

**Executive Summary – Enforcement Matter – Case No. 58226
Daisy Lopez and Jessica Lopez dba Alex Scrap Tire
RN109751404
Docket No. 2019-1326-MSW-E**

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MSW

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Alex Scrap Tire, 1932 County Road 411, Alvarado, Johnson County

Type of Operation:

Scrap tire transporter business

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: May 13, 2022

Comments Received: No

Penalty Information

Total Penalty Assessed: \$15,000

Amount Deferred for Financial Inability to Pay: \$12,600

Confidential information, which may include financial or medical information, has been provided to the Commission for their consideration.

Total Paid to General Revenue: \$100

Total Due to General Revenue: \$2,300

Payment Plan: 23 payments of \$100 each

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: August 13, 2019

Date(s) of NOE(s): July 8, 2019

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Daisy Lopez and Jessica Lopez dba Alex Scrap Tire
RN109751404
Docket No. 2019-1326-MSW-E

Violation Information

1. Failed to obtain a registration to process scrap tires. Specifically, the Respondents were cutting-up scrap tires and processing them at the Site for landfill disposal without proper registration [30 TEX. ADMIN. CODE § 328.63(c)].
2. Failed to identify any vehicle or trailer used to transport used or scrap tires or tire pieces on both sides and the rear of the vehicle. Specifically, trailers at the Site used to transport tires were not identified with the name and place of business of the transporter and the Commission registration number [30 TEX. ADMIN. CODE § 328.54(d)].
3. Failed to obtain a scrap tire storage site registration for the Site prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in enclosed and lockable containers. Specifically, approximately 8,100 used or scrap tires were stored on the ground at the Site [30 TEX. ADMIN. CODE § 328.60(a) and TEX. HEALTH & SAFETY CODE § 361.112(a)].
4. Failed to ensure that used or scrap tires or tire pieces are transported to an authorized facility [30 TEX. ADMIN. CODE § 328.57(c)(3)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondents to:

a. Immediately:

- i. Cease generating, accepting and disposing, and processing of any additional scrap tire at the Site; and
- ii. Cease transporting any additional used and/or scrap tires to unauthorized facilities.

b. Within 30 days:

- i. Obtain a scrap tire registration for generation, processing and storing scrap tires; or
- ii. In lieu of b.i., reduce the total number of tires stored;

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iii. Properly label all vehicles and equipment used for the collection and transportation of used or scrap tires or tire pieces.

c. Within 45 days, submit written certification to demonstrate compliance with a., b.i. or b.ii., and b.iii.

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Carlos Molina, Enforcement Division, Enforcement Team 4, MC 219, (512) 239-2557; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondents: Daisy Lopez, Owner, Alex Scrap Tire, 1932 County Road 411, Alvarado, Texas 76009

Jessica Lopez, Owner, Alex Scrap Tire, 1932 County Road 411, Alvarado, Texas 76009

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	19-Aug-2019			
	PCW	28-Oct-2019	Screening	30-Aug-2019	EPA Due

RESPONDENT/FACILITY INFORMATION					
Respondent	Daisy Lopez and Jessica Lopez dba Alex Scrap Tire				
Reg. Ent. Ref. No.	RN109751404				
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Major		

CASE INFORMATION					
Enf./Case ID No.	58226	No. of Violations	4		
Docket No.	2019-1326-MSW-E	Order Type	1660		
Media Program(s)	Waste Tires	Government/Non-Profit	No		
Multi-Media		Enf. Coordinator	Carlos Molina		
		EC's Team	Enforcement Team 7		
Admin. Penalty \$ Limit	Minimum	\$0	Maximum	\$25,000	

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$15,000
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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% Adjustment	Subtotals 2, 3, & 7	\$0
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Notes	No adjustment for Compliance History.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondents do not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$4,013	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$50,600	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$15,000
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
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Final Penalty Amount	\$15,000
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$15,000
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DEFERRAL	20.0%	Reduction	Adjustment	-\$3,000
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes	Deferral offered for expedited settlement.
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PAYABLE PENALTY	\$12,000
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Screening Date 30-Aug-2019

Docket No. 2019-1326-MSW-E

PCW

Respondent Daisy Lopez and Jessica Lopez dba Alex Scrap Tire

Policy Revision 4 (April 2014)

Case ID No. 58226

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN109751404

Media [Statute] Waste Tires

Enf. Coordinator Carlos Molina

Compliance History Worksheet

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

Component	Number of...	Number	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%
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)**

No

Adjustment Percentage (Subtotal 3) 0%

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

Satisfactory Performer

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 30-Aug-2019 **Docket No.** 2019-1326-MSW-E **PCW**
Respondent Daisy Lopez and Jessica Lopez dba Alex Scrap Tire *Policy Revision 4 (April 2014)*
Case ID No. 58226 *PCW Revision March 26, 2014*
Reg. Ent. Reference No. RN109751404
Media [Statute] Waste Tires
Enf. Coordinator Carlos Molina

Violation Number 1
Rule Cite(s) 30 Tex. Admin. Code § 328.63(c)
Violation Description Failed to obtain a registration to process scrap tires. Specifically, the Respondents were cutting-up scrap tires and processing them at the Site for landfill disposal without proper registration.
Base Penalty \$25,000

>> 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 15.0%

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

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1 17 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One monthly event is recommended from the August 13, 2019 record review to the August 30, 2019 screening date.

Good Faith Efforts to Comply 0.0% Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	

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

Violation Subtotal \$3,750

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

Estimated EB Amount \$793 **Violation Final Penalty Total** \$3,750

This violation Final Assessed Penalty (adjusted for limits) \$3,750

Economic Benefit Worksheet

Respondent Daisy Lopez and Jessica Lopez dba Alex Scrap Tire
Case ID No. 58226
Reg. Ent. Reference No. RN109751404
Media Violation No. Waste Tires
 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	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	13-Nov-2018	14-Jun-2020	1.59	\$793	n/a	\$793
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs
 Estimated delayed cost to obtain a scrap tire management registration for the generation processing and storing of scrap tires. The date required is the initial investigation date and the final date is the estimated date of compliance.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$10,000

TOTAL \$793

Screening Date 30-Aug-2019

Docket No. 2019-1326-MSW-E

PCW

Respondent Daisy Lopez and Jessica Lopez dba Alex Scrap Tire

Policy Revision 4 (April 2014)

Case ID No. 58226

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN109751404

Media [Statute] Waste Tires

Enf. Coordinator Carlos Molina

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 328.54(d)

Violation Description

Failed to identify any vehicle or trailer used to transport used or scrap tires or tire pieces on both sides and the rear of the vehicle. Specifically, trailers at the Site used to transport tires were not identified with the name and place of business of the transporter and the Commission registration number.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 15.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

17 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$3,750

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	

Notes

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

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$8

Violation Final Penalty Total \$3,750

This violation Final Assessed Penalty (adjusted for limits) \$3,750

Economic Benefit Worksheet

Respondent Daisy Lopez and Jessica Lopez dba Alex Scrap Tire
Case ID No. 58226
Reg. Ent. Reference No. RN109751404
Media Violation No. Waste Tires 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	13-Nov-2018	14-Jun-2020	1.59	\$8	n/a	\$8

Notes for DELAYED costs

Estimated delayed cost to properly identify all vehicles or trailers used to transport used or scrap tires or tire pieces with the name and place of business of the transporter and the Commission registration number. The date required is the initial investigation date and the final date is the estimated date of compliance.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$100

TOTAL \$8

Screening Date 30-Aug-2019

Docket No. 2019-1326-MSW-E

PCW

Respondent Daisy Lopez and Jessica Lopez dba Alex Scrap Tire

Policy Revision 4 (April 2014)

Case ID No. 58226

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN109751404

Media [Statute] Waste Tires

Enf. Coordinator Carlos Molina

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 328.60(a) and Tex. Health & Safety Code § 361.112(a)

Violation Description Failed to obtain a scrap tire storage site registration for the Site prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in enclosed and lockable containers. Specifically, approximately 8,100 used or scrap tires were stored on the ground at the Site.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 15.0%

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

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1 Number of violation days 17

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One monthly event is recommended from the August 13, 2019 record review to the August 30, 2019 screening date.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	

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

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$3,750

This violation Final Assessed Penalty (adjusted for limits) \$3,750

Economic Benefit Worksheet

Respondent Daisy Lopez and Jessica Lopez dba Alex Scrap Tire
Case ID No. 58226
Reg. Ent. Reference No. RN109751404
Media Violation No. Waste Tires
 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Economic Benefit included in Violation No. 1.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$0

TOTAL \$0

Screening Date 30-Aug-2019

Docket No. 2019-1326-MSW-E

PCW

Respondent Daisy Lopez and Jessica Lopez dba Alex Scrap Tire

Policy Revision 4 (April 2014)

Case ID No. 58226

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN109751404

Media [Statute] Waste Tires

Enf. Coordinator Carlos Molina

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 328.57(c)(3)

Violation Description Failed to ensure that used or scrap tires or tire pieces are transported to an authorized facility.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

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

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1 Number of violation days 17

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One quarterly event is recommended from the August 13, 2019 record review to the August 30, 2019 screening date.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	

Notes

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

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3,212

Violation Final Penalty Total \$3,750

This violation Final Assessed Penalty (adjusted for limits) \$3,750

Economic Benefit Worksheet

Respondent Daisy Lopez and Jessica Lopez dba Alex Scrap Tire
Case ID No. 58226
Reg. Ent. Reference No. RN109751404
Media Violation No. Waste Tires 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$40,500	13-Nov-2018	14-Jun-2020	1.59	\$3,212	n/a	\$3,212
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated delayed cost to transport approximately 8,100 tires (\$5.00 per tire) to an authorized facility. The date required is the initial investigation date and the final date is the estimated date of compliance.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$40,500

TOTAL

\$3,212

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

Compliance History Report for CN605354240, RN109751404, Rating Year 2019 which includes Compliance History (CH) components from September 1, 2014, through August 31, 2019.

Customer, Respondent, or Owner/Operator: CN605354240, Daisy Lopez **Classification:** SATISFACTORY **Rating:** 10.00
Regulated Entity: RN109751404, Alex Scrap Tire **Classification:** SATISFACTORY **Rating:** 10.00
Complexity Points: 2 **Repeat Violator:** NO
CH Group: 14 - Other
Location: 1932 COUNTY ROAD 411 IN ALVARADO, JOHNSON COUNTY, TEXAS
TCEQ Region: REGION 04 - DFW METROPLEX

ID Number(s):

TIRES REGISTRATION 130065

MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER
455040225

Compliance History Period: September 01, 2014 to August 31, 2019 **Rating Year:** 2019 **Rating Date:** 09/01/2019

Date Compliance History Report Prepared: February 11, 2020

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: February 11, 2015 to February 11, 2020

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

Name: Carlos Molina

Phone: (512) 239-2557

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

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

Component Appendices

Appendix A

All NOV's Issued During Component Period 2/11/2015 and 2/11/2020

1*	Date:	01/11/2019	(1525503)	Classification:	Moderate
	Self Report?	NO	For Informational Purposes Only		
	Citation:	30 TAC Chapter 328, SubChapter F 328.63(c)			
	Description:	Failure to register operations with the TCEQ before the operation of a scrap tire processing facility.			
			Classification:	Moderate	
	Self Report?	NO	For Informational Purposes Only		
	Citation:	30 TAC Chapter 328, SubChapter F 328.54(d)			
	Description:	Failure to identify the trailer used to transport used or scrap tires or tire pieces on both sides and the rear of the vehicle with the name, place of business of the transporter, and the TCEQ registration number, using numbers and letters at least two inches tall.			
			Classification:	Moderate	
	Self Report?	NO	For Informational Purposes Only		
	Citation:	30 TAC Chapter 328, SubChapter F 328.57(c)(3)			
	Description:	Failure to ensure that used or scrap tires or tire pieces are transported to an authorized scrap tire facility.			
			Classification:	Moderate	
	Self Report?	NO	For Informational Purposes Only		
	Citation:	30 TAC Chapter 328, SubChapter F 328.57(e)			
	Description:	Failure to submit an annual report of activities for 2017 showing the number and type of used or scrap tires collected listed by generator name and address, the disposition of the tires, and the number of whole used or scrap tires delivered to each facility.			
			Classification:	Moderate	
	Self Report?	NO	For Informational Purposes Only		
	Citation:	30 TAC Chapter 328, SubChapter F 328.60(a)			
	Description:	Failure to register as a scrap tire storage site for the storage of greater than 500 scrap tires on the ground.			

* NOV's applicable for the Compliance History rating period 9/1/2014 to 8/31/2019

Appendix B

All Investigations Conducted During Component Period February 11, 2015 and February 11, 2020

		(1570121)	For Informational Purposes Only	
Item 1	July 03, 2019**			

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2014 and 08/31/2019.

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

Compliance History Report for CN605685825, RN109751404, Rating Year 2019 which includes Compliance History (CH) components from September 1, 2014, through August 31, 2019.

Customer, Respondent, or Owner/Operator: CN605685825, Jessica Lopez **Classification:** SATISFACTORY **Rating:** 10.00
Regulated Entity: RN109751404, Alex Scrap Tire **Classification:** SATISFACTORY **Rating:** 10.00
Complexity Points: 2 **Repeat Violator:** NO
CH Group: 14 - Other
Location: 1932 COUNTY ROAD 411 IN ALVARADO, JOHNSON COUNTY, TEXAS
TCEQ Region: REGION 04 - DFW METROPLEX

ID Number(s):

TIRES REGISTRATION 130065

MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER
455040225

Compliance History Period: September 01, 2014 to August 31, 2019 **Rating Year:** 2019 **Rating Date:** 09/01/2019

Date Compliance History Report Prepared: February 11, 2020

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: February 11, 2015 to February 11, 2020

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

Name: Carlos Molina

Phone: (512) 239-2557

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

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

Component Appendices

Appendix A

All NOV's Issued During Component Period 2/11/2015 and 2/11/2020

1*	Date:	01/11/2019	(1525503)	Classification:	Moderate
	Self Report?	NO	For Informational Purposes Only		
	Citation:	30 TAC Chapter 328, SubChapter F 328.63(c)			
	Description:	Failure to register operations with the TCEQ before the operation of a scrap tire processing facility.			
			Classification:	Moderate	
	Self Report?	NO	For Informational Purposes Only		
	Citation:	30 TAC Chapter 328, SubChapter F 328.54(d)			
	Description:	Failure to identify the trailer used to transport used or scrap tires or tire pieces on both sides and the rear of the vehicle with the name, place of business of the transporter, and the TCEQ registration number, using numbers and letters at least two inches tall.			
			Classification:	Moderate	
	Self Report?	NO	For Informational Purposes Only		
	Citation:	30 TAC Chapter 328, SubChapter F 328.57(c)(3)			
	Description:	Failure to ensure that used or scrap tires or tire pieces are transported to an authorized scrap tire facility.			
			Classification:	Moderate	
	Self Report?	NO	For Informational Purposes Only		
	Citation:	30 TAC Chapter 328, SubChapter F 328.57(e)			
	Description:	Failure to submit an annual report of activities for 2017 showing the number and type of used or scrap tires collected listed by generator name and address, the disposition of the tires, and the number of whole used or scrap tires delivered to each facility.			
			Classification:	Moderate	
	Self Report?	NO	For Informational Purposes Only		
	Citation:	30 TAC Chapter 328, SubChapter F 328.60(a)			
	Description:	Failure to register as a scrap tire storage site for the storage of greater than 500 scrap tires on the ground.			

* NOV's applicable for the Compliance History rating period 9/1/2014 to 8/31/2019

Appendix B

All Investigations Conducted During Component Period February 11, 2015 and February 11, 2020

		(1570121)	For Informational Purposes Only	
Item 1	July 03, 2019**			

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2014 and 08/31/2019.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
DAISY LOPEZ AND JESSICA
LOPEZ DBA ALEX SCRAP TIRE
RN109751404**

**§
§
§
§
§
§**

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2019-1326-MSW-E**

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Daisy Lopez and Jessica Lopez dba Alex Scrap Tire (the "Respondents") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondents together stipulate that:

1. The Respondents own and operate a scrap tire transporter business located at 1932 County Road 411 in Alvarado, Johnson County, Texas (the "Site"). The Site involves or involved the management of municipal solid waste ("MSW"), including scrap tires as defined in TEX. HEALTH & SAFETY CODE ch. 361.
2. The Executive Director and the Respondents agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondents are subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 361 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondents of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$15,000 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Revenue Operations Section of TCEQ's Financial Administration Division reviewed financial documentation submitted by the Respondents and determined that the Respondents are unable to pay all or part of the penalty. Therefore, \$12,600 of the penalty is deferred contingent upon the Respondents' compliance with all the terms of this Order and shall be waived only upon full compliance with this Order. If the Respondents fail to comply with any requirement of this Order, including any payment schedule, the Executive Director may require the Respondents to pay all or part of the deferred penalty.

The Respondents paid \$100 of the undeferred penalty. The remaining amount of \$2,300 of the undeferred penalty shall be paid in 23 monthly payments of \$100 each. The first monthly payment shall be paid within 30 days after the effective date of this Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until the penalty is paid in full. If the Respondents fail to comply with the payment requirements of this Order, including the payment schedule, the Executive Director may accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. The Respondents' failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance constitutes the failure by the Respondents to timely and satisfactorily comply with all the terms of this Order and the Executive Director may demand payment of all or part of the deferred penalty.

5. The Executive Director and the Respondents agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondents have not complied with one or more of the terms or conditions in this Order.
7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. 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.

II. ALLEGATIONS

During an investigation conducted on November 13, 2018 and a record review on August 13, 2019, an investigator documented that the Respondents:

1. Failed to obtain a registration to process scrap tires, in violation of 30 TEX. ADMIN. CODE § 328.63(c). Specifically, the Respondents were cutting-up scrap tires and processing them at the Site for landfill disposal without proper registration.
2. Failed to identify any vehicle or trailer used to transport used or scrap tires or tire pieces on both sides and the rear of the vehicle, in violation of 30 TEX. ADMIN. CODE § 328.54(d). Specifically, trailers at the Site used to transport tires were not identified with the name and place of business of the transporter and the Commission registration number.
3. Failed to obtain a scrap tire storage site registration for the Site prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in enclosed and lockable containers, in violation of 30 TEX. ADMIN. CODE § 328.60(a) and TEX. HEALTH &

SAFETY CODE § 361.112(a). Specifically, approximately 8,100 used or scrap tires were stored on the ground at the Site.

4. Failed to ensure that used or scrap tires or tire pieces are transported to an authorized facility, in violation of 30 TEX. ADMIN. CODE § 328.57(c)(3).

III. DENIALS

The Respondents generally deny each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

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

1. The Respondents are assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondents' compliance with all of the requirements set forth in this Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Daisy Lopez and Jessica Lopez dba Alex Scrap Tire, Docket No. 2019-1326-MSW-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. The Respondents are jointly and severally liable for the violations documented in this Order, and are jointly and severally liable for timely and satisfactory compliance with all terms and conditions of this Order.
3. The Respondents shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Order:
 - i. Cease generating, accepting, and disposing, and processing of any additional scrap tire at the Site, in accordance with 30 TEX. ADMIN. CODE §§ 328.60 and 328.63; and
 - ii. Cease transporting any additional used and/or scrap tires to unauthorized facilities, in accordance with 30 TEX. ADMIN. CODE § 328.57.
 - b. Within 30 days after the effective date of this Order:
 - i. Obtain a scrap tire registration for generation, processing and storing scrap tires, in accordance with 30 TEX. ADMIN. CODE §§ 328.60 and 328.63; or

- ii. In lieu of Ordering Provision No. 3.b.i, reduce the total number of tires stored at the Site, in accordance with 30 TEX. ADMIN. CODE §§ 328.60 and 328.63;
 - iii. Properly label all vehicles and equipment used for the collection and transportation of used or scrap tires or tire pieces, in accordance with 30 TEX. ADMIN. CODE § 328.54.
- c. Within 45 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 3.a, 3.b.i or 3.b.ii, and 3.b.iii. The certification shall be signed by the Respondents 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 fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Waste Section Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

4. All relief not expressly granted in this Order is denied.
5. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondents. The Respondents are ordered to give notice of this Order to personnel who maintain day-to-day control over the Site operations referenced in this Order.
6. If the 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, the Respondents' failure to comply is not a violation of this Order. The Respondents shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondents shall notify the

Executive Director within seven days after the Respondents become 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 the Respondents shall be made in writing to the Executive Director. Extensions are not effective until the 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.
8. This Order, issued by the Commission, shall not be admissible against the Respondents in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
9. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
10. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



Date

8/31/2022

For the Executive Director

Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this Order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

7/30/22

Date

Daisy Lopez

Name (Printed or typed)
Authorized Representative of
Daisy Lopez dba Alex Scrap Tire

7/30/22

Title

If mailing address has changed, please check this box and provide the new address below:

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

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



8/31/2022

For the Executive Director

Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Signature



Date

8-31-2022

Name (Printed or typed)

Authorized Representative of
Jessica Lopez dba Alex Scrap Tire

Title

8-31-2022

If mailing address has changed, please check this box and provide the new address below: