

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 45059
Saul Flores d/b/a Saflo Enterprises
RN106507791
Docket No. 2012-1936-MLM-E

Order Type:

Default Order (SOAH evidentiary hearing)

Media:

MLM: MSW & WQ

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

370 East Point Street, Horizon City, El Paso County

Type of Operation:

unauthorized scrap tire storage facility

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: January 17, 2014

Comments Received: None

Penalty Information

Total Penalty Assessed: \$12,500

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$12,500

Compliance History Classifications:

Person/CN –Unclassified
Site/RN – N/A

Major Source: Yes (PCW 1); No (PCW 2)

Statutory Limit Adjustment: None

Applicable Penalty Policy: September 2011

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: August 27, 2012

Date(s) of NOV(s): N/A

Date(s) of NOE(s): September 18, 2012

Saul Flores d/b/a Saflo Enterprises

RN106507791

Docket No. 2012-1936-MLM-E

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 or 2,000 used or scrap tires in trailers or in enclosed or lockable containers [30 TEX. ADMIN. CODE §§ 328.56(d)(2), 328.59(a) and 328.60(a)].
2. Failed to obtain a scrap tire transporter registration prior to transporting used or scrap tires to the Facility [30 TEX. ADMIN. CODE §§ 328.55 and 328.57(c)(1)].
3. Failed to maintain a record of each individual load of used or scrap tires transported to the Facility [30 TEX. ADMIN. CODE § 328.58(a) and (b)].
4. Failed to obtain authorization to discharge storm water associated with small construction activity [30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 C.F.R. § 122.26(c)].

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

There is no longer construction activity at the Facility and the real property has stabilized.

Technical Requirements:

1. Immediately, cease transporting or accepting any additional scrap tires at the Facility until such time as the proper registrations and authorizations are obtained.
2. Within 30 days:
 - a. Either obtain a scrap tire management registration for storage and processing of scrap tires or remove the scrap tires from the Facility and have them taken to an authorized facility; and
 - b. Begin maintaining a record of each individual load of used or scrap tires transported to the Facility.
3. Within 45 days, submit written certification demonstrating compliance.

Litigation Information

Date Petition(s) Filed: March 12, 2013; October 29, 2013

Date Green Card(s) Signed: Unclaimed; Unclaimed

Date Answer(s) Filed: April 23, 2013

SOAH Referral Date: May 24, 2013

Hearing Date(s):

Preliminary hearing: July 18, 2013

Evidentiary hearing: November 8, 2013 (defaulted)

Contact Information

TCEQ Attorneys: Jennifer Cook, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Eli Martinez, Public Interest Counsel, (512) 239-6363

TCEQ Enforcement Coordinator: Mike Pace, Enforcement Division, (817) 588-5933

TCEQ Regional Contact: Kent Waggoner, El Paso Regional Office, (915) 834-4949

Respondent: Saul Flores, Saflo Enterprises, 3417 Monroe Avenue, El Paso, Texas 79930

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	24-Sep-2012	Screening	25-Sep-2012	EPA Due	
	PCW	25-Sep-2012				

RESPONDENT/FACILITY INFORMATION	
Respondent	Saul Flores dba Saflo Enterprises
Reg. Ent. Ref. No.	RN106507791
Facility/Site Region	6-El Paso
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	45059	No. of Violations	3
Docket No.	2012-1936-MLM-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	No
Multi-Media	Water Quality	Enf. Coordinator	Mike Pace
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$11,250
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ADJUSTMENTS (+/-) TO SUBTOTAL 1	
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.	
Compliance History	0.0% Enhancement Subtotals 2, 3, & 7
Notes	No adjustment for compliance history.

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	\$663	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$20,100		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$11,250
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
Notes	Reduces or enhances the Final Subtotal by the indicated percentage.		
		Final Penalty Amount	\$11,250

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$11,250
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
Notes	Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)			
				Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$11,250
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Screening Date	25-Sep-2012	Docket No.	2012-1936-MLM-E	PCW
Respondent	Saul Flores dba Saflo Enterprises			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	45059			<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No.	RN106507791			
Media [Statute]	Municipal Solid Waste			
Enf. Coordinator	Mike Pace			

Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
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

No adjustment for compliance history.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100%

Screening Date	25-Sep-2012	Docket No.	2012-1936-MLM-E	PCW
Respondent	Saul Flores dba Saflo Enterprises			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	45059			<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No.	RN106507791			
Media [Statute]	Municipal Solid Waste			
Enf. Coordinator	Mike Pace			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

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

OR	Harm				
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0.0%"/>
	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"/>	Percent <input type="text" value="15.0%"/>

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

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 Saul Flores dba Saflo Enterprises
Case ID No. 45059
Reg. Ent. Reference No. RN106507791
Media Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$10,000	27-Aug-2012	25-Apr-2013	0.66	\$330	n/a	\$330
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to register the Facility as a scrap tire storage facility. The date required is the investigation date, and the final date is the estimated date of compliance.

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$10,000	TOTAL	\$330
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Screening Date	25-Sep-2012	Docket No.	2012-1936-MLM-E	PCW
Respondent	Saul Flores dba Saflo Enterprises			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	45059			<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No.	RN106507791			
Media [Statute]	Municipal Solid Waste			
Enf. Coordinator	Mike Pace			

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="0.0%"/>
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="15.0%"/>

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

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 Saul Flores dba Saflo Enterprises
Case ID No. 45059
Reg. Ent. Reference No. RN106507791
Media Violation No. Municipal Solid 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
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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	\$10,000	27-Aug-2012	25-Apr-2013	0.66	\$330	n/a	\$330
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs
 Estimated cost to obtain a tire transporter registration. The date required is the investigation date, and the final date is the estimated date of compliance.

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$10,000	TOTAL	\$330
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Screening Date	25-Sep-2012	Docket No.	2012-1936-MLM-E	PCW
Respondent	Saul Flores dba Saflo Enterprises			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	45059			<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No.	RN106507791			
Media [Statute]	Municipal Solid Waste			
Enf. Coordinator	Mike Pace			

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="0.0%"/>
	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="15.0%"/>

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 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 Saul Flores dba Saflo Enterprises
Case ID No. 45059
Reg. Ent. Reference No. RN106507791
Media Violation No. Municipal Solid Waste
 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$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	\$100	27-Aug-2012	25-Mar-2013	0.58	\$3	n/a	\$3
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 begin maintaining records of manifests, work orders, and invoices pertaining to tire transportation. The date required is the investigation date, and the final date is the estimated date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$100

TOTAL \$3



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	24-Sep-2012	Screening	25-Sep-2012	EPA Due	
	PCW	25-Sep-2012				

RESPONDENT/FACILITY INFORMATION

Respondent	Saul Flores dba Saflo Enterprises		
Reg. Ent. Ref. No.	RN106507791		
Facility/Site Region	6-El Paso	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	45059	No. of Violations	1
Docket No.	2012-1936-MLM-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media	Municipal Solid Waste	Enf. Coordinator	Mike Pace
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement **Subtotals 2, 3, & 7**

Notes

Culpability Enhancement **Subtotal 4**

Notes

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

Economic Benefit Enhancement* **Subtotal 6**

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

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

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Notes

PAYABLE PENALTY

Screening Date 25-Sep-2012	Docket No. 2012-1936-MLM-E	PCW
Respondent Saul Flores dba Saflo Enterprises		<i>Policy Revision 3 (September 2011)</i>
Case ID No. 45059		<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No. RN106507791		
Media [Statute] Water Quality		
Enf. Coordinator Mike Pace		

Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
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) 0%

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

N/A

Adjustment Percentage (Subtotal 3) 0%

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

Unclassified

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

No adjustment for compliance history.

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

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 0%

Screening Date	25-Sep-2012	Docket No.	2012-1936-MLM-E	PCW
Respondent	Saul Flores dba Saflo Enterprises			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	45059			<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No.	RN106507791			
Media [Statute]	Water Quality			
Enf. Coordinator	Mike Pace			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

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

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>
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="5.0%"/>

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

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 Saul Flores dba Saflo Enterprises
Case ID No. 45059
Reg. Ent. Reference No. RN106507791
Media Violation No. Water Quality
 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$2,500	27-Aug-2012	25-Apr-2013	0.66	\$83	n/a	\$83
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to develop and implement a SWPPP and submit a Notice of Intent. The date required is the investigation date, and the final date is the estimated date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,500

TOTAL

\$83

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

PENDING Compliance History Report for CN604138065, RN106507791, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN604138065, Flores, Saul

Classification: UNCLASSIFIED

Rating: -----

Regulated Entity: RN106507791, Saflo Enterprises

Classification: NOT APPLICABLE

Rating: N/A

Complexity Points: N/A

Repeat Violator: N/A

CH Group: 14 - Other

Location: 370 EAST POINT ST HORIZON CITY, TX 79928, EL PASO COUNTY

TCEQ Region: REGION 06 - EL PASO

ID Number(s):

Compliance History Period: September 01, 2007 to August 31, 2012

Rating Year: 2012

Rating Date: 09/01/2012

Date Compliance History Report Prepared: September 25, 2012

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: September 25, 2007 to September 25, 2012

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Mike Pace

Phone: (817) 588-5933

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? NO
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If YES for #2, who is the current owner/operator? N/A
- 4) If YES for #2, 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

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

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
SAUL FLORES DBA
SAFLO ENTERPRISES;
RN106507791**

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§
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§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2012-1936-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 chs. 7 and 26, TEX. HEALTH & SAFETY CODE ch. 361, 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 Saul Flores d/b/a Saflo Enterprises ("Respondent").

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

FINDINGS OF FACT

1. Respondent owns and operates an unauthorized scrap tire storage facility located at 370 East Point Street in Horizon City, El Paso County, Texas (the "Facility"). The Facility involves the management and/or the disposal of municipal solid waste ("MSW") as defined in TEX. HEALTH & SAFETY CODE ch. 361, and the Facility adjoins, is contiguous with, surrounds, or is near or adjacent to state water as defined in TEX. WATER CODE § 26.001(5).
2. During an investigation conducted on August 27, 2012, a TCEQ El Paso 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 or 2,000 used or scrap tires in trailers or in enclosed or lockable containers. Specifically, Respondent was storing approximately 3,000 used tires at the Facility;
 - b. Failed to obtain a scrap tire transporter registration prior to transporting used or scrap tires to the Facility;
 - c. Failed to maintain a record of each individual load of used or scrap tires transported to the Facility; and
 - d. Failed to obtain authorization to discharge storm water associated with small construction activity. Specifically, Respondent did not develop and implement a Storm Water Pollution Prevention Plan ("SWPPP") and obtain authorization under the Texas Pollutant Discharge Elimination System ("TPDES") General Construction Permit.
3. Respondent received notice of the violations on or about September 23, 2012.

4. The Executive Director recognizes that there is no longer construction activity at the Facility and the real property has stabilized.
5. 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 Saul Flores dba Saflo Enterprises" (the "EDPRP") in the TCEQ Chief Clerk's office on March 12, 2013.
6. The Executive Director filed the "Executive Director's First Amended 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 Saul Flores dba Saflo Enterprises" (the "EDFARP") in the TCEQ Chief Clerk's office on October 29, 2013.
7. Respondent filed an answer requesting a hearing on April 23, 2013, and the matter was referred to the State Office of Administrative Hearings ("SOAH") on May 24, 2013.
8. On July 23, 2013, the Administrative Law Judge ("ALJ") issued Order No. 1, which set the evidentiary hearing for November 8, 2013. The SOAH docket clerk mailed a copy of Order No. 1 to Respondent at his last known address via first class mail, postage pre-paid.
9. On November 8, 2013, the ALJ convened the evidentiary 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.
10. On November 12, 2013, 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. 3, 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 to TEX. WATER CODE ch. 26, TEX. HEALTH & SAFETY CODE ch. 361, 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 or 2,000 used or scrap tires in trailers or in enclosed or lockable containers, in violation of 30 TEX. ADMIN. CODE §§ 328.56(d)(2), 328.59(a) and 328.60(a).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to obtain a scrap tire transporter registration prior to transporting used or scrap tires to the Facility, in violation of 30 TEX. ADMIN. CODE §§ 328.55 and 328.57(c)(1).
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to maintain a record of each individual load of used or scrap tires transported to the Facility, in violation of 30 TEX. ADMIN. CODE § 328.58(a) and (b).

5. As evidenced by Finding of Fact No. 2.d., Respondent failed to obtain authorization to discharge storm water associated with small construction activity, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 C.F.R. § 122.26(c).
6. As evidenced by Finding of Fact No. 7, 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.
7. As evidenced by Finding of Fact No. 8, Respondent was provided proper notice of the evidentiary 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.
8. As evidenced by Findings of Fact Nos. 9 and 10, Respondent failed to appear for the evidentiary 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).
9. 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.
10. An administrative penalty in the amount of twelve thousand five hundred dollars (\$12,500.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
11. 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 twelve thousand five hundred dollars (\$12,500.00) 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: Saul Flores d/b/a Saflo Enterprises; Docket No. 2012-1936-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 transporting or accepting any additional scrap tires at the Facility until such time as the proper registrations and authorizations are obtained; and
 - b. Within 30 days after the effective date of this Order, Respondent shall:
 - i. Either obtain a scrap tire management registration for storage and processing of scrap tires, in accordance with 30 TEX. ADMIN. CODE §§ 328.56(d)(2), 328.59(a) and 328.60(a), or remove the scrap tires from the Facility and have them taken to an authorized facility; and
 - ii. Begin maintaining a record of each individual load of used or scrap tires transported to the Facility, in accordance with 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 C.F.R. § 122.26(c).

- 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. and 3.b. 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:

Kent Waggoner, Waste Section Manager
El Paso Regional Office
Texas Commission on Environmental Quality
401 E. Franklin Ave., Ste. 560
El Paso TX 79901-1212

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 JENNIFER COOK

STATE OF TEXAS

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COUNTY OF TRAVIS

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"My name is Jennifer Cook. 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 Saul Flores dba Saflo Enterprises" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on March 12, 2013.

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Respondent failed to appear at the hearing on November 8, 2013. 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 TCEQ for informal disposition on a default basis in accordance with TEX. GOV'T CODE § 2001.056.

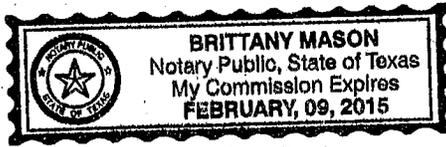
The ALJ remanded the matter to the Executive Director by SOAH Order No. 3, Remanding Case, issued on November 12, 2013, so that TCEQ may dispose of this case on a default basis."

Jennifer Cook
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Jennifer Cook, 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 2nd day of January, A.D. 2013.

Notary Signature



Notary without Bond