

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 41387  
Jason Castoria d/b/a American Auto Care  
RN105967806  
Docket No. 2011-0490-MLM-E

**Order Type:**

Default Order (SOAH preliminary hearing)

**Findings Order Justification:**

N/A

**Media:**

MLM – IHW and Used Oil

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

304 South Bryan Avenue, Bryan, Brazos County

**Type of Operation:**

paint and auto body shop

**Other Significant Matters:**

Additional Pending Enforcement Actions:	2011-0380-AIR-E
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

**Texas Register Publication Date:** September 28, 2012

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$11,502

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

**Total Due to General Revenue:** \$11,502

**Compliance History Classifications:**

Person/CN – Average  
Site/RN – Average

**Major Source:** No (Both PCWs)

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** September 2002 (Both PCWs)

**Investigation Information**

**Complaint Date(s):** N/A

**Date(s) of Investigation:** February 23, 2011

**Date(s) of NOV(s):** August 27, 2010

**Date(s) of NOE(s):** March 11, 2011

Jason Castoria d/b/a American Auto Care

RN105967806

Docket No. 2011-0490-MLM-E

**Violation Information**

1. Failed to keep records of all hazardous and industrial solid waste activities regarding the quantities generated, stored, processed, and disposed of on-site or shipped off-site for storage [30 TEX. ADMIN. CODE § 335.9(a)(1)];
2. Failed to conduct proper hazardous waste determinations and waste classifications on each solid waste generated and/or stored at the facility [30 TEX. ADMIN. CODE §§ 335.62 and 335.503(a) and 40 C.F.R. § 262.11];
3. Failed to label each hazardous waste container clearly with the words "Hazardous Waste" [30 TEX. ADMIN. CODE § 335.69(a)(3) and 40 C.F.R. § 262.34(a)(3)];
4. Failed to keep containers holding paint or paint-related waste closed, except when adding or removing waste [30 TEX. ADMIN. CODE § 335.262(c)(2)(A) and 40 C.F.R. § 265.173(a)]; and
5. Failed to label used oil containers clearly with the words "Used Oil" [30 TEX. ADMIN. CODE § 324.6 and 40 C.F.R. § 279.22(c)(1)].

**Corrective Actions/Technical Requirements****Corrective Action(s) Completed:**

None

**Technical Requirements:**

1. Immediately, begin maintaining records of all hazardous and industrial solid waste activities
2. Within 30 days:
  - a. Conduct hazardous waste determinations and waste classifications on all waste streams generated at the facility;
  - b. Develop and implement procedures to ensure that all containers storing hazardous waste are marked with the words "Hazardous Waste";
  - c. Develop and implement procedures to ensure that all containers storing universal waste are kept closed except when adding or removing wastes; and
  - d. Develop and implement procedures to ensure that all used oil containers are labeled with the words "Used Oil";
3. Within 45 days, submit written certification demonstrating compliance

**Litigation Information****Date Petition(s) Filed:** July 29, 2011**Date Answer(s) Filed:** August 23, 2011**SOAH Referral Date:** April 23, 2012**Hearing Date(s):**

Preliminary hearing: May 31, 2012 (defaulted)

**Contact Information****TCEQ Attorneys:** Anna M. Treadwell, Litigation Division, (512) 239-3400

Lena Roberts, Litigation Division, (512) 239-3400

Blas Coy, 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:** Jason Castoria, 304 South Bryan Avenue, Bryan, Texas 77803**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

<b>DATES</b>	<b>Assigned</b>	14-Mar-2011			
	<b>PCW</b>	20-Jun-2011	<b>Screening</b>	28-Mar-2011	<b>EPA Due</b>

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Jason Castoria dba American Auto Care			
<b>Reg. Ent. Ref. No.</b>	RN105967806			
<b>Facility/Site Region</b>	9-Waco	<b>Major/Minor Source</b>	Minor	

## CASE INFORMATION

<b>Enf./Case ID No.</b>	41387	<b>No. of Violations</b>	4
<b>Docket No.</b>	2011-0490-MLM-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Industrial and Hazardous Waste	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>	Used Oil	<b>Enf. Coordinator</b>	Andrea Park
		<b>EC's Team</b>	Enforcement Team 6
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** \$10,500

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	7.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$735
Notes	Enhancement for one NOV with same/similar violations and one NOV with dissimilar violations.		
<b>Culpability</b>	No 0.0% Enhancement	<b>Subtotal 4</b>	\$0
Notes	The Respondent does not meet the culpability criteria.		
<b>Good Faith Effort to Comply Total Adjustments</b>		<b>Subtotal 5</b>	\$0
<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
Total EB Amounts	\$223	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$6,000		

**SUM OF SUBTOTALS 1-7** **Final Subtotal** \$11,235

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes		<b>Final Penalty Amount</b>	\$11,235
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**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** \$11,235

**DEFERRAL** **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.		
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**PAYABLE PENALTY** **\$11,235**

<b>Screening Date</b>	28-Mar-2011	<b>Docket No.</b>	2011-0490-MLM-E	<b>PCW</b>
<b>Respondent</b>	Jason Castoria dba American Auto Care			<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b>	41387			<i>PCW Revision October 30, 2008</i>
<b>Reg. Ent. Reference No.</b>	RN105967806			
<b>Media [Statute]</b>	Industrial and Hazardous Waste			
<b>Enf. Coordinator</b>	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 ( <i>number of NOVs meeting criteria</i> )	1	5%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)**

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

**Adjustment Percentage (Subtotal 3)**

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

**Adjustment Percentage (Subtotal 7)**

>> **Compliance History Summary**

**Compliance History Notes**

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

<b>Screening Date</b>	28-Mar-2011	<b>Docket No.</b>	2011-0490-MLM-E	<b>PCW</b>
<b>Respondent</b>	Jason Castoria dba American Auto Care			<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b>	41387			<i>PCW Revision October 30, 2008</i>
<b>Reg. Ent. Reference No.</b>	RN105967806			
<b>Media [Statute]</b>	Industrial and Hazardous Waste			
<b>Enf. Coordinator</b>	Andrea Park			

**Violation Number**

**Rule Cite(s)**

**Violation Description**

**Base Penalty**

>> **Environmental, Property and Human Health Matrix**

<b>OR</b>	<b>Harm</b>				
	<b>Release</b>	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="10%"/>

**Matrix Notes**

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

*mark only one with an x*

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="text" value="x"/>

**Violation Base Penalty**

**Good Faith Efforts to Comply**  Reduction

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

**Notes**

**Violation Subtotal**

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

**Estimated EB Amount**  **Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent** Jason Castoria dba American Auto Care  
**Case ID No.** 41387  
**Reg. Ent. Reference No.** RN105967806  
**Media Violation No.** Industrial and Hazardous Waste  
 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	\$1,200	23-Feb-2011	28-Oct-2011	0.68	\$41	n/a	\$41
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 maintain records of industrial and hazardous waste activities. 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

\$1,200

**TOTAL**

\$41

<b>Screening Date</b>	28-Mar-2011	<b>Docket No.</b>	2011-0490-MLM-E	<b>PCW</b>
<b>Respondent</b>	Jason Castoria dba American Auto Care			<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b>	41387			<i>PCW Revision October 30, 2008</i>
<b>Reg. Ent. Reference No.</b>	RN105967806			
<b>Media [Statute]</b>	Industrial and Hazardous Waste			
<b>Enf. Coordinator</b>	Andrea Park			

**Violation Number**

**Rule Cite(s)** 30 Tex. Admin. Code §§ 335.62 and 335.503(a) and 40 Code of Federal Regulations ("CFR") § 262.11

**Violation Description**

Failed to conduct proper hazardous waste determinations and waste classifications on each solid waste generated/stored at the Facility. Specifically, the Respondent did not conduct waste determinations and waste classifications on the paint waste and paint solvent cans.

**Base Penalty**

>> **Environmental, Property and Human Health Matrix**

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="25%"/>
	Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

*mark only one with an x*

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text" value="x"/>

**Violation Base Penalty**

One single event is recommended.

**Good Faith Efforts to Comply**

Reduction

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

Notes

The Respondent does not meet the good faith criteria for this violation.

**Violation Subtotal**

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

Estimated EB Amount

**Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent** Jason Castoria dba American Auto Care  
**Case ID No.** 41387  
**Reg. Ent. Reference No.** RN105967806  
**Media Violation No.** Industrial and Hazardous Waste  
 2

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$4,200	23-Feb-2011	28-Nov-2011	0.76	\$160	n/a	\$160
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 conduct hazardous waste determinations and classifications on one waste stream. 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 \$4,200

**TOTAL** \$160

<b>Screening Date</b>	28-Mar-2011	<b>Docket No.</b>	2011-0490-MLM-E	<b>PCW</b>
<b>Respondent</b>	Jason Castoria dba American Auto Care			<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b>	41387			<i>PCW Revision October 30, 2008</i>
<b>Reg. Ent. Reference No.</b>	RN105967806			
<b>Media [Statute]</b>	Industrial and Hazardous Waste			
<b>Enf. Coordinator</b>	Andrea Park			

**Violation Number**

**Rule Cite(s)**

**Violation Description**

**Base Penalty**

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="10%"/>

**Matrix Notes**

**Adjustment**

Violation Events

Number of Violation Events   Number of violation days

*mark only one with an x*

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="text" value="x"/>

**Violation Base Penalty**

Good Faith Efforts to Comply

Reduction

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

**Notes**

**Violation Subtotal**

Economic Benefit (EB) for this violation

Statutory Limit Test

**Estimated EB Amount**

**Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

# Economic Benefit Worksheet

**Respondent** Jason Castoria dba American Auto Care  
**Case ID No.** 41387  
**Reg. Ent. Reference No.** RN105967806  
**Media Violation No.** Industrial and Hazardous Waste  
 3

Percent Interest	Years of Depreciation
5.0	15

**Item Cost**   **Date Required**   **Final Date**   **Yrs**   **Interest Saved**   **Onetime Costs**   **EB Amount**  
**Item Description** 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)	\$100	23-Feb-2011	28-Nov-2011	0.76	\$4	n/a	\$4

**Notes for DELAYED costs**  
 Estimated cost to label the two hazardous waste containers. Date required is the investigation date and 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**      **TOTAL**

<b>Screening Date</b>	28-Mar-2011	<b>Docket No.</b>	2011-0490-MLM-E	<b>PCW</b>
<b>Respondent</b>	Jason Castoria dba American Auto Care			<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b>	41387			<i>PCW Revision October 30, 2008</i>
<b>Reg. Ent. Reference No.</b>	RN105967806			
<b>Media [Statute]</b>	Industrial and Hazardous Waste			
<b>Enf. Coordinator</b>	Andrea Park			

**Violation Number**

**Rule Cite(s)**

**Violation Description**

**Base Penalty**

>> **Environmental, Property and Human Health Matrix**

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="25%"/>
	Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

**Matrix Notes**

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

*mark only one with an x*

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text" value="x"/>

**Violation Base Penalty**

**Good Faith Efforts to Comply**

Reduction

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

**Notes**

**Violation Subtotal**

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount**

**Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent** Jason Castoria dba American Auto Care  
**Case ID No.** 41387  
**Reg. Ent. Reference No.** RN105967806  
**Media Violation No.** Industrial and Hazardous Waste  
 4

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$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	23-Feb-2011	28-Nov-2011	0.76	\$19	n/a	\$19

**Notes for DELAYED costs** Estimated cost to develop and implement procedures to ensure that containers are closed except when adding or removing waste. The date required is the investigation date and the final date is the expected compliance date.

### 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** \$19



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

<b>DATES</b>	<b>Assigned</b>	14-Mar-2011			
	<b>PCW</b>	20-Jun-2011	<b>Screening</b>	28-Mar-2011	<b>EPA Due</b>

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Jason Castoria dba American Auto Care			
<b>Reg. Ent. Ref. No.</b>	RN105967806			
<b>Facility/Site Region</b>	9-Waco	<b>Major/Minor Source</b>	Minor	

## CASE INFORMATION

<b>Enf./Case ID No.</b>	41387	<b>No. of Violations</b>	1
<b>Docket No.</b>	2011-0490-MLM-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Used Oil	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>	Industrial and Hazardous Waste	<b>Enf. Coordinator</b>	Andrea Park
		<b>EC's Team</b>	Enforcement Team 6
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$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** **7.0%** Enhancement **Subtotals 2, 3, & 7**

Notes

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

**Culpability** **No** **0.0%** Enhancement **Subtotal 4**

Notes

The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5**

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

Total EB Amounts	\$4
Approx. Cost of Compliance	\$100

\*Capped at the Total EB \$ Amount

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

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL** **0.0%** Reduction **Adjustment**

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

Notes

Deferral not offered for non-expedited settlement.

**PAYABLE PENALTY**

Screening Date 28-Mar-2011

Docket No. 2011-0490-MLM-E

PCW

Respondent Jason Castoria dba American Auto Care

Policy Revision 2 (September 2002)

Case ID No. 41387

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105967806

Media [Statute] Used Oil

Enf. Coordinator Andrea Park

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	1	5%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 7%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance History Notes

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

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

<b>Screening Date</b>	28-Mar-2011	<b>Docket No.</b>	2011-0490-MLM-E	<b>PCW</b>
<b>Respondent</b>	Jason Castoria dba American Auto Care		Policy Revision 2 (September 2002)	
<b>Case ID No.</b>	41387	PCW Revision October 30, 2008		
<b>Reg. Ent. Reference No.</b>	RN105967806			
<b>Media [Statute]</b>	Used Oil			
<b>Enf. Coordinator</b>	Andrea Park			

**Violation Number**

**Rule Cite(s)**

**Violation Description**

**Base Penalty**

>> **Environmental, Property and Human Health Matrix**

<b>OR</b>	<b>Harm</b>				<b>Percent</b> <input type="text" value="0%"/>
	<b>Release</b>	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	<b>Percent</b> <input type="text" value="10%"/>
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	

**Matrix Notes**

**Adjustment**

**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	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input checked="" type="text" value="x"/>

**Violation Base Penalty**

**Good Faith Efforts to Comply**

Reduction

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

**Notes**

**Violation Subtotal**

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount**

**Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

# Economic Benefit Worksheet

**Respondent** Jason Castoria dba American Auto Care  
**Case ID No.** 41387  
**Reg. Ent. Reference No.** RN105967806  
**Media Violation No.** Used Oil  
 1

Percent Interest	Years of Depreciation
5.0	15

**Item Cost**   **Date Required**   **Final Date**   **Yrs**   **Interest Saved**   **Onetime Costs**   **EB Amount**  
**Item Description** 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)	\$100	23-Feb-2011	28-Nov-2011	0.76	\$4	n/a	\$4

**Notes for DELAYED costs** Estimated cost to label the container. 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**

**TOTAL**

# Compliance History

Customer/Respondent/Owner-Operator: CN603707712 CASTORIA, JASON Classification: AVERAGE Rating: 16.00  
Regulated Entity: RN105967806 AMERICAN AUTO CARE Classification: AVERAGE Site Rating: 16.00  
ID Number(s): AIR QUALITY NON PERMITTED ID NUMBER R09105967806  
Location: 304 S BRYAN AVE, BRYAN, TX, 77803  
TCEQ Region: REGION 09 - WACO  
Date Compliance History Prepared: March 25, 2011  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: March 25, 2006 to March 25, 2011  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History:  
Name: Heather Podlipny Phone: 239 - 2603

## 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. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2010 Repeat Violator: NO

## 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 | 09/10/2010 (860042) |
| 2 | 10/06/2010 (865814) |
| 3 | 11/18/2010 (877986) |
| 4 | 01/11/2011 (886574) |
| 5 | 03/03/2011 (894568) |
| 6 | 03/10/2011 (900318) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- Date: 08/05/2010 (843233)**
- Self Report? NO Classification: Major  
Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)  
5C THSC Chapter 382 382.0518(a)  
5C THSC Chapter 382 382.085(b)  
Description: Failure to obtain proper permit or authorization as required.
- Date: 08/27/2010 (843722)**
- Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 335, SubChapter A 335.9(a)(1)(A)  
30 TAC Chapter 335, SubChapter A 335.9(a)(1)(B)  
Description: Failure to keep records of all hazardous and industrial solid waste activities regarding the quantities generated, stored, processed, and disposed of on-site or shipped off-site for storage, processing, or disposal in a retrievable format.
- Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 335, SubChapter C 335.62  
Description: Failure to make hazardous waste determinations for each solid waste generated.
- Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)(3)  
Description: Failure to label waste containers clearly, with the words, "Hazardous Waste".
- Self Report? NO Classification: Minor  
Citation: 40 CFR Chapter 265, SubChapter I, PT 265, SubPT I 265.173(a)  
Description: Failure to keep hazardous waste containers closed, except when adding or removing waste.
- Self Report? NO Classification: Moderate  
Citation: 40 CFR Chapter 279, SubChapter I, PT 279, SubPT C 279.22(c)(1)  
Description: Failure to store used oil in containers labeled clearly with the words "Used Oil".
- 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  
JASON CASTORIA D/B/A  
AMERICAN AUTO CARE;  
RN105967806**

§  
§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **DEFAULT ORDER**

**DOCKET NO. 2011-0490-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 Jason Castoria d/b/a American Auto Care ("Respondent").

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

### **FINDINGS OF FACT**

1. Respondent owns and operates a paint and auto body shop located at 304 South Bryan Avenue in Bryan, Brazos County, Texas (the "Facility"). The Facility involves the management and/or the disposal of industrial solid and/or hazardous waste ("ISW")/("IHW") as defined in TEX. HEALTH & SAFETY CODE ch. 361 and used oil as defined TEX. HEALTH & SAFETY CODE ch. 371.
2. During an investigation conducted on February 23, 2011, a TCEQ Waco Regional Office investigator documented that Respondent violated the following requirements:
  - a. Failed to keep records of all hazardous and industrial solid waste activities regarding the quantities generated, stored, processed, and disposed of on-site or shipped off-site for storage, processing, or disposal. Specifically, records for waste classifications and waste determinations, waste removal manifests, bills of lading, and on-site waste inventory were not available for review.
  - b. Failed to conduct proper hazardous waste determinations and waste classifications on each solid waste generated and/or stored at the Facility. Specifically, Respondent did not conduct waste determinations and waste classifications on the paint waste and paint solvent cans.
  - c. Failed to label each hazardous waste container clearly with the words "Hazardous Waste." Specifically, two cans of paint waste were not labeled.

- d. Failed to keep containers holding paint or paint-related waste closed, except when adding or removing waste. Specifically, there were two open cans containing paint waste.
  - e. Failed to label used oil containers clearly with the words "Used Oil." Specifically, a plastic tote containing used oil was not labeled.
3. Respondent received notice of the violations on or about March 16, 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 Jason Castoria d/b/a American Auto Care" (the "EDPRP") in the TCEQ Chief Clerk's office on July 29, 2011.
  5. Respondent filed an answer requesting a hearing on August 23, 2011, and the matter was referred to the State Office of Administrative Hearings ("SOAH") on April 23, 2012.
  6. On May 2, 2012, the TCEQ Chief Clerk mailed notice of the May 31, 2012, preliminary hearing via certified mail, return receipt requested, and via first class mail, postage prepaid to Respondent.
  7. On May 31, 2012, the Administrative Law Judge ("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 May 31, 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, Dismissing and Remanding Case, 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 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 keep records of all hazardous and industrial solid waste activities regarding the quantities generated, stored, processed, and disposed of on-site or shipped off-site for storage, processing, or disposal, in violation of 30 TEX. ADMIN. CODE § 335.9(a)(1).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to conduct proper hazardous waste determinations and waste classifications on each solid waste generated and/or stored at the Facility, in violation of 30 TEX. ADMIN. CODE §§ 335.62 and 335.503(a) and 40 C.F.R. § 262.11.

4. As evidenced by Finding of Fact No. 2.c., Respondent failed to label each hazardous waste container clearly with the words "Hazardous Waste," in violation of 30 TEX. ADMIN. CODE § 335.69(a)(3) and 40 C.F.R. § 262.34(a)(3).
5. As evidenced by Finding of Fact No. 2.d., Respondent failed to keep containers holding paint or paint-related waste closed, except when adding or removing waste, in violation of 30 TEX. ADMIN. CODE § 335.262(c)(2)(A) and 40 C.F.R. § 265.173(a).
6. As evidenced by Finding of Fact No. 2.e., Respondent failed to label used oil containers clearly with the words "Used Oil," in violation of 30 TEX. ADMIN. CODE § 324.6 and 40 C.F.R. § 279.22(c)(1).
7. 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.
8. 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.
9. 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), and 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).
10. 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.
11. An administrative penalty in the amount of eleven thousand five hundred two dollars (\$11,502.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
12. 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 eleven thousand five hundred two dollars (\$11,502.00) 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: Jason Castoria d/b/a American Auto Care; Docket No. 2011-0490-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 begin maintaining records of all hazardous and industrial solid waste activities, in accordance with 30 TEX. ADMIN. CODE § 335.9 (Conclusion of Law No. 2);
  - b. Within 30 days after the effective date of this Commission Order, Respondent shall:
    - i. Conduct hazardous waste determinations and waste classifications on all waste streams generated at the Facility, in accordance with 30 TEX. ADMIN. CODE §§ 335.62 and 335.503(a) and 40 C.F.R. § 262.11 (Conclusion of Law No. 3);
    - ii. Develop and implement procedures to ensure that all containers storing hazardous waste are marked with the words "Hazardous Waste," in accordance with 30 TEX. ADMIN. CODE § 335.69(a)(3) and 40 C.F.R. § 262.34(a)(3) (Conclusion of Law No. 4);
    - iii. Develop and implement procedures to ensure that all containers storing universal waste are kept closed except when adding or removing wastes, in accordance with 30 TEX. ADMIN. CODE § 335.262(c)(2)(A) and 40 C.F.R. § 265.173(a) (Conclusion of Law No. 5); and
    - iv. Develop and implement procedures to ensure that all used oil containers are labeled with the words "Used Oil," in accordance with 30 TEX. ADMIN. CODE § 324.6 and 40 C.F.R. § 279.22(c)(1) (Conclusion of Law No. 6).
  - c. Within 45 days after the effective date of this Order, Respondent shall submit written certification to demonstrate compliance with Ordering Provision Nos. 3.a through 3.b.iv. 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 copies of documentation necessary to demonstrate compliance with these Ordering Provisions 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:

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

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For the Commission

**AFFIDAVIT OF ANNA M. TREADWELL**

**STATE OF TEXAS**

§

**COUNTY OF TRAVIS**

§

§

"My name is Anna M. Treadwell. 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 Jason Castoria d/b/a American Auto Care" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on July 29, 2011.

Respondent filed an answer requesting a hearing on August 23, 2011, and the matter was referred to the State Office of Administrative Hearings ("SOAH") on April 23, 2012. On May 2, 2012, the TCEQ Chief Clerk mailed notice of the May 31, 2012 preliminary hearing via certified mail, return receipt requested, and via first class mail, postage prepaid to Respondent.

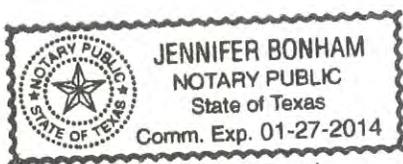
Respondent failed to appear at the hearing on May 31, 2012. At that hearing, I requested that the ALJ enter a finding that Respondent was served with proper notice of the hearing and the matter be remanded to the Executive Director pursuant to 1 TEX. ADMIN. CODE § 155.501(d), which gives an ALJ the authority 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 May 31, 2012, so that TCEQ may dispose of this case on a default basis."

\_\_\_\_\_  
Anna M. Treadwell, Staff Attorney  
Office of Legal Services, Litigation Division  
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Anna M. Treadwell, 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 17<sup>th</sup> day of August, A.D. 2012.



Notary Without Bond

\_\_\_\_\_  
Notary Signature