

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 47211
Ted Booher and Rapid Marine Fuels, LLC d/b/a Rapid Environmental Services
RN106642580
Docket No. 2013-1309-MLM-E

Order Type:

Default Order

Media:

Municipal Solid Waste ("MSW") and Used Oil

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

17007 Wildhorse Pass, Marion, Bexar County

Type of Operation:

unauthorized used oil/used oil filter storage and transfer 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: May 8, 2015

Comments Received: None

Penalty Information

Total Penalty Assessed: \$5,500

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$5,500

Compliance History Classifications:

Person/CN – N/A (both respondents)
Site/RN – N/A

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: September 2011

Investigation Information

Complaint Date(s): March 1, 2013

Complaint Information: Alleged that used oil and oil filters were being received without authorization.

Date(s) of Investigation: May 2, 2013

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

Date(s) of NOE(s): June 17, 2013

Violation Information

1. Failed to register prior to conducting used oil and used oil filter activities at the Facility [30 TEX. ADMIN. CODE §§ 324.4(2)(C)(i), 324.11(2), and 328.24(a) and (b)].
2. Failed to determine whether the total halogen content of used oil being stored at the Facility is above or below 1,000 ppm [40 C.F.R. § 279.44(a) and 30 TEX. ADMIN. CODE §§ 324.4(2)(C)(ii) and 324.11].
3. Failed to equip containers and above-ground storage tanks (“ASTs”) used to store used oil with a secondary containment system [40 C.F.R. § 279.45(d) and (f) and 30 TEX. ADMIN. CODE §§ 324.4(2)(C)(ii) and 324.22(d)(3)].
4. Failed to label or mark clearly all containers and ASTs used to store used oil with the words “Used Oil” [40 C.F.R. § 279.45(g) and 30 TEX. ADMIN. CODE §§ 324.4(2)(C)(ii) and 324.11].
5. Failed to perform a cleanup upon detection of a release of used oil [40 C.F.R. § 279.45(h) and 30 TEX. ADMIN. CODE § 324.11].
6. Failed to keep records of each used oil and used oil filter shipment accepted for transport and delivered to another used oil transporter or to a used oil burner, processor/re-refiner, or disposal facility [40 C.F.R. § 279.46(a) and 30 TEX. ADMIN. CODE §§ 324.4(2)(C)(ii), 324.11, and 328.25(a) and (b)].
7. Failed to prevent the unauthorized collection, storage, transportation, processing, or disposal of MSW [30 TEX. ADMIN. CODE §§ 330.15(a), (a)(1), (a)(2), and (a)(3)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

None

Technical Requirements:

1. Immediately:
 - a. Cease transporting and/or storing any additional used oil and used oil filters at the Facility until properly registered (Violation No. 1);
 - b. Cease disposing any additional MSW at the Facility (Violation No. 7); and
 - c. Keep records of all used oil and used oil filter shipments accepted for transport and delivered to another used oil transporter, or to a used oil burner, processor/re-refiner, or disposal facility (Violation No. 6).
2. Within 30 days:
 - a. Develop and implement procedures to determine the total halogen content of used oil (Violation No. 2);
 - b. Install secondary containment systems for all ASTs and used oil containers at the Facility (Violation No. 3);
 - c. Label or clearly mark all containers and ASTs used to store used oil with the words “Used Oil” (Violation No. 4);
 - d. Remove all contaminated soil from the Facility and dispose of it at an authorized facility (Violation No. 5); and
 - e. Remove all MSW from the Facility and dispose of it at an authorized facility (Violation No. 7).
3. Within 45 days, submit written certification to demonstrate compliance.

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Ted Booher and Rapid Marine Fuels, LLC d/b/a Rapid Environmental Services
RN106642580
Docket No. 2013-1309-MLM-E

Litigation Information

Date Petition(s) Filed: January 6, 2015
Date Green Card(s) Signed: January 9, 2015
Date Answer(s) Filed: N/A

Contact Information

TCEQ Attorneys: David A. Terry, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Rudy Calderon, Public Interest Counsel, (512) 239-6363

TCEQ Enforcement Coordinator: Abigail Lindsey, Enforcement Division, (512) 239-2576

TCEQ Regional Contact: Cameron Lopez, San Antonio Regional Office, (210) 490-3096

Respondent Contact: Ted Booher, President, Ted Booher and Rapid Marine Fuels, LLC,
7815 Highway 225, La Porte, Texas 77571

Respondent's Attorney: Francis S. Ainsa, Jr., Ainsa Hutson, LLP, 5809 Acacia Circle, El Paso,
Texas 79912

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Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	24-Jun-2013			
	PCW	17-Dec-2014	Screening	1-Jul-2013	EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent	Ted Booher and Rapid Marine Fuels, LLC dba Rapid Environmental Services				
Reg. Ent. Ref. No.	RN106642580				
Facility/Site Region	13-San Antonio	Major/Minor Source	Minor		

CASE INFORMATION

Enf./Case ID No.	47211	No. of Violations	6
Docket No.	2013-1309-MLM-E	Order Type	1660
Media Program(s)	Used Oil	Government/Non-Profit	No
Multi-Media	Municipal Solid Waste	Enf. Coordinator	Abigail Lindsey
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$5,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$4,250**

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** **\$0**

Notes: No adjustment for compliance history.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondents 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	\$1,228	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$22,600	

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$4,250**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$4,250**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$4,250**

DEFERRAL **0.0%** Reduction **Adjustment** **\$0**

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

Notes:

Deferral not offered for non-expedited settlement.

PAYABLE PENALTY **\$4,250**

Screening Date	1-Jul-2013	Docket No.	2013-1309-MLM-E	PCW
Respondent	Ted Booher, Michelle Newhouse and Rapid Marine Fuels, LLC dba Rapid Environmental Services			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	47211			<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No.	RN106642580			
Media [Statute]	Used Oil			
Enf. Coordinator	Abigail Lindsey			

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

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

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100%

Screening Date	1-Jul-2013	Docket No.	2013-1309-MLM-E	PCW
Respondent	Ted Booher, Michelle Newhouse and Rapid Marine Fuels, LLC dba Rapid Environmental Services			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	47211			<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No.	RN106642580			
Media [Statute]	Used Oil			
Enf. Coordinator	Abigail Lindsey			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

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

OR	Harm			Percent <input type="text" value="0.0%"/>	
	Release	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	Percent <input type="text" value="5.0%"/>
<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

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 Ted Booher and Rapid Marine Fuels, LLC dba Rapid Environmental Services
Case ID No. 47211
Reg. Ent. Reference No. RN106642580
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	\$1,000	2-May-2013	11-Mar-2014	0.86	\$43	n/a	\$43
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to register the Facility for used oil and used oil filter activities. The date required is the investigation date, and the final date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$1,000

TOTAL \$43

Screening Date	1-Jul-2013	Docket No.	2013-1309-MLM-E	PCW
Respondent	Ted Booher, Michelle Newhouse and Rapid Marine Fuels, LLC dba Rapid Environmental Services			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	47211			<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No.	RN106642580			
Media [Statute]	Used Oil			
Enf. Coordinator	Abigail Lindsey			
Violation Number	2			
Rule Cite(s)	30 Tex. Admin. Code §§ 324.4(2)(C)(ii) and 324.11, and 40 C.F.R. § 279.44(a)			
Violation Description	Failed to determine whether the total halogen content of used oil being stored at a transfer facility is above or below 1,000 parts per million ("ppm").			
		Base Penalty	\$5,000	

>> Environmental, Property and Human Health Matrix

OR	Harm				
	Release	Major	Moderate	Minor	
	Actual				
	Potential	x			Percent 15.0%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
					Percent 0.0%
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 \$4,250

\$750

Violation Events

Number of Violation Events	2	60	Number of violation days	
<i>mark only one with an x</i>	daily			
	weekly			
	monthly	x		
	quarterly			
	semiannual			
	annual			
single event				
			Violation Base Penalty	\$1,500
Two monthly events are recommended from the May 2, 2013 investigation to the July 1, 2013 screening date.				

Good Faith Efforts to Comply

		0.0% Reduction	
		Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary			
Ordinary			
N/A	x	(mark with x)	
Notes	The Respondents does not meet the good faith criteria for this violation.		
		Violation Subtotal	\$1,500

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount	\$43
Violation Final Penalty Total	\$1,500
This violation Final Assessed Penalty (adjusted for limits)	\$1,500

Economic Benefit Worksheet

Respondent Ted Booher and Rapid Marine Fuels, LLC dba Rapid Environmental Services
Case ID No. 47211
Reg. Ent. Reference No. RN106642580
Media Violation No. Used Oil
 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	\$1,000	2-May-2013	11-Mar-2014	0.86	\$43	n/a	\$43
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 develop and implement procedures to determine the total halogen content of used oil. The date required is the investigation date, and the final date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$1,000

TOTAL \$43

Screening Date 1-Jul-2013 **Docket No.** 2013-1309-MLM-E **PCW**
 Ted Booher, Michelle Newhouse and Rapid Marine
Respondent Fuels, LLC dba Rapid Environmental Services *Policy Revision 3 (September 2011)*
Case ID No. 47211 *PCW Revision August 3, 2011*
Reg. Ent. Reference No. RN106642580
Media [Statute] Used Oil
Enf. Coordinator Abigail Lindsey

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code §§ 324.4(2)(C)(ii) and 324.22(d)(3) and 40 C.F.R. § 279.45(d) and (f)

Violation Description

Failed to equip containers and aboveground storage tanks ("ASTs") used to store used oil with a secondary containment system. Specifically, 11 ASTs and three intermediate bulk containers containing used oil were observed without secondary containment.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				15.0%
	Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

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 \$4,250

\$750

Violation Events

Number of Violation Events 2 60 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$1,500

Two monthly events are recommended from the May 2, 2013 investigation to the July 1, 2013 screening date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$1,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$900

Violation Final Penalty Total \$1,500

This violation Final Assessed Penalty (adjusted for limits) \$1,500

Economic Benefit Worksheet

Respondent Ted Booher and Rapid Marine Fuels, LLC dba Rapid Environmental Services
Case ID No. 47211
Reg. Ent. Reference No. RN106642580
Media Used Oil
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$15,000	2-May-2013	11-Mar-2014	0.86	\$43	\$858	\$900
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to install secondary containment systems for all ASTs and used oil containers. 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

\$15,000

TOTAL

\$900

Screening Date	1-Jul-2013	Docket No.	2013-1309-MLM-E	PCW
Respondent Case ID No.	Ted Booher, Michelle Newhouse and Rapid Marine Fuels, LLC dba Rapid Environmental Services			
Reg. Ent. Reference No.	47211			<i>Policy Revision 3 (September 2011)</i>
Media [Statute]	RN106642580			<i>PCW Revision August 3, 2011</i>
Enf. Coordinator	Used Oil			
Violation Number	Abigail Lindsey			

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"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
				Percent <input type="text" value="0.0%"/>

>> 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="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 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 Ted Booher and Rapid Marine Fuels, LLC dba Rapid Environmental Services
Case ID No. 47211
Reg. Ent. Reference No. RN106642580
Media Violation No. Used Oil
 4

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	2-May-2013	11-Mar-2014	0.86	\$4	n/a	\$4

Notes for DELAYED costs Estimated cost to label or mark clearly all containers and ASTs used to store used oil with the words "Used Oil". The date required is the investigation date, and the final date is the estimated date of compliance.

Avoided Costs

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

Disposal			0.00	\$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

Screening Date 1-Jul-2013 **Docket No.** 2013-1309-MLM-E **PCW**
 Ted Booher, Michelle Newhouse and Rapid Marine
Respondent Fuels, LLC dba Rapid Environmental Services *Policy Revision 3 (September 2011)*
Case ID No. 47211 *PCW Revision August 3, 2011*
Reg. Ent. Reference No. RN106642580
Media [Statute] Used Oil
Enf. Coordinator Abigail Lindsey

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 324.11 and 40 C.F.R. § 279.45(h)

Violation Description
 Failed to perform a cleanup upon detection of a release of used oil. Specifically, small releases of used oil were observed in and around ASTs and containers of used oil located at the Facility.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual			X	5.0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

Matrix Notes
 Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$4,750

\$250

Violation Events

Number of Violation Events 1 60 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$250

One quarterly event is recommended from the May 2, 2013 investigation to the July 1, 2013 screening date.

Good Faith Efforts to Comply

0.0% Reduction \$0

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

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

Violation Subtotal \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$214 Violation Final Penalty Total \$250

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

Economic Benefit Worksheet

Respondent Ted Booher and Rapid Marine Fuels, LLC dba Rapid Environmental Services
Case ID No. 47211
Reg. Ent. Reference No. RN106642580
Media Violation No. Used Oil
 5

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	\$5,000	2-May-2013	11-Mar-2014	0.86	\$214	n/a	\$214
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs Estimated cost to remove oil contaminated soil and dispose of it at an authorized facility. The date required is the investigation date, and the final date is the estimated date of compliance.

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance	\$5,000	TOTAL	\$214
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Screening Date	1-Jul-2013	Docket No.	2013-1309-MLM-E	PCW
Respondent	Ted Booher, Michelle Newhouse and Rapid Marine			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	Fuels, LLC dba Rapid Environmental Services			
Reg. Ent. Reference No.	47211	<i>PCW Revision August 3, 2011</i>		
Media [Statute]	RN106642580			
Enf. Coordinator	Used Oil			
Violation Number	Abigail Lindsey			
Rule Cite(s)	6			
Violation Description	30 Tex. Admin. Code §§ 324.4(2)(C)(ii), 324.11 and 328.25(a) and (b), and 40 C.F.R. § 279.46(a)			
	Failed to keep records of each used oil and used oil filter shipment accepted for transport and delivered to another used oil transporter or to a used oil burner, processor/rerefiner, or disposal facility.			
Base Penalty	\$5,000			

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual				Percent 0.0%
Potential					

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
		x			Percent 5.0%
Matrix Notes	100% of the rule requirement was not met.				
Adjustment	\$4,750				
	\$250				

Violation Events

Number of Violation Events	1	60	Number of violation days
<i>mark only one with an x</i>	daily		Violation Base Penalty \$250
	weekly		
	monthly		
	quarterly		
	semiannual		
	annual		
	single event	x	
	One single event is recommended.		

Good Faith Efforts to Comply

	0.0%	Reduction	\$0
		Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary			
Ordinary			
N/A	x	(mark with x)	
Notes	The Respondents does not meet the good faith criteria for this violation.		
Violation Subtotal	\$250		

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount \$24	Violation Final Penalty Total \$250
This violation Final Assessed Penalty (adjusted for limits) \$250	

Economic Benefit Worksheet

Respondent Ted Booher and Rapid Marine Fuels, LLC dba Rapid Environmental Services
Case ID No. 47211
Reg. Ent. Reference No. RN106642580
Media Used Oil
Violation No. 6

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	\$500	2-May-2013	11-Apr-2014	0.94	\$24	n/a	\$24
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 keep records of each used oil and used oil filter shipment accepted for transport and delivered to another used oil transporter, or to a used oil burner, processor/refiner, or disposal 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 \$500

TOTAL \$24



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	24-Jun-2013	Screening	1-Jul-2013	EPA Due	
	PCW	17-Dec-2014				

RESPONDENT/FACILITY INFORMATION

Respondent	Ted Booher and Rapid Marine Fuels, LLC dba Rapid Environmental Services		
Reg. Ent. Ref. No.	RN106642580		
Facility/Site Region	13-San Antonio	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	47211	No. of Violations	1
Docket No.	2013-1309-MLM-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Abigail Lindsey
		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 indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

PAYABLE PENALTY

Screening Date 1-Jul-2013 **Docket No.** 2013-1309-MLM-E
Respondent Ted Booher, Michelle Newhouse, and Rapid Marine Fuels, LLC
Case ID No. dba Rapid Environmental Services
Reg. Ent. Reference No. 47211
Media [Statute] RN106642580
Enf. Coordinator Municipal Solid Waste
 Abigail Lindsey

Policy Revision 3 (September 2011)
 PCW Revision August 3, 2011

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 judgments 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)**

N/A

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	1-Jul-2013	Docket No.	2013-1309-MLM-E	PCW
Respondent	Ted Booher, Michelle Newhouse, and Rapid Marine Fuels, LLC dba Rapid Environmental Services			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	47211			<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No.	RN106642580			
Media [Statute]	Municipal Solid Waste			
Enf. Coordinator	Abigail Lindsey			
Violation Number	1			
Rule Cite(s)	30 Tex. Admin. Code § 330.15(a), (a)(1), (a)(2), and (a)(3)			
Violation Description	Failed to prevent the unauthorized collection, storage, transportation, processing, or disposal of municipal solid waste ("MSW"). Specifically, several 55-gallon drums and other containers of used oil, used oil filters, gear grease, used oil mixtures with unknown substances, and epon and epoxy resins were transported to and stored at the Facility. In addition, transfer of used oil into other containers, tanks and drums was being conducted at the Facility. Also, drums were stored in excessive heat and direct sunlight, and within 75 feet of an occupied residence.			
		Base Penalty	\$25,000	
>> Environmental, Property and Human Health Matrix				
OR	Release	Harm		
		Major Moderate Minor		
	Actual	<input type="text"/>	<input type="text"/>	<input type="text" value="x"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
			Percent	5.0%
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
			Percent	0.0%
Matrix Notes	Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.			
		Adjustment	\$23,750	
			\$1,250	
Violation Events				
	Number of Violation Events	1	60	Number of violation days
	<i>mark only one with an x</i>	daily	<input type="text"/>	
		weekly	<input type="text"/>	
		monthly	<input type="text"/>	
		quarterly	x	
		semiannual	<input type="text"/>	
		annual	<input type="text"/>	
		single event	<input type="text"/>	
			Violation Base Penalty	\$1,250
	One quarterly event is recommended from the May 2, 2013 investigation to the July 1, 2013 screening date.			
Good Faith Efforts to Comply				
		0.0%	Reduction	\$0
		Before NOV	NOV to EDPRP/Settlement Offer	
	Extraordinary	<input type="text"/>	<input type="text"/>	
	Ordinary	<input type="text"/>	<input type="text"/>	
	N/A	x	(mark with x)	
	Notes	The Respondents does not meet the good faith criteria for this violation.		
		Violation Subtotal	\$1,250	
Economic Benefit (EB) for this violation				
	Estimated EB Amount	\$214	Violation Final Penalty Total	\$1,250
	This violation Final Assessed Penalty (adjusted for limits)			\$1,250

Economic Benefit Worksheet

Respondent Ted Booher and Rapid Marine Fuels, LLC dba Rapid Environmental Services
Case ID No. 47211
Reg. Ent. Reference No. RN106642580
Media Violation No. Municipal Solid 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				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$5,000	2-May-2013	11-Mar-2014	0.86	\$214	n/a	\$214
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs
 Estimated cost to remove and dispose of all MSW at the Facility and dispose of them at an authorized facility. The date required is the investigation date, and the final date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$5,000

TOTAL \$214

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

PUBLISHED Compliance History Report for CN604302364, RN106642580, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN604302364, Booher, Ted **Classification:** NOT APPLICABLE **Rating:** N/A

Regulated Entity: RN106642580, 17007 WILDHORSE PASS **Classification:** NOT APPLICABLE **Rating:** N/A

Complexity Points: N/A **Repeat Violator:** N/A

CH Group: 14 - Other

Location: 17007 WILDHORSE PASS, MARION, TX 78124, BEXAR COUNTY

TCEQ Region: REGION 13 - SAN ANTONIO

ID Number(s): **MUNICIPAL SOLID WASTE NON PERMITTED** ID NUMBER R13106642580

MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER 455130257

Compliance History Period: September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

Date Compliance History Report Prepared: July 01, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: July 01, 2008 to July 01, 2013

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

Name: Abigail Lindsey

Phone: (512) 239-2576

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

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

PUBLISHED Compliance History Report for CN603576349, RN106642580, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN603576349, Rapid Marine Fuels, LLC **Classification:** NOT APPLICABLE **Rating:** N/A

Regulated Entity: RN106642580, 17007 WILDHORSE PASS **Classification:** NOT APPLICABLE **Rating:** N/A

Complexity Points: N/A **Repeat Violator:** N/A

CH Group: 14 - Other

Location: 17007 WILDHORSE PASS, MARION, TX 78124, BEXAR COUNTY

TCEQ Region: REGION 13 - SAN ANTONIO

ID Number(s): **MUNICIPAL SOLID WASTE NON PERMITTED** ID NUMBER R13106642580

MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER 455130257

Compliance History Period: September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

Date Compliance History Report Prepared: July 01, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: July 01, 2008 to July 01, 2013

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

Name: Abigail Lindsey

Phone: (512) 239-2576

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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
TED BOOHER AND
RAPID MARINE FUELS, LLC
DBA RAPID ENVIRONMENTAL
SERVICES;
RN106642580**

§
§
§
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§
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**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2013-1309-MLM-E

On _____, 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 respondents. The respondents made the subject of this Order are Ted Booher and Rapid Marine Fuels, LLC d/b/a Rapid Environmental Services ("Respondents").

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

FINDINGS OF FACT

1. Respondents operate an unauthorized used oil/used oil filter storage and transfer facility located at 17007 Wildhorse Pass in Marion, Bexar County, Texas (the "Facility"). The Facility contains and/or involves the management of municipal solid waste ("MSW") and used oil as defined in TEX. HEALTH & SAFETY CODE chs. 361 and 371.
2. During an investigation conducted on May 2, 2013, an investigator documented that Respondents:
 - a. Failed to register prior to conducting used oil and used oil filter activities at the Facility;
 - b. Failed to determine whether the total halogen content of used oil being stored at the Facility is above or below 1,000 parts per million ("ppm");
 - c. Failed to equip containers and aboveground storage tanks ("ASTs") used to store used oil with a secondary containment system. Specifically, 11 ASTs and three intermediate bulk containers containing used oil were observed without secondary containment;
 - d. Failed to label or mark clearly all containers and ASTs used to store used oil with the words "Used Oil";
 - e. Failed to perform a cleanup upon detection of a release of used oil. Specifically, small releases of used oil were observed in and around ASTs and containers of used oil located at the Facility;
 - f. Failed to keep records of each used oil and used oil filter shipment accepted for transport and delivered to another used oil transporter or to a used oil burner, processor/re-refiner, or disposal facility; and

- g. Failed to prevent the unauthorized collection, storage, transportation, processing, or disposal of MSW. Specifically, several 55-gallon drums and other containers of used oil, used oil filters, gear grease, used oil mixtures with unknown substances, and epon and epoxy resins were transported to and stored at the Facility. In addition, transfer of used oil into other containers, tanks, and drums was being conducted at the Facility. Also, drums were stored in excessive heat, direct sunlight, and within 75 feet of an occupied residence.
3. 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 Ted Booher, Michelle Newhouse,¹ and Rapid Marine Fuels, LLC d/b/a Rapid Environmental Services" (the "EDPRP") in the TCEQ Chief Clerk's office on January 6, 2015.
4. By letter dated January 6, 2015, sent to each Respondent's last known address via certified mail, return receipt requested, postage prepaid, the Executive Director served each Respondent with notice of the EDPRP. According to the return receipt "green cards," each Respondent received notice of the EDPRP on January 9, 2015, as evidenced by the signatures on the cards.
5. More than 20 days have elapsed since each Respondent received notice of the EDPRP. Respondents failed to file an answer and failed to request a hearing.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondents are subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE chs. 361 and 371 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a., Respondents failed to register prior to conducting used oil and used oil filter activities at the Facility, in violation of 30 TEX. ADMIN. CODE §§ 324.4(2)(C)(i), 324.11(2), and 328.24(a) and (b).
3. As evidenced by Finding of Fact No. 2.b., Respondents failed to determine whether the total halogen content of used oil being stored at the Facility is above or below 1,000 ppm, in violation of 40 C.F.R. § 279.44(a) and 30 TEX. ADMIN. CODE §§ 324.4(2)(C)(ii) and 324.11.
4. As evidenced by Finding of Fact No. 2.c., Respondents failed to equip containers and ASTs used to store used oil with a secondary containment system, in violation of 40 C.F.R. § 279.45(d) and (f) and 30 TEX. ADMIN. CODE §§ 324.4(2)(C)(ii) and 324.22(d)(3).
5. As evidenced by Finding of Fact No. 2.d., Respondents failed to label or mark clearly all containers and ASTs used to store used oil with the words "Used Oil", in violation of 40 C.F.R. § 279.45(g) and 30 TEX. ADMIN. CODE §§ 324.4(2)(C)(ii) and 324.11.
6. As evidenced by Finding of Fact No. 2.e., Respondents failed to perform a cleanup upon detection of a release of used oil, in violation of 40 C.F.R. § 279.45(h) and 30 TEX. ADMIN. CODE § 324.11.
7. As evidenced by Finding of Fact No. 2.f., Respondents failed to keep records of each used oil and used oil filter shipment accepted for transport and delivered to another

¹ Michelle Newhouse filed an answer to the EDPRP and will be referred to the State Office of Administrative Hearings.

- used oil transporter or to a used oil burner, processor/re-refiner, or disposal facility, in violation of 40 C.F.R. § 279.46(a) and 30 TEX. ADMIN. CODE §§ 324.4(2)(C)(ii), 324.11, and 328.25(a) and (b).
8. As evidenced by Finding of Fact No. 2.g., Respondents failed to prevent the unauthorized collection, storage, transportation, processing, or disposal of MSW, in violation of 30 TEX. ADMIN. CODE §§ 330.15(a), (a)(1), (a)(2), and (a)(3).
 9. As evidenced by Findings of Fact Nos. 3 and 4, the Executive Director timely served each Respondent with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(b)(1).
 10. As evidenced by Finding of Fact No. 5, Respondents failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondents and assess the penalty recommended by the Executive Director.
 11. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondents for violations of state statutes within TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
 12. An administrative penalty in the amount of five thousand five hundred dollars (\$5,500.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
 13. 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. Respondents are assessed an administrative penalty in the amount of five thousand five hundred dollars (\$5,500.00) for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondents' compliance with all the requirements set forth in this Order resolve only 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 violations which are not raised here.
2. The 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 TCEQ and shall be sent with the notation "Re: Ted Booher and Rapid Marine Fuels, LLC d/b/a Rapid Environmental Services; Docket No. 2013-1309-MLM-E" to:

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

3. Respondents shall undertake the following technical requirements:
- a. Immediately upon the effective date of this Order:
 - i. Cease transporting and/or storing any additional used oil and used oil filters at the Facility until properly registered (Conclusion of Law No. 2);
 - ii. Cease disposing any additional MSW at the Facility (Conclusion of Law No. 8); and
 - iii. Keep records of all used oil and used oil filter shipments accepted for transport and delivered to another used oil transporter, or to a used oil burner, processor/re-refiner, or disposal facility, in accordance with 40 C.F.R. § 279.46(a) and 30 TEX. ADMIN. CODE §§ 324.4(2)(C)(ii), 324.11, and 328.25(a) and (b) (Conclusion of Law No. 7).
 - b. Within 30 days after the effective date of this Order:
 - i. Develop and implement procedures to determine the total halogen content of used oil, in accordance with 40 C.F.R. § 279.44(a) and 30 TEX. ADMIN. CODE §§ 324.4(2)(C)(ii) and 324.11 (Conclusion of Law No. 3);
 - ii. Install secondary containment systems for all ASTs and used oil containers at the Facility, in accordance with 40 C.F.R. § 279.45(d) and (f) and 30 TEX. ADMIN. CODE § 324.4(2)(C)(ii) (Conclusion of Law No. 4);
 - iii. Label or clearly mark all containers and ASTs used to store used oil with the words "Used Oil", in accordance with 40 C.F.R. § 279.45(g), and 30 TEX. ADMIN. CODE §§ 324.4(2)(C)(ii) and 324.11 (Conclusion of Law No. 5);
 - iv. Remove all contaminated soil from the Facility and dispose of it at an authorized facility, in accordance with 40 C.F.R. § 279.45(h) and 30 TEX. ADMIN. CODE § 324.11 (Conclusion of Law No. 6); and
 - v. Remove all MSW from the Facility and dispose of it at an authorized facility (Conclusion of Law No. 8).
 - c. Within 45 days after the effective date of this Order, 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 signed by each Respondent, 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."

The written certification and supporting documentation necessary to demonstrate compliance with these Ordering Provisions shall be sent to:

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

and:

Waste Section Manager
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480

4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon Respondents. Respondents are ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
6. 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 Respondents shall be made in writing to the Executive Director. Extensions are not effective until Respondents receive written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Order Compliance Team at the address listed above.
7. If Respondents fail 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, Respondents' failure to comply is not a violation of this Order. Respondents shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondents shall notify the Executive Director within seven days after Respondents become aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
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 Respondents if the Executive Director determines that Respondents have 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 fully executed 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 DAVID A. TERRY

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

"My name is David A. Terry. 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 Ted Booher, Michelle Newhouse, and Rapid Marine Fuels, LLC d/b/a Rapid Environmental Services" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on January 6, 2015.

The EDPRP was mailed to each Respondent's last known address on January 6, 2015, via certified mail, return receipt requested, postage prepaid. According to the return receipt "green cards," Ted Booher and Rapid Marine Fuels, LLC d/b/a Rapid Environmental Services received notice of the EDPRP on January 9, 2015, as evidenced by the signatures on the cards.

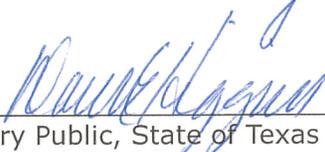
More than 20 days have elapsed since Ted Booher and Rapid Marine Fuels, LLC d/b/a Rapid Environmental Services received notice of the EDPRP. Ted Booher and Rapid Marine Fuels, LLC d/b/a Rapid Environmental Services failed to file an answer and failed to request a hearing."



David A. Terry, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

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

Subscribed and sworn to before me on this 15th day of May, A.D. 2015.



Notary Public, State of Texas

