EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 42239
SCHOPPE AUTO SUPPLY, INC.
RN101670842
Docket No. 2011-1401-MLM-E

Order Type:
Default Order (SOAH preliminary hearing)

Findings Order Justification:
N/A

Media:
MLM – scrap tires, used oil and municipal solid waste

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
1422 Avenue B, Somerville, Burleson County

Type of Operation:
auto repair shop

Other Significant Matters:

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

Texas Register Publication Date: August 31, 2012

Comments Received: None

Penalty Information

Total Penalty Assessed: $6,562

Total Paid to General Revenue: $0

Total Due to General Revenue: $6,562

Compliance History Classifications:
Person/CN – Not yet rated
Site/RN – Not yet rated

Major Source: Yes (PCW 1); No (PCWs 2 and 3)

Statutory Limit Adjustment: None

Applicable Penalty Policy: September 2002

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: November 22, 2010; June 28, 2011

Date(s) of NOV(s): December 16, 2010

Date(s) of NOE(s): July 13, 2011

Violation Information

1. Failed to obtain a scrap tire storage site registration for the Facility prior to storing more than 500 used or scrap tires on the ground [30 TEX. ADMIN. CODE §§ 328.56(d)(2), 328.59(b)(1) and 328.60(a)].
2. Failed to prevent the unauthorized disposal of municipal solid waste ("MSW") [30 TEX. ADMIN. CODE § 330.15(c)].
3. Failed to prevent the unauthorized discharge of used oil [40 C.F.R. § 279.22(d) and 30 TEX. ADMIN. CODE §§ 324.1 and 324.4(1)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:
None

Technical Requirements:

1. Immediately, cease disposing of any additional MSW at the Facility.
2. Within 30 days:
   a. Reduce and maintain the number of tires being stored at the Facility to 500 or less on the ground and/or 2,000 or less in enclosed and lockable containers;
   b. Remove all tires in excess of 500 on the ground and/or 2,000 in enclosed and lockable containers and all other MSW from the Facility, and dispose of the tires and MSW at an authorized facility; and
   c. Remove all oil-contaminated soil from the Facility and dispose of it at an authorized facility.
3. Within 45 days, submit written certification to demonstrate compliance:

Litigation Information

Date Petition(s) Filed: February 10, 2012

Date Green Card(s) Signed: February 13, 2012

Date Answer(s) Filed: March 2, 2012

SOAH Referral Date: May 25, 2012

Hearing Date(s):
Preliminary hearing: July 12, 2012 (defaulted)

Contact Information

TCEQ Attorneys: Kari L. Gilbreth, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Scott Humphrey, Public Interest Counsel, (512) 239-6363

TCEQ Enforcement Coordinator: Andrea Park, Enforcement Division, (512) 239- 4575

TCEQ Regional Contact: Frank Burleson, Waco Regional Office, (254) 751-0335

Respondent: Bobby Schoppe, President, SCHOPPE AUTO SUPPLY, INC., 1422 Avenue B, Somerville, Texas 77879

Respondent's Attorney: N/A

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) *PCW Revision October 30, 2008*

TCEQ

DATES					
Assigned	25-Jul-2011				
PCW	22-Nov-2011	Screening	9-Aug-2011	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	SCHOPPE AUTO SUPPLY, INC.		
Reg. Ent. Ref. No.	RN101670842		
Facility/Site Region	9-Waco	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	42239	No. of Violations	1
Docket No.	2011-1401-MLM-E	Order Type	1660
Media Program(s)	Waste Tires	Government/Non-Profit	No
Multi-Media	Used Oil	Enf. Coordinator	Andrea Park
		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* **$5,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **5.0%** Enhancement *Subtotals 2, 3, & 7* **$250**

Notes: Enhancement for one NOV with same/similar 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* **$0**

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

Total EB Amounts $0
Approx. Cost of Compliance $0

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 *Final Subtotal* **$5,250**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **$5,250**

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* **$5,250**

DEFERRAL **0.0%** 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 **$5,250**

Screening Date	9-Aug-2011	**Docket No.**	2011-1401-MLM-E
Respondent	SCHOPPE AUTO SUPPLY, INC.		
Case ID No.	42239		
Reg. Ent. Reference No.	RN101670842		
Media [Statute]	Waste Tires		
Enf. Coordinator	Andrea Park		

PCW

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Compliance History Worksheet

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

Component	Number of...	*Enter Number Here*	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (*number of NOVs meeting criteria*)	1	5%
	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%
		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) 5%

>> 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/similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date	9-Aug-2011	**Docket No.** 2011-1401-MLM-E	**PCW**
Respondent	SCHOPPE AUTO SUPPLY, INC.		*Policy Revision 2 (September 2002)*
Case ID No.	42239		*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN101670842		
Media [Statute]	Waste Tires		
Enf. Coordinator	Andrea Park		

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 328.56(d)(2), 328.59(b)(1), and 328.60(a)

Violation Description Failed to obtain a scrap tire storage site registration for the Facility prior to storing more than 500 used or scrap tires or tire pieces on the ground. Specifically, 550 scrap tires were stored on the ground.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 25%

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

Adjustment $7,500

$2,500

Violation Events

Number of Violation Events: 2 — 42 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $5,000

Two monthly events are recommended from the June 28, 2011 record review date to the August 9, 2011 screening date.

Good Faith Efforts to Comply

0.0% Reduction — $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 for this violation.

Violation Subtotal $5,000

Economic Benefit (EB) for this violation

Estimated EB Amount $0

Statutory Limit Test

Violation Final Penalty Total $5,250

This violation Final Assessed Penalty (adjusted for limits) $5,250

Economic Benefit Worksheet

Respondent SCHOPPE AUTO SUPPLY, INC.
Case ID No. 42239
Reg. Ent. Reference No. RN101670842
Media Waste Tires
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				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	Economic benefit included in the municipal solid waste PCW.						
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 $0

TOTAL $0

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) *PCW Revision October 30, 2008*

TCEQ

DATES					
Assigned	25-Jul-2011				
PCW	22-Nov-2011	Screening	9-Aug-2011	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	SCHOPPE AUTO SUPPLY, INC.		
Reg. Ent. Ref. No.	RN101670842		
Facility/Site Region	9-Waco	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	42239	No. of Violations	1
Docket No.	2011-1401-MLM-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	No
Multi-Media	Used Oil	Enf. Coordinator	Andrea Park
		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 **5.0%** Enhancement *Subtotals 2, 3, & 7* **$50**

Notes: Enhancement for one NOV with same/similar 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* **$0**

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

Total EB Amounts $41
Approx. Cost of Compliance $1,174

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 *Final Subtotal* **$1,050**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **$1,050**

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* **$1,050**

DEFERRAL **0.0%** 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 **$1,050**

Screening Date	9-Aug-2011	**Docket No.**	2011-1401-MLM-E	**PCW**
Respondent	SCHOPPE AUTO SUPPLY, INC.			*Policy Revision 2 (September 2002)*
Case ID No.	42239			*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN101670842			
Media [Statute]	Municipal Solid Waste			
Enf. Coordinator	Andrea Park			

Compliance History Worksheet

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

Component	Number of...	*Enter Number Here*	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (*number of NOVs meeting criteria*)	1	5%
	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%
		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) 5%

>> 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/similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date	9-Aug-2011	**Docket No.** 2011-1401-MLM-E	**PCW**
Respondent	SCHOPPE AUTO SUPPLY, INC.		*Policy Revision 2 (September 2002)*
Case ID No.	42239		*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN101670842		
Media [Statute]	Municipal Solid Waste		
Enf. Coordinator	Andrea Park		

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"). Specifically, approximately 80 cubic yards of MSW including petroleum jelly, automotive fluids, and household trash were disposed of at the Facility.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: 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 $9,000

$1,000

Violation Events

Number of Violation Events 1 | 42 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $1,000

One quarterly event is recommended from the June 28, 2011 record review date to the August 9, 2011 screening date.

Good Faith Efforts to Comply

0.0% Reduction — $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 for this violation.

Violation Subtotal $1,000

Economic Benefit (EB) for this violation

Estimated EB Amount $41

Statutory Limit Test

Violation Final Penalty Total $1,050

This violation Final Assessed Penalty (adjusted for limits) $1,050

Economic Benefit Worksheet

Respondent SCHOPPE AUTO SUPPLY, INC.
Case ID No. 42239
Reg. Ent. Reference No. RN101670842
Media Municipal Solid Waste
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal	$1,174	28-Jun-2011	9-Mar-2012	0.70	$41	n/a	$41
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 and dispose of approximately 80 cubic yards of waste at an authorized facility. The date required is the record review 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 $1,174

TOTAL $41

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) *PCW Revision October 30, 2008*

DATES					
Assigned	25-Jul-2011				
PCW	22-Nov-2011	Screening	9-Aug-2011	EPA Due	

RESPONDENT/FACILITY INFORMATION			
Respondent	SCHOPPE AUTO SUPPLY, INC.		
Reg. Ent. Ref. No.	RN101670842		
Facility/Site Region	9-Waco	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	42239	No. of Violations	1
Docket No.	2011-1401-MLM-E	Order Type	1660
Media Program(s)	Used Oil	Government/Non-Profit	No
Multi-Media	Municipal Solid Waste	Enf. Coordinator	Andrea Park
		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* **$250**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **5.0%** Enhancement *Subtotals 2, 3, & 7* **$12**

Notes: Enhancement for one NOV with same/similar 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* **$0**

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

Total EB Amounts $35
Approx. Cost of Compliance $1,000

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 *Final Subtotal* **$262**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **$262**

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* **$262**

DEFERRAL **0.0%** 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 **$262**

Screening Date	9-Aug-2011	**Docket No.**	2011-1401-MLM-E
Respondent	SCHOPPE AUTO SUPPLY, INC.		
Case ID No.	42239		
Reg. Ent. Reference No.	RN101670842		
Media [Statute]	Used Oil		
Enf. Coordinator	Andrea Park		

PCW

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Compliance History Worksheet

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

Component	Number of...	*Enter Number Here*	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (*number of NOVs meeting criteria*)	1	5%
	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%
		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) 5%

>> 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/similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date	9-Aug-2011	**Docket No.** 2011-1401-MLM-E	**PCW**
Respondent	SCHOPPE AUTO SUPPLY, INC.		*Policy Revision 2 (September 2002)*
Case ID No.	42239		*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN101670842		
Media [Statute]	Used Oil		
Enf. Coordinator	Andrea Park		

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 324.1 and 324.4(1) and 40 Code of Federal Regulations § 279.22(d)

Violation Description Failed to prevent the unauthorized discharge of used oil. Specifically, used oil was discharged onto the ground adjacent to the used oil drums and a used oil storage tank.

Base Penalty $2,500

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Human health and 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 | 42 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $250

One quarterly event is recommended based on documentation of the violation from the June 28, 2011 record review date to the August 9, 2011 screening date.

Good Faith Efforts to Comply

0.0% Reduction $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 for this violation.

Violation Subtotal $250

Economic Benefit (EB) for this violation

Estimated EB Amount $35

Statutory Limit Test

Violation Final Penalty Total $263

This violation Final Assessed Penalty (adjusted for limits) $263

Economic Benefit Worksheet

Respondent SCHOPPE AUTO SUPPLY, INC.
Case ID No. 42239
Reg. Ent. Reference No. RN101670842
Media Used Oil
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal	$1,000	28-Jun-2011	9-Mar-2012	0.70	$35	n/a	$35
Permit Costs				0.00	$0	n/a	$0
Other (as needed)				0.00	$0	n/a	$0

Notes for DELAYED costs: Estimated cost to clean up and dispose of used oil and contaminated soil at an authorized facility. The date required is the record review date and the final date is the expected 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 $35

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600902159	SCHOPPE AUTO SUPPLY, INC.	Classification:	Rating:
Regulated Entity:	RN101670842	SCHOPPE AUTO SUPPLY INC	Classification:	Site Rating:
ID Number(s):				
Location:	1422 AVENUE B, SOMERVILLE, TX, 77879			
TCEQ Region:	REGION 09 - WACO			
Date Compliance History Prepared:	August 05, 2011			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	August 05, 2006 to August 05, 2011			

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

Name: Andrea Park Phone: (512) 239 - 4575

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/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. If **YES**, when did the change(s) in owner or operator occur? N/A
6. Rating Date: N/A Repeat Violator: N/A

Components (Multimedia) for the Site:

A. Final Enforcement Orders, court judgments, 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	02/18/2011	(893898)
2	05/17/2011	(915492)
3	07/21/2011	(935162)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 12/16/2010 (878655)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter A 330.15(c)

Description: Failed to prevent the unauthorized disposal of MSW, in violation of 30 TEX. ADMIN. CODE § 330.15(c), as documented during a record review conducted on June 28, 2011. Specifically, approximately 80 cubic yards of MSW including petroleum jelly, automotive fluids, and household trash were disposed of at the Facility.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 324, SubChapter A 324.1
30 TAC Chapter 324, SubChapter A 324.4(1)
40 CFR Chapter 279, SubChapter I, PT 279, SubPT C 279.22(d)

Description: Failed to prevent the unauthorized discharge of used oil, in violation of 30 TEX. ADMIN. CODE §§ 324.1 and 324.4(1) and 40 C.F.R.§ 279.22(d), as documented during a record review conducted on June 28, 2011. Specifically, used oil was discharged onto the ground adjacent to the used oil drums and a used oil storage tank.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 328, SubChapter F 328.56(d)(2)
30 TAC Chapter 328, SubChapter F 328.59(b)(1)
30 TAC Chapter 328, SubChapter F 328.60(a)

Description: Failed to obtain a scrap tire storage site registration for the Facility prior to storing more than 500 used or scrap tires on the ground, in violation of 30 TEX. ADMIN. CODE §§ 328.56(d)(2), 328.59(b)(1), and 328.60(a), as documented during a record review conducted on June 28, 2011. Specifically, 550 scrap tires were stored on the ground.

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

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN ENFORCEMENT ACTION CONCERNING SCHOPPE AUTO SUPPLY, INC.; RN101670842	**§ § § § §**	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2011-1401-MLM-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE chs. 361 and 371, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is SCHOPPE AUTO SUPPLY, INC. ("Respondent").

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

FINDINGS OF FACT

1. Respondent owns and operates an auto repair shop located at 1422 Avenue B in Somerville, Burleson County, Texas (the "Facility"). The Facility involves the management and/or the disposal of municipal solid waste ("MSW") and used oil as defined in TEX. HEALTH & SAFETY CODE chs. 361 and 371.

2. During an investigation conducted on November 22, 2010, and a record review conducted on June 28, 2011, a TCEQ Waco Regional Office investigator documented that Respondent:

   a. Failed to obtain a scrap tire storage site registration for the Facility prior to storing more than 500 used or scrap tires on the ground. Specifically, 550 scrap tires were stored on the ground;

   b. Failed to prevent the unauthorized disposal of MSW. Specifically, approximately 80 cubic yards of MSW including petroleum jelly, automotive fluids and household trash were disposed of at the Facility; and

   c. Failed to prevent the unauthorized discharge of used oil. Specifically, used oil was discharged onto the ground adjacent to the used oil drums and a used oil storage tank.

3. Respondent received notice of the violations on or about December 21, 2010, and July 18, 2011.

4. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of SCHOPPE AUTO SUPPLY, INC." (the "EDPRP") in the TCEQ Chief Clerk's office on February 10, 2012.

5. Respondent filed an answer requesting a hearing on March 2, 2012, and the matter was referred to the State Office of Administrative Hearings ("SOAH") on May 25, 2012.

6. On June 12, 2012, the TCEQ Chief Clerk mailed notice of the July 12, 2012, preliminary hearing via certified mail, return receipt requested, and via first class mail, postage prepaid to Respondent.

7. On July 12, 2012, the ALJ convened the preliminary hearing. Respondent failed to appear, and the Executive Director requested that the matter be dismissed from the SOAH Docket and remanded to the Executive Director so that a Default Order may be entered by the Commission.

8. On July 12, 2012, the ALJ entered a finding that Respondent was served with proper notice of the hearing and remanded the matter to the Executive Director by SOAH Order No. 1, Granting Motion to Dismiss and Remand, so that TCEQ may dispose of this case on a default basis.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE chs. 361 and 371 and the rules of the Commission.

2. As evidenced by Finding of Fact No. 2.a., Respondent failed to obtain a scrap tire storage site registration for the Facility prior to storing more than 500 used or scrap tires on the ground, in violation of 30 TEX. ADMIN. CODE §§ 328.56(d)(2), 328.59(b)(1) and 328.60(a).

3. As evidenced by Finding of Fact No. 2.b., Respondent failed to prevent the unauthorized disposal of MSW, in violation of 30 TEX. ADMIN. CODE § 330.15(c).

4. As evidenced by Finding of Fact No. 2.c., Respondent failed to prevent the unauthorized discharge of used oil, in violation of 40 C.F.R. § 279.22(d) and 30 TEX. ADMIN. CODE §§ 324.1 and 324.4(1).

5. As evidenced by Finding of Fact No. 5, Respondent filed an answer requesting a hearing as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105, and the matter was referred to SOAH pursuant to 1 TEX. ADMIN. CODE §§ 155.53(b) and 155.101(b) and 30 TEX. ADMIN. CODE § 70.109.

6. As evidenced by Finding of Fact No. 6, Respondent was provided proper notice of the preliminary hearing in accordance with TEX. GOV'T CODE §§ 2001.051(1) and 2001.052, TEX. WATER CODE § 7.058, 1 TEX. ADMIN. CODE §§ 155.103(a) and (c)(3), 155.401 and 155.501, and 30 TEX. ADMIN. CODE §§ 1.11, 1.12, 39.23, 39.25, 39.405, 39.413, 39.423, 39.425 and 80.6.

7. As evidenced by Findings of Fact Nos. 7 and 8, Respondent failed to appear for the preliminary hearing, and pursuant to TEX. GOV'T CODE § 2001.056(4), TEX. WATER CODE § 7.057, and 1 TEX. ADMIN. CODE § 155.501(d), the ALJ dismissed the case from the SOAH docket so that the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director pursuant to 30 TEX. ADMIN. CODE § 70.106(b).

8. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.

9. An administrative penalty in the amount of six thousand five hundred sixty-two dollars ($6,562.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.

10. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty in the amount of six thousand five hundred sixty-two dollars ($6,562.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here.

2. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: SCHOPPE AUTO SUPPLY, INC.; Docket No. 2011-1401-MLM-E" to:

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

3. Respondent shall undertake the following technical requirements:

   a. Immediately upon the effective date of this Order, Respondent shall cease disposing of any additional MSW at the Facility;

   b. Within 30 days after the effective date of this Order, Respondent shall:

      i. Reduce and maintain the number of tires being stored at the Facility to 500 or less on the ground and/or 2,000 or less in enclosed and lockable containers, in accordance with 30 TEX. ADMIN. CODE §§ 328.56, 328.59 and 328.60;

      ii. Remove all tires in excess of 500 on the ground and/or 2,000 in enclosed and lockable containers and all other MSW from the Facility, and dispose of the tires and MSW at an authorized facility; and

iii. Remove all oil-contaminated soil from the Facility and dispose of it at an authorized facility.

c. Within 45 days after the effective date of this Order, Respondent shall submit written certification to demonstrate compliance with Ordering Provisions Nos. 3.a. through 3.b.iii. The certification shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall include the following certification language:

> "I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Respondent shall submit the written certification and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

Frank Burleson, Waste Section Manager
Waco Regional Office
Texas Commission on Environmental Quality
6801 Sanger Avenue, Suite 2500
Waco, Texas 76710-7826

4. All relief not expressly granted in this Order is denied.

5. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.

6. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

7. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

8. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.

9. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.

10. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

S I G N A T U R E P A G E

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

AFFIDAVIT OF KARI L. GILBRETH

STATE OF TEXAS §
§
COUNTY OF TRAVIS §

"My name is Kari L. Gilbreth. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of SCHOPPE AUTO SUPPLY, INC." (the "EDPRP") was filed in the TCEQ Chief Clerk's office on February 10, 2012.

On May 25, 2012, the matter was referred to SOAH. On June 12, 2012, the TCEQ Chief Clerk mailed notice of the July 12, 2012, preliminary hearing via certified mail, return receipt requested, and via first class mail, postage prepaid to Respondent.

Respondent failed to appear at the preliminary hearing on July 12, 2012. At that hearing, I requested that the ALJ enter a finding that Respondent was served with proper notice of the hearing and the matter be remanded to the Executive Director pursuant to 1 TEX. ADMIN. CODE § 155.501(d), which gives an ALJ the authority to remand the case back to the agency for informal disposition on a default basis in accordance with TEX. GOV'T CODE § 2001.056.

The ALJ remanded the matter to the Executive Director by SOAH Order No. 1, Granting Motion to Dismiss and Remand, issued on July 12, 2012, so that TCEQ may dispose of this case on a default basis."

Kari L. Gilbreth, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Kari L. Gilbreth, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 6th day of August, A.D. 2012.

Notary Signature

MARGARET T JACKSON
NOTARY PUBLIC
State of Texas
Comm. Exp. 12-21-2013