

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 58147  
Heartland Cabinetry and Furniture, Inc.  
RN100764133  
Docket No. 2022-1635-AIR-E

**Order Type:**  
Default Order

**Media:**  
AIR

**Small Business:**  
N/A

**Location Where Violation Occurred:**  
7900 Valcasi Drive, Arlington, Tarrant County (the “Site”)

**Type of Operation:**  
wood cabinet manufacturing facility

**Other Significant Matters:**  
Additional Pending Enforcement Actions: None  
Past-Due Penalties: None  
Past-Due Fees: None  
Other: None  
Interested Third Parties: None

**Texas Register Publication Date:** March 21, 2025

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$32,812

**Total Paid to General Revenue:** \$0

**Total Due to General Revenue:** \$32,812

**Compliance History Classifications:**  
Person/CN – Satisfactory  
Site/RN – Satisfactory

**Major Source:** No

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** January 28, 2021

**Investigation Information**

**Complaint Date:** N/A

**Date of Investigation:** November 10, 2021

**Date of NOV:** N/A

**Date of NOE:** September 15, 2022

**Heartland Cabinetry and Furniture, Inc.**

RN100764133

Docket No. 2022-1635-AIR-E

**Violation Information**

Failed to store and dispose of waste materials properly [TEX. HEALTH & SAFETY CODE § 382.085(b), 30 TEX. ADMIN. CODE § 106.231(2), and TCEQ Default Order Docket No. 2019-1176-AIR-E, Ordering Provisions No. 3.a].

**Corrective Actions/Technical Requirements**

**Corrective Action Completed:**

Respondent sold the Site as of December 8, 2023.

**Technical Requirements:**

None

**Litigation Information**

**Date Petition Filed:**

August 26, 2024

**Date of Service:**

August 28, 2024

**Date Answer Filed:**

N/A

**Contact Information**

**TCEQ Attorneys:** Laney Foeller, 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:** Desmond Martin, Enforcement Division, (512) 239-2814

**TCEQ Regional Contact:** Kimberli Fowler, Dallas/Fort Worth Regional Office, (817) 588-5800

**Respondent Contacts:** J. Marcus Scudder, President and Director, Heartland Cabinetry and Furniture, Inc., 7900 Valcasi Drive, Arlington, Texas 76001-7769;

Pamela Kiper, CFO and Director, Heartland Cabinetry and Furniture, Inc., 7900 Valcasi Drive, Arlington, Texas 76001-7769

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

<b>DATES</b>	<b>Assigned</b>	16-Sep-2022	<b>Screening</b>	20-Sep-2022	<b>EPA Due</b>	
	<b>PCW</b>	19-Mar-2025				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Heartland Cabinetry and Furniture, Inc.
<b>Reg. Ent. Ref. No.</b>	RN100764133
<b>Facility/Site Region</b>	4-Dallas/Fort Worth
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	58147	<b>No. of Violations</b>	1
<b>Docket No.</b>	2022-1635-AIR-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Danielle Porras
		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$26,250
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	25.0%	Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	\$6,562
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<b>Notes</b>	Enhancement for one default Order.
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<b>Culpability</b>	No	0.0%	Enhancement	<b>Subtotal 4</b>	\$0
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<b>Notes</b>	The Respondent does not meet the culpability criteria.
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<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0%	Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$1,764	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$10,000	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$32,812
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	
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<b>Final Penalty Amount</b>	\$32,812
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$32,812
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<b>DEFERRAL</b>	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

<b>Notes</b>	No deferral is recommended for Findings Orders.
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<b>PAYABLE PENALTY</b>	\$32,812
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**Screening Date** 20-Sep-2022

**Docket No.** 2022-1635-AIR-E

**PCW**

**Respondent** Heartland Cabinetry and Furniture, Inc.

*Policy Revision 5 (January 28, 2021)*

**Case ID No.** 58147

*PCW Revision February 11, 2021*

**Reg. Ent. Reference No.** RN100764133

**Media** Air

**Enf. Coordinator** Danielle Porras

### 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	1	25%
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)** 25%

**>> Repeat Violator (Subtotal 3)**

No

**Adjustment Percentage (Subtotal 3)** 0%

**>> Compliance History Person Classification (Subtotal 7)**

Satisfactory Performer

**Adjustment Percentage (Subtotal 7)** 0%

**>> Compliance History Summary**

**Compliance History Notes**

Enhancement for one default Order.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 25%

**>> Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** 25%

Screening Date 20-Sep-2022

Docket No. 2022-1635-AIR-E

PCW

Respondent Heartland Cabinetry and Furniture, Inc.

Policy Revision 5 (January 28, 2021)

Case ID No. 58147

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN100764133

Media Air

Enf. Coordinator Danielle Porras

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 106.231(2), TCEQ Default Order Docket No. 2019-1176-AIR-E, Ordering Provisions No. 3.a., and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to store and dispose of waste materials properly. Specifically, TCEQ staff observed sawdust overflowing from the collection bin for the pneumatic dust collector and accumulating along the northern edge of the Site property.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

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

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 7 576 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$26,250

Seven quarterly events are recommended from the February 21, 2021 effective date of TCEQ Default Order Docket No. 2019-1176-AIR-E to the September 20, 2022 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 \$26,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,764

Violation Final Penalty Total \$32,813

This violation Final Assessed Penalty (adjusted for limits) \$32,813

# Economic Benefit Worksheet

**Respondent** Heartland Cabinetry and Furniture, Inc.  
**Case ID No.** 58147  
**Reg. Ent. Reference No.** RN100764133  
**Media** Air  
**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)	\$10,000	21-Feb-2021	1-Sep-2024	3.53	\$1,764	n/a	\$1,764

**Notes for DELAYED costs**

Estimated cost to store and dispose of sawdust properly. The Date Required is the effective date of TCEQ Default Order Docket No. 2019-1176-AIR-E 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**

\$10,000

**TOTAL**

\$1,764



# Compliance History Report

Compliance History Report for CN605625201, RN100764133, Rating Year 2023 which includes Compliance History (CH) components from September 1, 2018, through August 31, 2023.

**Customer, Respondent, or Owner/Operator:** CN605625201, Heartland Cabinetry and Furniture, Inc. **Classification:** SATISFACTORY **Rating:** 37.50

**Regulated Entity:** RN100764133, HEARTLAND FURNITURE **Classification:** SATISFACTORY **Rating:** 37.50

**Complexity Points:** 1 **Repeat Violator:** NO

**CH Group:** 14 - Other

**Location:** 7900 Valcasi Drive, Arlington, Tarrant County, Texas

**TCEQ Region:** REGION 04 - DFW METROPLEX

**ID Number(s):**

**AIR NEW SOURCE PERMITS ACCOUNT NUMBER** TA0867Q **AIR QUALITY NON PERMITTED ID NUMBER** R04100764133

**Compliance History Period:** September 01, 2018 to August 31, 2023 **Rating Year:** 2023 **Rating Date:** 09/01/2023

**Date Compliance History Report Prepared:** January 22, 2024

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** January 22, 2019 to January 22, 2024

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

**Name:** Danielle Porras

**Phone:** (512) 239-2923

**Site and Owner/Operator History:**

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

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

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

- 1 Effective Date: 02/21/2021 ADMINORDER 2019-1176-AIR-E (Findings Order-Default)  
 Classification: Moderate  
 Citation: 30 TAC Chapter 106, SubChapter I 106.231(2)  
 5C THSC Chapter 382 382.085(b)  
 Description: Failure to store and dispose of waste materials properly.

**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

**Component Appendices**

**Appendix A**

**All NOVs Issued During Component Period 1/22/2019 and 1/22/2024**

1	Date: 03/05/2019 (1548999)		
	Self Report? NO	Classification:	Moderate
	Citation:		
		30 TAC Chapter 106, SubChapter I 106.231(2)	
		5C THSC Chapter 382 382.085(b)	
	Description:	Failure to store and dispose of waste materials properly.	

\* NOVs applicable for the Compliance History rating period 9/1/2018 to 8/31/2023

**Appendix B**

**All Investigations Conducted During Component Period January 22, 2019 and January 22, 2024**

Item 1	February 27, 2019**	(1548999)
Item 2	June 28, 2019**	(1555541)
Item 3	August 15, 2019**	(1580588)
Item 4	August 23, 2022**	(1775079)

\* No violations documented during this investigation

\*\*Investigation applicable for the Compliance History Rating period between 09/01/2018 and 08/31/2023.

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
HEARTLAND CABINETRY AND  
FURNITURE, INC.;  
RN100764133**

**§  
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**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

## **DEFAULT ORDER**

**DOCKET NO. 2022-1635-AIR-E**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition, filed pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE ch. 382, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty. The respondent made the subject of this Order is Heartland Cabinetry and Furniture, Inc. ("Respondent").

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

### **FINDINGS OF FACT**

1. Respondent owned and operated a wood cabinet manufacturing facility located at 7900 Valcasi Drive in Arlington, Tarrant County, Texas (the "Site"). The Site consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. During an investigation conducted on November 10, 2021, an investigator documented that Respondent failed to store and dispose of waste materials properly. Specifically, TCEQ staff observed sawdust overflowing from the collection bin for the pneumatic dust collector and accumulating along the northern edge of the Site property.
3. The Executive Director recognizes that Respondent sold the Site as of December 8, 2023.
4. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against Heartland Cabinetry and Furniture, Inc." (the "EDPRP") in the TCEQ Chief Clerk's office on August 26, 2024.
5. By letter dated August 26, 2024, sent to Respondent's last known address via certified mail, return receipt requested, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to the return receipt "green card," Respondent received notice of the EDPRP on August 28, 2024 (USPS), as evidenced by the signature on the card.
6. More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing.

### **CONCLUSIONS OF LAW**

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2, Respondent failed to store and dispose of waste materials properly, in violation of TEX. HEALTH & SAFETY CODE § 382.085(b), 30 TEX. ADMIN. CODE § 106.231(2), and TCEQ Default Order Docket No. 2019-1176-AIR-E, Ordering Provisions No. 3.a.

3. As evidenced by Findings of Fact Nos. 4 and 5, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(b)(1).
4. As evidenced by Finding of Fact No. 6, Respondent failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.
5. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
6. An administrative penalty in the amount of \$32,812 is justified by the facts recited in this Order and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
7. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

#### ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty in the amount of \$32,812 for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations which are not raised here.
2. The penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to TCEQ and shall be sent with the notation "Re: Heartland Cabinetry and Furniture, Inc.; Docket No. 2022-1635-AIR-E" to:  

Financial Administration Division  
Revenue Operations Section  
Texas Commission on Environmental Quality  
Attention: Cashier's Office, MC 214  
P.O. Box 13088  
Austin, Texas 78711-3088
3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Respondent.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
8. The provisions of this Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
9. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
10. The Chief Clerk shall provide a copy of this fully executed Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

\_\_\_\_\_  
Date

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



UNSWORN DECLARATION OF LANEY FOELLER

“On behalf of the Executive Director of the Texas Commission on Environmental Quality, the ‘Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against Heartland Cabinetry and Furniture, Inc.’ (the “EDPRP”) was filed in the TCEQ Chief Clerk’s office on August 26, 2024.

The EDPRP was mailed to Respondent’s last known address on August 26, 2024, via certified mail, return receipt requested, postage prepaid. According to the return receipt “green card,” Respondent received notice of the EDPRP on August 28, 2024, as evidenced by the signature on the card and USPS tracking.

More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing.”

"My name is Laney Foeller, and I am an employee of the following governmental agency: Texas Commission on Environmental Quality. I am executing this declaration as part of my assigned duties and responsibilities. I declare under penalty of perjury that the foregoing is true and correct.”

Executed in Travis County,  
State of Texas,  
on the 3<sup>rd</sup> day of March, 2025

A handwritten signature in cursive script that reads "Laney Foeller".

Declarant