Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners **Date:** March 26, 2014

Thru: Ramiro Garcia, Jr., Deputy Director,
Office of Compliance and Enforcement

From: Bryan Sinclair, Director, Enforcement Division

Subject: Fourth Revision of the Commission's Penalty Policy

Background and Current Practices

The Commission's Penalty Policy (the Policy) was last revised on September 1, 2011. Since that time, several statutory changes have occurred. While the Executive Director has implemented these changes in practice, the Policy needs to be updated accordingly. In addition, the Executive Director has identified several formatting and other minor changes that would help improve consistency and clarity in the use of this document. A more detailed explanation of these changes is provided below.

Penalty Deferral Criteria

As a result of House Bill (HB) 2694 (82nd Legislature, 2011), which required the Commission to adopt a general enforcement policy that describes the Commission's approach to enforcement, 30 TEX. ADMIN. CODE ch. 70 was amended and became effective on August 30, 2012. During this rule-making process, the Commission discussed whether or not to include the penalty deferral criteria information in the rule or in the Policy. The Commission noted that the penalty deferral criteria information needed to be documented in one of these places, but did not give preference to which method should be used. After these discussions and two stakeholder meetings during the rule-making process, the Executive Director opted to include the deferral criteria information in the next revision to the Policy.

Compliance History

HB 2694 also required the Commission to make certain changes to the compliance history program, which were implemented through rule-making to 30 TEX. ADMIN. CODE ch. 60 (effective July 19, 2012). One of the changes included a revision to the performer classification system. Specifically, the term "average performer" was changed to "satisfactory performer" and the term "poor performer" was changed to "unsatisfactory performer." The current Policy still references the previous nomenclature and several references to the compliance history rule citations also need to be updated.

Aggregate Production Operations

HB 571 (82nd Legislature, 2011) added Chapter 28A to the Texas Water Code, relating to the regulation of certain aggregate production operations (APOs). Specifically, TEX. WATER CODE § 28A.102 sets out certain penalty requirements for APOs that fail to register in

accordance with TEX. WATER CODE ch. 28A. This statutory requirement is not currently in the Policy.

Water Rights

HB 2615 (83rd Legislature, 2013) amended Section 11.031 of the Texas Water Code, relating to the annual submittal of water use information by water rights holders. Specifically, the amount of penalties liable against a water rights holder for failure to submit the annual report was revised (TEX. WATER CODE § 11.031(b)). This statutory requirement is not currently in the Policy.

Reorganization

The Penalty Calculation Worksheet (PCW) is the tool used to calculate administrative penalties. The PCW is formatted in a specific order to ensure that penalties are calculated in accordance with the Policy; however, the two documents are not currently aligned with one another in sequence. This potentially makes it more difficult for users and the public when referencing the Policy to determine how specific subtotals are calculated. Because of the complexity of the PCW document, it is deemed more efficient to make slight organizational changes to the Policy in order to ensure the methods for calculating each Subtotal, Final Subtotal, and application of other adjustments are clearly labeled and organized to correspond with the sequence of calculations in the PCW.

Implementation

If the Policy is updated, the implementation language will need to be revised to reflect which version of the Policy should be applied.

Major/Minor Sources

Concentrated Animal Feeding Operations (CAFOs)

Currently, the Policy categorizes major or minor CAFO sources by referencing the Environmental Protection Agency's (EPA) industrial wastewater classification policy for major or minor sources. EPA's policy is largely based on an industrial point scale classification system, which takes into account the permitted discharge flow and the pollutant loading ratio for CAFO facilities that are allowed to discharge. However, CAFO permits issued under the Texas Pollutant Discharge Elimination System program do not provide for permitted discharge flows and actual discharges from these facilities are prohibited. As a result, the Enforcement Division has historically classified CAFOs as minor sources for penalty purposes. Redefining the major/minor source definition for CAFOs would help clarify this practice.

Municipal Solid Waste (MSW)

Currently, the Policy categorizes MSW landfills that accept more than 20 tons of municipal solid waste disposed of daily, based on an annual average, as major sources and those that accept less than 20 tons as minor sources, excluding those landfills that accept exactly 20 tons. Defining these as minor sources would provide clarification for this scenario.

Petroleum Storage Tank (PST)

Currently, the Policy categorizes PST systems that have a monthly throughput of more than 50,000 gallons as major sources and those that have a monthly throughput of less than 50,000 gallons as minor sources, excluding those PST systems that have a monthly throughput of exactly 50,000 gallons. Defining these as minor sources would provide clarification for this scenario.

Other Edits for Clarification

The Executive Director has identified other minor edits throughout the Policy that would bring the document up-to-date with current practices and improve clarity of the document.

Summary of Public Comments

On January 6, 2014, the Executive Director published a news release on the public TCEQ webpage, providing a copy of the draft fourth revision to the Policy and soliciting comments from the public for a 30-day time period. Two comment letters were received – one from the Harris County Pollution Control Services Department (Harris County PCSD) and one from the TCEQ's Small Business and Environmental Assistance Division (SBEA). Following is a summary of those comments.

Statutory Authorizations

Computer Recycling

SBEA commented that Senate Bill 329 (82nd Legislature, 2011) amended TEX. WATER CODE § 7.052(b-1) and added a new section (§ 7.052(b-1)) to include television recycling to the statutory authorization pertaining to penalties. SBEA recommended that the Policy be updated to include these changes.

Rock Crushers and Concrete Batch Plants

Harris County PCSD recommended that language be added to this section to clarify that the statute applies only to rock crusher and concrete batch plant facilities that are operating without the required *air* permit. ("Under these circumstances, the required statutory limit of $10,000 will be utilized for every day of the unauthorized activity unless the facility holds any type of permit issued by the commission other than the air permit required for the facility.").

In addition, Harris County PCSD recommended that additional language be added to help clarify the word "discretion" in the last sentence. ("If the facility holds another type of permit the commission may exercise *discretion* whether to assess a penalty of $10,000 per day per violation.").

Culpability

Harris County PCSD recommended that the Policy be changed to take into consideration any and all "current" violations when assessing culpability. They stated that compliance histories are slow to respond to current conditions and do

not always reflect the current compliance status of a site, thus causing error in this assessment.

Good Faith Effort

Harris County PCSD recommended that the proposed revision to the good faith effort language in the draft Policy not occur and should remain the same as is currently in the Third Revision of the Policy. They expressed concern that applying good faith effort criteria for discrete violations is a significant benefit to regulated entities, as it could result in significantly lower penalties.

Deferral

Harris County PCSD recommended that additional language to the Policy be added to better define the term "full and timely" in the last sentence of this section ("All deferrals are contingent upon the respondent coming into *full and timely* compliance with the Administrative Order.").

Consideration of Comments

The Executive Director appreciates and has taken into consideration all of the comments that were received.

- With regard to the recommendation that the Policy be updated to capture the statutory changes made by Senate Bill 329, the Computer Recycling section of the draft Policy has been updated.
- With regard to the recommendation that the Rock Crushers and Concrete Batch Plants section be revised to clarify that this section pertains to failure to obtain the required **air** permit, no changes were made to the draft Policy. The current language in the Policy follows the language in TEX. WATER CODE § 7.052(b) and (b-3), which does not specify or define the required permit as an "air" permit. The permit is also not defined as an "air" permit in TEX. HEALTH AND SAFETY CODE § 382.0518.
- With regard to the recommendation to clarify when "discretion" may be exercised when applying the statutory limit of $10,000 per day for violations at rock crusher and concrete batch plant facilities, no changes were made to the draft Policy. TEX. WATER CODE § 7.052(b-3) authorizes the Commission to assess either $10,000 per day per violation under Subsection (b-1) or up to $25,000 per day per violation under Subsection (c) for a facility operating without the permit required under TEX. HEALTH AND SAFETY CODE § 382.0518, but operating under another type of permit for the facility. It has been the practice of the Enforcement Division to assess penalties under Subsection (c) if it is determined that the facility does hold another type of permit for the facility, but has failed to obtain the permit required under TEX. HEALTH AND SAFETY CODE § 382.0518.
- With regard to the recommended changes to the culpability criteria, no changes were made to the draft Policy. The Policy already takes into consideration all violations through the compliance history enhancement components and violations that are same or similar to those cited in the enforcement action result in a higher increase for each notice of violation. In addition, all violations cited during the previous 5-year compliance history period are considered when making a Findings

Order determination, in accordance with the criteria found in 30 TEX. ADMIN. CODE § 70.11(b)(4). The Executive Director respectfully does not agree that violations included in enforcement actions not yet issued and/or finalized with the Commission should be included for culpability consideration.

- With regard to the recommended changes to the good faith effort to comply consideration, no changes were made to the draft Policy. The language change to the Good-Faith Effort to Comply section, as currently proposed, does not constitute a change in current practice, but rather is recommended in order to bring the Policy up-to-date with current practices. The Executive Director has identified that there are instances in which a respondent may take additional steps to correct a discrete violation, thus the good-faith-effort to comply reduction should be considered under certain circumstances.
- With regard to the recommended changes to the Deferral criteria, no changes were made to the draft Policy. The Executive Director interprets "full compliance" as meaning that the Respondent has complied with the ordering provisions of the order, including payment of all required penalties and returning to compliance with all permits, rules, and statutes addressed as violations in the order. The Executive Director interprets "timely compliance" as meaning that the Respondent returned to full compliance in accordance with the timelines specified in the order or any extensions granted by the Executive Director.

Recommendation

The Executive Director is seeking approval to implement revisions to the draft Policy (as proposed in Attachment A) to incorporate the changes as discussed above. The proposed revisions do not represent a change in current practices, but are intended to bring the Policy up-to-date with current practices.

Attachments:
Draft Penalty Policy Revision 4 (Attachment A)
Example Penalty Calculation Worksheet (Attachment B)

Attachment A:

Draft Penalty Policy Revision 4

Penalty Policy

~~Third~~ Fourth Revision, Effective ~~September 1, 2011~~ [EFFECTIVE DATE]

Contents

Introduction 1
Statutory Authorizations 1
Aggregate Production Operations 3
Computer and Television Recycling 4
Dry Cleaners 4
Rock Crushers and Concrete Batch Plants 4
Water Rights Use Reports 4
Penalty Calculation 5
Major/Minor Sources 5
Air 5
Concentrated Animal Feeding Operations (CAFOs) 5
Edwards Aquifer 5
Industrial and Hazardous Waste 6
Levees 6
Municipal Solid Waste 6
Petroleum Storage Tank 6
Public Water Supply 6
Radioactive Waste 6
Underground Injection Control 7
Waste Tires 7
Water Quality 7
Water Rights 7
Total Base Penalty (Subtotal 1) 7
Environmental/Property and Human Health Matrix 8
Programmatic Penalty Matrix 13
Determining the Number of Violation Events 13
Evaluating Adjustments to the Penalty Amount 15

DRAFT

Compliance History (Subtotal 2) 15
Repeat Violator (Subtotal 3) 17
Compliance History Classification (Subtotal 7) 17
Culpability (Subtotal 4) 18
Good-Faith Effort to Comply (Subtotal 5) 18
Economic Benefit (Subtotal 6) 19
Avoided Costs 21
Final Subtotal 21
Other Factors That Justice May Require 21
Statutory Limit Adjustment 22
Deferral 22

DRAFT

Penalty Policy

~~Third~~ Fourth Revision, Effective ~~September 1, 2011~~ [EFFECTIVE DATE]

Introduction

This document describes the policy of the Texas Commission on Environmental Quality (TCEQ) regarding the computation and assessment of administrative penalties. Enforcement actions may result from serious or unresolved violations discovered during an investigation, or from information that concerns violations and is gained from meetings related to permits. An investigation is a review or evaluation of information by the executive director or executive director's staff or agent regarding the compliance status of a site, and may take the form of a site assessment, file or record review, compliance investigation, or other review or evaluation of information. This document does not address when an enforcement action is initiated, but rather how TCEQ staff should evaluate violations for the purpose of recommending administrative penalties to the commission.

This policy includes a description of how violations are evaluated in terms of harm and severity and how any proposed penalties are determined. It includes a discussion of what adjustments may be made to the base penalty amount after the review of ~~case-specific information and information concerning the respondent.~~ the respondent and case-specific information is completed.

~~The third revision of this policy takes effect on September 1, 2011. All violations that occur on or after this date will be subject to this policy.~~

All violations that occurred prior to September 1, 2011 are subject to the second revision of the Penalty Policy (effective September 1, 2002).

For violations that occurred on or after September 1, 2011:

- All Enforcement Action Referrals (EARs) assigned on or after [EFFECTIVE DATE] are subject to the Fourth Revision of the Penalty Policy.
- All EARs assigned before EFFECTIVE DATE are subject to the revision of the Penalty Policy that was applicable at the time the EAR was assigned.

Statutory Authorizations

The Commission has the authority to assess administrative penalties under a number of statutes located in the Texas Water Code (TWC), the Texas Health & Safety Code (THSC), and the Texas Transportation Code (TTC). These statutes include: TWC Chapters 7, 11, 12, 13, 16, and 28A; THSC Chapters 341 and 371; and TTC Chapter 548. These statutes provide the Commission with the authority to assess penalties and set forth the factors that the Commission must consider in determining the amount of penalty to assess (see chart below).

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Table 1: Statutorily Authorized Penalties

Program	Statute/ Chapter	Administrative penalties, per violation per day	Civil penalties, per violation per day
Air Quality	TWC/7	$0-25,000	$50-25,000
Edwards Aquifer	TWC/7	$0-25,000	$50-25,000
Industrial and Hazardous Waste	TWC/7	$0-25,000	$50-25,000
Land over MSW Landfills	TWC/7	$0-25,000	$50-25,000
Medical Waste	TWC/7	$0-25,000	$50-25,000
Municipal Solid Waste	TWC/7	$0-25,000	$50-25,000
Petroleum Storage Tank	TWC/7	$0-25,000	$50-25,000
Radioactive Substances	TWC/7	$0-25,000	$50-25,000
Subsurface Excavation	TWC/7	$0-25,000	$50-25,000
Toxic Chemical Release Reporting	TWC/7	$0-25,000	$50-25,000
Underground Injection Control	TWC/7	$0-25,000	$50-25,000
Underground Water	TWC/7	$0-25,000	$50-25,000
Waste Tires	TWC/7	$0-25,000	$50-25,000
Water Quality	TWC/7	$0-25,000	$50-25,000
All Occupational Licenses	TWC/7	$0-5,000	$50-5,000
On-Site Sewage Disposal	TWC/7	$0-5,000	$50-5,000
Used Oil	TWC/7	$0-5,000	$50-5,000

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Program	Statute/ Chapter	Administrative penalties, per violation per day	Civil penalties, per violation per day
Used Oil Filter	TH&SC/371, TWC/7	$0-5,000	$100-500
Water Saving Performance Standards	TWC/7	$0-5,000	$50-5,000
Computer and Television Recycling Dry Cleaners Rock Crushers and Concrete Batch Plants	TWC/7	See Below	
Aggregate Production Operations	TWC/28A	See Below	
Water Rights Use Reports	TWC/11	See Below	
Water Rights	TWC/11	$0-5,000	$0-5,000
Dam Safety	TWC/12	N/A	$0-5,000
Public Water Utilities	TWC/13	$0-5,000	$100-5,000
Levees	TWC/16	$0-1,000	$0-1,000
Public Water Supply	TH&SC/341	$50-1,000	$50-1,000
Vehicle Emission Inspections	Transportation Code/ 548	$0-500	$250-500

Aggregate Production Operations

TWC § 28A.102 states "The Commission may assess a penalty of not less than $5,000 and not more than $10,000 for each year in which an aggregate production operation operates without being registered under this chapter. The total penalty under this section may not exceed $25,000 for an aggregate production operation that is operated in three or more years without being registered."

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Computer and Television Recycling

TWC § 7.052(b-1) states "The amount of the penalty assessed against a manufacturer that does not label its computer equipment or covered television equipment or adopt and implement a recovery plan as required by Section 361.955, 361.975, or 361.978, Health and Safety Code, as applicable, may not exceed $10,000 for the second violation or $25,000 for each subsequent violation. A penalty under this subsection is in addition to any other penalty that may be assessed for a violation of Subchapter Y or Z, Chapter 361, Health and Safety Code."

TWC § 7.052(b-2) states "Except as provided by Subsection (b-1), the amount of the penalty for a violation of Subchapter Y or Z, Chapter 361, Health and Safety Code, may not exceed $1,000 for the second violation or $2,000 for each subsequent violation. A penalty under this subsection is in addition to any other penalty that may be assessed for a violation of Subchapter Y and Z, Chapter 361, Health and Safety Code."

Dry Cleaners

TWC § 7.0525 states "(a) Except as provided by Subsection (b), the amount of the penalty for a violation of Section 374.252. Health and Safety Code, may not exceed $5,000. (b) The amount of the penalty for a violation of Section 374.252(a)(3), Health and Safety Code, may not exceed $10,000."

Rock Crushers and Concrete Batch Plants

(Moved from Page 10 of Revision 3) TWC § 7.052(b) states, "Except as provided by subsection (b-3), the amount of the penalty for operating a rock crusher or a concrete batch plant that performs wet batching, dry batching, or central mixing, that is required to obtain a permit under Section 382.0518, Health and Safety Code, and that is operating without the required permit is $10,000. Each day that a continuing violation occurs is a separate violation." Under these circumstances, the required statutory limit of $10,000 will be utilized for every day of the unauthorized activity unless the facility holds any type of permit issued by the commission other than the permit required for the facility. If the facility holds another type of permit the commission may exercise discretion whether to assess a penalty of $10,000 per day per violation.

Water Rights Use Reports

TWC § 11.031(b) states, "A person who fails to file an annual report with the commission as required by Subsection (a) or fails to timely comply with a request by the commission to make information available under Subsection (d) is liable for a penalty for each day the person fails to file the statement or comply with the request after the applicable deadline in an amount not to exceed: (1) $100 per day if the person is the holder of a water right authorizing the appropriation of 5,000 acre-feet or less per year; or (2) $500

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per day if the person is the holder of a water right authorizing the appropriation of more than 5,000 acre-feet per year."

Penalty Calculation

Major/Minor Sources

The commission will evaluate the appropriate penalty based upon the size and/or the potential volume of pollutants of the respondent's site. Where the EPA has designated "major" facilities/sources from "minor" facilities/sources, the agency will generally utilize that distinction for the respondent's sites. The definitions used for each program area are described below. Individuals and operators are considered minor ~~respondents~~ sources unless otherwise noted. Anything not explicitly covered in this section will be determined on a case-by-case basis.

Air

Major:

1. Any stationary facility that is a source of non-hazardous air pollutants which directly emits, or has the potential to emit, 100 tons per year or more of any air pollutant except in some non-attainment areas. In serious ozone nonattainment counties the threshold is 50 tons per year for volatile organic compounds (VOC) and nitrogen oxides (NO_x). In severe ozone nonattainment counties the threshold is 25 tons per year for VOC and NO_x.
2. For the hazardous air pollutants listed in the Federal Clean Air Act, a source that emits or has the potential to emit 10 tons per year or more of a single pollutant or 25 tons per year or more of any combination of pollutants.
3. For purposes of the penalty policy, the respondent's site is considered major if any source at the site is major, even if the violation(s) is not for that source.

Minor: Defined as any non-major source.

Concentrated Animal Feeding Operations (CAFOs)

All CAFO facilities will be considered minors.

Edwards Aquifer

Major: A construction project disturbing 5 acres or greater.

Minor: A construction project disturbing less than 5 acres.

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Industrial and Hazardous Waste

Major: A generator of more than 12,000 kg of hazardous waste on an annual basis. Commercial industrial facilities are majors.

Minor: A generator of 12,000 kg or less of hazardous waste on an annual basis.

Levees

Major: Levee or other improvement constructed in the 100 year floodway designed for flood protection for a 100 year flood or greater.

Minor: Levee or other improvement constructed in the 100 year floodway designed for flood protection for less than a 100 year flood.

Municipal Solid Waste

Major: A municipal solid waste landfill accepting more than 20 tons of municipal solid waste disposed of daily, based on an annual average.

Minor: A municipal solid waste landfill accepting ~~less than~~ 20 tons or less of municipal solid waste disposed of daily, based on an annual average.

Petroleum Storage Tank

Major: An underground storage tank facility that has a monthly throughput of more than 50,000 gallons.

Minor: An underground storage tank facility that has a monthly throughput of ~~less than~~ 50,000 gallons or less.

Public Water Supply

Major: A retail public utility serving more than 1,100 total connections.

Minor: A retail public utility serving 1,100 or fewer total connections. In addition, non-retail public water supply entities will be classified as minor unless specific circumstances exist that would cause them to be classified as majors.

Radioactive Waste

All facilities will be considered majors.

DRAFT

Underground Injection Control

All Class I and Class III facilities will be considered majors. Class V facilities will be determined on a site-specific evaluation.

Waste Tires

Major: A facility with greater than 500 tires.

Minor: A facility with less than or equal to 500 tires.

Water Quality ~~(including Concentrated Animal Feeding Operations)~~

Major: Municipal facilities with a daily average flow of 1 million gallons per day or greater are considered major facilities. Industrial facilities are classified as major or minor facilities based on a point scale used by EPA. The TCEQ Water Quality Division uses EPA's classification schedule to determine if a facility is defined as major or minor. All water quality permittees are designated as major or minor.

Minor: Municipal facilities with a daily average flow of less than 1 million gallons per day. Industrial facilities are classified upon permitting as major or minor as described above.

Water Rights

Major: A water right of greater than 5,000 acre-feet.

Minor: A water right of less than or equal to 5,000 acre-feet.

Total Base Penalty (Subtotal 1)[1]

(Moved from Page 10 of Revision 3) Each violation included in the enforcement action will be evaluated and categorized as actual release, potential release, or programmatic and then as major, moderate, or minor. The appropriate percentage (see the matrices ~~above~~ below) will be multiplied by the highest penalty amount allowed by the applicable statute (see discussion in "Statutory Authorizations") to determine the base penalty amount for each specific violation. The total of all the violation penalty calculations will be the Total Base Penalty (Subtotal 1).

(Moved from Page 3 of Revision 3) When calculating the violation base penalties,

1 Subtotals correlate to the TCEQ's Penalty Calculation Worksheet.

DRAFT

the category of violations will be broken into two types--those that harm or have the potential to harm the environment and/or human health and those that are related to documentation. Because of this differentiation, the TCEQ will have two separate penalty matrices -- the Environmental/Property and Human Health Penalty Matrix and the Programmatic Penalty Matrix.

Environmental/Property and Human Health Matrix

(Moved from Page 3 of Revision 3) In the Environmental/Property and Human Health Penalty Matrix, the violation base penalty amount ~~for violations~~ is developed by first examining two factors: Release and Harm (damage). Release means the emission or discharge of pollutants into the environment or a public drinking water system; the unauthorized diversion, taking or storage of state water; or the unauthorized change of a flood elevation of a stream. A violation will be evaluated to determine whether there has been a release and will be categorized as either an actual release or a potential release. Actual is defined as "existing in fact or reality; not merely potential." Potential is defined as "existing in possibility; capable of development into actuality." The second factor to assess is the degree of harm (damage) that has affected or could have affected human health, property associated with a water right or construction of a levee, and/or environmental receptors. These two factors are incorporated into a penalty matrix from which the base penalty is determined.

(Moved from Page 8 of Revision 3) The following discussion is to assist in the practical application of the Environmental/Property and Human Health Penalty Matrix. Release of "significant" and "insignificant" amounts of pollutants is defined in terms of the degree of impact on affected resources.

Assessment of Impact on Affected Resources

If sampling data are available and corresponding regulatory standards are applicable, an assessment of the impact should be based, at least in part, on such data and corresponding standards.

In the absence of such data and/or standards, the degree of impact should be evaluated in terms of the observed and documented effects the release has on the resource. Where both data and observed effects are available, both should be given due consideration in assessing impact. For releases where neither data nor direct observation is available, the degree of impact must be evaluated in light of scientific knowledge of the expected effects of such a release.[2]

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[2] For example, VOC emissions are known to contribute to ozone formation, but cause no observable immediate impacts. A spill of liquid mercury may not contaminate soil or water, but is presumed to

Definitions[3]

An affected resource is human health, economic activity, normal use or enjoyment of property and/or other environmental resources (e.g., air quality, public or privately-owned water or land) that have been adversely impacted by a pollutant release.

A release of a significant amount of pollutants is a release of pollutants in types or quantities that results in a loss of most or all of the quantity and/or quality of the affected resource(s).

A release of an insignificant amount of pollutants is a release of pollutants in types or quantities that results in little or no loss of the quantity and/or quality of the affected resource(s).

Assessing Whether a Release Amount Is Significant or Insignificant

Consider the release and the affected resource in light of the questions below. This is not a checklist or decision tree. The individual questions are not weighted, and must be considered as a whole.

Table 2: (1) The Released Pollutant (Table 4 in Revision 3)

Questions to Ask	Factors to Consider
What was released?	Consider the available information about the substance's toxicity or other qualities that could adversely impact the affected resource. The greater the released material's toxicity, the more likely that a release will be a "significant amount."
How much was released?	Was the substance released in a quantity sufficient to cause the adverse effects associated with it? The larger the quantity released, the more likely that the release will be a "significant amount."

partially vaporize into the ambient air, where it may be harmful if inhaled.

3 These definitions do not directly address pollutant concentrations or protective levels. As noted in the section Distinguishing Major Harm from Moderate or Minor Harm, if a release of a significant amount of pollutants causes pollutant concentration(s) to exceed levels that are protective of human health or environmental receptors, the release falls into the major harm category.

DRAFT

Table 3: (2) The Affected Resource (Table 5 in Revision 3)

Questions to Ask	Factors to Consider
What was the affected resource?	Consider the definition of an affected resource. Was human health or economic activity adversely impacted? If so, what and how? Were normal use or enjoyment of property and/or environmental resources adversely impacted? If so, what and how?
How adversely was the affected resource impacted?	Consider the sensitivity, value and/or usability of the affected resource, and any data or scientific knowledge that assesses the actual or expected impact of the release. The more sensitive, valuable and/or usable the resource, the more likely that a release that impacts the resource will be considered a "significant amount."

Distinguishing Major Harm from Moderate or Minor Harm

(1st and last sentences were moved from Page 6 of Revision 3) Harm is categorized as major, moderate, or minor. For the release (or potential release) of pollutants to be considered major, the pollutant must be present in concentrations that exceed levels that are protective of human health or environmental receptors, and/or the pollutant must be present in significant amounts as defined in this guidance document. Definitions for each category of harm are provided in Table 4 below.

Table 4 : Categories of Harm (Table 3 in Revision 3)

	Actual Release	Potential Release
Major Harm	Human health or the environment has been exposed to pollutants which **exceed** levels that are protective of human health or environmental receptors as a result of the violation.	Human health or the environment will or could be exposed to pollutants which **would exceed** levels that are protective of human health or environmental receptors as a result of the violation.
	Unauthorized diversion, taking, or storage of state water or an unauthorized change in flood elevation of a stream which deprives others of water, severely affects aquatic life, or results in a	Potential for unauthorized diversion, taking, or storage of state water or an unauthorized change in flood elevation of a stream which would deprive others of water, severely affect

DRAFT

	Actual Release	**Potential Release**
	safety hazard, property damage, or economic loss.	aquatic life or result in a safety hazard, property damage, or economic loss.
Moderate Harm	Human health or the environment has been exposed to **significant** amounts of pollutants which **do not exceed** levels that are protective of human health or environmental receptors as a result of the violation. Unauthorized diversion, taking, or storage of a significant amount of state water or a significant unauthorized change in flood elevation of a stream which does not detrimentally affect aquatic life or result in a safety hazard, property damage, or economic loss.	Human health or the environment will or could be exposed to **significant** amounts of pollutants which **would not exceed** levels that are protective of human health or environmental receptors as a result of the violation. Potential for unauthorized diversion, taking, or storage of a significant amount of state water or a significant unauthorized change in flood elevation of a stream which would not detrimentally affect aquatic life or result in a safety hazard, property damage, or economic loss.
Minor Harm	Human health or the environment has been exposed to **insignificant** amounts of pollutants which **do not exceed** levels that are protective of human health or environmental receptors as a result of the violation. Unauthorized diversion, taking, or storage of an insignificant amount of state water or an insignificant unauthorized change in flood elevation of a stream which does not detrimentally affect aquatic life or result in a safety hazard, property damage, or economic	Human health or the environment will or could be exposed to **insignificant** amounts of pollutants which **would not exceed** levels that are protective of human health or environmental receptors as a result of the violation. Potential for unauthorized diversion, taking, or storage of an insignificant amount of state water or an insignificant unauthorized change in flood elevation of a stream which would not detrimentally affect aquatic life or result in a safety hazard, property damage, or economic

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	Actual Release	Potential Release
	loss.	loss.

The following tables summarize the criteria ~~for~~ used to determine Major, Moderate and Minor harm.

Table 5 : Criteria of Harm (Table 6 in Revision 3)

Harm	Significant amounts of pollutants*	Exceeds levels that are protective
Major	Yes	Yes
Moderate	Yes	No
Minor	No	No

* "significant amount" as defined in the definitions

Table 6 : Environmental/Property and Human Health Matrix (Table 2 in Revision 3)

	Major Harm	Moderate Harm	Minor Harm
Source	Major/Minor ~~Respondents~~	Major/Minor ~~Respondents~~	Major/Minor ~~Respondents~~
Actual release	100% / 30%	30% / 15%	15% / 5%
Potential release	30% / 15%	15% / 5%	7% / 3%

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Programmatic Penalty Matrix

(Moved from Page 10 in Revision 3) In the Programmatic Penalty Matrix, violations will be categorized as major, moderate, or minor, based upon the degree of noncompliance. Programmatic violations include, for example, a failure to submit reports, a failure to maintain records, or a failure to obtain a permit or other authorization.

Table 7: Programmatic Penalty Matrix

Major	Moderate	Minor
Major/Minor ~~Respondent~~ Source	Major/Minor ~~Respondent~~ Source	Major/Minor ~~Respondent~~ Source
15% / 5%	7% / 2.5%	1% / 1%

In the context of the penalty matrix, programmatic major means that all or almost all (greater than 70 percent) of a rule or permit requirement is not met, programmatic moderate means that much (30 to 70 percent) of a rule or permit requirement is not met, and programmatic minor means that most, but not all (at least 70 percent), of a rule or permit requirement is met. One exception to the use of this matrix is that the falsification of records will be assessed at 100 percent of the statutory maximum penalty.

Determining the Number of Violation Events

The number of violation events that will be assessed a penalty depends on the number of times the violation is observed, the specific requirement violated, the duration of the violation, and other case information.

Certain violations will typically be considered discrete events. For these violations, one penalty event will be assessed for every documented observation. Discrete violations are situations that are observed and documented during an investigation - a discrete interval in time. These violations involve practices or actions that do not occur continuously. If they recur, they do so in individual instances that are separate in time. Examples of violations that would be discrete events are the failure to submit annual reports, the failure to collect or report monitoring data, the failure to perform a hazardous waste determination where required, and the failure to show a certificate of self-certification prior to accepting a fuel drop. For discretely occurring violations, one penalty event will be assessed for every documented observation of the noncompliance (for example, for each sample analysis documenting a violation).

Other violations are considered to be continuing. These violations are not constrained

by documented observations of the noncompliance. Examples of violations that would be considered to be continuing are the exceeding of permitted discharge or emission limits, groundwater contamination, unauthorized discharges/releases, endangerment, the commingling of good and bad water in a public water supply, operating without a required permit, and other such violations. For continuing violations, the number of events will be linked to the level of impact of the violation by considering the violation as if it recurred with the frequency shown in the chart below.

Table 8: Continuing Violations

	Harm or Severity	Number of Events
Actual Releases	Major	Up to daily
	Moderate	Up to monthly
	Minor	Up to quarterly
Potential Releases	Major	Up to monthly
	Moderate	Up to quarterly
	Minor	Single event
Programmatic	Major	Up to daily
	Moderate	Up to quarterly
	Minor	Single event

The duration of events concerning continuous violations, for the purposes of preparing an enforcement action, may begin with the initial date of noncompliance with a requirement, rule, or permit and extend up to the time that the enforcement documents are prepared.

In practice, continuous violations will be assessed beginning with the documented date of noncompliance (i.e., sample results, record review) or the date that the respondent "should have known," whichever is appropriate, as the beginning point. The respondent is always considered knowledgeable of permit conditions.

The date the respondent returned to compliance or the enforcement screening date, whichever is appropriate, will be the endpoint for the assessed events. Utilizing this date will assure that no one will be impacted by the order in which cases are prioritized within the agency.

The duration of events will be revised, as appropriate, to reflect extended noncompliance when cases fail to settle expeditiously and/or prior to referral to the State Office of Administrative Hearings. Note: Discrete violations are not revised

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because they are considered single events.

To determine the number of events, divide the appropriate time frame into the duration of the violation. For this determination, any part of a day equals a "day;" any part of a month equals a "month;" any part of a quarter equals a "quarter." For example, an actual minor that is assessed as a quarterly event will have 5 quarters for a violation that continued for 13 months.

Calculation for Subtotal 1: Multiply the base penalty amount by the number of penalty events determined for the violation being considered. Do this step for each violation included in the enforcement action and total the base penalty amounts. ~~Total the base penalty amounts to obtain subtotal 1.~~

Evaluating Adjustments to the Penalty Amount

Any adjustments to the penalty amounts will be made after a base penalty multiplied by the number of events is established for all violations included in the enforcement action. Adjustments to the penalty amount may be made based upon the following factors relating to the respondent:

- compliance history
- repeat violator
- compliance history classification
- culpability
- good-faith effort to comply
- economic benefit gained through noncompliance
- other factors as justice may require
- statutory limit adjustments
- deferrals

Compliance History (Subtotal 2)

Staff will develop a compliance history on the respondent utilizing ~~the format found in~~ 30 TEX. ADMIN. CODE ch. 60 ~~§ 60.1~~, no matter what program area is under consideration in the enforcement action. Based upon the compliance history, staff will determine the penalty enhancement for the site, mobile unit, or individual who is required to be registered, certified, or licensed by TCEQ prior to performing certain activities, by evaluating the number of each of the components, and totaling the percentage adjustments. If the total is less than zero, then the penalty enhancement will default to zero. The percentage adjustment for each type of component is specified in the following table:

DRAFT

Table 9: Compliance History Enhancement For the Site Under Enforcement

Component	Percentage Adjustment	Plus or minus Adjustment?
Written notices of violation (NOV) with same or similar violations as those in the current enforcement action	5% for each NOV	plus
Other written NOVs	2% for each NOV	plus
Agreed final enforcement orders containing a denial of liability	20% for each order	plus
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	25% for each order	plus
Non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government	30% for each court judgment and consent decree	plus
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	35% for each court judgment and consent decree	plus
Criminal convictions of this state or the federal government	50% for each count	plus
Final enforcement orders, court judgments, and criminal convictions relating to violations of environmental laws of other states	N/A	N/A
Chronic excessive emissions events	25% for each event	plus
Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, ~~74th Legislature, 1995~~ 75th Legislature, 1997	1% for each audit	minus

Component	Percentage Adjustment	Plus or minus Adjustment?
Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, ~~74th Legislature, 1995~~ 75th Legislature, 1997	2% for each audit for which violations are disclosed	minus
Environmental management systems in place for one year or more	10%	minus
Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	10%	minus
Participation in a voluntary pollution reduction program	5%	minus
Early compliance with, or offer of a product that meets future state or federal government environmental requirements	5%	minus

Calculation for Subtotal 2: Multiply Subtotal 1 by the total percentage adjustment of compliance history components ~~to obtain Subtotal 2~~.

Repeat Violator (Subtotal 3)

When a respondent is designated as a repeat violator at the site which is under enforcement, then the recommended administrative penalty for the case will be enhanced by 25 percent. Repeat violator designation will be determined according to 30 TEX. ADMIN. CODE § 60.2~~(d)~~(f).

Calculation for Subtotal 3: Multiply Subtotal 1 by 25 percent or 0 percent ~~to obtain Subtotal 3~~.

Compliance History Classification (Subtotal 7)

The administrative penalty will be modified, based upon the classification of the person who is the respondent in the enforcement action, as specified in the following matrix. Compliance history classification of the respondent will be determined according to 30 TEX. ADMIN. CODE § 60.2~~(f)~~(h).

DRAFT

Table 10: Compliance History Classification Adjustment

Respondent's Classification	Percentage Adjustment
High Performer	- 10% (no adjustment for default orders)
~~Average~~ Satisfactory Performer	0% (no adjustment)
~~Poor~~ Unsatisfactory Performer	+ 10%

Calculation for Subtotal 7: Multiply Subtotal 1 times the appropriate compliance history classification percentage ~~to obtain subtotal 7~~.

The total compliance history adjustment percentage penalty enhancement will be capped at 100% of the base penalty.

Culpability (Subtotal 4)

In assessing culpability, staff will determine whether the respondent could have reasonably anticipated and avoided the violation(s). This determination will be made on a site-specific basis and will examine a five-year history (the five-year period preceding the date of initiating an enforcement action with an initial settlement offer or the filing date of an Executive Director's Preliminary Report (EDPR), whichever occurs first). Culpability will be determined for mobile units, and for individuals for those who are required to be registered, certified, or licensed by TCEQ prior to performing certain activities, rather than a site-specific basis. Staff will determine whether documentation that indicates culpability exists (e.g., contractor notes; agency letters; respondent notes; investigations at other locations [for mobile units and for individuals who are required to be registered, certified, or licensed by TCEQ prior to performing certain activities]).

If culpability exists, then 25 percent will be added to the penalty amount; otherwise, nothing will be added to the penalty amount.

Note: Since other forms of culpability, such as NOVs and orders, are included in compliance history, these will not be considered for culpability determination.

Calculation for Subtotal 4: Multiply Subtotal 1 by 25 percent or 0 percent as appropriate ~~to obtain subtotal 4~~.

Good-Faith Effort to Comply (Subtotal 5)

In assessing good-faith efforts to comply, staff will consider the respondent's efforts to return to complete compliance with all applicable rules and regulations cited in each violation in the enforcement action. Thus, any reduction will be applied per violation. The analysis of good-faith efforts involves two factors: the timeliness of the respondent's action(s) and the quality of that action(s). Accordingly, the respondent will be given

DRAFT

credit for timeliness, quality, or both.

Timeliness is defined by the point when the respondent completed action to correct the violations. The following are the two scenarios that will be considered:

- Corrective actions are completed before there is an EDPR or an initial settlement offer, but the actions are completed after the issuance of an NOV and/or Notice of Enforcement (NOE).
- Corrective actions are completed as soon as violations are identified and before the issuance of an NOV and/or NOE.

Quality is defined as the degree to which the respondent took action. The two categories of quality are extraordinary and ordinary. Extraordinary is defined as action taken by the respondent which goes beyond what would be expected under the rules. Ordinary is defined as action taken by the respondent to correct the violations as expected under the rules. Good-faith effort ~~will not be considered for cases involving only discrete violations as defined by this policy~~ will be considered for each violation.

The following matrix describes how much of a reduction will be given for good-faith efforts. The maximum reduction is 50 percent. Good faith efforts will only be considered if the respondent has achieved compliance with applicable rules and regulations cited in the enforcement action. There will be no reduction for default orders.

Table 11: Percentage Reductions for Timeliness

Quality of Action	Action Before NOV/NOE	Action Between NOV/NOE & EDPR/Settlement Offer
Extraordinary	50%	25%
Ordinary	25%	10%

Calculation for Subtotal 5: Multiply Subtotal 1 by the appropriate good-faith effort to comply percentage reduction ~~to obtain subtotal 5~~.

Economic Benefit (Subtotal 6)

Economic benefit is defined as monetary gain derived from a failure to comply with TCEQ rules or regulations. Economic benefit may include any or all of the following: (1) the return a respondent can earn by delaying the capital costs of pollution control equipment; (2) the return a respondent can earn by delaying a one-time expenditure; and (3) the return a respondent can earn by avoiding periodic costs.

To determine whether a respondent has gained an economic benefit (during the alleged

violation period), staff must evaluate the following issues for each violation:

1. Did the respondent avoid or delay capital outlay for item(s) specifically required by a permit or rule that is applicable to the facility or unit in question?
2. Did the respondent gain any interest by avoiding or delaying capital outlay for item(s) specifically required by a permit or rule that is applicable to the facility or unit in question?
3. Did the respondent gain an economic advantage over its competitors?
4. Did the respondent avoid or delay disposal, maintenance, and/or operating costs?
5. Did the respondent receive increased revenue due to noncompliance?
6. Did the respondent avoid the purchase of financial assurance for item(s) specifically required by a permit or rule that is applicable to the facility or unit in question?

If the answer is "yes" to any of the above questions, then staff will estimate the overall economic benefit gained. Only capital expenditures, one-time non-depreciable expenditures, periodic costs, and interest gained will be evaluated in the calculation of economic benefit.

Capital expenditures will include all depreciable investment outlays necessary to achieve compliance with the environmental regulation or permit. Depreciable capital investments are usually made for things that wear out, such as buildings, equipment, or other long-lived assets. Typical environmental capital investments include groundwater monitoring wells, stack scrubbers, and wastewater treatment systems.

One-time non-depreciable expenditures include delayed costs the respondent should have made earlier (to prevent the violations) which need only be made once and are not depreciable (i.e., do not wear out). Such an expenditure could be purchasing land, setting up a record-keeping system, removing illegal discharges of dredged and fill material, disposing of soil from a hazardous waste site, or providing initial training to employees.

Periodic costs are recurring costs associated with operating and maintaining the required pollution control equipment.

Once the economic benefit has been estimated and totaled for all violations included in the enforcement actions, it should be compared to the following criteria, and the penalty amount will be increased accordingly. The economic adjustment factor will be capped so the adjustment amount does not exceed the economic benefit gained.

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Table 12: Economic Benefit Matrix

% Adjustment	Dollar Range of Benefit
None	Less than $15,000
50%	Equal to or greater than $15,000

Calculation for Subtotal 6: Determine the estimate of the economic benefit of each violation included in the enforcement action. Add all of the economic benefit totals for each violation and then determine the total dollar amount ~~range~~ of benefit. ~~that the estimate fits for each violation.~~ If the total dollar amount of benefit equals or exceeds $15,000, multiply the base penalty amount using the associated percentage in Table 12. ~~associated percentage, based upon culpability, by the base penalty amount.~~

~~Political subdivisions and non-profit organizations~~ **Non-profit organizations, political subdivisions and other governmental entities will not be subject to an economic benefit enhancement.**

Avoided Costs

All avoided cost returns earned by a respondent will be included in the total assessed penalty, with the exception of ~~political subdivisions and non-profit organizations~~ non-profit organizations, political subdivisions, and other governmental entities. Avoided costs will be included as an Other Factors as Justice May Require adjustment.

Final Subtotal

A final subtotal is determined by adding Subtotal 1, Subtotal 2, Subtotal 3, Subtotal 4, and Subtotal 6, subtracting Subtotal 5, and adding or subtracting, as appropriate, Subtotal 7.

Other Factors That Justice May Require

The staff may recommend adjustment of the penalty amount, on a case-by-case basis, upon a consideration of factors unique to the situation. This adjustment may result in an increase or decrease of the penalty amount.

A downward adjustment due to "other factors that justice may require" may be appropriate when, for example, the TCEQ is notified of the violation(s) by the respondent. If the notification is not required by statute, permit, or rule, staff may recommend a downward adjustment.

DRAFT

A downward adjustment due to "other factors that justice may require" may be appropriate when, for example, a respondent has purchased a noncompliant water or wastewater facility as part of regionalization of service. Normally, respondents inherit the compliance history of purchased facilities but there may be circumstances where the resulting penalty does not reflect the efforts of the new provider and staff may recommend a downward adjustment.

An upward adjustment due to "other factors that justice may require" may be appropriate when, for example, a respondent who owns a station that conducts state inspections issued a motor vehicle inspection certificate for a motor vehicle without conducting all emission tests. If it is determined that the failure to conduct required emission testing was intentional, staff may recommend an upward adjustment.

Calculation: Multiply the Final Subtotal by the recommended percentage to obtain the Final Penalty Amount.

Statutory Limit Adjustment

The final penalty amount will be checked against the minimum and maximum penalty amounts allowed by statute per violation per day in order to obtain the final assessed penalty.

Deferral

A respondent may be eligible for a deferral under specific conditions outlined below.

- A 1660 Administrative Order with no culpability enhancement may be eligible for a 20% expedited settlement deferral. Orders with statutorily mandated penalties, Findings Orders, orders with a culpability enhancement, and orders referred to the Litigation Division will not be eligible for a 20% expedited settlement deferral.
- If the TCEQ determines through its Financial Inability to Pay review process outlined in 30 Texas Administrative Code § 70.8 that a respondent cannot pay a portion or any of the penalty, a deferral of up to 100% may be offered.
- If the respondent receives a finding from the process outlined in TWC § 7.034 (Deferral of Penalty for Certain Utility Facilities) that a respondent cannot pay a portion or any of the penalty, a deferral of up to 100% may be offered.
- At the discretion of the commission, the executive director may recommend a conditional deferral of up to 100% for certain violations.

All deferrals are contingent upon the respondent coming into full and timely compliance with the Administrative Order. Failure to achieve such compliance may result in the collection of the final assessed administrative penalty, including the deferred portion of the penalty.

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Attachment B:

Example Penalty Calculation Worksheet

Penalty Calculation Worksheet (PCW)

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

TCEQ

DATES					
Assigned					
PCW		Screening		EPA Due	

RESPONDENT/FACILITY INFORMATION			
Respondent			
Reg. Ent. Ref. No.			
Facility/Site Region		Major/Minor Source	*Please Select

CASE INFORMATION			
Enf./Case ID No.		No. of Violations	
Docket No.		Order Type	*Please Select
Media Program(s)		Government/Non-Profit	
Multi-Media		Enf. Coordinator	
		EC's Team	
Admin. Penalty $ Limit Minimum	$0	Maximum	$0

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)		*Subtotal 1*	$0
ADJUSTMENTS (+/-) TO SUBTOTAL 1			
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.			
Compliance History	0.0% Enhancement	*Subtotals 2, 3, & 7*	$0
Notes			
Culpability *Please Select	0.0% Enhancement	*Subtotal 4*	$0
Notes			
Good Faith Effort to Comply Total Adjustments		*Subtotal 5*	$0
Economic Benefit	0.0% Enhancement*	*Subtotal 6*	$0
Total EB Amounts $0	*Capped at the Total EB $ Amount*		
Approx. Cost of Compliance $0			
SUM OF SUBTOTALS 1-7		*Final Subtotal*	$0
OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	*Adjustment*	$0
Reduces or enhances the Final Subtotal by the indicated percentage.			
Notes			
		Final Penalty Amount	$0
STATUTORY LIMIT ADJUSTMENT		*Final Assessed Penalty*	$0
DEFERRAL	0.0% Reduction	*Adjustment*	$0
Reduces the Final Assessed Penalty by the indicted percentage. *(Enter number only; e.g. 20 for 20% reduction.)*			
Notes			
PAYABLE PENALTY			$0

Screening Date Respondent Case ID No. Reg. Ent. Reference No. Media [Statute] Enf. Coordinator	Docket No.	PCW *Policy Revision 3 (September 2011)* *PCW Revision August 3, 2011*

Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (*number of NOVs meeting criteria*)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	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 (*number of judgements or consent decrees meeting criteria*)	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 (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	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 (*number of audits for which notices were submitted*)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	0	0%

		Please Enter Yes or No	
Other	Environmental management systems in place for one year or more	*Please Select	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	*Please Select	0%
	Participation in a voluntary pollution reduction program	*Please Select	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	*Please Select	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

*Please Select

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

*Please Select

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

>> Final Compliance History Adjustment

Final Adjustment Percentage ****capped at 100%*** 0%

Screening Date
Respondent
Case ID No.
Reg. Ent. Reference No.
Media [Statute]
Enf. Coordinator

Docket No.

PCW

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

Violation Number 1

Rule Cite(s)

Violation Description

Base Penalty $0

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Adjustment $0

$0

Violation Events

Number of Violation Events

Number of violation days

mark only one with an x

- daily
- weekly
- monthly
- quarterly
- semiannual
- annual
- single event

Please Select One

Violation Base Penalty $0

Good Faith Efforts to Comply

0.0% Reduction $0

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

Notes

Violation Subtotal $0

Economic Benefit (EB) for this violation

Estimated EB Amount $0

Statutory Limit Test

Violation Final Penalty Total $0

This violation Final Assessed Penalty (adjusted for limits) $0

Economic Benefit Worksheet

Respondent
Case ID No.
Reg. Ent. Reference No.
Media
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	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							
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling				0.00	$0	$0	$0
Supplies/equipment				0.00	$0	$0	$0
Financial Assurance [2]				0.00	$0	$0	$0
ONE-TIME avoided costs [3]				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Notes for AVOIDED costs							

Approx. Cost of Compliance $0

TOTAL $0