

**David Falconer**  
**RN111000758**  
**Docket No. 2021-0037-MLM-E**

**Order Type:**  
 Default Order

**Media:**  
 MLM: IHW and Used Oil

**Small Business:**  
 Yes

**Locations Where Violations Occurred:**  
 643 and 659 Flintstone Drive, Canyon Lake, Comal County

**Type of Operation:**  
 an unauthorized household hazardous waste dump site

**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:** February 20, 2026

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$1,469  
**Total Paid to General Revenue:** \$0  
**Total Due to General Revenue:** \$1,469

**Compliance History Classifications:**  
 Person/CN – Satisfactory  
 Site/RN – Satisfactory

**Major Source:** No

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** April 2014

**Investigation Information**

**Complaint Date:** N/A  
**Date of Investigation:** October 16, 2020  
**Date of NOV:** March 31, 2020  
**Date of NOE:** November 3, 2020

David Falconer  
RN111000758  
Docket No. 2021-0037-MLM-E

**Violation Information**

1. Failed to properly label all spent lead acid batteries by any one of the following phrases: “Universal Waste – Battery(ies),” “Waste Battery(ies),” or “Used Battery(ies).” Additionally, Respondent failed to mark or label each individual item of universal waste (e.g. battery) with the date it became waste or was received. [40 C.F.R. §§ 273.14(a) and 273.15(c)(2), and 30 TEX. ADMIN. CODE § 335.261(b)].
2. Failed to manage used oil in appropriate containers and failed to label or clearly mark containers used to store used oil with the words “Used Oil.” [40 C.F.R § 279.22(a) and (c)(1), and 30 TEX. ADMIN. CODE § 324.6].

**Corrective Actions/Technical Requirements**

**Corrective Actions Completed:**

None.

**Technical Requirements:**

1. Immediately:
  - a. Cease receiving hazardous waste and the unauthorized storage of hazardous waste at the Site; and
  - b. Cease receiving used oil and improperly managing used oil at the Site.
2. Within 30 days:
  - a. Dispose or recycle all spent lead acid batteries from the Site at an authorized facility;
  - b. Develop and implement a process designed to ensure all hazardous waste is properly labeled and recycled or disposed of at authorized facilities;
  - c. Begin managing used oil in appropriate containers; and
  - d. Label or clearly mark all containers used for storing used oil with the words “Used Oil.”
3. Within 45 days submit written certification to demonstrate compliance with Technical Requirement Nos. 1.a. through 2.d.

**Litigation Information**

**Date Petition Filed:** October 22, 2025  
**Date of Service:** October 27, 2025  
**Date Answer Filed:** N/A

**Contact Information**

**TCEQ Attorneys:** Jim Sallans, Litigation Division, (512) 239-3400  
Sheldon Wayne, Public Interest Counsel, (512) 239-6363  
**TCEQ Litigation Agenda Coordinator:** Katherine McKenzie, Litigation Division, (512) 239-2575  
**TCEQ Enforcement Coordinator:** Eresha DeSilva, Enforcement Division, (512) 239-5084  
**TCEQ Regional Contact:** Jack Higginbotham, San Antonio Regional Office, (210) 490-3096  
**Respondent Contact:** David Falconer, 659 Flintstone Drive, Canyon Lake, Texas 78133  
**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

<b>DATES</b>	<b>Assigned</b>	9-Nov-2020	<b>Screening</b>	16-Nov-2020	<b>EPA Due</b>	
	<b>PCW</b>	22-Dec-2020				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	David Falconer
<b>Reg. Ent. Ref. No.</b>	RN111000758
<b>Facility/Site Region</b>	13-San Antonio
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	60164	<b>No. of Violations</b>	1
<b>Docket No.</b>	2021-0037-MLM-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Industrial and Hazardous Waste	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>	Used Oil	<b>Enf. Coordinator</b>	Ken Moller
		<b>EC's Team</b>	Enforcement Team 7
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$1,250</b>
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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.

<b>Compliance History</b>	<b>5.0%</b> Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$62</b>
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Notes: Enhancement for one NOV with same or similar violations.

<b>Culpability</b>	No	<b>0.0%</b> Enhancement	<b>Subtotal 4</b>	<b>\$0</b>
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>\$0</b>
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<b>Economic Benefit</b>	<b>0.0%</b> Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts: \$0  
 Estimated Cost of Compliance: \$10  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$1,312</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>0.0%</b> Adjustment	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	<b>\$1,312</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$1,312</b>
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<b>DEFERRAL</b>	<b>0.0%</b> Reduction Adjustment	<b>\$0</b>
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral not offered for non-expedited settlement.

<b>PAYABLE PENALTY</b>	<b>\$1,312</b>
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<b>Screening Date</b>	16-Nov-2020	<b>Docket No.</b>	2021-0037-MLM-E	<b>PCW</b>
<b>Respondent</b>	David Falconer			<i>Policy Revision 4 (April 2014)</i>
<b>Case ID No.</b>	60164			<i>PCW Revision March 26, 2014</i>
<b>Reg. Ent. Reference No.</b>	RN111000758			
<b>Media</b>	Industrial and Hazardous Waste			
<b>Enf. Coordinator</b>	Ken Moller			

**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> )	1	5%
	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)** 5%

**>> 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** Enhancement for one NOV with same or similar violations.

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

**>> Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** 5%

<b>Screening Date</b>	16-Nov-2020	<b>Docket No.</b>	2021-0037-MLM-E	<b>PCW</b>
<b>Respondent</b>	David Falconer			<i>Policy Revision 4 (April 2014)</i>
<b>Case ID No.</b>	60164			<i>PCW Revision March 26, 2014</i>
<b>Reg. Ent. Reference No.</b>	RN111000758			
<b>Media</b>	Industrial and Hazardous Waste			
<b>Enf. Coordinator</b>	Ken Moller			

**Violation Number**

**Rule Cite(s)**

**Violation Description**

**Base Penalty**

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

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

**>> Programmatic Matrix**

<b>Matrix Notes</b>	Falsification	Major	Moderate	Minor	<b>Percent</b>
	<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

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

**Violation Base Penalty**

**Good Faith Efforts to Comply**  Reduction

	Before NOE/NOV	NOE/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"/>	<input type="text"/>

**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** David Falconer  
**Case ID No.** 60164  
**Reg. Ent. Reference No.** RN111000758  
**Media** Industrial and Hazardous Waste  
**Violation No.** 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				0.00	\$0	n/a	\$0
Other (as needed)	\$10	16-Oct-2020	5-Sep-2021	0.89	\$0	n/a	\$0

**Notes for DELAYED costs**

Estimated delayed costs to properly label all spent lead acid batteries with any one of the following phrases: "Universal Waste - Battery(ies)," or "Waste Battery(ies)," or "Used Battery(ies)" (\$5) and to properly label all spent lead acid batteries with the specific date that each battery was generated as a waste (\$5). The Date Required is the 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

**TOTAL**

\$0



# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

<b>DATES</b>	<b>Assigned</b>	9-Nov-2020		
	<b>PCW</b>	22-Dec-2020	<b>Screening</b>	16-Nov-2020
			<b>EPA Due</b>	

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	David Falconer
<b>Reg. Ent. Ref. No.</b>	RN111000758
<b>Facility/Site Region</b>	13-San Antonio
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	60164	<b>No. of Violations</b>	1
<b>Docket No.</b>	2021-0037-MLM-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Used Oil	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>	Industrial and Hazardous Waste	<b>Enf. Coordinator</b>	Ken Moller
		<b>EC's Team</b>	Enforcement Team 7
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$5,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$150
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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.

<b>Compliance History</b>	5.0%	Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	\$7
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<b>Notes</b>	Enhancement for one NOV with same or similar violations.
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<b>Culpability</b>	No	0.0%	Enhancement	<b>Subtotal 4</b>	\$0
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<b>Notes</b>	The Respondents do not meet the culpability criteria.
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<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0%	Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$5	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$92	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$157
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	
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<b>Final Penalty Amount</b>	\$157
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$157
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<b>DEFERRAL</b>	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

<b>Notes</b>	Deferral not offered for non-expedited settlement.
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<b>PAYABLE PENALTY</b>	\$157
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<b>Screening Date</b>	16-Nov-2020	<b>Docket No.</b>	2021-0037-MLM-E	<b>PCW</b>
<b>Respondent</b>	David Falconer			<i>Policy Revision 4 (April 2014)</i>
<b>Case ID No.</b>	60164			<i>PCW Revision March 26, 2014</i>
<b>Reg. Ent. Reference No.</b>	RN111000758			
<b>Media</b>	Used Oil			
<b>Enf. Coordinator</b>	Ken Moller			

**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> )	1	5%
	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)** 5%

**>> 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** Enhancement for one NOV with same or similar violations.

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

**>> Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** 5%

<b>Screening Date</b>	16-Nov-2020	<b>Docket No.</b>	2021-0037-MLM-E	<b>PCW</b>
<b>Respondent</b>	David Falconer			<i>Policy Revision 4 (April 2014)</i>
<b>Case ID No.</b>	60164			<i>PCW Revision March 26, 2014</i>
<b>Reg. Ent. Reference No.</b>	RN111000758			
<b>Media</b>	Used Oil			
<b>Enf. Coordinator</b>	Ken Moller			
<b>Violation Number</b>	1			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 324.6 and 40 Code of Federal Regulations § 279.22(a) and (c)(1)			
<b>Violation Description</b>	Failed to manage used oil in appropriate containers. Also, failed to label or clearly mark containers used to store used oil with the words "Used Oil." Specifically, the Respondent was storing approximately 25 gallons of used oil in open 5-gallon water jugs and the containers were not labeled or clearly marked with the words "Used Oil".			
		<b>Base Penalty</b>	\$5,000	

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

<b>OR</b>		<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor	
	Actual				
	Potential			x	<b>Percent</b> 3.0%

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
					<b>Percent</b> 0.0%
<b>Matrix Notes</b>	Human health or the environment will or could be exposed to insignificant amounts of pollutants that would not exceed levels that are protective of human health or environmental receptors as a result of the violation.				
					<b>Adjustment</b> \$4,850

\$150

**Violation Events**

Number of Violation Events        Number of violation days

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="checkbox"/>

**Violation Base Penalty**

One single event is recommended.

**Good Faith Efforts to Comply**  Reduction

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	x	
<b>Notes</b>	The Respondents do not meet the good faith criteria for this violation.	

**Violation Subtotal**

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

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

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

## Economic Benefit Worksheet

**Respondent** David Falconer  
**Case ID No.** 60164  
**Reg. Ent. Reference No.** RN111000758  
**Media** Used Oil  
**Violation No.** 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	\$87	16-Oct-2020	5-Sep-2021	0.89	\$0	\$5	\$5
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)	\$5	16-Oct-2020	5-Sep-2021	0.89	\$0	n/a	\$0

**Notes for DELAYED costs**

Estimated delayed cost to properly store and manage the used oil in appropriate containers (\$87).  
 Estimated delayed cost to properly label the used oil containers with the words "Used Oil" (\$5). The Dates Required are the investigation date and the Final Dates are 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

\$92

**TOTAL**

\$5

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# Compliance History Report

Compliance History Report for CN605760917, RN111000758, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

**Customer, Respondent, or Owner/Operator:** CN605760917, Falconer, David      **Classification:** SATISFACTORY      **Rating:** 8.00

**Regulated Entity:** RN111000758, 643 and 659 Flintstone Drive      **Classification:** SATISFACTORY      **Rating:** 8.00

**Complexity Points:** 0      **Repeat Violator:** NO

**CH Group:** 14 - Other

**Location:** 643 and 659 Flintstone Drive, Canyon Lake, Comal County, Texas 78133

**TCEQ Region:** REGION 13 - SAN ANTONIO

**ID Number(s):**

MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER	AIR QUALITY NON PERMITTED ID NUMBER
R13111000758	R13111000758

**Compliance History Period:** September 01, 2015 to August 31, 2020      **Rating Year:** 2020      **Rating Date:** 09/01/2020

**Date Compliance History Report Prepared:** March 09, 2021

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** March 09, 2016 to March 09, 2021

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

<b>Name:</b> Ken Moller	<b>Phone:</b> (512) 239-6111
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## 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.

- 1      Date: 03/31/2020 (1637788)  
Self Report? NO      Classification: Moderate  
Citation: 40 CFR Chapter 279, SubChapter I, PT 279, SubPT C 279.22(c)(1)  
Description: Failed to properly store Used Oil.  
Self Report? NO      Classification: Moderate  
Citation: 30 TAC Chapter 335, SubChapter A 335.4  
40 CFR Chapter 273, SubChapter I, PT 273, SubPT B 273.14(a)  
Description: Failure to properly store and label spent lead-acid batteries.

**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  
DAVID FALCONER;  
RN111000758**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **DEFAULT ORDER DOCKET NO. 2021-0037-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 respondent. The respondent made the subject of this Order is David Falconer (“Respondent”).

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

### **FINDINGS OF FACT**

1. Respondent owns and operates an unauthorized household hazardous waste (“HHW”) dump site located at 643 and 659 Flintstone Drive in Canyon Lake, Comal County, Texas (“the Site”). The Site involves or involved the management of used oil as defined in TEX. HEALTH & SAFETY CODE ch. 371 and HHW as defined in TEX. HEALTH & SAFETY CODE ch. 361.
2. During an investigation conducted on October 16, 2020, an investigator documented that Respondent:
  - a. Failed to properly label all spent lead acid batteries by any one of the following phrases: “Universal Waste - Battery(ies),” “Waste Battery(ies),” or “Used Battery(ies).” Additionally, Respondent failed to mark or label each individual item of universal waste (e.g., each battery) with the date it became waste or was received. Specifically, Respondent had stored two spent led acid batteries that were not labeled as “Universal Waste - Battery(ies),” “Waste Battery(ies),” or “Used Battery(ies),” and were not labeled with the waste generation date information; and
  - b. Failed to manage used oil in appropriate containers. Also failed to label or clearly mark containers used to store used oil with the words “Used Oil.” Specifically, Respondent was storing approximately 25 gallons of used oil in open 5-gallon water jugs and the containers were not labeled or clearly marked with the words “Used Oil.”
3. The Executive Director filed the “Executive Director’s Preliminary Report and Petition Order Assessing an Administrative Penalty Against and Requiring Certain Actions of David Falconer” (the “EDPRP”) in the TCEQ Chief Clerk’s office on October 22, 2025.
4. By letter dated October 22, 2025, sent to Respondent’s last known address via certified mail, return receipt requested, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to USPS.com “Track and Confirm” delivery records, Respondent received notice of the EDPRP on October 27, 2025.
5. More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing.

### CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE chs. 361 and 371 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to properly label all spent lead acid batteries by any one of the following phrases: "Universal Waste - Battery(ies)," "Waste Battery(ies)," or "Used Battery(ies)." Additionally, Respondent failed to mark or label each individual item of universal waste (*e.g.*, each battery) with the date it became waste or was received, in violation of 40 C.F.R. §§ 273.14(a) and 273.15(c)(2), and 30 TEX. ADMIN. CODE § 335.261(b).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to manage used oil in appropriate containers and failed to label or clearly mark containers used to store used oil with the words "Used Oil," in violation of 40 C. F. R. § 279.22(a) and (c)(1), and 30 TEX. ADMIN. CODE § 324.6.
4. As evidenced by Findings of Fact Nos. 3 and 4, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(b)(1).
5. As evidenced by Finding of Fact No. 5, Respondent 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 Respondent and assess the penalty recommended by the Executive Director.
6. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount of \$1,469 is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
8. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

### ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty in the amount of \$1,469 for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondent's 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: David Falconer; Docket No. 2021-0037-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. Respondent shall undertake the following technical requirements:

- a. Immediately upon the effective date of this Order:
  - i. Cease receiving hazardous waste and the unauthorized storage of hazardous waste at the Site; and
  - ii. Cease receiving used oil and improperly managing used oil at the Site.
- b. Within 30 days after the effective date of this Order:
  - i. Dispose or recycle all spent lead acid batteries from the Site at an authorized facility, in accordance with 30 TEX. ADMIN. CODE § 335.6;
  - ii. Develop and implement a process designed to ensure all hazardous waste is properly labeled and recycled or disposed of at authorized facilities;
  - iii. Begin managing used oil in appropriate containers, in accordance with 40 C.F.R. § 279.22 and 30 TEX. ADMIN. CODE § 324.6; and
  - iv. Label or clearly mark all containers used for storing used oil with the words "Used Oil," in accordance with 30 TEX. ADMIN. CODE § 279.22.
- c. Within 45 days after the effective date of this Order, submit written certification to demonstrate compliance with Ordering Provision Nos. 3.a.i. through 3.b.iv. The certification shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by the 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:

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

and:

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

4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon Respondent.
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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Enforcement Division at the address listed above.
7. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
8. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
9. 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.
10. 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.
11. 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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

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Date

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



## UNSWORN DECLARATION OF JIM SALLANS

"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 David Falconer" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on October 22, 2025.

The EDPRP was mailed to Respondent's last known address on October 22, 2025, via certified mail, return receipt requested, postage prepaid. According to USPS.com "Track & Confirm" delivery confirmation records, Respondent received notice of the EDPRP on October 27, 2025.

More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing."

"My name is Jim Sallans, and I am an employee of the following governmental agency: Texas Commission on Environmental Quality. I am executing this declaration as part of my assigned duties and responsibilities. I declare under penalty of perjury that the foregoing is true and correct."

Executed in Travis County,  
State of Texas,  
on the 17th day of December, 2025

A handwritten signature in cursive script that reads "Jim Sallans".

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Declarant