

Page 1 of 3

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2009-1336-MLM-E TCEQ ID: RN105196786 CASE NO.: 38260
RESPONDENT NAME: PREMIER RECYCLERS, L.L.C.

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 checked="" type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND 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 checked="" type="checkbox"/> USED OIL
<p>SITE WHERE VIOLATION(S) OCCURRED: Premier Recyclers, 1953 United States Highway 190 West, Jasper, Jasper County</p> <p>TYPE OF OPERATION: Scrap metal recycling facility</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on January 18, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Theresa Hagood, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-2540; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Richard A. Voyles, Registered Agent, PREMIER RECYCLERS, L.L.C., 15252 County Road 1134, Tyler, Texas 75709 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: June 9, 2009</p> <p>Date of NOV/NOE Relating to this Case: July 31, 2009 (NOB)</p> <p>Background Facts: This was a routine investigation.</p> <p>WASTE</p> <p>1) Failure to prevent the unauthorized disposal of municipal solid waste ("MSW"). Specifically, the Respondent disposed of approximately 30 cubic yards of MSW at the Facility. The MSW included carpet, construction and demolition materials, cardboard, propane tanks, and shingles [30 TEX. ADMIN. CODE § 330.15(c)].</p> <p>2) Failure to obtain a scrap tire storage site registration for the Facility. Specifically, approximately 2,000 scrap tires were observed being stored on the ground [30 TEX. ADMIN. CODE § 328.60(a)].</p> <p>3) Failure to have an effective vector control program for the scrap tires stored on the ground. Specifically, the Respondent did not monitor the scrap tires stored outside for vectors [30 TEX. ADMIN. CODE §§ 328.56(d)(4) and 328.63(d)(2)].</p> <p>4) Failure to label or clearly mark containers used to store used oil with the words "Used Oil" [40 CODE OF FEDERAL REGULATIONS ("CFR") § 279.22(c)].</p> <p>5) Failure to properly cleanup and dispose of contaminated soil upon detection of a release of used oil. Specifically, the Respondent did not cleanup and dispose of contaminated soil from areas near the storage shed and the crushing machine [30</p>	<p>Total Assessed: \$5,246</p> <p>Total Deferred: \$1,049 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$4,197</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. Reduced the amount of scrap tires on site to under 500 scrap tires on August 27, 2009;</p> <p>b. Properly marked all used oil containers with the words "Used Oil" on September 22, 2009;</p> <p>c. Implemented a vector control program on September 22, 2009;</p> <p>d. Implemented proper procedures to manage used oil filters on September 22, 2009; and</p> <p>e. Removed all MSW from the Facility and disposed of it at an authorized facility on September 22, 2009.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Immediately upon the effective date of this Agreed Order, cease receiving and disposing of any additional MSW at the Facility;</p> <p>b. Within 15 days after the effective date of this Agreed Order, ensure that scrap tires are not accumulated at the Facility without proper authorization;</p> <p>c. Within 30 days after the effective date of this Agreed Order, remove all contaminated soil from the Facility and dispose of the contaminated soil at an authorized facility; and</p> <p>d. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a. through c.</p>

<p>TEX. ADMIN. CODE § 324.15 and 40 CFR § 279.22(d)].</p> <p>6) Failure to properly store used oil filters. Specifically, the Respondent was storing used oil filters in a truck bed along with contaminated soil [30 TEX. ADMIN. CODE § 328.23].</p>		
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Additional ID No(s): N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	10-Aug-2009	Screening	17-Aug-2009	EPA Due	
	PCW	26-Oct-2009				

RESPONDENT/FACILITY INFORMATION			
Respondent	PREMIER RECYCLERS, L.L.C.		
Reg. Ent. Ref. No.	RN105196786		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	38260	No. of Violations	3
Docket No.	2009-1336-MLM-E	Order Type	1660
Media Program(s)	Used Oil	Government/Non-Profit	No
Multi-Media	Used Oil Filter	Enf. Coordinator	Ross Fife
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$2,500

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement Subtotals 2, 3, & 7

Notes: Enhancement for one NOV with same or similar violations and one NOV with dissimilar violations.

Culpability Enhancement Subtotal 4

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments Subtotal 5

Economic Benefit Enhancement* Subtotal 6

Total EB Amounts
 Approx. Cost of Compliance
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

Reduces or enhances the Final Subtotal by the Indicated percentage.

Notes:

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL Reduction Adjustment

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY

Screening Date 17-Aug-2009

Docket No. 2009-1336-MLM-E

PCW

Respondent PREMIER RECYCLERS, L.L.C.

Policy Revision 2 (September 2002)

Case ID No. 38260

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105196786

Media [Statute] Used Oil

Enf. Coordinator Ross Fife

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)	1	5%
	Other written NOVs	1	2%
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) 7%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with same or similar violations and one NOV with dissimilar violations.

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

Screening Date 17-Aug-2009 **Docket No.** 2009-1336-MLM-E **PCW**
Respondent PREMIER RECYCLERS, L.L.C. *Policy Revision 2 (September 2002)*
Case ID No. 38260 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN105198786
Media [Statute] Used Oil
Enf. Coordinator Ross Fife
Violation Number 1
Rule Cite(s) 40 Code of Federal Regulations ("CFR") § 279.22(c)
Violation Description Failed to label or clearly mark containers used to store used oil with the words "Used Oil".
Base Penalty \$2,500

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Matrix Notes	Falsification			Percent
	Major	Moderate	Minor	
	x			10%
100% of the rule requirement was not met.				

Adjustment \$2,250

Violation Events

Number of Violation Events: 1 69 Number of violation days

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

Violation Base Penalty \$250

One single event is recommended.

Good Faith Efforts to Comply

	10.0% Reduction	
	Before NOV	NOV to ED-PRP/Settlement Offer
Extraordinary		
Ordinary		x
N/A		(mark with x)

Notes: The Respondent achieved compliance on September 22, 2009.

Violation Subtotal \$225

Economic Benefit (EB) for this violation

Estimated EB Amount \$1

Statutory Limit Test

Violation Final Penalty Total \$243

This violation Final Assessed Penalty (adjusted for limits) \$243

Economic Benefit Worksheet

Respondent PREMIER RECYCLERS, L.L.C.
Case ID No. 38260
Reg. Ent. Reference No. RN105196786
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				0.00	\$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)	\$50	9-Jun-2009	22-Sep-2009	0.29	\$1	n/a	\$1

Notes for DELAYED costs

Estimated cost to properly label used oil containers. The Date Required is the investigation date 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

\$50

TOTAL

\$1

Screening Date 17-Aug-2009	Docket No. 2009-1338-MLM-E	PCW		
Respondent PREMIER RECYCLERS, L.L.C.	<small>Policy Revision 2 (September 2002)</small>			
Case ID No. 38260	<small>PCW Revision October 30, 2009</small>			
Reg. Ent. Reference No. RN105196786				
Media [Statute] Used Oil				
Enf. Coordinator Ross Fife				
Violation Number 2				
Rule Cite(s)	30 Tex. Admin. Code § 324.15 and 40 CFR § 279.22(d)			
Violation Description	Failed to properly cleanup and dispose of contaminated soil upon detection of a release of used oil. Specifically, the Respondent did not cleanup and dispose of contaminated soil from areas near the storage shed and the crushing machine.			
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 which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.			
Adjustment		\$2,250		
		\$250		
Violation Events				
Number of Violation Events		1	Number of violation days	
		69		
<small>mark only one with an x</small>	daily			
	weekly			
	monthly			
	quarterly	x		
	semiannual			
	annual			
	single event			
		Violation Base Penalty	\$250	
One quarterly event is recommended from the June 9, 2009 investigation date to the August 17, 2009 screening date.				
Good Faith Efforts to Comply				
		0.0% Reduction	\$0	
		<small>Before NOV NOV to EDPRP/Settlement Offer</small>		
Extraordinary				
Ordinary				
N/A	x	(mark with x)		
Notes	The Respondent does not meet the good faith criteria for this violation.			
Violation Subtotal		\$250		
Economic Benefit (EB) for this violation				
Estimated EB Amount		\$45	Statutory Limit Test	
		Violation Final Penalty Total	\$268	
		This violation Final Assessed Penalty (adjusted for limits)		
		\$268		

Economic Benefit Worksheet

Respondent PREMIER RECYCLERS, L.L.C.
Case ID No. 38260
Reg. Ent. Reference No. RN105196786
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				0.00	\$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	\$1,000	9-Jun-2009	30-Apr-2010	0.89	\$45	n/a	\$45
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to complete the remediation of the area and to dispose of contaminated soil at an authorized facility. 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				0.00	\$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

\$1,000

TOTAL

\$45

Screening Date 17-Aug-2009	Docket No. 2009-1336-MLM-E	PCW																					
Respondent PREMIER RECYCLERS, L.L.C.		<i>Policy Revision 2 (September 2002)</i>																					
Case ID No. 38260		<i>PCW Revision October 30, 2009</i>																					
Reg. Ent. Reference No. RN105196786																							
Media [Statute] Used Oil																							
Enf. Coordinator Ross Fife																							
Violation Number 3																							
Rule Cite(s)	30 Tex. Admin. Code § 328.23																						
Violation Description	Failed to properly store used oil filters. Specifically, the Respondent was storing used oil filters in a truck bed along with contaminated soil.																						
	Base Penalty	\$2,500																					
>> Environmental, Property and Human Health Matrix																							
	Harm																						
	Major	Moderate	Minor																				
OR	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:33%;">Actual</td> <td style="width:33%;"></td> <td style="width:33%;"></td> </tr> <tr> <td>Potential</td> <td></td> <td style="text-align: center;">x</td> </tr> </table>		Actual			Potential		x	Percent 5%														
Actual																							
Potential		x																					
>> Programmatic Matrix																							
	Major	Moderate	Minor																				
	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:33%;">Falsification</td> <td style="width:33%;"></td> <td style="width:33%;"></td> </tr> <tr> <td></td> <td></td> <td></td> </tr> </table>		Falsification						Percent 0%														
Falsification																							
Matrix Notes	Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.																						
	Adjustment	\$2,375																					
		\$125																					
Violation Events																							
	Number of Violation Events 1	Number of violation days 69																					
	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:30%;"></td> <td style="width:30%;">daily</td> <td style="width:30%;"></td> </tr> <tr> <td></td> <td>weekly</td> <td></td> </tr> <tr> <td></td> <td>monthly</td> <td></td> </tr> <tr> <td></td> <td>quarterly</td> <td></td> </tr> <tr> <td></td> <td>semiannual</td> <td></td> </tr> <tr> <td></td> <td>annual</td> <td></td> </tr> <tr> <td></td> <td>single event</td> <td style="text-align: center;">x</td> </tr> </table>		daily			weekly			monthly			quarterly			semiannual			annual			single event	x	Violation Base Penalty \$125
	daily																						
	weekly																						
	monthly																						
	quarterly																						
	semiannual																						
	annual																						
	single event	x																					
	One single event is recommended.																						
Good Faith Efforts to Comply																							
	10.0% Reduction	\$12																					
	Before NOV NOV to EDRP/Settlement Offer																						
Extraordinary																							
Ordinary		x																					
N/A		(mark with x)																					
Notes	The Respondent achieved compliance on September 22, 2009.																						
	Violation Subtotal	\$113																					
Economic Benefit (EB) for this violation																							
	Estimated EB Amount	\$10																					
Statutory Limit Test																							
	Violation Final Penalty Total	\$122																					
	This violation Final Assessed Penalty (adjusted for limits)	\$122																					

Economic Benefit Worksheet

Respondent PREMIER RECYCLERS, L.L.C.
Case ID No. 38260
Reg. Ent. Reference No. RN105196786
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	Overtime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment	\$500	9-Jun-2009	22-Sep-2009	0.29	\$0	\$10	\$10
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

Estimated cost to properly store used oil filters. The Date Required is the investigation date 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

\$500

TOTAL

\$10



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision October 30, 2008

TCEQ					
DATES	Assigned	10-Aug-2009			
	PCW	26-Oct-2009	Screening	17-Aug-2009	EPA Due

RESPONDENT/FACILITY INFORMATION	
Respondent	PREMIER RECYCLERS, L.L.C.
Reg. Ent. Ref. No.	RN106196786
Facility/Site Region	10-Beaumont
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	38260	No. of Violations	2
Docket No.	2009-1336-MLM-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	No
Multi-Media	Waste Tires	Enf. Coordinator	Ross Fife
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$3,500
ADJUSTMENTS (+/-) TO SUBTOTAL 1		
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.		
Compliance History	7.0% Enhancement	Subtotals 2, 3, & 7 \$245
Notes	Enhancement for one NOV with same or similar violations and 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 \$100
Economic Benefit	0.0% Enhancement	Subtotal 6 \$0
Total EB Amounts	\$56	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$5,000	
SUM OF SUBTOTALS 1-7	Final Subtotal	\$3,645
OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment \$0
Reduces or enhances the Final Subtotal by the indicated percentage.		
Notes		
	Final Penalty Amount	\$3,645
STATUTORY LIMIT ADJUSTMENT		Final Assessed Penalty \$3,645
DEFERRAL	20.0% Reduction	Adjustment -\$729
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		\$2,916

Screening Date 17-Aug-2009

Docket No. 2009-1336-MLM-E

PCW

Respondent PREMIER RECYCLERS, L.L.C.

Policy Revision 2 (September 2002)

Case ID No. 38260

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105196786

Media [Statute] Municipal Solid Waste

Enf. Coordinator Ross Fife

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)	1	5%
	Other written NOVs	1	2%
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%

Please Enter Yes or No

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) 7%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with same or similar violations and one NOV with dissimilar violations.

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

Screening Date: 17-Aug-2009	Docket No.: 2009-1336-MLM-E	PCW			
Respondent: PREMIER RECYCLERS, L.L.C.		<small>Policy Revision 2 (September 2002)</small>			
Case ID No.: 38260		<small>PCW Revision October 30, 2008</small>			
Reg. Ent. Reference No.: RN105196786					
Media [Statute]: Municipal Solid Waste					
Enf. Coordinator: Ross Fife					
Violation Number:	1				
Rule Cite(s)	30-Tex. Admin. Code § 328.60(a)				
Violation Description	Failed to obtain a scrap tire storage site registration for the Facility, as documented during an investigation conducted on June 9, 2009. Specifically, approximately 2,000 scrap tires were observed being stored on the ground.				
Base Penalty		\$10,000			
>> Environmental, Property and Human Health Matrix					
OR	Harm				
	Release	Major	Moderate		Minor
	Actual				Percent <input type="text" value="0%"/>
	Potential				
>> Programmatic Matrix					
	Falsification	Major	Moderate	Minor	Percent <input type="text" value="25%"/>
		x			
Matrix Notes	100% of the rule requirement was not met.				
Adjustment				\$7,500	
\$2,500					
Violation Events					
Number of Violation Events		<input type="text" value="1"/>		Number of violation days	
		<input type="text" value="69"/>			
<small>mark only one with an x</small>	daily			Violation Base Penalty	<input type="text" value="\$2,500"/>
	weekly				
	monthly				
	quarterly	x			
	semiannual				
	annual				
single event					
One quarterly event is recommended from the June 9, 2009 investigation date to the August 17, 2009 screening date.					
Good Faith Efforts to Comply			0.0% Reduction	\$0	
			<small>Before NOV</small>	<small>NOV to EDRP/Settlement Offer</small>	
Extraordinary					
Ordinary					
N/A	x		<small>(mark with x)</small>		
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		<input type="text" value="\$49"/>		Violation Final Penalty Total	
				<input type="text" value="\$2,675"/>	
This violation Final Assessed Penalty (adjusted for limits)				<input type="text" value="\$2,675"/>	

Economic Benefit Worksheet

Respondent: PREMIER RECYCLERS, L.L.C.
Case ID No.: 38260
Reg. Ent. Reference No.: RN105196786
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	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)				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	\$4,500	9-Jun-2009	27-Aug-2009	0.22	\$49	n/a	\$49
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost to remove excess scrap tires from the site. The Date Required is the investigation date and the Final Date is the date the Respondent reduced the amount of scrap tires to under 500.

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	\$4,500	TOTAL	\$49
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Screening Date: 17-Aug-2009	Docket No.: 2009-1336-MLM-E	PCW	
Respondent: PREMIER RECYCLERS, L.L.C.	<i>Policy Revision 2 (September 2002)</i>		
Case ID No.: 38260	<i>PCW Revision October 30, 2008</i>		
Reg. Ent. Reference No.: RN105196786			
Media [Statute]: Municipal Solid Waste			
Enf. Coordinator: Ross Fife			
Violation Number: 2			
Rule Cite(s):	30 Tex. Admin. Code §§ 328.56(d)(4) and 328.63(d)(2)		
Violation Description:	Failed to have an effective vector control program for the scrap tires stored on the ground. Specifically, the Respondent did not monitor the scrap tires stored outside for vectors.		
Base Penalty:		\$10,000	
>> Environmental, Property and Human Health Matrix			
OR	Harm		
	Major	Moderate	Minor
Release			
Actual			
Potential			X
Percent			10%
>> Programmatic Matrix			
	Major	Moderate	Minor
Falsification			
Actual			
Potential			
Percent			0%
Matrix Notes	Human health or the environment will or could be exposed to insignificant 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:	1	Number of violation days:	89
<i>mark only one with an x</i>	daily		
	weekly		
	monthly		
	quarterly		
	semiannual		
	annual		
	single event	X	
Violation Base Penalty:			\$1,000
One single event is recommended.			
Good Faith Efforts to Comply		10.0% Reduction	\$100
	Before NOV	NOV to EDRP/Settlement Offer	
Extraordinary			
Ordinary		X	
N/A	(mark with x)		
Notes:	The Respondent achieved compliance on September 22, 2009.		
Violation Subtotal:			\$900
Economic Benefit (EB) for this violation		Statutory Limit Test	
Estimated EB Amount:	\$7	Violation Final Penalty Total:	\$970
This violation Final Assessed Penalty (adjusted for limits):			\$970

Economic Benefit Worksheet

Respondent: PREMIER RECYCLERS, L.L.C.
Case ID No.: 38260
Reg. Ent. Reference No.: RN105198786
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	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	9-Jun-2009	22-Sep-2009	0.29	\$7	n/a	\$7

Notes for DELAYED costs: Estimated amount to establish a vector control program. The Date Required is the investigation date and the Final Date is the date of compliance.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$500	TOTAL	\$7
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Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2009

TCEQ
DATES

Assigned PCW 10-Aug-2009
26-Oct-2009 Screening 17-Aug-2009 EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent PREMIER RECYCLERS, L.L.C.
Reg. Ent. Ref. No. RN105196786
Facility/Site Region 10-Beaumont Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No. 38260 No. of Violations 1
Docket No. 2009-1336-MLM-E Order Type 1660
Media Program(s) Municipal Solid Waste Government/Non-Profit No
Multi-Media Inf. Coordinator Ross Fife
EC's Team Enforcement Team 6
Admin. Penalty \$ Limit Minimum \$0 Maximum \$10,000

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 7.0% Enhancement Subtotals 2, 3, & 7 \$70

Notes Enhancement for one NOV with same or similar violations and 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 \$100

Economic Benefit 0.0% Enhancement* Subtotal 6 \$0

Total EB Amounts \$44 *Capped at the Total EB \$ Amount
Approx. Cost of Compliance \$1,532

SUM OF SUBTOTALS 1-7 Final Subtotal \$970

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$970

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty \$970

DEFERRAL 20.0% Reduction Adjustment -\$194

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 \$776

Screening Date 17-Aug-2009

Docket No. 2009-1336-MLM-E

PCW

Respondent PREMIER RECYCLERS, L.L.C.

Policy Revision 2 (September 2002)

Case ID No. 38260

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN105196786

Media [Statute] Municipal Solid Waste

Enf. Coordinator Ross Fife

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)	1	5%
	Other written NOVs	1	2%
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 judgments 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) 7%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with same or similar violations and one NOV with dissimilar violations.

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

Screening Date	17-Aug-2009	Docket No.	2009-1336-MLM-E	PCW
Respondent	PREMIER RECYCLERS, L.L.C.			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	38260			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN105198786			
Media [Statute]	Municipal Solid Waste			
Enf. Coordinator	Ross Fife			
Violation Number	1			
Rule Cite(s)	30 Tex. Admin. Code § 330.15(c)			
Violation Description	Failed to prevent the unauthorized disposal of municipal solid waste ("MSW"), as documented during an investigation conducted on June 9, 2009. Specifically, the Respondent disposed of approximately 30 cubic yards of waste at the Facility. The waste included carpet, construction and demolition materials, cardboard, propane tanks, and shingles.			
Base Penalty	\$10,000			

>> 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 which do 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 Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	X
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty \$1,000

One quarterly event is recommended from the June 9, 2009 investigation date to the August 17, 2009 screening date.

Good Faith Efforts to Comply

10.0% Reduction

\$100

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	X
N/A	<input type="text"/>	(mark with x)

Notes The Respondent achieved compliance on September 22, 2009.

Violation Subtotal \$900

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$15

Violation Final Penalty Total \$970

This violation Final Assessed Penalty (adjusted for limits) \$970

Economic Benefit Worksheet

Respondent PREMIER RECYCLERS, L.L.C.
Case ID No. 38260
Reg. Ent. Reference No. RN105196786
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	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	\$1,032	9-Jun-2009	22-Sep-2009	0.29	\$15	n/a	\$15
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to dispose of 30 cubic yards of waste at an authorized facility. The Date Required is the investigation date 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

\$1,032

TOTAL

\$15

Compliance History Report

Customer/Respondent/Owner-Operator: CN603172735 PREMIER RECYCLERS, L.L.C. Classification: Rating:
 Regulated Entity: RN105196786 PREMIER RECYCLERS Classification: Site Rating:

ID Number(s):

Location: 1953 US HIGHWAY 190 W, JASPER, TX, 75951

TCEQ Region: REGION 10 - BEAUMONT

Date Compliance History Prepared: August 17, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: August 17, 2004 to August 17, 2009

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Ross Fife Phone: 512-239-2541

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period?
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
- 6.

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. (CCEDS Inv. Track. No.)
 - 1 03/28/2008 (610962)
 - 2 11/21/2008 (705645)
 - 3 07/31/2009 (748998)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 - Date: 03/28/2008 (610962)
 - Self Report? NO Classification: Moderate
 - Citation: 30 TAC Chapter 111, SubChapter B 111.201
5C THSC Chapter 382 382.085(b)
 - Description: Failure to comply with the outdoor burning rules.
 - Self Report? NO Classification: Minor
 - Citation: 40 CFR Chapter 279, SubChapter I, PT 279, SubPT C 279.22(c)
 - Description: Failure to properly label used oil containers.
 - Self Report? NO Classification: Moderate
 - Citation: 30 TAC Chapter 324, SubChapter A 324.15
40 CFR Chapter 279, SubChapter I, PT 279, SubPT C 279.22(d)

Description: Failure to clean up contaminated soil.
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 328, SubChapter F 328.56(b)
 Description: Failure to use a registered transporter for off-site shipment of scrap tires.
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 328, SubChapter F 328.56(d)(4)
 Description: Failure to perform vector control for scrap tires.
 Self Report? NO Classification: Minor
 :

Citation: 30 TAC Chapter 330, SubChapter A 330.15(a)
 Description: Failure to properly dispose of waste.
 Self Report? NO Classification: Moderate
 :

Citation: 30 TAC Chapter 328, SubChapter D 328.23
 Description: Failure to properly store used oil filters.
 Self Report? NO Classification: Major
 :

Citation: 30 TAC Chapter 328, SubChapter F 328.63(c)
 Description: Failure to register as a scrap tire facility.
 Date: 06/30/2008 (682583)
 Self Report? NO Classification: Minor
 :

Citation: 30 TAC Chapter 111, SubChapter B 111.201
 5C THSC Chapter 382 382.085(b)
 Description: Failure to conduct outdoor burning in an authorized manner.

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
PREMIER RECYCLERS, L.L.C.
RN105196786**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2009-1336-MLM-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 PREMIER RECYCLERS, L.L.C. ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE chs. 361 and 371 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a scrap metal recycling facility at 1953 United States Highway 190 West in Jasper, Jasper County, Texas (the "Facility").
2. The Facility involves or involved the management of municipal solid waste and used oil as defined in TEX. HEALTH & SAFETY CODE chs. 361 and 371.
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 August 5, 2009.
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 Five Thousand Two Hundred Forty-Six Dollars (\$5,246) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Four Thousand One Hundred Ninety-Seven Dollars

(\$4,197) of the administrative penalty and One Thousand Forty-Nine Dollars (\$1,049) 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 the Respondent has implemented the following corrective measures at the Facility:
 - a. Reduced the amount of scrap tires on site to under 500 scrap tires on August 27, 2009;
 - b. Properly marked all used oil containers with the words "Used Oil" on September 22, 2009;
 - c. Implemented a vector control program on September 22, 2009;
 - d. Implemented proper procedures to manage used oil filters on September 22, 2009; and
 - e. Removed all municipal solid waste ("MSW") from the Facility and disposed of it at an authorized facility on September 22, 2009.
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 prevent the unauthorized disposal of MSW, in violation of 30 TEX. ADMIN. CODE § 330.15(c), as documented during an investigation conducted on June 9, 2009. Specifically, the Respondent disposed of approximately 30 cubic yards of MSW at the Facility. The MSW included carpet, construction and demolition materials, cardboard, propane tanks, and shingles.

2. Failed to obtain a scrap tire storage site registration for the Facility, in violation of 30 TEX. ADMIN. CODE § 328.60(a), as documented during an investigation conducted on June 9, 2009. Specifically, approximately 2,000 scrap tires were observed being stored on the ground.
3. Failed to have an effective vector control program for the scrap tires stored on the ground, in violation of 30 TEX. ADMIN. CODE §§ 328.56(d)(4) and 328.63(d)(2), as documented during an investigation conducted on June 9, 2009. Specifically, the Respondent did not monitor the scrap tires stored outside for vectors.
4. Failed to label or clearly mark containers used to store used oil with the words "Used Oil", in violation of 40 CODE OF FEDERAL REGULATIONS ("CFR") § 279.22(c), as documented during an investigation conducted on June 9, 2009.
5. Failed to properly cleanup and dispose of contaminated soil upon detection of a release of used oil, in violation of 30 TEX. ADMIN. CODE § 324.15 and 40 CFR § 279.22(d), as documented during an investigation conducted on June 9, 2009. Specifically, the Respondent did not cleanup and dispose of contaminated soil from areas near the storage shed and the crushing machine.
6. Failed to properly store used oil filters, in violation of 30 TEX. ADMIN. CODE § 328.23, as documented during an investigation conducted on June 9, 2009. Specifically, the Respondent was storing used oil filters in a truck bed along with contaminated soil.

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: PREMIER RECYCLERS, L.L.C., Docket No. 2009-1336-MLM-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. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, cease receiving and disposing of any additional MSW at the Facility;

- b. Within 15 days after the effective date of this Agreed Order, ensure that scrap tires are not accumulated at the Facility without proper authorization;
- c. Within 30 days after the effective date of this Agreed Order, remove all contaminated soil from the Facility and dispose of the contaminated soil at an authorized facility; and
- d. Within 45 days after the effective date of this Agreed Order, 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. through 2.c. 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 this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, 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:

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

with a copy to:

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 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.
4. If the Respondent 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, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent 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 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.
6. 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.
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 under this Agreed Order.
8. 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.

PREMIER RECYCLERS, L.L.C.
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

[Signature]
For the Executive Director

1/29/2010
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]
Signature

1/15/10
Date

Mark A. Wells
Name (Printed or typed)
Authorized Representative of
PREMIER RECYCLERS, L.L.C.

Manager
Title

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