

Executive Summary – Enforcement Matter – Case No. 61399

William F. Gilpin dba Aero

RN105578892

Docket No. 2021-1313-MLM-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MLM - IHW and used oil

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Aero, 12500 Cleburne Highway, Cresson, Parker County

Type of Operation:

Used oil and used oil filter transporter and storage facility with tank washout operation

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

Texas Register Publication Date: April 28, 2023

Comments Received: No

Penalty Information

Total Penalty Assessed: \$31,363

Amount Deferred for Expedited Settlement: \$6,272

Total Paid to General Revenue: \$731

Total Due to General Revenue: \$24,360

Payment Plan: 35 payments of \$696 each

Compliance History Classifications:

Person/CN - High

Site/RN - Unclassified

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: January 2021

Investigation Information

Complaint Date(s): March 22, 2021

Complaint Information: Alleged the Facility was conducting a tank cleaning operation without proper authorization.

Date(s) of Investigation: April 6, 2021

Date(s) of NOE(s): August 26, 2021

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Docket No. 2021-1313-MLM-E

Violation Information

1. Failed to determine whether the total halogen content of used oil being transported or stored at the Facility is above or below 1,000 parts per million [30 TEX. ADMIN. CODE § 324.11, and 40 CODE OF FEDERAL REGULATIONS ("CFR") § 279.44(a) and (b)].
2. Failed to renew the registration as used oil handler by January 25 of every even-numbered year. Specifically, the Facility registration had expired on December 31, 2019 [30 TEX. ADMIN. CODE § 328.24(c) and TEX. HEALTH & SAFETY CODE § 371.024(b)(1)].
3. Failed to submit a report by January 25 of every even-numbered year which includes the number of used oil filters transported, stored, or processed in the preceding two calendar years. Specifically, the biennial report due on January 25, 2020, had not been submitted [30 TEX. ADMIN. CODE § 328.24(c)(1) and TEX. HEALTH & SAFETY CODE § 371.024(b)(2)].
4. Failed to maintain a copy of the bill of lading for each shipment of used oil filters for at least three years [30 TEX. ADMIN. CODE § 328.25(b) and TEX. HEALTH & SAFETY CODE § 371.105(b)].
5. Caused, suffered, allowed, or permitted the unauthorized disposal of IHW. Specifically, the Respondent was operating a tank cleaning operation at the Facility without a permit. The Respondent accepted three 55-gallon drums containing diesel which were picked up for processing and transport by unauthorized entities on April 30, 2021 and on May 4, 2021 [30 TEX. ADMIN. CODE § 335.2(b)].
6. Failed to update the NOR for the Facility. Specifically, the Notice of Registration ("NOR") did not reflect the status of the Facility as a Small Quantity Generator of Hazardous Waste. Also, it did not include a roll-off container at the Facility as a waste management unit, and plant trash as an additional waste stream [30 TEX. ADMIN. CODE § 335.6(c)].
7. Failed to utilize a manifest for shipment of hazardous waste. Specifically, three 55-gallon drums containing IHW were accepted without a hazardous waste manifest [30 TEX. ADMIN. CODE §§ 335.10(a) and 335.11(a), and 40 CFR § 263.20(a)(1)].
8. Failed to conduct hazardous waste determinations and waste classifications. Specifically, hazardous waste determinations and waste classifications had not been conducted for three 55-gallon drums labeled as "Hazardous Waste" at the time of the investigation [30 TEX. ADMIN. CODE §§ 335.62, 335.503(a), and 335.504, and 40 CFR § 262.11].
9. Failed to clearly mark each container of hazardous waste with the date each period of accumulation started. Specifically, three 55-gallon drums containing IHW were not marked with the accumulation start date [30 TEX. ADMIN. CODE § 335.69(f)(4) and 40 CFR § 268.50(a)(2)(i)(D)].

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Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent implemented the following corrective measures:

- a. Developed and implemented procedures to ensure that total halogen content of used oil is determined at the Facility on July 26, 2021;
- b. Submitted a report including the number of used oil filters transported, stored, or processed in the years 2018 and 2019 at the Facility on April 20, 2021;
- c. Renewed the Facility registration as used oil handler on April 20, 2021;
- d. Began maintaining bills of lading for each shipment of used oil filters on July 30, 2021;
- e. Developed and implemented procedures to ensure that containers storing IHW are not accepted for treatment, storage, or disposal, and IHW at the Facility was properly disposed of at an authorized facility on July 30, 2021;
- f. Updated the Notice of Registration on July 28, 2021;
- g. Developed and implemented procedures to ensure that all IHW containers are shipped with a manifest on July 30, 2021;
- h. Conducted waste determinations and waste classifications of three 55-gallon drums on April 23, 2021;
- i. Developed and implemented procedures for conducting waste determinations and waste classifications timely on July 30, 2021; and
- j. Developed and implemented procedures to clearly mark each container of IHW with the accumulation start date on July 30, 2021.

Technical Requirements:

N/A

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Docket No. 2021-1313-MLM-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Karolyn Kent, Enforcement Division, Enforcement Team 3, MC 219, (512) 239-2536; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: William F. Gilpin, Owner, Aero, 12500 Cleburne Highway, Cresson, Texas 76035

LaDonna Leshuk, Business Manager, Aero, 12500 Cleburne Highway, Cresson, Texas 76035

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	30-Aug-2021	Screening	8-Sep-2021	EPA Due	
	PCW	8-Sep-2021				

RESPONDENT/FACILITY INFORMATION	
Respondent	William F. Gilpin dba Aero
Reg. Ent. Ref. No.	RN105578892
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	61399	No. of Violations	5
Docket No.	2021-1313-MLM-E	Order Type	1660
Media Program(s)	Industrial and Hazardous Waste	Government/Non-Profit	No
Multi-Media	Used Oil Filter	Enf. Coordinator	Karolyn Kent
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$43,750
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	-10.0% Adjustment	Subtotals 2, 3, & 7	-\$4,375
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Notes	Reduction for High Performer classification.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$10,937
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$39	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$13,100	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$28,438
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0% Adjustment	
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
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Final Penalty Amount	\$28,438
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$28,438
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DEFERRAL	20.0% Reduction Adjustment	-\$5,687
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes	Deferral offered for expedited settlement.
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PAYABLE PENALTY	\$22,751
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Screening Date 8-Sep-2021

Docket No. 2021-1313-MLM-E

PCW

Respondent William F. Gilpin dba Aero

Policy Revision 5 (January 28, 2021)

Case ID No. 61399

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN105578892

Media Industrial and Hazardous Waste

Enf. Coordinator Karolyn Kent

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance History Notes

Reduction for High Performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) -10%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% -10%

Screening Date 8-Sep-2021 **Docket No.** 2021-1313-MLM-E **PCW**
Respondent William F. Gilpin dba Aero *Policy Revision 5 (January 28, 2021)*
Case ID No. 61399 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN105578892
Media Industrial and Hazardous Waste
Enf. Coordinator Karolyn Kent

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 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 checked="" type="text" value="X"/>	<input type="text"/>
N/A	<input type="text"/>	<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 William F. Gilpin dba Aero
Case ID No. 61399
Reg. Ent. Reference No. RN105578892
Media Violation No. Industrial and Hazardous Waste
 1

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	6-Apr-2021	30-Jul-2021	0.32	\$2	n/a	\$2

Notes for DELAYED costs
 Estimated delayed cost to develop and implement procedures to ensure that containers storing IHW are not accepted for treatment, storage, or disposal, and IHW at the Facility is properly disposed of at an authorized facility. The Date Required is the investigation date, and the Final Date is the 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 \$2

Screening Date 8-Sep-2021 **Docket No.** 2021-1313-MLM-E **PCW**
Respondent William F. Gilpin dba Aero *Policy Revision 5 (January 28, 2021)*
Case ID No. 61399 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN105578892
Media Industrial and Hazardous Waste
Enf. Coordinator Karolyn Kent

Violation Number 2
Rule Cite(s) 30 Tex. Admin. Code § 335.6(c)
Violation Description Failed to update the Notice of Registration ("NOR") for the Facility. Specifically, the NOR did not reflect the status of the Facility as a Small Quantity Generator of Hazardous Waste. Also, it did not include a roll-off container at the Facility as a waste management unit, and plant trash as an additional waste stream.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		X			10.0%
	100% of the rule requirement was not met.				

Adjustment \$22,500

\$2,500

Violation Events

Number of Violation Events 1 113 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$2,500

One single event is recommended.

Good Faith Efforts to Comply 25.0% Reduction \$625

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

Notes: The Respondent updated the NOR on July 28, 2021, before the August 26, 2021 NOE.

Violation Subtotal \$1,875

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

Estimated EB Amount \$2 **Violation Final Penalty Total** \$1,625

This violation Final Assessed Penalty (adjusted for limits) \$1,625

Economic Benefit Worksheet

Respondent William F. Gilpin dba Aero
Case ID No. 61399
Reg. Ent. Reference No. RN105578892
Media Violation No. Industrial and Hazardous Waste
 2

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$100	6-Apr-2021	28-Jul-2021	0.31	\$2	n/a	\$2
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated delayed cost to update the NOR. The Date Required is the investigation date, and the Final Date is the 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

\$2

Screening Date 8-Sep-2021 **Docket No.** 2021-1313-MLM-E **PCW**
Respondent William F. Gilpin dba Aero *Policy Revision 5 (January 28, 2021)*
Case ID No. 61399 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN105578892
Media Industrial and Hazardous Waste
Enf. Coordinator Karolyn Kent

Violation Number 3
Rule Cite(s) 30 Tex. Admin. Code §§ 335.10(a) and 335.11(a), and 40 Code of Federal Regulations ("CFR") § 263.20(a)(1)
Violation Description Failed to utilize a manifest for shipment of hazardous waste. Specifically, three 55-gallon drums containing IHW were accepted without a hazardous waste manifest.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
		Actual			
Potential					

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
			X		
100% of the rule requirement was not met.					

Adjustment \$22,500

\$2,500

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 \$10,000

Four monthly events are recommended from the April 6, 2021 investigation date to the July 30, 2021 date of compliance.

Good Faith Efforts to Comply Reduction

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	X	<input type="text"/>
N/A	<input type="text"/>	<input type="text"/>

Notes: The Respondent developed and implemented procedures to ensure that all IHW containers are shipped with a manifest on July 30, 2021, before the August 26, 2021 NOE.

Violation Subtotal \$7,500

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

Estimated EB Amount \$2 **Violation Final Penalty Total** \$6,500

This violation Final Assessed Penalty (adjusted for limits) \$6,500

Economic Benefit Worksheet

Respondent William F. Gilpin dba Aero
Case ID No. 61399
Reg. Ent. Reference No. RN105578892
Media Violation No. Industrial and Hazardous Waste
 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	\$100	6-Apr-2021	30-Jul-2021	0.32	\$2	n/a	\$2
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 that all IHW containers are shipped with a manifest. The Date Required is the investigation date, and the Final Date is the 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 \$2

Screening Date 8-Sep-2021 **Docket No.** 2021-1313-MLM-E **PCW**
Respondent William F. Gilpin dba Aero *Policy Revision 5 (January 28, 2021)*
Case ID No. 61399 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN105578892
Media Industrial and Hazardous Waste
Enf. Coordinator Karolyn Kent

Violation Number 4
Rule Cite(s) 30 Tex. Admin. Code §§ 335.62, 335.503(a), and 335.504, and 40 CFR § 262.11
Violation Description Failed to conduct hazardous waste determinations and waste classifications. Specifically, hazardous waste determinations and waste classifications had not been conducted for three 55-gallon drums labeled as "Hazardous Waste" at the time of the investigation.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
					Percent 0.0%

Matrix Notes Human health or the environment will or could be exposed to pollutants that would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 3 115 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$11,250

Three single events are recommended (one event for each waste stream).

Good Faith Efforts to Comply 25.0% Reduction \$2,812

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

Notes The Respondent conducted waste determinations and waste classifications of three 55-gallon drums on April 23, 2021, and developed and implemented procedures for conducting waste determinations and waste classifications timely on July 30, 2021, before the August 26, 2021 NOE.

Violation Subtotal \$8,438

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

Estimated EB Amount \$31 **Violation Final Penalty Total** \$7,313

This violation Final Assessed Penalty (adjusted for limits) \$7,313

Economic Benefit Worksheet

Respondent William F. Gilpin dba Aero
Case ID No. 61399
Reg. Ent. Reference No. RN105578892
Media Violation No. Industrial and Hazardous Waste
 4

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$12,600	6-Apr-2021	23-Apr-2021	0.05	\$29	n/a	\$29
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	6-Apr-2021	30-Jul-2021	0.32	\$2	n/a	\$2

Notes for DELAYED costs

Estimated delayed cost to conduct waste determinations and waste classifications of three 55-gallon drums (\$12,600 at \$4,200 per waste stream) and to develop and implement procedures for conducting waste determinations and waste classifications timely for all IHW generated at the Facility (\$100). The Dates Required are the investigation date, and the Final Dates are the dates 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 \$12,700

TOTAL \$31

Screening Date 8-Sep-2021 **Docket No.** 2021-1313-MLM-E **PCW**
Respondent William F. Gilpin dba Aero *Policy Revision 5 (January 28, 2021)*
Case ID No. 61399 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN105578892
Media Industrial and Hazardous Waste
Enf. Coordinator Karolyn Kent

Violation Number 5
Rule Cite(s) 30 Tex. Admin. Code § 335.69(f)(4) and 40 CFR § 268.50(a)(2)(i)(D)
Violation Description Failed to clearly mark each container of hazardous waste with the date each period of accumulation started. Specifically, three 55-gallon drums containing IHW were not marked with the accumulation start date.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		X			10.0%
100% of the rule requirement was not met.					

Adjustment \$22,500

\$2,500

Violation Events

Number of Violation Events 4 115 Number of violation days

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$10,000

Four monthly events are recommended from the April 6, 2021 investigation date to the July 30, 2021 date of compliance.

Good Faith Efforts to Comply 25.0% Reduction \$2,500

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

Notes: The Respondent came into compliance by developing and implementing procedures to clearly mark each container of IHW with the accumulation start date at the Facility by July 30, 2021, before the August 26, 2021 NOE.

Violation Subtotal \$7,500

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

Estimated EB Amount \$2 Violation Final Penalty Total \$6,500

This violation Final Assessed Penalty (adjusted for limits) \$6,500

Economic Benefit Worksheet

Respondent William F. Gilpin dba Aero
Case ID No. 61399
Reg. Ent. Reference No. RN105578892
Media Violation No. Industrial and Hazardous Waste
 5

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$100	6-Apr-2021	30-Jul-2021	0.32	\$2	n/a	\$2
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 clearly mark each container of IHW with the accumulation start date. The Date Required is the investigation date, and the Final Date is the 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 \$2



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	30-Aug-2021	Screening	8-Sep-2021	EPA Due	
	PCW	8-Sep-2021				

RESPONDENT/FACILITY INFORMATION	
Respondent	William F. Gilpin dba Aero
Reg. Ent. Ref. No.	RN105578892
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	61399	No. of Violations	3
Docket No.	2021-1313-MLM-E	Order Type	1660
Media Program(s)	Used Oil	Government/Non-Profit	No
Multi-Media	Industrial and Hazardous Waste	Enf. Coordinator	Karolyn Kent
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$5,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$4,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	-10.0% Adjustment	Subtotals 2, 3, & 7	-\$450
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Notes	Reduction for High Performer classification.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$1,125
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$30	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$1,300	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$2,925
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
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Final Penalty Amount	\$2,925
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$2,925
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DEFERRAL	20.0%	Reduction	Adjustment	-\$585
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes	Deferral offered for expedited settlement.
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PAYABLE PENALTY	\$2,340
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Screening Date 8-Sep-2021

Docket No. 2021-1313-MLM-E

PCW

Respondent William F. Gilpin dba Aero

Policy Revision 5 (January 28, 2021)

Case ID No. 61399

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN105578892

Media Used Oil

Enf. Coordinator Karolyn Kent

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance History Notes

Reduction for High Performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) -10%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% -10%

Screening Date 8-Sep-2021 **Docket No.** 2021-1313-MLM-E **PCW**
Respondent William F. Gilpin dba Aero *Policy Revision 5 (January 28, 2021)*
Case ID No. 61399 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN105578892
Media Used Oil
Enf. Coordinator Karolyn Kent

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 324.11, and 40 Code of Federal Regulations § 279.44(a) and (b)

Violation Description Failed to determine whether the total halogen content of used oil being transported or stored at the Facility is above or below 1,000 parts per million.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

Matrix Notes Human health or the environment will or could be exposed to pollutants that would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$4,250

\$750

Violation Events

Number of Violation Events 4 111 Number of violation days

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$3,000

Four monthly events are recommended from the April 6, 2021 investigation date to the July 26, 2021 date of compliance.

Good Faith Efforts to Comply

25.0% Reduction \$750

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

Notes The Respondent developed and implemented procedures to ensure that total halogen content of used oil is determined at the Facility on July 26, 2021, before the August 26, 2021 Notice of Enforcement ("NOE").

Violation Subtotal \$2,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$15

Violation Final Penalty Total \$1,950

This violation Final Assessed Penalty (adjusted for limits) \$1,950

Economic Benefit Worksheet

Respondent William F. Gilpin dba Aero
Case ID No. 61399
Reg. Ent. Reference No. RN105578892
Media Violation No. Used Oil
 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	\$1,000	6-Apr-2021	26-Jul-2021	0.30	\$15	n/a	\$15
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 that total halogen content of used oil is determined at the Facility. The Date Required is the investigation date, and the Final Date is the 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 \$1,000

TOTAL \$15

Screening Date 8-Sep-2021 **Docket No.** 2021-1313-MLM-E **PCW**
Respondent William F. Gilpin dba Aero *Policy Revision 5 (January 28, 2021)*
Case ID No. 61399 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN105578892
Media Used Oil
Enf. Coordinator Karolyn Kent

Violation Number
Rule Cite(s) 30 Tex. Admin. Code § 328.24(c) and (c)(1), and Tex. Health & Safety Code § 371.024(b)(1) and (b)(2)
Violation Description Failed to renew the registration as used oil handler by January 25 of every even-numbered year. Specifically, the Facility registration had expired on December 31, 2019. Also, failed to submit a report by January 25 of every even-numbered year which includes the number of used oil filters transported, stored, or processed in the preceding two calendar years. Specifically, the biennial report due on January 25, 2020, had not been submitted.

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

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		X			<input type="text" value="10.0%"/>
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	X

Violation Base Penalty

Two single events (one for registration and one for report) are recommended.

Good Faith Efforts to Comply Reduction

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	X	<input type="text"/>
N/A	<input type="text"/>	<input type="text"/>

Notes: The Respondent renewed its registration as used oil handler and submitted the biennial report of activities on April 20, 2021, before the August 26, 2021 NOE.

Violation Subtotal

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$13"/>	Violation Final Penalty Total <input type="text" value="\$650"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$650"/>	

Economic Benefit Worksheet

Respondent William F. Gilpin dba Aero
Case ID No. 61399
Reg. Ent. Reference No. RN105578892
Media Violation No. Used Oil
 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	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	\$100	25-Jan-2020	20-Apr-2021	1.24	\$6	n/a	\$6
Other (as needed)	\$100	31-Dec-2019	20-Apr-2021	1.30	\$7	n/a	\$7

Notes for DELAYED costs

Estimated delayed cost to submit a report including the number of used oil filters transported, stored, or processed in the years 2018 and 2019 at the Facility (\$100), and to renew the Facility registration as used oil handler (\$100). The Dates Required are the due date of the report and the expiration date of the previous registration, respectively, and the Final Dates are the 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 \$200

TOTAL \$13

Screening Date 8-Sep-2021 **Docket No.** 2021-1313-MLM-E **PCW**
Respondent William F. Gilpin dba Aero *Policy Revision 5 (January 28, 2021)*
Case ID No. 61399 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN105578892
Media Used Oil
Enf. Coordinator Karolyn Kent

Violation Number 3
Rule Cite(s) 30 Tex. Admin. Code § 328.25(b) and Tex. Health & Safety Code § 371.105(b)
Violation Description Failed to maintain a copy of the bill of lading for each shipment of used oil filters for at least three years.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		X			10.0%
100% of the rule requirement was not met.					

Adjustment \$4,500

\$500

Violation Events

Number of Violation Events 1 115 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$500

One single event is recommended.

Good Faith Efforts to Comply 25.0% Reduction \$125

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

Notes: The Respondent began maintaining bills of lading for each shipment of used oil filters on July 30, 2021, before the August 26, 2021 NOE.

Violation Subtotal \$375

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

Estimated EB Amount \$2 **Violation Final Penalty Total** \$325

This violation Final Assessed Penalty (adjusted for limits) \$325

Economic Benefit Worksheet

Respondent William F. Gilpin dba Aero
Case ID No. 61399
Reg. Ent. Reference No. RN105578892
Media Used Oil
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	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	\$100	6-Apr-2021	30-Jul-2021	0.32	\$2	n/a	\$2
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 bills of lading for each shipment of used oil filters. The Date Required is the investigation date, and the Final Date is the 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

\$2

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 CN604022814, RN105578892, Rating Year 2022 which includes Compliance History (CH) components from September 1, 2017, through August 31, 2022.

Customer, Respondent, or Owner/Operator: CN604022814, Gilpin, William F. **Classification:** HIGH **Rating:** 0.00
Regulated Entity: RN105578892, Aero **Classification:** UNCLASSIFIED **Rating:** -----
Complexity Points: 5 **Repeat Violator:** NO
CH Group: 14 - Other
Location: 12500 Cleburne Highway, Cresson, Parker County, Texas 76035-3122
TCEQ Region: REGION 04 - DFW METROPLEX

ID Number(s):

USED OIL REGISTRATION A86271

USED OIL EPA ID TXR000081977

PETROLEUM STORAGE TANK REGISTRATION

POLLUTION PREVENTION PLANNING ID NUMBER

REGISTRATION 78110

P10891

INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE

INDUSTRIAL AND HAZARDOUS WASTE EPA ID

REGISTRATION # (SWR) 96044

TXR000081977

INDUSTRIAL AND HAZARDOUS WASTE EPA ID

TXR000085003

Compliance History Period: September 01, 2017 to August 31, 2022 **Rating Year:** 2022 **Rating Date:** 09/01/2022

Date Compliance History Report Prepared: January 09, 2023

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: January 09, 2018 to January 09, 2023

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

Name: Karolyn Kent

Phone: (512) 239-2536

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO

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

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

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

N/A

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

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

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
WILLIAM F. GILPIN DBA AERO
RN105578892

§ BEFORE THE
§ TEXAS COMMISSION ON
§ ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2021-1313-MLM-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding William F. Gilpin dba Aero (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE chs. 361 and 371, and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a used oil and used oil filter transporter and storage facility with tank washout operation located at 12500 Cleburne Highway in Cresson, Parker County, Texas (the "Facility"). The Facility involves or involved the management of industrial and hazardous waste ("IHW") as defined in TEX. HEALTH & SAFETY CODE ch. 361, and the management of used oil as defined in TEX. HEALTH & SAFETY CODE ch. 371.
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE chs. 361 and 371, and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$31,363 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$731 of the penalty and \$6,272 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order and shall be waived only upon full compliance with all the terms and conditions of this Order.

The remaining amount of \$24,360 of the undeferred penalty shall be paid in 35 monthly payments of \$696 each. The first monthly payment shall be paid within 30 days after the effective date of this Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until the penalty is paid in full. If the Respondent fails to comply with the payment requirements of this Order, including the payment schedule, the Executive Director may accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. The Respondent's failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance

constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms and conditions of this Order and the Executive Director may demand payment of all or part of the deferred penalty amount.

5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Order.
7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Executive Director recognizes that the Respondent implemented the following corrective measures at the Facility:
 - a. Developed and implemented procedures to ensure that total halogen content of used oil is determined at the Facility on July 26, 2021;
 - b. Submitted a report including the number of used oil filters transported, stored, or processed in the years 2018 and 2019 at the Facility on April 20, 2021;
 - c. Renewed the Facility registration as used oil handler on April 20, 2021;
 - d. Began maintaining bills of lading for each shipment of used oil filters on July 30, 2021;
 - e. Developed and implemented procedures to ensure that containers storing IHW are not accepted for treatment, storage, or disposal, and IHW at the Facility was properly disposed of at an authorized facility on July 30, 2021;
 - f. Updated the Notice of Registration ("NOR") on July 28, 2021;
 - g. Developed and implemented procedures to ensure that all IHW containers are shipped with a manifest on July 30, 2021;
 - h. Conducted waste determinations and waste classifications of three 55-gallon drums on April 23, 2021;
 - i. Developed and implemented procedures for conducting waste determinations and waste classifications timely on July 30, 2021; and

- j. Developed and implemented procedures to clearly mark each container of IHW with the accumulation start date on July 30, 2021.

II. ALLEGATIONS

During an investigation at the Facility conducted on April 6, 2021, an investigator documented that the Respondent:

1. Failed to determine whether the total halogen content of used oil being transported or stored at the Facility is above or below 1,000 parts per million, in violation of 30 TEX. ADMIN. CODE § 324.11, and 40 CODE OF FEDERAL REGULATIONS ("CFR") § 279.44(a) and (b).
2. Failed to renew the registration as used oil handler by January 25 of every even-numbered year, in violation of 30 TEX. ADMIN. CODE § 328.24(c) and TEX. HEALTH & SAFETY CODE § 371.024(b)(1). Specifically, the Facility registration had expired on December 31, 2019.
3. Failed to submit a report by January 25 of every even-numbered year which includes the number of used oil filters transported, stored, or processed in the preceding two calendar years, in violation of 30 TEX. ADMIN. CODE § 328.24(c)(1) and TEX. HEALTH & SAFETY CODE § 371.024(b)(2). Specifically, the biennial report due on January 25, 2020, had not been submitted.
4. Failed to maintain a copy of the bill of lading for each shipment of used oil filters for at least three years, in violation of 30 TEX. ADMIN. CODE § 328.25(b) and TEX. HEALTH & SAFETY CODE § 371.105(b).
5. Caused, suffered, allowed, or permitted the unauthorized disposal of IHW, in violation of 30 TEX. ADMIN. CODE § 335.2(b). Specifically, the Respondent was operating a tank cleaning operation at the Facility without a permit. The Respondent accepted three 55-gallon drums containing diesel which were picked up for processing and transport by unauthorized entities on April 30, 2021 and on May 4, 2021.
6. Failed to update the NOR for the Facility, in violation of 30 TEX. ADMIN. CODE § 335.6(c). Specifically, the NOR did not reflect the status of the Facility as a Small Quantity Generator of Hazardous Waste. Also, it did not include a roll-off container at the Facility as a waste management unit, and plant trash as an additional waste stream.
7. Failed to utilize a manifest for shipment of hazardous waste, in violation of 30 TEX. ADMIN. CODE §§ 335.10(a) and 335.11(a), and 40 CFR § 263.20(a)(1). Specifically, three 55-gallon drums containing IHW were accepted without a hazardous waste manifest.
8. Failed to conduct hazardous waste determinations and waste classifications, in violation of 30 TEX. ADMIN. CODE §§ 335.62, 335.503(a), and 335.504, and 40 CFR § 262.11. Specifically, hazardous waste determinations and waste classifications had not been conducted for three 55-gallon drums labeled as "Hazardous Waste" at the time of the investigation.
9. Failed to clearly mark each container of hazardous waste with the date each period of accumulation started, in violation of 30 TEX. ADMIN. CODE § 335.69(f)(4) and 40 CFR § 268.50(a)(2)(i)(D). Specifically, three 55-gallon drums containing IHW were not marked with the accumulation start date.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: William F. Gilpin dba Aero, Docket No. 2021-1313-MLM-E" to:

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

2. All relief not expressly granted in this Order is denied.
3. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The 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.
4. If the 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, the Respondent's failure to comply is not a violation of this Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise

reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

8. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



For the Executive Director

7/7/2023

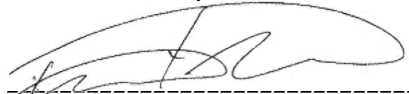
Date

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

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

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

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



Signature

06/26/2023

Date

William Gilpin

Owner

Name (Printed or typed)
Authorized Representative of
William F. Gilpin dba Aero

Title

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

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