

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 61060
Michael Hughes formerly doing business as Superior Tire & Service
RN111197240
Docket No. 2021-0961-MLM-E

Order Type:
Default Order

Media:
MLM: MSW and IHW

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
1175 North Main Street, Vidor, Orange County

Type of Operation:
automotive mechanic shop

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: December 30, 2022

Comments Received: None

Penalty Information

Total Penalty Assessed: \$37,430

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$37,430

Compliance History Classifications:
Person/CN - N/A
Site/RN - N/A

Major Source: Yes; No

Statutory Limit Adjustment: None

Applicable Penalty Policy: January 28, 2021

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: December 17, 2020; June 15, 2021

Date(s) of NOV(s): March 8, 2021

Date(s) of NOE(s): June 28, 2021

Violation Information

1. Failed to obtain a scrap tire storage site registration for the Facility prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in enclosed and lockable containers [TEX. HEALTH & SAFETY CODE § 361.112(a), and 30 TEX. ADMIN. CODE §§ 328.56(d)(2), 328.59(b)(1), and 328.60(a)].
2. Failed to monitor tires stored outside for vectors and utilize appropriate vector control measures at least once every two weeks [30 TEX. ADMIN. CODE § 328.56(d)(4)].
3. Failed to retain all manifests, work orders, invoices, or other records to support activities related to the accumulation, handling, and shipment of used or scrap tires or scrap tire pieces at the Facility [30 TEX. ADMIN. CODE § 328.58(f)].
4. Failed to maintain an adequate fire protection system using fire hydrants or a firewater storage pond or tank at the Facility [30 TEX. ADMIN. CODE § 328.61(g)].
5. Failed to submit, to the Executive Director, an annual summary of the Facility activities from January 1 through December 31 of each calendar year, showing the number and disposition of used or scrap tires or tire pieces received and the number of used or scrap tires or tire pieces removed from the Facility no later than March 1 of the year following the end of the reporting period [30 TEX. ADMIN. CODE §§ 328.59(b)(6), 328.62(d), and 328.63(d)(6)].
6. Failed to obtain a registration to process scrap tires [30 TEX. ADMIN. CODE § 328.63(c)].
7. Failed to label or clearly mark containers used to store used oil with the words "Used Oil" [30 TEX. ADMIN. CODE § 324.6 and 40 C.F.R. § 279.22(c)(1)].
8. Failed to maintain a copy of the bill of lading for each shipment of used oil filters for at least three years after the date the filters were transported, stored, or processed at the Facility [30 TEX. ADMIN. CODE § 328.25(b)].
9. Failed to post and maintain a durable and legible sign identifying the Facility as a household used-oil collection center [30 TEX. ADMIN. CODE § 324.7(3)(A)].
10. Failed to secure the bulk used-oil filter container in a closed, waterproof manner [30 TEX. ADMIN. CODE §§ 324.4 and 328.23(c)].
11. Caused, suffered, allowed, or permitted the unauthorized disposal of IHW [30 TEX. ADMIN. CODE § 335.4].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

None

Technical Requirements:

1. Immediately:
 - a. Cease generating, storing, and/or processing any additional used and/or scrap tires at the Facility until the proper registration is obtained, and
 - b. Cease disposal of any additional MSW and/or IHW at the Facility.
2. Within 30 days:
 - a. Establish a vector control program for tires stored outside at the Facility;
 - b. Develop and implement procedures to ensure manifests, work orders, invoices, or other records documenting the removal and management of all scrap tires generated at the Facility are maintained at the Facility;
 - c. Install an adequate fire protection system at the Facility;

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 61060
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RN111197240
Docket No. 2021-0961-MLM-E

- d. Develop and implement procedures designed to complete and submit the Annual Activity Report for Scrap Tire Facilities and Scrap Tire Storage Sites to the TCEQ, timely;
 - e. Properly label the 250-gallon container storing used oil at the Facility with the words “Used Oil;”
 - f. Begin maintaining records of bills of lading for each shipment of used oil at the Facility;
 - g. Post a durable and legible sign identifying the Facility as a household used oil collection center;
 - h. Provide a lid to the 55-gallon drum containing used oil filters at the Facility;
 - i. Develop and implement procedures to prevent any future unauthorized disposal of IHW at the Facility, and
 - j. Clean up and remove all IHW from the Facility and dispose of it at an authorized facility using appropriate corrective measures;
3. Within 180 days obtain a scrap tire storage registration for generating, storing, and processing scrap tires at the Facility; or
 4. In Lieu of Technical Requirement No. 3, within 90 days reduce the number of scrap tires being stored at the Facility to less than 500 on the ground or less than 2,000 in enclosed and lockable containers by using a registered transporter and an authorized storage, processing, or disposal facility, and maintain manifests.
 5. Within 240 days submit written certification to demonstrate compliance with Technical Requirement No. 1. through 2.j. and 3. or 1. through 2.j. and 4.

Litigation Information

Date Petition(s) Filed: March 28, 2022; April 8, 2022
Date Green Card(s) Signed: Lost in transit; April 13, 2022
Date Answer(s) Filed: N/A

Contact Information

TCEQ Attorneys: Taylor Pearson, 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: Ken Moller, Enforcement Division, (512) 239-1756
TCEQ Regional Contact: Charlie Adams, Beaumont Regional Office, (409) 899-8788
Respondent Contact: Michael Hughes, 9846 Misty Plain Drive, San Antonio, Texas 78245
Respondent's Attorney: N/A

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Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

| | | | | | | |
|--------------|---------------------|------------|------------------|-------------|----------------|--|
| DATES | Assigned PCW | 6-Jul-2021 | Screening | 16-Jul-2021 | EPA Due | |
| | | 7-Feb-2022 | | | | |

| | |
|--|---|
| RESPONDENT/FACILITY INFORMATION | |
| Respondent | Michael Hughes formerly doing business as Superior Tire & Service |
| Reg. Ent. Ref. No. | RN111197240 |
| Facility/Site Region | 10-Beaumont |
| Major/Minor Source | Major |

| | | | |
|--|--------------------------------|------------------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 61060 | No. of Violations | 6 |
| Docket No. | 2021-0961-MLM-E | Order Type | 1660 |
| Media Program(s) | Waste Tires | Government/Non-Profit | No |
| Multi-Media | Used Oil/Used Oil Filter & IHW | Enf. Coordinator | Hailey Johnson |
| | | 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 | \$29,250 |
|---|-------------------|----------|

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

| | | | |
|---------------------------|-----------------|--------------------------------|---------|
| Compliance History | 5.0% Adjustment | Subtotals 2, 3, & 7 | \$1,462 |
|---------------------------|-----------------|--------------------------------|---------|

| | |
|--------------|---|
| Notes | Enhancement for one NOV with same/similar violations. |
|--------------|---|

| | | | | |
|--------------------|----|------------------|-------------------|-----|
| Culpability | No | 0.0% Enhancement | Subtotal 4 | \$0 |
|--------------------|----|------------------|-------------------|-----|

| | |
|--------------|--|
| Notes | The Respondent does not meet the culpability criteria. |
|--------------|--|

| | | |
|--|-------------------|-----|
| Good Faith Effort to Comply Total Adjustments | Subtotal 5 | \$0 |
|--|-------------------|-----|

| | | | |
|-------------------------|-------------------|-------------------|-----|
| Economic Benefit | 0.0% Enhancement* | Subtotal 6 | \$0 |
|-------------------------|-------------------|-------------------|-----|

| | | |
|------------------------------|----------|-----------------------------------|
| Total EB Amounts | \$2,771 | *Capped at the Total EB \$ Amount |
| Estimated Cost of Compliance | \$22,100 | |

| | | |
|-----------------------------|-----------------------|----------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$30,712 |
|-----------------------------|-----------------------|----------|

| | | | |
|---|------|-------------------|---------|
| OTHER FACTORS AS JUSTICE MAY REQUIRE | 3.4% | Adjustment | \$1,049 |
|---|------|-------------------|---------|

Reduces or enhances the Final Subtotal by the indicated percentage.

| | |
|--------------|---|
| Notes | Enhancement to capture the avoided cost of compliance associated with Violation Nos. 2 and 5. |
|--------------|---|

| | |
|-----------------------------|----------|
| Final Penalty Amount | \$31,761 |
|-----------------------------|----------|

| | | |
|-----------------------------------|-------------------------------|----------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$31,761 |
|-----------------------------------|-------------------------------|----------|

| | | | | |
|-----------------|------|-----------|-------------------|-----|
| DEFERRAL | 0.0% | Reduction | Adjustment | \$0 |
|-----------------|------|-----------|-------------------|-----|

Reduces the Final Assessed Penalty by the indicated percentage.

| | |
|--------------|--|
| Notes | Deferral not offered for non-expedited settlement. |
|--------------|--|

| | |
|------------------------|----------|
| PAYABLE PENALTY | \$31,761 |
|------------------------|----------|

| | | | | |
|--------------------------------|---|--------------------------------|--------------------------------------|------------|
| Screening Date | 16-Jul-2021 | Docket No. | 2021-0961-MLM-E | PCW |
| Respondent | Michael Hughes formerly doing business as Superior Tire & Service | | Policy Revision 5 (January 28, 2021) | |
| Case ID No. | 61060 | PCW Revision February 11, 2021 | | |
| Reg. Ent. Reference No. | RN111197240 | | | |
| Media | Waste Tires | | | |
| Enf. Coordinator | Hailey Johnson | | | |

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)**

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 Enhancement for one NOV with same/similar violations.

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

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 5%

| | | | | |
|--------------------------------|---|-------------------|-----------------|---|
| Screening Date | 16-Jul-2021 | Docket No. | 2021-0961-MLM-E | PCW |
| Respondent | Michael Hughes formerly doing business as Superior Tire & Service | | | <i>Policy Revision 5 (January 28, 2021)</i> |
| Case ID No. | 61060 | | | <i>PCW Revision February 11, 2021</i> |
| Reg. Ent. Reference No. | RN111197240 | | | |
| Media | Waste Tires | | | |
| Enf. Coordinator | Hailey Johnson | | | |

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

| | Falsification | Major | Moderate | Minor | Percent |
|--|----------------------|---|----------------------|----------------------|------------------------------------|
| | <input type="text"/> | <input checked="" type="text" value="x"/> | <input type="text"/> | <input type="text"/> | <input type="text" value="20.0%"/> |

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

| | |
|--------------|---|
| 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 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 Michael Hughes formerly doing business as Superior Tire & Service
Case ID No. 61060
Reg. Ent. Reference No. RN111197240
Media Waste Tires
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 |
|------------------|-----------|---------------|------------|-----|----------------|-------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|-------------|-----------|

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 | 17-Dec-2020 | 2-May-2022 | 1.37 | \$686 | n/a | \$686 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Estimated delayed cost to obtain a scrap tire storage site registration for the 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

\$10,000

TOTAL

\$686

| | | |
|---|-----------------------------------|---|
| Screening Date 16-Jul-2021 | Docket No. 2021-0961-MLM-E | PCW |
| Respondent Michael Hughes formerly doing business as Superior Tire & Service | | <i>Policy Revision 5 (January 28, 2021)</i> |
| Case ID No. 61060 | | <i>PCW Revision February 11, 2021</i> |
| Reg. Ent. Reference No. RN111197240 | | |
| Media Waste Tires | | |
| Enf. Coordinator Hailey Johnson | | |

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

| | | | | | |
|-----------|----------------------|----------------------|----------------------|--|----------------------|
| OR | Harm | | | | |
| | Release | Major | Moderate | | Minor |
| | Actual | <input type="text"/> | <input type="text"/> | | <input type="text"/> |
| Potential | <input type="text"/> | <input type="text"/> | x | Percent <input type="text" value="7.0%"/> | |

>> Programmatic Matrix

| | | | | | |
|----------------------|----------------------|----------------------|----------------------|----------------------|--|
| | Falsification | Major | Moderate | Minor | |
| <input type="text"/> | |
| | | | | | Percent <input type="text" value="0.0%"/> |

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 type="text"/> |
| semiannual | <input type="text"/> |
| annual | <input type="text"/> |
| single event | x |

Violation Base Penalty

Good Faith Efforts to Comply Reduction

| | | |
|---------------|----------------------|----------------------------------|
| | Before NOE/NOV | NOE/NOV to EDRP/Settlement Offer |
| Extraordinary | <input type="text"/> | <input type="text"/> |
| Ordinary | <input type="text"/> | <input type="text"/> |
| N/A | 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 Michael Hughes formerly doing business as Superior Tire & Service
Case ID No. 61060
Reg. Ent. Reference No. RN111197240
Media Waste Tires
Violation No. 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) | \$500 | 17-Dec-2020 | 2-May-2022 | 1.37 | \$34 | n/a | \$34 |

Notes for DELAYED costs

Estimated delayed cost to establish a vector control program for tires stored outside at the 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 | \$500 | 17-Dec-2020 | 16-Jul-2021 | 0.58 | \$14 | \$500 | \$514 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Estimated avoided cost to establish a vector control program for tires stored outside at the Facility. The Date Required is the initial investigation date and the Final Date is the screening date.

Approx. Cost of Compliance

\$1,000

TOTAL

\$548

| | | | | |
|--------------------------------|---|-------------------|-----------------|---|
| Screening Date | 16-Jul-2021 | Docket No. | 2021-0961-MLM-E | PCW |
| Respondent | Michael Hughes formerly doing business as Superior Tire & Service | | | <i>Policy Revision 5 (January 28, 2021)</i> |
| Case ID No. | 61060 | | | <i>PCW Revision February 11, 2021</i> |
| Reg. Ent. Reference No. | RN111197240 | | | |
| Media | Waste Tires | | | |
| Enf. Coordinator | Hailey Johnson | | | |

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

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

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

>> **Programmatic Matrix**

| | | | | | |
|--|----------------------|---|----------------------|----------------------|---|
| | Falsification | Major | Moderate | Minor | |
| | <input type="text"/> | <input checked="" type="text" value="x"/> | <input type="text"/> | <input type="text"/> | Percent <input type="text" value="20.0%"/> |

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

| | |
|--------------|---|
| 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 NOE/NOV | NOE/NOV to EDRP/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 Michael Hughes formerly doing business as Superior Tire & Service
Case ID No. 61060
Reg. Ent. Reference No. RN111197240
Media Waste Tires
Violation No. 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 | \$500 | 17-Dec-2020 | 2-May-2022 | 1.37 | \$34 | n/a | \$34 |
| 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 delayed cost to develop and implement procedures to ensure manifests, work orders, invoices, or other records documenting the removal and management of all scrap tires generated at the Facility are maintained at the 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

\$500

TOTAL

\$34

| | | |
|---|-----------------------------------|---|
| Screening Date 16-Jul-2021 | Docket No. 2021-0961-MLM-E | PCW |
| Respondent Michael Hughes formerly doing business as Superior Tire & Service | | <i>Policy Revision 5 (January 28, 2021)</i> |
| Case ID No. 61060 | | <i>PCW Revision February 11, 2021</i> |
| Reg. Ent. Reference No. RN111197240 | | |
| Media Waste Tires | | |
| Enf. Coordinator Hailey Johnson | | |

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

| | | | | | |
|-----------|--------------------------------|----------------------|----------------------|---|----------------------|
| OR | Harm | | | | |
| | Release | Major | Moderate | | Minor |
| | Actual | <input type="text"/> | <input type="text"/> | | <input type="text"/> |
| Potential | <input type="text" value="x"/> | <input type="text"/> | <input type="text"/> | Percent <input type="text" value="30.0%"/> | |

>> Programmatic Matrix

| | | | | |
|----------------------|----------------------|----------------------|----------------------|--|
| Falsification | Major | Moderate | Minor | |
| <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | |
| | | | | Percent <input type="text" value="0.0%"/> |

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" 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 NOE/NOV | NOE/NOV to EDRP/Settlement Offer |
| Extraordinary | <input type="text"/> | <input type="text"/> |
| Ordinary | <input type="text"/> | <input type="text"/> |
| N/A | <input 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 Michael Hughes formerly doing business as Superior Tire & Service
Case ID No. 61060
Reg. Ent. Reference No. RN111197240
Media Waste Tires
Violation No. 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 | \$10,000 | 17-Dec-2020 | 2-May-2022 | 1.37 | \$46 | \$915 | \$961 |
| 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

Estimated delayed cost to install an adequate fire protection system at the 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

\$10,000

TOTAL

\$961

| | | | | |
|--------------------------------|---|-------------------|-----------------|---|
| Screening Date | 16-Jul-2021 | Docket No. | 2021-0961-MLM-E | PCW |
| Respondent | Michael Hughes formerly doing business as Superior Tire & Service | | | <i>Policy Revision 5 (January 28, 2021)</i> |
| Case ID No. | 61060 | | | <i>PCW Revision February 11, 2021</i> |
| Reg. Ent. Reference No. | RN111197240 | | | |
| Media | Waste Tires | | | |
| Enf. Coordinator | Hailey Johnson | | | |

Violation Number

Rule Cite(s)

Violation Description

Failed to submit to the Executive Director an annual summary of the facility activities from January 1 through December 31 of each calendar year, showing the number and disposition of used or scrap tires or tire pieces received, and the number of used or scrap tires or tire pieces removed from the facility no later than March 1 of the year following the end of the reporting period. Specifically, the Respondent had not submitted the 2019 Annual Report by the March 1, 2020 report due date.

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor | Percent |
|----------------------|---|----------------------|----------------------|------------------------------------|
| <input type="text"/> | <input checked="" type="text" value="x"/> | <input type="text"/> | <input type="text"/> | <input type="text" value="20.0%"/> |

Matrix Notes

100% of the rule requirement was not met.

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

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 | <input checked="" type="text" value="x"/> | <input type="text"/> |

Notes

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

Violation Subtotal

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

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Michael Hughes formerly doing business as Superior Tire & Service
Case ID No. 61060
Reg. Ent. Reference No. RN111197240
Media Waste Tires
Violation No. 5

| 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 | 17-Dec-2020 | 2-May-2022 | 1.37 | \$7 | n/a | \$7 |

Notes for DELAYED costs

Estimated delayed cost to develop and implement procedures designed to complete and submit the Annual Activity Report for Scrap Tire Facilities and Scrap Tire Storage Sites to the TCEQ timely. 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 | \$500 | 1-Mar-2020 | 16-Jul-2021 | 1.38 | \$35 | \$500 | \$535 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Estimated avoided cost to submit the Annual Activity Report for Scrap Tire Facilities and Scrap Tire Storage Sites for the January 1, 2019 through December 31, 2019 reporting period. The Date Required is the date the report was due and the Final Date is the screening date.

Approx. Cost of Compliance

\$600

TOTAL

\$542

| | | | | |
|--------------------------------|---|-------------------|-----------------|---|
| Screening Date | 16-Jul-2021 | Docket No. | 2021-0961-MLM-E | PCW |
| Respondent | Michael Hughes formerly doing business as Superior Tire & Service | | | <i>Policy Revision 5 (January 28, 2021)</i> |
| Case ID No. | 61060 | | | <i>PCW Revision February 11, 2021</i> |
| Reg. Ent. Reference No. | RN111197240 | | | |
| Media | Waste Tires | | | |
| Enf. Coordinator | Hailey Johnson | | | |

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

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

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

>> **Programmatic Matrix**

| | Falsification | Major | Moderate | Minor | Percent |
|--|----------------------|---|----------------------|----------------------|------------------------------------|
| | <input type="text"/> | <input checked="" type="text" value="x"/> | <input type="text"/> | <input type="text"/> | <input type="text" value="20.0%"/> |

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

| | |
|--------------|---|
| 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 NOE/NOV | NOE/NOV to EDRP/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 Michael Hughes formerly doing business as Superior Tire & Service
Case ID No. 61060
Reg. Ent. Reference No. RN111197240
Media Waste Tires
Violation No. 6

| 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 is 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



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

| | | | | | | |
|--------------|---------------------|------------|------------------|-------------|----------------|--|
| DATES | Assigned PCW | 6-Jul-2021 | Screening | 16-Jul-2021 | EPA Due | |
| | | 7-Feb-2022 | | | | |

| | |
|--|---|
| RESPONDENT/FACILITY INFORMATION | |
| Respondent | Michael Hughes formerly doing business as Superior Tire & Service |
| Reg. Ent. Ref. No. | RN111197240 |
| Facility/Site Region | 10-Beaumont |
| Major/Minor Source | Minor |

| | | | |
|--|--------------------------|------------------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 61060 | No. of Violations | 4 |
| Docket No. | 2021-0961-MLM-E | Order Type | 1660 |
| Media Program(s) | Used Oil/Used Oil Filter | Government/Non-Profit | No |
| Multi-Media | Waste Tires & IHW | Enf. Coordinator | Hailey Johnson |
| | | 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 | \$1,650 |
|---|-------------------|----------------|

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

| | | | |
|---------------------------|------------------------|--------------------------------|-------------|
| Compliance History | 5.0% Adjustment | Subtotals 2, 3, & 7 | \$82 |
|---------------------------|------------------------|--------------------------------|-------------|

Notes: Enhancement for one NOV with same/similar violations.

| | | | | |
|--------------------|----|-------------------------|-------------------|------------|
| Culpability | No | 0.0% Enhancement | Subtotal 4 | \$0 |
|--------------------|----|-------------------------|-------------------|------------|

Notes: The Respondent does not meet the culpability criteria.

| | | |
|--|-------------------|------------|
| Good Faith Effort to Comply Total Adjustments | Subtotal 5 | \$0 |
|--|-------------------|------------|

| | | | |
|-------------------------|--------------------------|-------------------|------------|
| Economic Benefit | 0.0% Enhancement* | Subtotal 6 | \$0 |
|-------------------------|--------------------------|-------------------|------------|

Total EB Amounts: \$13
 Estimated Cost of Compliance: \$185
 *Capped at the Total EB \$ Amount

| | | |
|-----------------------------|-----------------------|----------------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$1,732 |
|-----------------------------|-----------------------|----------------|

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

| | |
|-----------------------------|----------------|
| Final Penalty Amount | \$1,732 |
|-----------------------------|----------------|

| | | |
|-----------------------------------|-------------------------------|----------------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$1,732 |
|-----------------------------------|-------------------------------|----------------|

| | | |
|-----------------|----------------------------------|------------|
| DEFERRAL | 0.0% Reduction Adjustment | \$0 |
|-----------------|----------------------------------|------------|

Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral not offered for non-expedited settlement.

| | |
|------------------------|----------------|
| PAYABLE PENALTY | \$1,732 |
|------------------------|----------------|

| | | | | |
|--------------------------------|---|--------------------------------|--------------------------------------|------------|
| Screening Date | 16-Jul-2021 | Docket No. | 2021-0961-MLM-E | PCW |
| Respondent | Michael Hughes formerly doing business as Superior Tire & Service | | Policy Revision 5 (January 28, 2021) | |
| Case ID No. | 61060 | PCW Revision February 11, 2021 | | |
| Reg. Ent. Reference No. | RN111197240 | | | |
| Media | Used Oil/Used Oil Filter | | | |
| Enf. Coordinator | Hailey Johnson | | | |

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)**

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 Enhancement for one NOV with same/similar violations.

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

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 5%

| | | |
|---|-----------------------------------|---|
| Screening Date 16-Jul-2021 | Docket No. 2021-0961-MLM-E | PCW |
| Respondent Michael Hughes formerly doing business as Superior Tire & Service | | <i>Policy Revision 5 (January 28, 2021)</i> |
| Case ID No. 61060 | | <i>PCW Revision February 11, 2021</i> |
| Reg. Ent. Reference No. RN111197240 | | |
| Media Used Oil/Used Oil Filter | | |
| Enf. Coordinator Hailey Johnson | | |

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

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

| | | | | | |
|-----------|----------------|----------------------|----------------------|--|----------------------|
| OR | Harm | | | | |
| | Release | Major | Moderate | | Minor |
| | Actual | <input type="text"/> | <input type="text"/> | | <input type="text"/> |
| | 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"/> | x | <input type="text"/> | <input type="text"/> | Percent <input type="text" value="10.0%"/> |

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

| | |
|--------------|----------------------|
| daily | <input type="text"/> |
| weekly | <input type="text"/> |
| monthly | 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 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 | <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 Michael Hughes formerly doing business as Superior Tire & Service
Case ID No. 61060
Reg. Ent. Reference No. RN111197240
Media Used Oil/Used Oil Filter
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 |
|------------------|-----------|---------------|------------|-----|----------------|-------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|-------------|-----------|

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) | \$5 | 17-Dec-2020 | 2-May-2022 | 1.37 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Estimated delayed cost to properly label the 250-gallon container at the Facility storing used oil with the words "Used Oil". 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

\$5

TOTAL

\$0

| | | | | |
|--------------------------------|---|-------------------|-----------------|---|
| Screening Date | 16-Jul-2021 | Docket No. | 2021-0961-MLM-E | PCW |
| Respondent | Michael Hughes formerly doing business as Superior Tire & Service | | | <i>Policy Revision 5 (January 28, 2021)</i> |
| Case ID No. | 61060 | | | <i>PCW Revision February 11, 2021</i> |
| Reg. Ent. Reference No. | RN111197240 | | | |
| Media | Used Oil/Used Oil Filter | | | |
| Enf. Coordinator | Hailey Johnson | | | |

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

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

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

>> **Programmatic Matrix**

| | Falsification | Major | Moderate | Minor | Percent |
|--|----------------------|---|----------------------|----------------------|------------------------------------|
| | <input type="text"/> | <input checked="" type="text" value="x"/> | <input type="text"/> | <input type="text"/> | <input type="text" value="10.0%"/> |

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 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 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 Michael Hughes formerly doing business as Superior Tire & Service
Case ID No. 61060
Reg. Ent. Reference No. RN111197240
Media Used Oil/Used Oil Filter
Violation No. 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 | \$100 | 17-Dec-2020 | 2-May-2022 | 1.37 | \$7 | n/a | \$7 |
| 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 delayed cost to maintain records of bills of lading for each shipment of used oil at the 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

\$100

TOTAL

\$7

| | | |
|---|-----------------------------------|---|
| Screening Date 16-Jul-2021 | Docket No. 2021-0961-MLM-E | PCW |
| Respondent Michael Hughes formerly doing business as Superior Tire & Service | | <i>Policy Revision 5 (January 28, 2021)</i> |
| Case ID No. 61060 | | <i>PCW Revision February 11, 2021</i> |
| Reg. Ent. Reference No. RN111197240 | | |
| Media Used Oil/Used Oil Filter | | |
| Enf. Coordinator Hailey Johnson | | |

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

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

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

>> **Programmatic Matrix**

| | Falsification | Major | Moderate | Minor | Percent |
|--|----------------------|--------------------------------|----------------------|----------------------|------------------------------------|
| | <input type="text"/> | <input type="text" value="x"/> | <input type="text"/> | <input type="text"/> | <input type="text" value="10.0%"/> |

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

Violation Base Penalty

Good Faith Efforts to Comply Reduction

| | Before NOE/NOV | NOE/NOV to EDRP/Settlement Offer |
|---------------|--------------------------------|----------------------------------|
| Extraordinary | <input type="text"/> | <input type="text"/> |
| Ordinary | <input type="text"/> | <input type="text"/> |
| N/A | <input 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 Michael Hughes formerly doing business as Superior Tire & Service
Case ID No. 61060
Reg. Ent. Reference No. RN111197240
Media Used Oil/Used Oil Filter
Violation No. 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) | \$50 | 17-Dec-2020 | 2-May-2022 | 1.37 | \$3 | n/a | \$3 |

Notes for DELAYED costs

Estimated delayed cost to post a durable and legible sign identifying the Facility as a household used oil collection center. 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

\$50

TOTAL

\$3

| | | | | |
|--------------------------------|---|-------------------|-----------------|---|
| Screening Date | 16-Jul-2021 | Docket No. | 2021-0961-MLM-E | PCW |
| Respondent | Michael Hughes formerly doing business as Superior Tire & Service | | | <i>Policy Revision 5 (January 28, 2021)</i> |
| Case ID No. | 61060 | | | <i>PCW Revision February 11, 2021</i> |
| Reg. Ent. Reference No. | RN111197240 | | | |
| Media | Used Oil/Used Oil Filter | | | |
| Enf. Coordinator | Hailey Johnson | | | |

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

| Release | Harm | | | Percent |
|-----------|----------------------|----------------------|--------------------------------|-----------------------------------|
| | Major | Moderate | Minor | |
| Actual | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text" value="3.0%"/> |
| Potential | <input type="text"/> | <input type="text"/> | <input type="text" value="x"/> | |

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor | Percent |
|----------------------|----------------------|----------------------|----------------------|-----------------------------------|
| <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text" value="0.0%"/> |

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

Violation Base Penalty

Good Faith Efforts to Comply

Reduction

| | Before NOE/NOV | NOE/NOV to EDRP/ Settlement Offer |
|---------------|--------------------------------|-----------------------------------|
| Extraordinary | <input type="text"/> | <input type="text"/> |
| Ordinary | <input type="text"/> | <input type="text"/> |
| N/A | <input 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 Michael Hughes formerly doing business as Superior Tire & Service
Case ID No. 61060
Reg. Ent. Reference No. RN111197240
Media Used Oil/Used Oil Filter
Violation No. 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 | \$30 | 17-Dec-2020 | 2-May-2022 | 1.37 | \$0 | \$3 | \$3 |
| 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

Estimated delayed cost to provide a lid to the 55-gallon drum containing used oil filters at the 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

\$30

TOTAL

\$3



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

| | | | | | | |
|--------------|-----------------|------------|------------------|-------------|----------------|--|
| DATES | Assigned | 6-Jul-2021 | Screening | 16-Jul-2021 | EPA Due | |
| | PCW | 7-Feb-2022 | | | | |

| | |
|--|---|
| RESPONDENT/FACILITY INFORMATION | |
| Respondent | Michael Hughes formerly doing business as Superior Tire & Service |
| Reg. Ent. Ref. No. | RN111197240 |
| Facility/Site Region | 10-Beaumont |
| Major/Minor Source | Minor |

| | | | |
|--|--|------------------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 61060 | No. of Violations | 1 |
| Docket No. | 2021-0961-MLM-E | Order Type | 1660 |
| Media Program(s) | Industrial and Hazardous Waste | Government/Non-Profit | No |
| Multi-Media | Used Oil/Used Oil Filter & Waste Tires | Enf. Coordinator | Hailey Johnson |
| | | 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 | \$3,750 |
|---|-------------------|---------|

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

| | | | |
|---------------------------|-----------------|--------------------------------|-------|
| Compliance History | 5.0% Adjustment | Subtotals 2, 3, & 7 | \$187 |
|---------------------------|-----------------|--------------------------------|-------|

Notes: Enhancement for one NOV with same/similar violations.

| | | | | |
|--------------------|----|------------------|-------------------|-----|
| Culpability | No | 0.0% Enhancement | Subtotal 4 | \$0 |
|--------------------|----|------------------|-------------------|-----|

Notes: The Respondent does not meet the culpability criteria.

| | | |
|--|-------------------|-----|
| Good Faith Effort to Comply Total Adjustments | Subtotal 5 | \$0 |
|--|-------------------|-----|

| | | | |
|-------------------------|-------------------|-------------------|-----|
| Economic Benefit | 0.0% Enhancement* | Subtotal 6 | \$0 |
|-------------------------|-------------------|-------------------|-----|

Total EB Amounts: \$4,992
 Estimated Cost of Compliance: \$72,738
 *Capped at the Total EB \$ Amount

| | | |
|-----------------------------|-----------------------|---------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$3,937 |
|-----------------------------|-----------------------|---------|

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

| | |
|-----------------------------|---------|
| Final Penalty Amount | \$3,937 |
|-----------------------------|---------|

| | | |
|-----------------------------------|-------------------------------|---------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$3,937 |
|-----------------------------------|-------------------------------|---------|

| | | | | |
|-----------------|------|-----------|-------------------|-----|
| DEFERRAL | 0.0% | Reduction | Adjustment | \$0 |
|-----------------|------|-----------|-------------------|-----|

Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral not offered for non-expedited settlement.

| | |
|------------------------|---------|
| PAYABLE PENALTY | \$3,937 |
|------------------------|---------|

| | | | | |
|--------------------------------|---|--------------------------------|--------------------------------------|------------|
| Screening Date | 16-Jul-2021 | Docket No. | 2021-0961-MLM-E | PCW |
| Respondent | Michael Hughes formerly doing business as Superior Tire & Service | | Policy Revision 5 (January 28, 2021) | |
| Case ID No. | 61060 | PCW Revision February 11, 2021 | | |
| Reg. Ent. Reference No. | RN111197240 | | | |
| Media | Industrial and Hazardous Waste | | | |
| Enf. Coordinator | Hailey Johnson | | | |

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)**

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

Enhancement for one NOV with same/similar violations.

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

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 5%

| | | | | |
|--------------------------------|---|-------------------|-----------------|---|
| Screening Date | 16-Jul-2021 | Docket No. | 2021-0961-MLM-E | PCW |
| Respondent | Michael Hughes formerly doing business as Superior Tire & Service | | | <i>Policy Revision 5 (January 28, 2021)</i> |
| Case ID No. | 61060 | | | <i>PCW Revision February 11, 2021</i> |
| Reg. Ent. Reference No. | RN111197240 | | | |
| Media | Industrial and Hazardous Waste | | | |
| Enf. Coordinator | Hailey Johnson | | | |

Violation Number

Rule Cite(s)

Violation Description

Caused, suffered, allowed, or permitted the unauthorized disposal of industrial hazardous waste ("IHW"). Specifically, nine empty 250-gallon totes previously containing TyrFil Isocyanate Component and one 275-gallon chemical tote containing TyrFil Isocyanate Component were disposed of at the Facility and 40 cubic yards of tire tubing were documented to be excreting a milky, creamy yellow substance, a liquid residue from TyrFil Isocyanate Component containing polyurethane polyol component and polyurethane isocyanate component, onto the surrounding concrete at the rear of the Facility.

Base Penalty

>> Environmental, Property and Human Health Matrix

| OR | Release | Harm | | | Percent |
|-----------|----------------------|----------------------|----------------------|--------------------------------|------------------------------------|
| | | Major | Moderate | Minor | |
| Actual | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text" value="x"/> | <input type="text" value="15.0%"/> |
| Potential | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | |

>> Programmatic Matrix

| | Falsification | Major | Moderate | Minor | Percent |
|--|----------------------|----------------------|----------------------|----------------------|-----------------------------------|
| | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text" value="0.0%"/> |

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

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

Violation Base Penalty

One quarterly event is recommended from the June 15, 2021 record review date to the July 16, 2021 screening date.

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 type="text" value="x"/> | <input type="text"/> |

Notes

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

Violation Subtotal

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

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Michael Hughes formerly doing business as Superior Tire & Service
Case ID No. 61060
Reg. Ent. Reference No. RN111197240
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 |
|------------------|-----------|---------------|------------|-----|----------------|-------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|-------------|-----------|

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 | \$72,738 | 17-Dec-2020 | 2-May-2022 | 1.37 | \$4,992 | n/a | \$4,992 |
| 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 remove all IHW from the Facility and dispose of it at an authorized facility using appropriate corrective measures. 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 | \$72,738 | TOTAL | \$4,992 |
|-----------------------------------|----------|--------------|---------|

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 CN605860469, RN111197240, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN605860469, Michael Hughes **Classification:** NOT APPLICABLE **Rating:** N/A

Regulated Entity: RN111197240, Superior Tire & Service **Classification:** NOT APPLICABLE **Rating:** N/A

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

CH Group: 14 - Other

Location: 1175 North Main Street, Vidor, Orange County, Texas 77662-3738

TCEQ Region: REGION 10 - BEAUMONT

ID Number(s):

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

Date Compliance History Report Prepared: July 16, 2021

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: July 16, 2016 to July 16, 2021

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

Name: Hailey Johnson **Phone:** (512) 239-1756

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: 03/08/2021 (1699527)
 - Self Report? NO Classification: Major
 - Citation: 30 TAC Chapter 328, SubChapter F 328.56(a)(1)
 - Description: Failure to obtain a registration number for storing more than 500 tires. B4. (1)(B)Major.
 - Self Report? NO Classification: Moderate
 - Citation: 30 TAC Chapter 328, SubChapter F 328.63(d)(5)
 - Description: Failure to report the facility's annual report. B3. (2)(E)Moderate.
 - Self Report? NO Classification: Moderate

- Citation: 30 TAC Chapter 328, SubChapter F 328.63(d)(2)

Description: Failure to monitor all scrap tires for vector control. B3. 2(E)Moderate.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 328, SubChapter F 328.60(a)
 Description: Failure to obtain a registration number for storing more than 500 tires. B4. (1) (B)Major.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 328, SubChapter F 328.61(b)
 Description: Failure to store scrap tires in an enclosed and lockable container. B14. (2) (E)Moderate.
 Self Report? NO Classification: Moderate
 Citation: 40 CFR Chapter 279, SubChapter I, PT 279, SubPT C 279.22(c)
 Description: Failure to properly label all used oil containers. B17. (2)(G)Moderate.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 328, SubChapter F 328.58(a)
 Description: Failure to maintain records of used or scrap tires hauled from the facility in the form of a five-part manifest. (2)(E)Moderate.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 328, SubChapter D 328.25(b)
 Description: Failure to maintain used oil records for three years and make readily available for agency personnel to inspect. B3. (2)(E)Moderate.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 324, SubChapter A 324.7(3)
 Description: Failure to post and maintain a durable and legible sign identifying the site as a household used oil collection center.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 328, SubChapter D 328.23(b)
 Description: Failure to secure the bulk used oil filter container in a closed and waterproof manner. B17. (2)(G)Moderate.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 328, SubChapter F 328.61(h)
 Description: Failure to provide adequate fire protection for the facility. B18.(e)(15). (2) (G)Moderate.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 335, SubChapter A 335.4
 30 TAC Chapter 335, SubChapter A 335.4(2)
 30 TAC Chapter 335, SubChapter A 335.4(3)
 Description: Failure to properly contain hazardous waste. B14. (1)(C)Moderate.

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 7/16/2016 and 7/16/2021

| | | |
|---|---|---------------------------------|
| 1 | Date: 03/08/2021 (1699527) | Classification: Major |
| | Self Report? NO | For Informational Purposes Only |
| | Citation: 30 TAC Chapter 328, SubChapter F 328.56(a)(1) | |
| | Description: Failure to obtain a registration number for storing more than 500 tires. B4. (1)(B)Major. | |
| | | Classification: Moderate |
| | Self Report? NO | For Informational Purposes Only |
| | Citation: 30 TAC Chapter 328, SubChapter F 328.63(d)(5) | |
| | Description: Failure to report the facility's annual report. B3. (2)(E)Moderate. | |
| | | Classification: Moderate |
| | Self Report? NO | For Informational Purposes Only |
| | Citation: 30 TAC Chapter 328, SubChapter F 328.63(d)(2) | |
| | Description: Failure to monitor all scrap tires for vector control. B3. 2(E)Moderate. | |
| | | Classification: Moderate |
| | Self Report? NO | For Informational Purposes Only |
| | Citation: 30 TAC Chapter 328, SubChapter F 328.60(a) | |
| | Description: Failure to obtain a registration number for storing more than 500 tires. B4. (1)(B)Major. | |
| | | Classification: Moderate |
| | Self Report? NO | For Informational Purposes Only |
| | Citation: 30 TAC Chapter 328, SubChapter F 328.61(b) | |
| | Description: Failure to store scrap tires in an enclosed and lockable container. B14. (2)(E)Moderate. | |
| | | Classification: Moderate |
| | Self Report? NO | For Informational Purposes Only |
| | Citation: 40 CFR Chapter 279, SubChapter I, PT 279, SubPT C 279.22(c) | |
| | Description: Failure to properly label all used oil containers. B17. (2)(G)Moderate. | |
| | | Classification: Moderate |
| | Self Report? NO | For Informational Purposes Only |
| | Citation: 30 TAC Chapter 328, SubChapter F 328.58(a) | |
| | Description: Failure to maintain records of used or scrap tires hauled from the facility in the form of a five-part manifest. (2)(E)Moderate. | |
| | | Classification: Moderate |
| | Self Report? NO | For Informational Purposes Only |
| | Citation: 30 TAC Chapter 328, SubChapter D 328.25(b) | |
| | Description: Failure to maintain used oil records for three years and make readily available for agency personnel to inspect. B3. (2)(E)Moderate. | |
| | | Classification: Moderate |
| | Self Report? NO | For Informational Purposes Only |
| | Citation: 30 TAC Chapter 324, SubChapter A 324.7(3) | |
| | Description: Failure to post and maintain a durable and legible sign identifying the site as a household used oil collection center. | |
| | | Classification: Moderate |
| | Self Report? NO | For Informational Purposes Only |
| | Citation: 30 TAC Chapter 328, SubChapter D 328.23(b) | |
| | Description: Failure to secure the bulk used oil filter container in a closed and waterproof manner. B17. (2)(G)Moderate. | |
| | | Classification: Moderate |
| | Self Report? NO | For Informational Purposes Only |
| | Citation: 30 TAC Chapter 328, SubChapter F 328.61(h) | |
| | Description: Failure to provide adequate fire protection for the facility. B18.(e)(15). (2)(G)Moderate. | |
| | | Classification: Moderate |
| | Self Report? NO | For Informational Purposes Only |
| | Citation: 30 TAC Chapter 335, SubChapter A 335.4 30 TAC Chapter 335, SubChapter A 335.4(2) | |

30 TAC Chapter 335, SubChapter A 335.4(3)
Description: Failure to properly contain hazardous waste. B14. (1)(C)Moderate.

* NOVs applicable for the Compliance History rating period 9/1/2007 to 8/31/2012

Appendix B

All Investigations Conducted During Component Period July 16, 2016 and July 16, 2021

(1736058)

Item 1

June 28, 2021

For Informational Purposes Only

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2007 and 08/31/2012.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
MICHAEL HUGHES;
RN111197240**

**§
§
§
§
§
§**

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2021-0961-MLM-E

On _____, the Texas Commission on Environmental Quality (“Commission” or “TCEQ”) considered the Executive Director’s First Amended 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 Michael Hughes (“Respondent”).

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

FINDINGS OF FACT

1. Respondent owns and operated an automotive mechanic shop located at 1175 North Main Street in Vidor, Orange County, Texas (the “Facility”) The Facility involves or involved the management of municipal solid waste (“MSW”), including scrap tires, and industrial and hazardous waste (“IHW”), as defined in TEX. HEALTH & SAFETY CODE ch. 361, and used oil, as defined in TEX. HEALTH & SAFETY CODE ch. 371.
2. During an investigation conducted on December 17, 2020, and a record review conducted on June 15, 2021, an investigator documented that Respondent:
 - a. Failed to obtain a scrap tire storage site registration for the Facility prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in enclosed and lockable containers. Specifically, approximately 600 scrap tires were stored on the ground at the Facility and one 250-gallon tote containing scrap tire pieces approximately equivalent to 31 scrap tires were stored at the Facility without a scrap tire storage site registration;
 - b. Failed to monitor tires stored outside for vectors and utilize appropriate vector control measures at least once every two weeks. Specifically, 600 tires stored outside were not being monitored for vectors and standing water was observed in the tires;
 - c. Failed to retain all manifests, work orders, invoices, or other records to support activities related to the accumulation, handling, and shipment of used or scrap tires or scrap tire pieces at the Facility. Specifically, no scrap tire records were available at the time of the investigation;
 - d. Failed to maintain an adequate fire protection system using fire hydrants or a firewater storage pond or tank at the Facility;
 - e. Failed to submit, to the Executive Director, an annual summary of the Facility activities from January 1 through December 31 of each calendar year, showing the number and disposition of used or scrap tires or tire pieces received and the number of used or scrap tires or tire pieces removed from the Facility no later than March 1 of the year following the end of the reporting period. Specifically,

- Respondent had not submitted the 2019 Annual Report by the March 1, 2020, report due date;
- f. Failed to obtain a registration to process scrap tires. Specifically, Respondent was recycling tire tubing to produce new tires for cherry-pickers and forklifts without a registration;
 - g. Failed to label or clearly mark containers used to store used oil with the words "Used Oil". Specifically, the 250-gallon container storing used oil at the Facility was not properly labeled;
 - h. Failed to maintain a copy of the bill of lading for each shipment of used oil filters for at least three years after the date the filters were transported, stored, or processed at the Facility;
 - i. Failed to post and maintain a durable and legible sign identifying the Facility as a household used-oil collection center;
 - j. Failed to secure the bulk used-oil filter container in a closed, waterproof manner. Specifically, the 55-gallon drum containing used-oil filters at the Facility did not have a lid, and
 - k. Caused, suffered, allowed, or permitted the unauthorized disposal of IHW. Specifically, nine empty 250-gallon totes previously containing TyrFil Isocyanate Component and one 275-gallon chemical tote containing TyrFil Isocyanate Component were disposed of at the Facility. Additionally, 40 cubic yards of tire tubing were documented to be excreting a milky, creamy yellow substance, a liquid residue from TyrFil Isocyanate Component containing polyurethane polyol component and polyurethane isocyanate component, onto the surrounding concrete at the rear of the Facility.
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 Michael Hughes" (the "EDPRP") in the TCEQ Chief Clerk's office on March 28, 2022.
 4. The Executive Director filed the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Michael Hughes" (the "EDFARP") in the TCEQ Chief Clerk's office on April 8, 2022.
 5. By letter dated April 8, 2022, sent to Respondent's last known address via certified mail, return receipt requested, postage prepaid, the Executive Director served Respondent with notice of the EDFARP. According to USPS.com "Track & Confirm" delivery confirmation records, Respondent received notice of the EDFARP on April 13, 2022.
 6. More than 20 days have elapsed since Respondent received notice of the EDFARP. 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 obtain a scrap tire storage site registration for the Facility prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in enclosed and lockable containers, in violation of TEX.

- HEALTH & SAFETY CODE § 361.112(a), and 30 TEX. ADMIN. CODE §§ 328.56(d)(2), 328.59(b)(1), and 328.60(a).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to monitor tires stored outside for vectors and utilize appropriate vector control measures at least once every two weeks, in violation 30 TEX. ADMIN. CODE § 328.56(d)(4).
 4. As evidenced by Finding of Fact No. 2.c., Respondent failed to retain all manifests, work orders, invoices, or other records to support activities related to the accumulation, handling, and shipment of used or scrap tires or scrap tire pieces at the Facility, in violation of 30 TEX. ADMIN. CODE § 328.58(f).
 5. As evidenced by Finding of Fact No. 2.d., Respondent failed to maintain an adequate fire protection system using fire hydrants or a firewater storage pond or tank at the Facility, in violation of 30 TEX. ADMIN. CODE § 328.61(g).
 6. As evidenced by Finding of Fact No. 2.e., Respondent failed to submit, to the Executive Director, an annual summary of the Facility activities from January 1 through December 31 of each calendar year, showing the number and disposition of used or scrap tires or tire pieces received and the number of used or scrap tires or tire pieces removed from the facility no later than March 1 of the year following the end of the reporting period, in violation of 30 TEX. ADMIN. CODE §§ 328.59(b)(6), 328.62(d), and 328.63(d)(6).
 7. As evidenced by Finding of Fact No. 2.f., Respondent failed to obtain a registration to process scrap tires, in violation of 30 TEX. ADMIN. CODE § 328.63(c).
 8. As evidenced by Finding of Fact No. 2.g., Respondent failed to label or clearly mark containers used to store used oil with the words "Used Oil", in violation of 30 TEX. ADMIN. CODE § 324.6 and 40 C.F.R. § 279.22(c)(1).
 9. As evidenced by Finding of Fact No. 2.h., Respondent failed to maintain a copy of the bill of lading for each shipment of used oil filters for at least three years after the date the filters were transported, stored, or processed at the Facility, in violation of 30 TEX. ADMIN. CODE § 328.25(b).
 10. As evidenced by Finding of Fact No. 2.i., Respondent failed to post and maintain a durable and legible sign identifying the Facility as a household used-oil collection center, in violation of 30 TEX. ADMIN. CODE § 324.7(3)(A).
 11. As evidenced by Finding of Fact No. 2.j., Respondent failed to secure the bulk used oil filter container in a closed, waterproof manner, in violation of 30 TEX. ADMIN. CODE §§ 324.4 and 328.23(c).
 12. As evidenced by Finding of Fact No. 2.k., Respondent caused, suffered, allowed, or permitted the unauthorized disposal of IHW, in violation of 30 TEX. ADMIN. CODE § 335.4.
 13. As evidenced by Findings of Fact Nos. 4 and 5, the Executive Director timely served Respondent with proper notice of the EDFARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(b)(1).
 14. As evidenced by Finding of Fact No. 6, 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.
 15. 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.

16. An administrative penalty in the amount of thirty-seven thousand four hundred thirty dollars (\$37,430.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
17. 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 thirty-seven thousand four hundred thirty dollars (\$37,430.00) 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: Michael Hughes; Docket No. 2021-0961-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 generating, storing, and/or processing any additional used and/or scrap tires at the Facility until the proper registration is obtained; and
 - ii. Cease disposal of any additional MSW and/or IHW at the Facility.
 - b. Within 30 days after the effective date of this Order:
 - i. Establish a vector control program for tires stored outside at the Facility, in accordance with 30 TEX. ADMIN. CODE § 328.56;
 - ii. Develop and implement procedures to ensure manifests, work orders, invoices, or other records documenting the removal and management of all scrap tires generated at the Facility are maintained at the Facility, in accordance with 30 TEX. ADMIN. CODE § 328.58;
 - iii. Install an adequate fire protection system at the Facility, in accordance with 30 TEX. ADMIN. CODE § 328.61;
 - iv. Develop and implement procedures designed to complete and submit the Annual Activity Report for Scrap Tire Facilities and Scrap Tire Storage Sites to the TCEQ, timely;
 - v. Properly label the 250-gallon container storing used oil at the Facility with the words "Used Oil," in accordance with 30 TEX. ADMIN. CODE § 324.6 and 40 C.F.R. § 279.22;
 - vi. Begin maintaining records of bills of lading for each shipment of used oil at the Facility, in accordance with 30 TEX. ADMIN. CODE § 328.25;

- vii. Post a durable and legible sign identifying the Facility as a household used oil collection center; in accordance with 30 TEX. ADMIN. CODE § 324.7;
- viii. Provide a lid to the 55-gallon drum containing used oil filters at the Facility, in accordance with 30 TEX. ADMIN. CODE §§ 324.4 and 328.23;
- ix. Develop and implement procedures to prevent any future unauthorized disposal of IHW at the Facility;
- x. Clean up and remove all IHW from the Facility and dispose of it at an authorized facility using appropriate corrective measures;
- c. Within 180 days upon the effective date of this Order, obtain a scrap tire storage registration for generating, storing, and processing scrap tires at the Facility, in accordance with 30 TEX. ADMIN. CODE § 328.55; or
- d. In Lieu of Ordering Provision No. 3.c., within 90 days after the effective date of this Order, reduce the number of scrap tires being stored at the Facility to less than 500 on the ground or less than 2,000 in enclosed and lockable containers by using a registered transporter and an authorized storage, processing, or disposal facility, and maintain manifests, in accordance with 30 TEX. ADMIN. CODE § 328.58, and
- e. Within 240 days after the effective date of this Order, submit written certification to demonstrate compliance with Ordering Provision Nos. 3.a. through 3.b.x. and 3.c. or 3.a. through 3.b.x. and 3.d. The certification shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by 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
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1830

- 4. All relief not expressly granted in this Order is denied.
- 5. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
- 6. 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

For the Commission

Date

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



UNSWORN DECLARATION OF TAYLOR W. PEARSON

"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 Michael Hughes' (the "EDPRP") was filed in the TCEQ Chief Clerk's office on March 28, 2022.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Michael Hughes" (the "EDFARP") was filed in the TCEQ Chief Clerk's office on April 8, 2022.

The EDFARP was mailed to Respondent's last known address on April 8, 2022, via certified mail, return receipt requested, postage prepaid. According to USPS.com "Track & Confirm" delivery confirmation records, Respondent received notice of the EDPRP on April 13, 2022.

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

"My name is Taylor Wayne Pearson 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 1st day of December, 2022

A handwritten signature in blue ink that reads "Taylor Pearson".

Declarant