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Buddy Garcia, *Commissioner*
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Mark R. Vickery, P.G., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

September 30, 2011

CERTIFIED MAIL - RETURN RECEIPT REQUESTED
91 7108 2133 3937 0494 3234

Mr. Donald Kaminski, Regional Operations Director
STERICYCLE, INC.
540 Rivergate Road
Memphis, TN 38109

Re: Enforcement Action, Revised Proposed Agreed Order
STERICYCLE, INC.; RN102942885; Municipal Solid Waste Permit No. 2260A
Docket No. 2011-1157-MSW-E; Enforcement Case No. 42038
FOR SETTLEMENT PURPOSES ONLY

Dear Mr. Kaminski:

Please find enclosed a revised proposed agreed order based on discussions with Ms. Selin Hoboy, Mr. Mark Triplett, and Mr. Al Burson of STERICYCLE, INC. and Mr. J.D. Head, Attorney, in a conference held on September 22, 2011. The language in paragraph 6 and 9 of Section I (Jurisdiction and Stipulations) has been modified to reflect changes in the penalty calculation and compliance date, respectively. A revised Penalty Calculation Worksheet is also included.

Although this revised order replaces the proposed order enclosed in the Texas Commission on Environmental Quality (TCEQ) letter dated September 2, 2011, the terms and conditions noted in the September 2, 2011 letter still apply. If you agree with the revised order as proposed, please sign and return this order with an original signature **and** the penalty payment of Thirty-Four Thousand Ninety Dollars (\$34,090) **before November 1, 2011**, (check payable to "TCEQ" and referencing STERICYCLE, INC., Docket No. 2011-1157-MSW-E) to:

Financial Administration Division, Revenues
Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, TX 78711-3088

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Mr. Donald Kaminski
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September 30, 2011

Enclosed for your convenience are a return envelope and a copy of the revised order for your files. Please note that any agreements we reach are subject to final approval by the Commission.

For any questions or comments about this matter, please contact Ms. Brianna Carlson of my staff at (956) 430-6021.

Sincerely,



for
Tim Haase, Manager
Enforcement Division
Texas Commission on Environmental Quality

TH/bc

Enclosures: Revised Proposed Agreed Order, File Copy, Return Envelope

cc: Mr. Barry Kalda, Manager, Waste Section, Austin Regional Office, TCEQ
Mr. J.D. Head, Attorney, Fritz, Byrne, Head, & Harrison, LLP, 98 San Jacinto Boulevard, Suite 2000, Austin, Texas 78701
Mr. Joel Barr, Stericycle Facility Manager, 2607 Highway 21 West, Dale, Texas 78616
Mr. Mark Triplett, Regional Environmental Manager, mtriplett@stericycle.com
Mr. Mark Miller, Stericycle, Inc. CEO, 12161 North Keith Drive, Lake Forest, IL 60045

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
STERICYCLE, INC.
RN102942885**

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

AGREED ORDER DOCKET NO. 2011-1157-MSW-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding STERICYCLE, INC. ("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, represented by J. D. Head of the law firm of Fritz, Byrne, Head & Harrison, LLP, appear before the Commission and together stipulate that:

1. The Respondent owns and operates a medical waste treatment facility at 2607 Highway 21 West in Dale, Bastrop County, Texas (the "Facility").
2. The Facility involves or involved the management of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about July 5, 2011.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Forty-Two Thousand Six Hundred Twelve Dollars (\$42,612) is assessed by the Commission in settlement of the violations alleged in

Section II ("Allegations"). The Respondent has paid Thirty-Four Thousand Ninety Dollars (\$34,090) of the administrative penalty and Eight Thousand Five Hundred Twenty-Two Dollars (\$8,522) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. 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.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that by May 5, 2011, the Respondent had implemented procedures to prevent the unauthorized treatment and disposal of pathological waste.
10. 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 Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to dispose of pathological waste according to approved methods of treatment and disposition, in violation of 30 TEX. ADMIN. CODE § 330.1219(b)(3), as documented during an investigation conducted on May 12, 2011. Specifically, the Respondent allowed pathological waste, including fetuses, to be treated by steam disinfection treatment followed by deposition in a municipal solid waste landfill.
2. Failed to comply with all permit conditions, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and MSW PERMIT NO. 2260A, SECTION II.B.2., as documented during an investigation conducted on May 12, 2011. Specifically, the Respondent treated pathological waste on-site at the Facility without authorization.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed 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. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: STERICYCLE, INC., Docket No. 2011-1157-MSW-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. This Agreed 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 Agreed 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.
4. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed 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 Agreed 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.

5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

For the Executive Director

Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, 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

Date

Name (Printed or typed)
Authorized Representative of
STERICYCLE, INC.

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	5-Jul-2011	Screening	7-Jul-2011	EPA Due	
	PCW	22-Sep-2011				

RESPONDENT/FACILITY INFORMATION	
Respondent	STERICYCLE, INC.
Reg. Ent. Ref. No.	RN102942885
Facility/Site Region	11-Austin
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	42038	No. of Violations	2
Docket No.	2011-1157-MSW-E	Order Type	1660
Media Program(s)	Medical Waste	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Brianna Carlson
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$54,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **2.0%** Enhancement **Subtotals 2, 3, & 7** **\$1,080**

Notes: Enhancement for one NOV with dissimilar violations.

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** **\$13,500**

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

Total EB Amounts **\$1,404**
 Approx. Cost of Compliance **\$2,451**
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$41,500**

OTHER FACTORS AS JUSTICE MAY REQUIRE **2.5%** **Adjustment** **\$1,032**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement for avoided costs of compliance associated with violation no. 2.

Final Penalty Amount **\$42,612**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$42,612**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$8,522**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY **\$34,090**

Screening Date 7-Jul-2011

Docket No. 2011-1157-MSW-E

PCW

Respondent STERICYCLE, INC.

Policy Revision 2 (September 2002)

Case ID No. 42038

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102942885

Media [Statute] Medical Waste

Enf. Coordinator Brianna Carlson

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	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	1	2%
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 judgements 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%
<i>Please Enter Yes or No</i>			
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) 2%

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

No

Adjustment Percentage (Subtotal 3) 0%

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

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

Enhancement for one NOV with dissimilar violations.

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

Screening Date 7-Jul-2011

Docket No. 2011-1157-MSW-E

PCW

Respondent STERICYCLE, INC.

Policy Revision 2 (September 2002)

Case ID No. 42038

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102942885

Media [Statute] Medical Waste

Enf. Coordinator Brianna Carlson

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 330.1219(b)(3)

Violation Description

Failed to dispose of pathological waste according to approved methods of treatment and disposition. Specifically, the Respondent allowed pathological waste, including fetuses, to be treated by steam disinfection treatment followed by deposition in a municipal solid waste landfill.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 14

1214 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$14,000

Fourteen quarterly events are recommended for the time period from the January 7, 2008 shipment date to the May 5, 2011 compliance date.

Good Faith Efforts to Comply

25.0% Reduction

\$3,500

	Before NOV		NOV to EDRP/Settlement Offer
	Extraordinary	Ordinary	
Extraordinary			
Ordinary		x	
N/A			(mark with x)

Notes

The Respondent came into compliance on May 5, 2011, prior to the June 20, 2011 Notice of Enforcement.

Violation Subtotal \$10,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$373

Violation Final Penalty Total \$11,048

This violation Final Assessed Penalty (adjusted for limits) \$11,048

Economic Benefit Worksheet

Respondent STERICYCLE, INC.
Case ID No. 42038
Reg. Ent. Reference No. RN102942885
Media Medical Waste
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$1,600	7-Jan-2008	5-May-2011	3.33	\$18	\$355	\$373
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)				0.00	\$0	N/A	\$0

Notes for DELAYED costs

Estimated cost to develop and implement procedures to prevent unauthorized disposal of pathological waste. The date required is the date of the first documented unauthorized disposal and the final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] 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 [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,600

TOTAL

\$373

Screening Date 7-Jul-2011

Docket No. 2011-1157-MSW-E

PCW

Respondent STERICYCLE, INC.

Policy Revision 2 (September 2002)

Case ID No. 42038

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102942885

Media [Statute] Medical Waste

Enf. Coordinator Brianna Carlson

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and MSW Permit No. 2260A, Section II.B.2.

Violation Description Failed to comply with all permit conditions. Specifically, the Respondent treated pathological waste on-site at the Stericycle Austin Autoclave without authorization.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	X			10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 40 Number of violation days 1214

mark only one with an x	daily	
	weekly	
	monthly	X
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$40,000

Forty monthly events are recommended for the time period from the January 7, 2008 shipment date to the May 5, 2011 compliance date.

Good Faith Efforts to Comply

25.0% Reduction

\$10,000

	Before NOV	NOV to EDPRP/Settlement Offer
	Extraordinary	
Ordinary	X	
N/A		(mark with x)

Notes The Respondent came into compliance on May 5, 2011, prior to the June 20, 2011 Notice of Enforcement.

Violation Subtotal \$30,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,032

Violation Final Penalty Total \$31,564

This violation Final Assessed Penalty (adjusted for limits) \$31,564

Economic Benefit Worksheet

Respondent STERICYCLE, INC.
Case ID No. 42038
Reg. Ent. Reference No. RN102942885
Media Medical Waste
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

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)				0.00	\$0	N/A	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] 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 [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$851	7-Jan-2008	5-May-2011	4.24	\$181	\$851	\$1,032
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The estimated avoided cost for transport to and treatment of medical waste at an authorized facility, calculated as: approximately 20 pounds of waste transported per shipment x 224 shipments x \$0.19 per pound. The date required is the date of the first documented unauthorized disposal and the final date is the date of compliance.

Approx. Cost of Compliance \$851

TOTAL \$1,032