

Executive Summary – Enforcement Matter – Case No. 62477
Sustainable Pavement Technologies, LLC
RN106171564
Docket No. 2022-1041-MSW-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MSW

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

SPT - Linger Lane Site, 713 Linger Lane, Austin, Travis County

Type of Operation:

Municipal solid waste ("MSW") recycling and road paving and repair business

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: October 18, 2024

Comments Received: No

Penalty Information

Total Penalty Assessed: \$15,870

Amount Deferred for Expedited Settlement: \$3,174

Total Paid to General Revenue: \$12,696

Total Due to General Revenue: \$0

Payment Plan: N/A

Compliance History Classifications:

Person/CN - High

Site/RN - High

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: January 2021

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: April 5, 2022 through April 8, 2022

Date(s) of NOE(s): June 3, 2022

Executive Summary – Enforcement Matter – Case No. 62477
Sustainable Pavement Technologies, LLC
RN106171564
Docket No. 2022-1041-MSW-E

Violation Information

1. Failed to maintain financial assurance for a facility that stores combustible materials outdoors. Specifically, financial assurance was not provided for approximately 7,136 cubic yards of combustible, recycled and nonrecycled, asphalt shingles, stored outdoors at the Facility [30 TEX. ADMIN. CODE §§ 328.5(d) and (f)(3) and 37.921].
2. Failed to maintain all records necessary to show reasonable efforts were made to maintain source-separation of materials received by the Facility. Specifically, records were not available to demonstrate training of Facility staff members in the proper inspection of incoming loads to ensure that they contain no more than 10% incidental non-recyclable waste [30 TEX. ADMIN. CODE § 328.5(f)(2)(B)].
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. Failed to report any updates or changes of information contained in the Facility's site report within 90 days of the effective date of the change. Specifically, the Facility's Notice of Intent ("NOI") was not updated to reflect the expansion of the recycling operation [30 TEX. ADMIN. CODE § 328.5(b)(4)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

a. Within 30 days:

- i. Begin maintaining all waste minimization and recycling records, including but not limited to all staff training records;
- ii. Prepare a fire prevention and suppression plan and make it available to the local fire prevention authority; and
- iii. Update the Facility's NOI with any changes of information contained in the site report.

b. In addition, within 30 days, comply with either b.i. or b.ii.:

- i. Begin maintaining financial assurance to commensurate with the cost of closure for the Facility; or

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Docket No. 2022-1041-MSW-E

- ii. Reduce quantities of combustible recyclable material stored outdoors to the maximum amounts specified in the Facility’s NOI by removing any materials in excess of the registered amount and dispose of them at an authorized facility.
- c. Within 45 days, submit written certification to demonstrate compliance with a. and b.

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Tiffany Chu, Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5891; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: Jeffrey A. Wanic, Manager, Sustainable Pavement Technologies, LLC, 21175 State Highway 249, Suite 267, Houston, Texas 77070-1655

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	6-Jun-2022	Screening	10-Jun-2022	EPA Due	
	PCW	15-Jul-2024				

RESPONDENT/FACILITY INFORMATION	
Respondent	Sustainable Pavement Technologies, LLC
Reg. Ent. Ref. No.	RN106171564
Facility/Site Region	11-Austin
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	62477	No. of Violations	4
Docket No.	2022-1041-MSW-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Tiffany Chu
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$16,500
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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	-10.0% Adjustment	Subtotals 2, 3, & 7	-\$1,650
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Notes	Reduction for High Performer classification.
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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	\$2,006	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$7,571	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$14,850
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OTHER FACTORS AS JUSTICE MAY REQUIRE	6.9% Adjustment	\$1,020
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Enhancement to capture the avoided cost of compliance associated with Violation No. 1.
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Final Penalty Amount	\$15,870
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$15,870
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DEFERRAL	20.0% Reduction Adjustment	-\$3,174
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes	Deferral offered for expedited settlement.
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PAYABLE PENALTY	\$12,696
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Screening Date 10-Jun-2022

Docket No. 2022-1041-MSW-E

PCW

Respondent Sustainable Pavement Technologies, LLC

Policy Revision 5 (January 28, 2021)

Case ID No. 62477

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN106171564

Media Municipal Solid Waste

Enf. Coordinator Tiffany Chu

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)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance History Notes

Reduction for High Performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) -10%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% -10%

Screening Date 10-Jun-2022 **Docket No.** 2022-1041-MSW-E **PCW**
Respondent Sustainable Pavement Technologies, LLC *Policy Revision 5 (January 28, 2021)*
Case ID No. 62477 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN106171564
Media Municipal Solid Waste
Enf. Coordinator Tiffany Chu

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 328.5(d) and (f)(3) and 37.921

Violation Description Failed to maintain financial assurance for a facility that stores combustible materials outdoors. Specifically, financial assurance was not provided for approximately 7,136 cubic yards of combustible, recycled and nonrecycled, asphalt shingles, stored outdoors at the Facility.

Base Penalty \$25,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
		Actual			
Potential					

>> **Programmatic Matrix**

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
		x			

Greater than 70% of the rule requirement was not met.

Adjustment \$22,500

\$2,500

Violation Events

Number of Violation Events 1 66 Number of violation days

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 \$1,841 **Violation Final Penalty Total** \$2,405

This violation Final Assessed Penalty (adjusted for limits) \$2,405

Economic Benefit Worksheet

Respondent Sustainable Pavement Technologies, LLC
Case ID No. 62477
Reg. Ent. Reference No. RN106171564
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
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$5,480	5-Apr-2022	3-Apr-2025	3.00	\$821	n/a	\$821

Notes for DELAYED costs

Estimated delayed cost to begin maintaining financial assurance to commensurate with the cost of closure for the Facility. The Date Required is the investigation start 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	\$5,480	5-Apr-2022	10-Jun-2022	0.18	\$29	\$991	\$1,020
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 maintain financial assurance to commensurate with the cost of closure for the Facility. The Date Required is the investigation start date and the Final Date is the screening date.

Approx. Cost of Compliance

\$6,471

TOTAL

\$1,841

Screening Date 10-Jun-2022 **Docket No.** 2022-1041-MSW-E **PCW**
Respondent Sustainable Pavement Technologies, LLC *Policy Revision 5 (January 28, 2021)*
Case ID No. 62477 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN106171564
Media Municipal Solid Waste
Enf. Coordinator Tiffany Chu

Violation Number
Rule Cite(s)
Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="x"/>	<input type="text" value="1.0%"/>

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	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text" value="x"/>

Violation Base Penalty

Good Faith Efforts to Comply Reduction

	Before NOE/NOV	NOE/NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="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 Sustainable Pavement Technologies, LLC
Case ID No. 62477
Reg. Ent. Reference No. RN106171564
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
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	5-Apr-2022	3-Apr-2025	3.00	\$75	n/a	\$75
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated delayed cost to begin maintaining all waste minimization and recycling records, including but not limited to all staff training records. The Date Required is the investigation start date and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$500

TOTAL \$75

Screening Date 10-Jun-2022 **Docket No.** 2022-1041-MSW-E **PCW**
Respondent Sustainable Pavement Technologies, LLC *Policy Revision 5 (January 28, 2021)*
Case ID No. 62477 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN106171564
Media Municipal Solid Waste
Enf. Coordinator Tiffany Chu

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	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				15.0%
	Potential	x			

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

Matrix Notes Human health or the environment will or could be exposed to pollutants that would 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 3 66 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$11,250

Three monthly events are recommended from the April 5, 2022 investigation start date to the June 10, 2022 screening date.

Good Faith Efforts to Comply 0.0% Reduction \$0

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

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

Violation Subtotal \$11,250

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

Estimated EB Amount \$75 **Violation Final Penalty Total** \$10,820

This violation Final Assessed Penalty (adjusted for limits) \$10,820

Economic Benefit Worksheet

Respondent Sustainable Pavement Technologies, LLC
Case ID No. 62477
Reg. Ent. Reference No. RN106171564
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
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	5-Apr-2022	3-Apr-2025	3.00	\$75	n/a	\$75

Notes for DELAYED costs

Estimated delayed cost to prepare a fire prevention and suppression plan and make it available to the local fire prevention authority. The Date Required is the investigation start date and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$75

Screening Date 10-Jun-2022 **Docket No.** 2022-1041-MSW-E **PCW**
Respondent Sustainable Pavement Technologies, LLC *Policy Revision 5 (January 28, 2021)*
Case ID No. 62477 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN106171564
Media Municipal Solid Waste
Enf. Coordinator Tiffany Chu

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="10.0%"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

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	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="text" value="x"/>

Violation Base Penalty

Good Faith Efforts to Comply Reduction

	Before NOE/NOV	NOE/NOV to EDRP/ Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="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 Sustainable Pavement Technologies, LLC
Case ID No. 62477
Reg. Ent. Reference No. RN106171564
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	\$100	5-Apr-2022	3-Apr-2025	3.00	\$15	n/a	\$15
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated delayed cost to update the Facility's NOI with any changes of information contained in the site report. The Date Required is the investigation start 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

\$100

TOTAL

\$15

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
SUSTAINABLE PAVEMENT
TECHNOLOGIES, LLC
RN106171564

§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2022-1041-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 Sustainable Pavement Technologies, 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 municipal solid waste ("MSW") recycling and road paving and repair business located at 713 Linger Lane in Austin, Travis County, Texas (the "Facility"). The Facility involves or involved the management of MSW 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 \$15,870 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$12,696 of the penalty and \$3,174 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.

II. ALLEGATIONS

During an investigation at the Facility conducted from April 5, 2022 through April 8, 2022, an investigator documented that the Respondent:

1. Failed to maintain financial assurance for a facility that stores combustible materials outdoors, in violation of 30 TEX. ADMIN. CODE §§ 328.5(d) and (f)(3) and 37.921. Specifically, financial assurance was not provided for approximately 7,136 cubic yards of combustible, recycled and nonrecycled, asphalt shingles, stored outdoors at the Facility.
2. Failed to maintain all records necessary to show reasonable efforts were made to maintain source-separation of materials received by the Facility, in violation of 30 TEX. ADMIN. CODE § 328.5(f)(2)(B). Specifically, records were not available to demonstrate training of Facility staff members in the proper inspection of incoming loads to ensure that they contain no more than 10% incidental non-recyclable waste.
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. Failed to report any updates or changes of information contained in the Facility's site report within 90 days of the effective date of the change, in violation of 30 TEX. ADMIN. CODE § 328.5(b)(4). Specifically, the Facility's Notice of Intent ("NOI") was not updated to reflect the expansion of the recycling operation.

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: Sustainable Pavement Technologies, LLC, Docket No. 2022-1041-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. Within 30 days after the effective date of this Order:
 - i. Begin maintaining all waste minimization and recycling records, including but not limited to all staff training records, in accordance with 30 TEX. ADMIN. CODE § 328.5;
 - ii. Prepare a fire prevention and suppression plan and make it available to the local fire prevention authority, in accordance with 30 TEX. ADMIN. CODE § 328.5; and
 - iii. Update the Facility's NOI with any changes of information contained in the site report, in accordance with 30 TEX. ADMIN. CODE § 328.5.
- b. In addition, within 30 days after the effective date of this Order, comply with either Ordering Provision No. 2.b.i or 2.b.ii:
 - i. Begin maintaining financial assurance to commensurate with the cost of closure for the Facility, in accordance with 30 TEX. ADMIN. CODE § 328.5; or
 - ii. Reduce quantities of combustible recyclable material stored outdoors to the maximum amounts specified in the Facility's NOI by removing any materials in excess of the registered amount and dispose of them at an authorized facility.
- c. Within 45 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 and 2.b. 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. 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.
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 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. Extension requests shall be sent to the Enforcement Division at the address listed above.
6. 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.
7. 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.

8. 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



11/4/2024

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, 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 OAG 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 OAG 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.

Jeffrey A. Wanic, Manager
Signature

9/26/24
Date

Jeff Wanic
Name (Printed or typed)

Manager
Title

Authorized Representative of
Sustainable Pavement Technologies, LLC

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.