

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO. 2008-0115-MSW-E TCEQ ID NO. RN105362701 CASE NO. 35243
RESPONDENT NAME: MARVIN WAYNE TAYLOR

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	

CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input checked="" type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: 1071 County Road 3341, Joaquin, Shelby County

TYPE OF OPERATION: automotive repair shop

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired February 1, 2010. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Laurencia N. Fasoyiro, Litigation Division, MC R-12, (713) 422-8914
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-3400

TCEQ Enforcement Coordinator: Mr. Ross Fife, Waste Enforcement Section, MC 128, (512) 239-2541

TCEQ Regional Contact: Mr. Derek Eades, Beaumont Regional Office, MC R-10, (409) 898-3838

Respondent: Mr. Marvin Wayne Taylor, c/o Mr. Chad Justin Taylor, 1071 County Road 3341, Joaquin, Texas 75954

Respondent's Attorney: Not represented by counsel on this enforcement matter.

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: October 5, 2007</p> <p>Date of NOE Relating to this Case: December 18, 2007</p> <p>Background Facts: The EDPRP was filed on July 7, 2008. The Respondent filed an answer and the case was referred to SOAH. Settlement was achieved and the agreed order was signed on December 1, 2009.</p> <p>Current Compliance Status: The Respondent has not yet submitted documentation to certify compliance with the technical requirements.</p> <p>MSW:</p> <ol style="list-style-type: none"> Failed to label or clearly mark containers used to store used oil with the words "used oil" [30 TEX. ADMIN. CODE § 324.6 and 40 CFR § 279.22(c)]. Failed to properly respond to the release of used oil upon detection [30 TEX. ADMIN. CODE § 324.15 and 40 CFR § 279.22(d)]. Failed to comply with used oil prohibitions [30 TEX. ADMIN. CODE § 324.4 and 40 CFR § 279.12(b)]. Failed to prevent used oil filters from being placed on the ground and failed to store used oil filters in a closed container [30 TEX. ADMIN. CODE § 328.23(b) and (c)(2)]. Failed to apply vector controls every two weeks [30 TEX. ADMIN. CODE § 328.56(d)(4)]. 	<p>Total Assessed: \$2,250</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid/Due to General Revenue: \$125/\$2,125</p> <p>The Respondent paid \$125 of the administrative penalty. The remaining amount of \$2,125 shall be payable in 17 monthly payments of \$125 each.</p> <p>Site Compliance History Classification: *N/A</p> <p>Person Compliance History Classification: *N/A</p> <p>*The Respondent has no compliance history ratings because the CN/RN were not in existence prior to September 1, 2007.</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Immediately: <ol style="list-style-type: none"> Begin labeling all used oil containers at the Facility with the words "used oil"; Cease the use of used oil as a dust suppressant at the Facility; and Begin to monitor and utilize vector control measures for tires stored outside at the Facility and keep the records of the inspection to make available to the TCEQ upon request. Within 30 days: <ol style="list-style-type: none"> Conduct soil sampling and remove and properly dispose of any soil that reveals contamination above background levels; Develop and implement a system to properly respond to used oil spills; and Begin properly storing all used oil filters. Within 45 days, submit written certification demonstrating compliance.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision November 6, 2007

TCEQ

DATES	Assigned	2-Jan-2008			
	PCW	16-Jan-2008	Screening	16-Jan-2008	EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent	Marvin Wayne Taylor			
Reg. Ent. Ref. No.	RN105362701			
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor	

CASE INFORMATION

Enf./Case ID No.	35243	No. of Violations	4
Docket No.	2008-0115-MSW-E	Order Type	1660
Media Program(s)	Used Oil	Enf. Coordinator	Colin Barth
Multi-Media		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$2,500

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$1,750**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **0%** Enhancement **Subtotals 2, 3, & 7** **\$0**

Notes: The Respondent has no record of any previous NOV's or Orders at this site within the past five years.

Culpability **No** **0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply **0%** Reduction **Subtotal 5** **\$0**

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

Notes: The Respondent does not meet the good faith criteria.

Total EB Amounts **\$78** **0% Enhancement*** **Subtotal 6** **\$0**
Approx. Cost of Compliance **\$1,500** **Capped at the Total EB \$ Amount*

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$1,750**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$1,750**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$1,750**

DEFERRAL **0%** Reduction **Adjustment** **\$0**

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

Notes:

Deferral not offered for non-expedited settlement.

PAYABLE PENALTY **\$1,750**

Screening Date 16-Jan-2008

Docket No. 2008-0115-MSW-E

PCW

Respondent Marvin Wayne Taylor

Policy Revision 2 (September 2002)

Case ID No. 35243

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN105362701

Media [Statute] Used Oil

Enf. Coordinator Colin Barth

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	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 (number of judgements or consent decrees meeting criteria)	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 (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	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 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	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) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The Respondent has no record of any previous NOVs or Orders at this site within the past five years.

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

Screening Date 16-Jan-2008

Docket No. 2008-0115-MSW-E

PCW

Respondent Marvin Wayne Taylor

Policy Revision 2 (September 2002)

Case ID No. 35243

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN105362701

Media [Statute] Used Oil

Enf. Coordinator Colin Barth

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 324.6 and 40 Code of Federal Regulations § 279.22(c)

Violation Description Failed to label or clearly mark containers used to store used oil with the words "used oil" as documented during an investigation conducted on October 5, 2007.

Base Penalty \$2,500

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
	x			10%

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

Adjustment \$2,250

\$250

Violation Events

Number of Violation Events 1 105 Number of violation days

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$250

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$10

Violation Final Penalty Total \$250

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

Economic Benefit Worksheet

Respondent Marvin Wayne Taylor
Case ID No. 35243
Reg. Ent. Reference No. RN105362701
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	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$200	5-Oct-2007	28-Sep-2008	1.0	\$10	n/a	\$10

Notes for DELAYED costs

Estimated cost to label or mark containers with the words "Used Oil". The Date Required is the investigation date and the Final Date is the projected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$200

TOTAL \$10

Screening Date 16-Jan-2008 **Docket No.** 2008-0115-MSW-E **PCW**
Respondent Marvin Wayne Taylor *Policy Revision 2 (September 2002)*
Case ID No. 35243 *PCW Revision November 6, 2007*
Reg. Ent. Reference No. RN105362701
Media [Statute] Used Oil
Enf. Coordinator Colin Barth

Violation Number 2
Rule Cite(s) 30 Tex. Admin. Code § 324.15 and 40 Code of Federal Regulations § 279.22(d)
Violation Description Failed to properly respond to the release of used oil upon detection, as documented during an investigation conducted on October 5, 2007. Specifically, at the time of the investigation used oil from automotive motor and transmission parts was observed leaking onto the ground .

Base Penalty \$2,500

>> Environmental, Property and Human Health Matrix

OR	Harm				
	Release	Major	Moderate		Minor
	Actual				x
Potential				Percent 10%	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent 0%

Matrix Notes Human health or the environment has been exposed to insignificant amounts of pollutants as a result of this violation.

Adjustment \$2,250

\$250

Violation Events

Number of Violation Events 2 105 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$500

Two quarterly events are recommended from the investigation date of October 5, 2007 to the screening date of January 17, 2008.

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

Estimated EB Amount \$53 **Violation Final Penalty Total** \$500

This violation Final Assessed Penalty (adjusted for limits) \$500

Economic Benefit Worksheet

Respondent Marvin Wayne Taylor

Case ID No. 35243

Reg. Ent. Reference No. RN105362701

Media Used Oil

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
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No commas or \$

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$1,000	5-Oct-2007	28-Oct-2008	1.1	\$53	n/a	\$53

Notes for DELAYED costs

Estimated cost to properly respond to a used oil spill. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$1,000

TOTAL \$53

Screening Date 16-Jan-2008

Docket No. 2008-0115-MSW-E

PCW

Respondent Marvin Wayne Taylor

Policy Revision 2 (September 2002)

Case ID No. 35243

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN105362701

Media [Statute] Used Oil

Enf. Coordinator Colin Barth

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 324.4 and 40 Code of Federal Regulations § 279.12(b)

Violation Description Failed to comply with used oil prohibitions, as documented during an investigation conducted on October 5, 2007. Specifically, at the time of the investigation used oil was being used as a dust suppressant on the earthen driveway at the site .

Base Penalty \$2,500

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			x	10%
Potential				

>> Programmatic Matrix

	Major	Moderate	Minor	Percent
Falsification				0%

Matrix Notes Human health or the environment has been exposed to insignificant amounts of pollutants as a result of this violation.

Adjustment \$2,250

\$250

Violation Events

Number of Violation Events 2 105 Number of violation days

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$500

Two quarterly events are recommended from the investigation date of October 5, 2007 to the screening date of January 17, 2008.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$5

Violation Final Penalty Total \$500

This violation Final Assessed Penalty (adjusted for limits) \$500

Economic Benefit Worksheet

Respondent Marvin Wayne Taylor
Case ID No. 35243
Reg. Ent. Reference No. RN105362701
Media Used Oil
Violation No. 3

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				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$100	5-Oct-2007	28-Sep-2008	1.0	\$5	n/a	\$5

Notes for DELAYED costs

Estimated cost to apply a dust suppressant to the driveway other than used oil. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$100

TOTAL \$5

Screening Date 16-Jan-2008

Docket No. 2008-0115-MSW-E

PCW

Respondent Marvin Wayne Taylor

Policy Revision 2 (September 2002)

Case ID No. 35243

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN105362701

Media [Statute] Used Oil

Enf. Coordinator Colin Barth

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 328.23(b) and (c)(2)

Violation Description Failed to prevent used oil filters from being placed on the ground and failed to store used oil filters in a closed container, as documented during an investigation conducted on October 5, 2007. Specifically, at the time of the investigation used oil filters were observed on the ground and in open containers at the site.

Base Penalty \$2,500

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent	
	Release	Major	Moderate		Minor
	Actual				x
Potential				10%	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Human health or the environment has been exposed to insignificant amounts of pollutants as a result of this violation.

Adjustment \$2,250

\$250

Violation Events

Number of Violation Events 2 105 Number of violation days

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

Violation Base Penalty \$500

Two quarterly events are recommended from the investigation date of October 5, 2007 to the screening date of January 17, 2008.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$10

Violation Final Penalty Total \$500

This violation Final Assessed Penalty (adjusted for limits) \$500

Economic Benefit Worksheet

Respondent Marvin Wayne Taylor
Case ID No. 35243
Reg. Ent. Reference No. RN105362701
Media Used Oil
Violation No. 4

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				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$200	5-Oct-2007	28-Sep-2008	1.0	\$10	n/a	\$10

Notes for DELAYED costs

Estimated cost to store used oil filters in a covered container. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$200

TOTAL \$10



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision November 6, 2007

TCEQ

DATES	Assigned	2-Jan-2008			
	PCW	17-Jan-2008	Screening	17-Jan-2008	EPA Due

RESPONDENT/FACILITY INFORMATION					
Respondent	Marvin Wayne Taylor				
Reg. Ent. Ref. No.	RN105362701				
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor		

CASE INFORMATION					
Enf./Case ID No.	35243	No. of Violations	1		
Docket No.	2008-0115-MSW-E	Order Type	1660		
Media Program(s)	Waste Tires	Enf. Coordinator	Colin Barth		
Multi-Media		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	\$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	0% Enhancement	Subtotals 2, 3, & 7	\$0
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Notes: The Respondent has no record of any previous NOV's or Orders at this site within the past five years.

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

Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
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	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes: The Respondent does not meet the good faith criteria.

Total EB Amounts	\$10	0% Enhancement*	Subtotal 6	\$0
Approx. Cost of Compliance	\$200	<i>*Capped at the Total EB \$ Amount</i>		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$500
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount \$500

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$500
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DEFERRAL	0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$500
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Screening Date 17-Jan-2008

Docket No. 2008-0115-MSW-E

PCW

Respondent Marvin Wayne Taylor

Policy Revision 2 (September 2002)

Case ID No. 35243

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN105362701

Media [Statute] Waste Tires

Enf. Coordinator Colin Barth

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	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 (number of judgements or consent decrees meeting criteria)	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 (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	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 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	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) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The Respondent has no record of any previous NOVs or Orders at this site within the past five years.

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

Screening Date 17-Jan-2008

Docket No. 2008-0115-MSW-E

PCW

Respondent Marvin Wayne Taylor

Policy Revision 2 (September 2002)

Case ID No. 35243

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN105362701

Media [Statute] Waste Tires

Enf. Coordinator Colin Barth

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 328.56(d)(4)

Violation Description Failed to apply vector controls every two weeks, as documented during an investigation conducted on October 5, 2007. Specifically, at the time of the investigation standing water was observed in several tires at the site.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				5%
Potential			x	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Human health or the environment will or could be exposed to insignificant amounts of pollutants as a result of this violation.

Adjustment \$9,500

\$500

Violation Events

Number of Violation Events 1 105 Number of violation days

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$500

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$10

Violation Final Penalty Total \$500

This violation Final Assessed Penalty (adjusted for limits) \$500

Economic Benefit Worksheet

Respondent Marvin Wayne Taylor
Case ID No. 35243
Reg. Ent. Reference No. RN105362701
Media Waste Tires
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
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$200	5-Oct-2007	28-Sep-2008	1.0	\$10	n/a	\$10

Notes for DELAYED costs

Estimated cost to monitor and apply vector controls to approximately 30 tires every two weeks. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$200

TOTAL \$10

Compliance History

Customer/Respondent/Owner-Operator: CN603256991 TAYLOR, MARVIN WAYNE Classification: Rating:
Regulated Entity: RN105362701 MARVIN WAYNE TAYLOR Classification: Site Rating:
ID Number(s):
Location: 1071 CR 3341, JOAQUIN, TX, 75954
TCEQ Region: REGION 10 - BEAUMONT
Date Compliance History Prepared: January 16, 2008
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: January 16, 2003 to January 16, 2008
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Colin Barth Phone: 512 239 0086

Site Compliance History Components

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 of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
 - B. Any criminal convictions of the state of Texas and the federal government.
N/A
 - C. Chronic excessive emissions events.
N/A
 - D. The approval dates of investigations. (CCEDES Inv. Track. No.)
N/A
 - E. Written notices of violations (NOV). (CCEDES Inv. Track. No.)
 - 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
MARVIN WAYNE TAYLOR;
RN105362701**

§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2008-0115-MSW-E**

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality (“Commission” or “TCEQ”) considered this agreement of the parties, resolving an enforcement action regarding Marvin Wayne Taylor (“Mr. Taylor”) under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE chs. 361 and 371. The Executive Director of the TCEQ, represented by the Litigation Division, and Mr. Taylor appear before the Commission and together stipulate that:

1. Mr. Taylor owns and operates an automotive repair shop located at 1071 County Road 3341 in Joaquin, Shelby County, Texas (the “Facility”).
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE chs. 361 and 371 and TCEQ rules.
3. The Commission and Mr. Taylor agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Taylor is subject to the Commission's jurisdiction.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Taylor of any violation alleged in Section II (“Allegations”), nor of any statute or rule.
5. An administrative penalty in the amount of two thousand two hundred fifty dollars (\$2,250.00) is assessed by the Commission in settlement of the violations alleged in Section II (“Allegations”). Mr. Taylor paid one hundred twenty-five dollars (\$125.00) of the administrative penalty. The remaining amount of two thousand one hundred twenty-five dollars (\$2,125.00) of the administrative penalty shall be payable in 17 monthly payments of one hundred twenty-five dollars (\$125.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall

be paid not later than 30 days following the due date of the previous payment. If Mr. Taylor fails to timely and satisfactorily comply with the payment requirements of this Agreed 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, Mr. Taylor's failure to meet the payment schedule of this Agreed Order constitutes the failure by Mr. Taylor to timely and satisfactorily comply with all of the terms of this Agreed Order

6. 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.
7. The Executive Director of the TCEQ and Mr. Taylor agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
8. 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 Mr. Taylor has not complied with one or more of the terms or conditions in this Agreed Order.
9. 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.
10. 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

1. During an investigation conducted on October 5, 2007, a TCEQ Beaumont Regional Office investigator documented that Mr. Taylor violated:
 - a. 30 TEX. ADMIN. CODE § 324.6 and 40 CFR § 279.22(c) by failing to label or clearly mark containers used to store used oil with the words "used oil."
 - b. 30 TEX. ADMIN. CODE § 324.15 and 40 CFR § 279.22(d) by failing to properly respond to the release of used oil upon detection. Specifically, at the time of the investigation used oil from automotive motor and transmission parts was observed leaking on the ground.
 - c. 30 TEX. ADMIN. CODE § 324.4 and 40 CFR § 279.12(b) by failing to comply with used oil prohibitions. Specifically, at the time of the investigation used oil was being used as a dust suppressant on the earthen driveway at the Facility.

- d. 30 TEX. ADMIN. CODE § 328.23(b) and (c)(2) by failing to prevent used oil filters from being placed on the ground and failing to store used oil filters in a closed container. Specifically, at the time of the investigation used oil filters were observed on the ground and in open containers at the Facility.
 - e. 30 TEX. ADMIN. CODE § 328.56(d)(4) by failing to apply vector controls every two weeks. Specifically, at the time of the investigation standing water was observed in several tires at the Facility.
2. Mr. Taylor received notice of the violations on or about December 23, 2007.

III. DENIALS

Mr. Taylor generally denies each allegation in Section II (“Allegations”).

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Mr. Taylor pay an administrative penalty as set forth in Section I, Paragraph 5, above. The payment of this administrative penalty and Mr. Taylor’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 considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to “Texas Commission on Environmental Quality” and shall be sent with the notation “Re: Marvin Wayne Taylor, Docket No. 2008-0115-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. Mr. Taylor shall undertake the following technical requirements:
 - a. Immediately after the effective date of this Agreed Order, Mr. Taylor shall:
 - i. Begin labeling all used oil containers at the Facility with the words “used oil”, in accordance with 30 TEX. ADMIN. CODE § 324.6 and 40 CODE OF FEDERAL REGULATIONS § 279.22(c);
 - ii. Cease the use of used oil as a dust suppressant at the Facility, in accordance with 30 TEX. ADMIN. CODE § 324.4 and 40 CODE OF FEDERAL REGULATIONS § 279.12(b); and

- iii. Begin to monitor and utilize vector control measures for tires stored outside at the Facility and keep the records of the inspection to make available to the TCEQ upon request, in accordance with 30 TEX. ADMIN. CODE § 328.56(d)(4).
- b. Within 30 days after the effective date of this Agreed Order, Mr. Taylor shall:
- i. Conduct soil sampling and remove and properly dispose of any soil that reveals contamination above background levels, in accordance with 30 TEX. ADMIN. CODE § 324.15 and 40 CFR § 279.22(d);
 - ii. Develop and implement a system to properly respond to used oil spills, in accordance with 30 TEX. ADMIN. CODE § 324.15 and 40 CFR § 279.22(d); and
 - iii. Begin properly storing all used oil filters, in accordance with 30 TEX. ADMIN. CODE § 328.23.
- c. Within 45 days after the effective date of this Agreed Order, Mr. Taylor shall, submit written certification as described below, 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 notarized by a State of Texas Notary Public and 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 fine and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

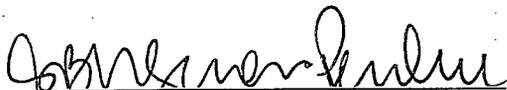
Derek Eades, Waste Section Manager
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1892

3. The provisions of this Agreed Order shall apply to and be binding upon Mr. Taylor. Mr. Taylor is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility's operations referenced in this Agreed Order.
4. If Mr. Taylor fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Mr. Taylor's failure to comply is not a violation of this Agreed Order. Mr. Taylor shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Taylor shall notify the Executive Director within seven days after Mr. Taylor becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. Taylor shall be made in writing to the Executive Director. Extensions are not effective until Mr. Taylor receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Mr. Taylor 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.
7. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Agreed Order to Mr. Taylor, or three days after the date on which the Commission mails notice of this Agreed Order to Mr. Taylor, 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

1/7/2010

Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, 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 my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on Mr. Taylor's compliance history;
- Greater scrutiny of any permit applications submitted by Mr. Taylor;
- 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 against Mr. Taylor;
- Automatic referral to the Attorney General's Office of any future enforcement actions against Mr. Taylor; and
- TCEQ seeking other relief as authorized by law.

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

Marvin W Taylor

Signature

12-1-09

Date

MARVIN W Taylor

Name (Printed or typed)

Owner

Title

Authorized representative of
Marvin Wayne Taylor