

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

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

Notes: No adjustment for compliance history.

| | | | | |
|--------------------|----|-------------------------|-------------------|------------|
| Culpability | No | 0.0% Enhancement | Subtotal 4 | \$0 |
|--------------------|----|-------------------------|-------------------|------------|

Notes: The Respondent does not meet the culpability criteria.

| | | |
|--|-------------------|------------|
| Good Faith Effort to Comply Total Adjustments | Subtotal 5 | \$0 |
|--|-------------------|------------|

| | | | |
|-------------------------|--------------------------|-------------------|------------|
| Economic Benefit | 0.0% Enhancement* | Subtotal 6 | \$0 |
|-------------------------|--------------------------|-------------------|------------|

Total EB Amounts: \$1
 Estimated Cost of Compliance: \$20
 *Capped at the Total EB \$ Amount

| | | |
|-----------------------------|-----------------------|----------------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$1,500 |
|-----------------------------|-----------------------|----------------|

| | | |
|---|------------------------|------------|
| OTHER FACTORS AS JUSTICE MAY REQUIRE | 0.0% Adjustment | \$0 |
|---|------------------------|------------|

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

| | |
|-----------------------------|----------------|
| Final Penalty Amount | \$1,500 |
|-----------------------------|----------------|

| | | |
|-----------------------------------|-------------------------------|----------------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$1,500 |
|-----------------------------------|-------------------------------|----------------|

| | | |
|-----------------|----------------------------------|------------|
| DEFERRAL | 0.0% Reduction Adjustment | \$0 |
|-----------------|----------------------------------|------------|

Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral not offered for non-expedited settlement.

| | |
|------------------------|----------------|
| PAYABLE PENALTY | \$1,500 |
|------------------------|----------------|

| | | | | |
|--------------------------------|---|-------------------|-----------------|---|
| Screening Date | 20-Nov-2021 | Docket No. | 2022-0019-MSW-E | PCW |
| Respondent | PREMIUM CUTS LAWN SERVICE AND MAINTENANCE, INC. | | | <i>Policy Revision 5 (January 28, 2021)</i> |
| Case ID No. | 61646 | | | <i>PCW Revision February 11, 2021</i> |
| Reg. Ent. Reference No. | RN104525662 | | | |
| Media | Used Oil | | | |
| Enf. Coordinator | Ken Moller | | | |

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)**

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 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 20-Nov-2021 | Docket No. 2022-0019-MSW-E | PCW |
| Respondent PREMIUM CUTS LAWN SERVICE AND MAINTENANCE, INC. | | <i>Policy Revision 5 (January 28, 2021)</i> |
| Case ID No. 61646 | | <i>PCW Revision February 11, 2021</i> |
| Reg. Ent. Reference No. RN104525662 | | |
| Media Used Oil | | |
| Enf. Coordinator Ken Moller | | |

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> **Environmental, Property and Human Health Matrix**

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

>> **Programmatic Matrix**

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

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Good Faith Efforts to Comply

Reduction

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

| | | |
|---------------|----------------------|----------------------|
| Extraordinary | <input type="text"/> | <input type="text"/> |
| Ordinary | <input type="text"/> | <input type="text"/> |
| N/A | x | <input type="text"/> |

Notes

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent PREMIUM CUTS LAWN SERVICE AND MAINTENANCE, INC.
Case ID No. 61646
Reg. Ent. Reference No. RN104525662
Media Used Oil
Violation No. 1

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Costs Saved | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|-------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|-------------|-----------|

Delayed Costs

| | | | | | | | |
|--------------------------|------|------------|------------|------|-----|-----|-----|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/Construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | \$20 | 6-Aug-2021 | 7-Aug-2022 | 1.00 | \$1 | n/a | \$1 |
| 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 remove the used oil contamination from the Facility using appropriate corrective measures, and dispose of it at an authorized facility. The Date Required is the 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

\$20

TOTAL

\$1

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 CN604582684, RN104525662, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

Customer, Respondent, or Owner/Operator: CN604582684, PREMIUM CUTS LAWN SERVICE AND MAINTENANCE, INC. **Classification:** NOT APPLICABLE **Rating:** N/A

Regulated Entity: RN104525662, Premium Cuts Lawn Service **Classification:** NOT APPLICABLE **Rating:** N/A

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

CH Group: 14 - Other

Location: 5411 Gregg Lane, Manor, Travis County, Texas

TCEQ Region: REGION 11 - AUSTIN

ID Number(s):

PETROLEUM STORAGE TANK REGISTRATION
REGISTRATION 77176

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

Date Compliance History Report Prepared: March 07, 2022

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: March 07, 2017 to March 07, 2022

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

Name: Ken Moller

Phone: (512) 239-6111

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? NO
- 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
PREMIUM CUTS LAWN SERVICE AND
MAINTENANCE, INC.
RN104525662

§
§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2022-0019-MSW-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 PREMIUM CUTS LAWN SERVICE AND MAINTENANCE, INC. (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE chs. 361 and 371 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Litigation Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a landscaping and unauthorized municipal solid waste ("MSW") recycling business located at 5411 Gregg Lane in Manor, Travis County, Texas (the "Facility"). The Facility involves or involved the management of MSW as defined in TEX. HEALTH & SAFETY CODE ch. 361, as well as the management of used oil as defined in TEX. HEALTH & SAFETY CODE ch. 371.
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 chs. 361 and 371 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$30,343 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$2,335 of the penalty. The remaining amount of \$28,008 shall be paid in 12 monthly payments of \$2,334 each. The first monthly payment shall be paid within 30 days after the effective date of this Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until the penalty is paid in full. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Respondent's failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance constitutes the failure by Respondent to timely and satisfactorily comply with all the terms of this Order.

5. The Executive Director and 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.

II. ALLEGATIONS

During an investigation conducted on August 6, 2021, an investigator documented that Respondent:

1. Failed to submit a notice of intent ("NOI") to operate an MSW recycling facility at least 90 days prior to the commencement of recycling activities at the Facility, in violation of 30 TEX. ADMIN. CODE § 328.5(b). Specifically, the Respondent collected and stored approximately 6,659 cubic yards of combustible wood materials at the Facility for recycling without providing prior notice to the TCEQ.
2. Failed to establish and maintain financial assurance for closure of the Facility that stores combustible materials outdoors, in violation of 30 TEX. ADMIN. CODE §§ 328.5(d) and 37.921(a).
3. Failed to have a fire prevention and suppression plan and make it available to the local fire prevention authority, in violation of 30 TEX. ADMIN. CODE § 328.5(h).
4. Caused, suffered, allowed, or permitted the unauthorized disposal of MSW, in violation of 30 TEX. ADMIN. CODE § 330.15(c). Specifically, approximately eighty unlabeled waste containers consisting of metal and plastic 55-gallon drums, as well as one 275-gallon tote that each contained unknown liquid substances were observed to have been disposed of at the Facility without authorization.
5. Failed to clean up and properly manage a release of used oil to the environment, in violation of 30 TEX. ADMIN. CODE § 324.15 and 40 C. F.R. § 279.22(d). Specifically, an estimated 0.5 cubic yards of soil stained by used oil was observed near a 275-gallon tote at the Facility.

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: PREMIUM CUTS LAWN SERVICE AND MAINTENANCE, INC., Docket No. 2022-0019-MSW-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. The Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Order, cease accepting and processing additional recyclable materials at the Facility until such time that all requirements of an NOI are approved, in accordance with 30 TEX. ADMIN. CODE ch. 328; and
 - b. Within 30 days after the effective date of this Order:
 - i. Submit an NOI to operate a recycling facility, in accordance with 30 TEX. ADMIN. CODE ch. 328 to:

Municipal Solid Waste Permits Sections, MC 214
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
 - ii. Begin operating the recycling facility in accordance with 30 TEX. ADMIN. CODE ch. 328, including but not limited to:
 1. Submit documentation that demonstrates acceptable financial assurance for the closure of the Facility, in accordance with 30 TEX. ADMIN. CODE §§ 37.921 and 328.5 to:

Financial Assurance Team, MC 184
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
 2. Develop and submit a fire prevention and suppression plan to the local fire prevention authority, in accordance with 30 TEX. ADMIN. CODE § 328.5.
 - iii. Remove the used oil contamination from the Facility using appropriate corrective measures, and dispose of it at an authorized facility, in accordance with 30 TEX. ADMIN. CODE § 324.15.

- c. In lieu of Ordering Provision Nos. 2.b.i. and 2.b.ii., within 30 days after the effective date of this Order, remove all accumulated combustible MSW from the Facility and dispose of it at an authorized facility, in accordance with 30 TEX. ADMIN. CODE §§ 328.5 and 330.15.
- d. Within 60 days after the effective date of this Order, remove all MSW, including but not limited to all metal and plastic 55-gallon drum waste containers and one 275-gallon tote from the Facility and dispose of it at an authorized facility, in accordance with 30 TEX. ADMIN. CODE § 330.15.
- e. Within 75 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 Provision Nos. [2.a., 2.b., and 2.d.] or [2.a., 2.b.iii., 2.c., and 2.d.]. The certification shall be signed by the 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 fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Waste Section Manager
Austin Regional Office
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

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 the 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. 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. The 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.

6. 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.
7. This Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission 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. Chanalop

For the Executive Director

6/17/24

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

4/25/24

Date

Jorge L. Gonzalez

Name (Printed or typed)

President

Title

Authorized Representative of
PREMIUM CUTS LAWN SERVICE AND MAINTENANCE, INC.

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.