

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 48501
PASO DEL NORTE READY-MIX, INC.
RN104962527
Docket No. 2014-0504-MLM-E

Order Type:

Agreed Order

Media:

Multi-Media: Aggregate Production Operation, Water Quality, Municipal Solid Waste, and Used Oil

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

north side of Darrington Road, approximately one mile east of the intersection of Interstate Highway 10 and Darrington Road, El Paso, El Paso County

Type of Operation:

sand pit quarry

Other Significant Matters:

Additional Pending Enforcement Actions: None
Past-Due Penalties: None
Past-Due Fees: None
Other: None
Interested Third-Parties: None

Texas Register Publication Date: February 13, 2015

Comments Received: None

Penalty Information

Total Penalty Assessed: \$10,464

Total Paid to General Revenue: \$314

Total Due to General Revenue: \$10,150

Payment Plan: 35 payments of \$290 each

Compliance History Classifications:

Person/CN – High
Site/RN – Unclassified

Major Source: Yes (PCW 3); No (PCWs 1, 2, and 4)

Statutory Limit Adjustment: \$4,525 enhancement (PCW 1)

Applicable Penalty Policy: September 2011

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: September 17, 2013; March 24, 2014
Date(s) of NOV(s): October 1, 2013
Date(s) of NOE(s): March 28, 2014

Violation Information

1. Failed to register the site as an aggregate production operation (“APO”) [30 TEX. ADMIN. CODE § 342.25].
2. Failed to obtain authorization to discharge storm water runoff associated with industrial activities under Texas Pollutant Discharge Elimination System (“TPDES”) General Permit No. TXR050000 [TEX. WATER CODE § 26.121(a)(3), 40 C.F.R. § 122.26(c), and 30 TEX. ADMIN. CODE § 281.25(a)(4)].
3. Failed to obtain a scrap tire storage registration for the Site prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in trailers [30 TEX. ADMIN. CODE §§ 328.56, 328.59, and 328.60(a)].
4. Failed to prevent the storage of used oil filters in a manner that results in the discharge of oil into the soil and to prevent the storage of used oil in any manner that endangers the public health or welfare of the environment [30 TEX. ADMIN. CODE §§ 324.4(1) and 328.23(a)].
5. Failed to label containers used to store used oil with the words “Used Oil” [40 C.F.R. § 279.22(c)(1) and 30 TEX. ADMIN. CODE § 324.1].
6. Failed to properly clean up and manage the release of used oil [40 C.F.R. § 279.22(d) and 30 TEX. ADMIN. CODE § 324.15].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:
None

Technical Requirements:

1. Immediately:
 - a. Cease storing any additional used and/or scrap tires at the Site until such time as proper registration is obtained; and
 - b. Ensure used oil and used oil filters are properly stored and the containers are properly labeled.
2. Within 30 days:
 - a. Either obtain a scrap tire storage generator and processing site registration for the Site, or remove all used and/or scrap tires from the Site and dispose of them at an authorized facility;
 - b. Properly remove and dispose of contaminated soil from the affected area;
 - c. Conduct an affected property assessment and submit an Affected Property Assessment Report (“APAR”). If response actions are necessary, comply with all applicable requirements of the Texas Risk Reduction Program;
 - d. Submit an application to register the Site as an APO;
 - e. Develop and implement a storm water pollution prevention plan; and
 - f. Submit an administratively complete Notice of Intent to discharge storm water, along with associated fees.

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE No. 48501
PASO DEL NORTE READY-MIX, INC.
RN104962527
Docket No. 2014-0504-MLM-E

3. Within 45 days, submit written certification to demonstrate compliance with Technical Requirements Nos. 1 and 2.
4. Within 60 days, submit written certification that storm water discharge authorization has been obtained under TPDES Multi-Sector General Permit No. TXR050000.

Litigation Information

Date Petition(s) Filed: December 19, 2014
Date Answer Filed: January 5, 2015
Settlement Date: January 15, 2015

Contact Information

TCEQ Attorneys: Jess Robinson, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Rudy Calderon, Public Interest Counsel, (512) 239-6363

TCEQ Enforcement Coordinator: Alejandro Laje, Enforcement Division, (512) 239-2547

TCEQ Regional Contact: Kent Waggoner, P.G., El Paso Regional Office, (915) 834-4949

Respondent Contact: Jose Garcia, President, PASO DEL NORTE READY-MIX, INC., 117 South Moon Road, El Paso, Texas 79927-1842

Respondent's Attorney: N/A

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Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	31-Mar-2014			
	PCW	13-Nov-2014	Screening	1-Apr-2014	EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent	PASO DEL NORTE READY-MIX, INC.			
Reg. Ent. Ref. No.	RN104962527			
Facility/Site Region	6-El Paso	Major/Minor Source	Minor	

CASE INFORMATION

Enf./Case ID No.	48501	No. of Violations	1		
Docket No.	2014-0504-MLM-E	Order Type	1660		
Media Program(s)	Aggregate Production Operation	Government/Non-Profit	No		
Multi-Media	Water Quality	Enf. Coordinator	Alejandro Laje		
		EC's Team	Enforcement Team 3		
Admin. Penalty \$ Limit Minimum	\$5,000	Maximum	\$10,000	Violation Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	-5.0%	Enhancement	Subtotals 2, 3, & 7	<input type="text" value="-25"/>
Notes	Enhancement for one NOV with same/similar violations and reduction for High Performer classification.			
Culpability	No	0.0%	Enhancement	Subtotal 4
Notes	The Respondent does not meet the culpability criteria.			
Good Faith Effort to Comply Total Adjustments			Subtotal 5	<input type="text" value="\$0"/>
Economic Benefit	0.0%	Enhancement*	Subtotal 6	<input type="text" value="\$0"/>
Total EB Amounts	<input type="text" value="\$30"/>	*Capped at the Total EB \$ Amount		
Approx. Cost of Compliance	<input type="text" value="\$450"/>			

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	<input type="text"/>
	Final Penalty Amount <input type="text" value="\$475"/>

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

Notes	The final assessed penalty has been adjusted to meet the statutory requirements of Tex. Water Code § 28A.102.
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DEFERRAL **Reduction** **Adjustment**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Deferral not offered for non-expedited settlement.
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PAYABLE PENALTY

Screening Date 1-Apr-2014

Docket No. 2014-0504-MLM-E

PCW

Respondent PASO DEL NORTE READY-MIX, INC.

Policy Revision 3 (September 2011)

Case ID No. 48501

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN104962527

Media [Statute] Aggregate Production Operation

Enf. Coordinator Alejandro Laje

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 (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with same/similar violations and reduction for High Performer classification.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% -5%

Screening Date	1-Apr-2014	Docket No.	2014-0504-MLM-E	PCW
Respondent	PASO DEL NORTE READY-MIX, INC.			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	48501			<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No.	RN104962527			
Media [Statute]	Aggregate Production Operation			
Enf. Coordinator	Alejandro Laje			
Violation Number	1			
Rule Cite(s)	30 Tex. Admin. Code § 342.25			
Violation Description	Failed to register the Site as an aggregate production operation ("APO"), as documented during a record review conducted on March 24, 2014.			
		Base Penalty	\$10,000.00	

>> Environmental, Property and Human Health Matrix

OR	Harm				
	Release	Major	Moderate	Minor	
	Actual				Percent 0.0%
Potential					

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
		x			Percent 5.0%
Matrix Notes	100% of the rule requirement was not met.				
			Adjustment	\$9,500.00	

\$500.00

Violation Events

Number of Violation Events: 1 8 Number of violation days

<i>mark only one with an x</i>	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$500.00

One single event is recommended.

Good Faith Efforts to Comply 0.0% Reduction \$0.00

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)
Notes	The Respondent does not meet the good faith criteria for this violation.	
	Violation Subtotal	\$500.00

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount: \$29.59	Violation Final Penalty Total: \$475.00
This violation Final Assessed Penalty (adjusted for limits): \$5,000.00	

Economic Benefit Worksheet

Respondent PASO DEL NORTE READY-MIX, INC.
Case ID No. 48501
Reg. Ent. Reference No. RN104962527
Media Violation No. 1
Aggregate Production Operation

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description No commas or \$

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	\$450	17-Sep-2013	10-Jan-2015	1.32	\$30	n/a	\$30
Other (as needed)			0.00	\$0	n/a	\$0	

Notes for DELAYED costs Estimated cost to register as an APO. Date required is the date of the original investigation and the final date is the anticipated compliance date.

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

TOTAL



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	31-Mar-2014			
	PCW	13-Nov-2014	Screening	1-Apr-2014	EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent	PASO DEL NORTE READY-MIX, INC.			
Reg. Ent. Ref. No.	RN104962527			
Facility/Site Region	6-El Paso	Major/Minor Source	Minor	

CASE INFORMATION

Enf./Case ID No.	48501	No. of Violations	1
Docket No.	2014-0504-MLM-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media	Used Oil	Enf. Coordinator	Alejandro Laje
		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**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	-5.0% Enhancement	Subtotals 2, 3, & 7	<input type="text" value="-\$62"/>
Notes	Enhancement for one NOV with same/similar violations and reduction for High Performer classification.		
Culpability	No 0.0% Enhancement	Subtotal 4	<input type="text" value="\$0"/>
Notes	The Respondent does not meet the culpability criteria.		
Good Faith Effort to Comply Total Adjustments		Subtotal 5	<input type="text" value="\$0"/>
Economic Benefit	0.0% Enhancement*	Subtotal 6	<input type="text" value="\$0"/>
Total EB Amounts	<input type="text" value="\$210"/>	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	<input type="text" value="\$5,000"/>		

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	<input type="text"/>	Final Penalty Amount	<input type="text" value="\$1,188"/>
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STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL **Reduction Adjustment**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction)

Notes	<input type="text" value="Deferral not offered for non-expedited settlement."/>
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PAYABLE PENALTY

Screening Date 1-Apr-2014 **Docket No.** 2014-0504-MLM-E
Respondent PASO DEL NORTE READY-MIX, INC.
Case ID No. 48501
Reg. Ent. Reference No. RN104962527
Media [Statute] Water Quality
Enf. Coordinator Alejandro Laje

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 (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements 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%
<i>Please Enter Yes or No</i>			
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)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with same/similar violations and reduction for High Performer classification.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100%

Screening Date	1-Apr-2014	Docket No.	2014-0504-MLM-E	PCW
Respondent	PASO DEL NORTE READY-MIX, INC.		Policy Revision 3 (September 2011)	
Case ID No.	48501	PCW Revision August 3, 2011		
Reg. Ent. Reference No.	RN104962527			
Media [Statute]	Water Quality			
Enf. Coordinator	Alejandro Laje			

Violation Number

Rule Cite(s)

Tex. Water Code § 26.121(a)(3), 30 Tex. Admin. Code § 281.25(a)(4) and 40 Code of Federal Regulations § 122.26(c)

Violation Description

Failed to obtain authorization to discharge storm water runoff associated with industrial activities under Texas Pollutant Discharge Elimination System General Permit No. TXR050000.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

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

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text"/>

Percent

Matrix Notes

100% of the rule requirement was not met.

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input checked="" type="checkbox"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

One monthly event is recommended from the record review date of March 24, 2014 to the screening date of April 1, 2014.

Good Faith Efforts to Comply

Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/>	(mark with x)

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

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent PASO DEL NORTE READY-MIX, INC.
Case ID No. 48501
Reg. Ent. Reference No. RN104962527
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

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	\$5,000	24-Mar-2014	25-Jan-2015	0.84	\$210	n/a	\$210
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to develop and implement a storm water pollution prevention plan, and submit a Notice of Intent and obtain authorization to discharge storm water associated with industrial activities. Date required is the record review date and the final date is the anticipated compliance date.

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	\$5,000		TOTAL	\$210
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Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	31-Mar-2014			
	PCW	13-Nov-2014	Screening	1-Apr-2014	EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent	PASO DEL NORTE READY-MIX, INC.				
Reg. Ent. Ref. No.	RN104962527				
Facility/Site Region	6-El Paso	Major/Minor Source	Major		

CASE INFORMATION

Enf./Case ID No.	48501	No. of Violations	1		
Docket No.	2014-0504-MLM-E	Order Type	1660		
Media Program(s)	Waste Tires	Government/Non-Profit	No		
Multi-Media	Water Quality	Enf. Coordinator	Alejandro Laje		
		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	\$3,750
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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	-5.0% Enhancement	Subtotals 2, 3, & 7	-\$187
Notes	Enhancement for one NOV with same/similar violations and reduction for High Performer classification.		
Culpability	No 0.0% Enhancement	Subtotal 4	\$0
Notes	The Respondent does not meet the culpability criteria.		
Good Faith Effort to Comply Total Adjustments		Subtotal 5	\$0
Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
Total EB Amounts	\$400	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$10,000		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$3,563
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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		Final Penalty Amount	\$3,563
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$3,563
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction)

Notes	Deferral not offered for non-expedited settlement.		
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PAYABLE PENALTY	\$3,563
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Screening Date 1-Apr-2014 **Docket No.** 2014-0504-MLM-E
Respondent PASO DEL NORTE READY-MIX, INC.
Case ID No. 48501
Reg. Ent. Reference No. RN104962527
Media [Statute] Waste Tires
Enf. Coordinator Alejandro Laje

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 (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements 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%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

>> **Repeat Violator (Subtotal 3)**

No

Adjustment Percentage (Subtotal 3) 0%

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

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> **Compliance History Summary**

Compliance History Notes

Enhancement for one NOV with same/similar violations and reduction for High Performer classification.

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

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% -5%

Screening Date	1-Apr-2014	Docket No.	2014-0504-MLM-E	PCW
Respondent	PASO DEL NORTE READY-MIX, INC.		<i>Policy Revision 3 (September 2011)</i>	
Case ID No.	48501	<i>PCW Revision August 3, 2011</i>		
Reg. Ent. Reference No.	RN104962527			
Media [Statute]	Waste Tires			
Enf. Coordinator	Alejandro Laje			

Violation Number

Rule Cite(s)

30 Tex. Admin. Code §§ 328.56, 328.59 and 328.60(a)

Violation Description

Failed to obtain a scrap tire storage registration for the Site prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in trailers. Specifically, more than 500 scrap tires were stored on the ground at the Site.

Base Penalty

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

OR

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

Percent

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor
<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>

Percent

Matrix Notes

100% of the rule requirement was not met.

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	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

One monthly event is recommended from the record review date of March 24, 2014 to the screening date of April 1, 2014.

Good Faith Efforts to Comply

Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
	Extraordinary	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	(mark with x)

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 PASO DEL NORTE READY-MIX, INC.
Case ID No. 48501
Reg. Ent. Reference No. RN104962527
Media Violation No. Waste Tires
 1

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description No commas or \$

Delayed Costs

Equipment			0.00	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0
Engineering/construction			0.00	\$0	\$0	\$0
Land			0.00	\$0	n/a	\$0
Record Keeping System			0.00	\$0	n/a	\$0
Training/Sampling			0.00	\$0	n/a	\$0
Remediation/Disposal			0.00	\$0	n/a	\$0
Permit Costs	\$10,000	24-Mar-2014	10-Jan-2015	0.80	\$400	\$400
Other (as needed)			0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to register the Site as a scrap tire storage Generator. Date required is the record review date and the final date is the anticipated compliance date.

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 \$10,000

TOTAL \$400



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	31-Mar-2014			
	PCW	13-Nov-2014	Screening	1-Apr-2014	EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent	PASO DEL NORTE READY-MIX, INC.				
Reg. Ent. Ref. No.	RN104962527				
Facility/Site Region	6-El Paso	Major/Minor Source	Minor		

CASE INFORMATION

Enf./Case ID No.	48501	No. of Violations	3
Docket No.	2014-0504-MLM-E	Order Type	1660
Media Program(s)	Used Oil	Government/Non-Profit	No
Multi-Media	Waste Tires	Enf. Coordinator	Alejandro Laje
		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	\$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	-5.0% Enhancement	Subtotals 2, 3, & 7	-\$37
Notes	Enhancement for one NOV with same/similar violations and reduction for High Performer classification.		
Culpability	No 0.0% Enhancement	Subtotal 4	\$0
Notes	The Respondent does not meet the culpability criteria.		
Good Faith Effort to Comply Total Adjustments		Subtotal 5	\$0
Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
Total EB Amounts	\$884	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$22,100		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$713
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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	
	Final Penalty Amount \$713

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$713
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction)

Notes	Deferral not offered for non-expedited settlement.
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PAYABLE PENALTY	\$713
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Screening Date	1-Apr-2014	Docket No.	2014-0504-MLM-E	PCW
Respondent	PASO DEL NORTE READY-MIX, INC.			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	48501			<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No.	RN104962527			
Media [Statute]	Used Oil			
Enf. Coordinator	Alejandro Laje			

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 (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements 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%
<i>Please Enter Yes or No</i>			
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)

>> **Repeat Violator (Subtotal 3)**

Adjustment Percentage (Subtotal 3)

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

Adjustment Percentage (Subtotal 7)

>> **Compliance History Summary**

Compliance History Notes

Enhancement for one NOV with same/similar violations and reduction for High Performer classification.

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

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100%

Screening Date	1-Apr-2014	Docket No.	2014-0504-MLM-E	PCW
Respondent	PASO DEL NORTE READY-MIX, INC.		Policy Revision 3 (September 2011)	
Case ID No.	48501	PCW Revision August 3, 2011		
Reg. Ent. Reference No.	RN104962527			
Media [Statute]	Used Oil			
Enf. Coordinator	Alejandro Laje			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

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

OR	Harm			Percent <input type="text" value="5.0%"/>	
	Release	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		<input type="text"/>
	Potential	<input type="text"/>	x	<input type="text"/>	

>> **Programmatic Matrix**

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

Matrix Notes

Failure to properly store used oil and used oil filters could result in the release of significant amount of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	x
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

One quarterly event is recommended from the record review date of March 24, 2014 to the screening date of April 1, 2014.

Good Faith Efforts to Comply

Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	x	(mark with x)

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 PASO DEL NORTE READY-MIX, INC.
Case ID No. 48501
Reg. Ent. Reference No. RN104962527
Media Used Oil
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

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	\$2,000	24-Mar-2014	10-Jan-2015	0.80	\$80	n/a	\$80
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to properly store used oil and used oil filters. Date required is the record review date and the final date is the anticipated compliance date.

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

\$2,000

TOTAL

\$80

Screening Date	1-Apr-2014	Docket No.	2014-0504-MLM-E	PCW
Respondent	PASO DEL NORTE READY-MIX, INC.			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	48501			<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No.	RN104962527			
Media [Statute]	Used Oil			
Enf. Coordinator	Alejandro Laje			

Violation Number

Rule Cite(s)
 30 Tex. Admin. Code § 324.1 and 40 Code of Federal Regulations ("CFR") § 279.22(c)(1)

Violation Description
 Failed to label containers used to store used oil with the words "Used Oil". Specifically, used oil containers were not labeled.

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="5.0%"/>

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

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

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

Violation Base Penalty

One single event is recommended.

Good Faith Efforts to Comply Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	(mark with x)

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

Violation Subtotal

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

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent PASO DEL NORTE READY-MIX, INC.
Case ID No. 48501
Reg. Ent. Reference No. RN104962527
Media Used Oil
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

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	24-Mar-2014	10-Jan-2015	0.80	\$4	n/a	\$4

Notes for DELAYED costs

Estimated cost to properly label or clearly mark containers used to store used oil. Date required is the record review date and the final date is the anticipated compliance date.

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 \$100

TOTAL \$4

Screening Date	1-Apr-2014	Docket No.	2014-0504-MLM-E	PCW
Respondent	PASO DEL NORTE READY-MIX, INC.			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	48501			<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No.	RN104962527			
Media [Statute]	Used Oil			
Enf. Coordinator	Alejandro Laje			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

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

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="text" value="x"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

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

Violation Base Penalty

Good Faith Efforts to Comply Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
	Extraordinary	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	(mark with x)

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 PASO DEL NORTE READY-MIX, INC.
Case ID No. 48501
Reg. Ent. Reference No. RN104962527
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	Onetime Costs	EB Amount
No commas or \$							

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	\$20,000	24-Mar-2014	10-Jan-2015	0.80	\$800	n/a	\$800
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs
 Estimated cost to conduct an affected property assessment and submit an Affected Property Assessment Report and to properly remove and dispose of contaminated soil. Date required is the record review date and the final date is the anticipated compliance date.

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	\$20,000	TOTAL	\$800
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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

PUBLISHED Compliance History Report for CN601721368, RN104962527, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

Customer, Respondent, or Owner/Operator: CN601721368, PASO DEL NORTE READY-MIX, INC. **Classification:** HIGH **Rating:** 0.00

Regulated Entity: RN104962527, SAND PIT - DARRINGTON ROAD **Classification:** UNCLASSIFIED **Rating:** -----

Complexity Points: 1 **Repeat Violator:** NO

CH Group: 14 - Other

Location: NORTH SIDE OF DARRINGTON ROAD, APPROXIMATELY 1.0 MILE EAST OF THE INTERSECTION OF INTERSTATE HIGHWAY 10 AND DARRINGTON ROAD IN EL PASO COUNTY, TEXAS

TCEQ Region: REGION 06 - EL PASO

ID Number(s):

Compliance History Period: September 01, 2008 to August 31, 2013 **Rating Year:** 2013 **Rating Date:** 09/01/2013

Date Compliance History Report Prepared: January 07, 2015

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: April 01, 2009 to April 01, 2014

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

Name: Alejandro Laje

Phone: (512) 239-2547

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
- 3) If YES for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

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

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

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

N/A

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

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

1 Date: 10/01/2013

(1121052)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 328, SubChapter F 328.56
30 TAC Chapter 328, SubChapter F 328.59
30 TAC Chapter 328, SubChapter F 328.60(a)

Description: Failure to obtain a scrap tire storage registration for the Site prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in trailers. Specifically, more than 500 scrap tires were stored on the ground at the Site.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 324, SubChapter A 324.4(1)
30 TAC Chapter 328, SubChapter D 328.23(a)

Description: Failure to prevent the storage of used oil filters in a manner that results in the discharge of oil into the soil and to prevent the storage of used oil in any manner that endangers the public health or welfare of the environment. Specifically, used oil filter containers and used oil containers were uncovered.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 324, SubChapter A 324.4(1)

Description: Failure to prevent the storage of used oil in any manner that endangers the public health or welfare of the environment. It was noted during the investigation that used oil containers were uncovered and had leaked onto the surrounding soil.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 324, SubChapter A 324.1
40 CFR Chapter 279, SubChapter I, PT 279, SubPT C 279.22(c)

Description: Failure to label containers used to store used oil with the words "Used Oil". Specifically, used oil containers were not labeled.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 324, SubChapter A 324.15
 40 CFR Chapter 279, SubChapter I, PT 279, SubPT C 279.22(d)
 Description: Failure to properly clean up and manage the release of used oil. It was noted during the investigation that used oil containers were uncovered and had leaked into the surrounding soil. Specifically, used oil filter containers and used oil containers had leaked into the surrounding soil.

Self Report? NO Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(3)
 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
 40 CFR Chapter 122, SubChapter D, PT 122, SubPT B 122.26(c)
 Description: Failure to obtain authorization to discharge storm water runoff associated with industrial activities under a Texas Pollutant Discharge Elimination System ("TPDES")
 General Permit No. TXR050000.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 342, SubChapter B 342.25(a)
 Description: Failure to register the Site as an aggregate production operation (APO).

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 106, SubChapter K 106.261(a)
 5C THSC Chapter 382 382.085(b)
 Description: Failure to provide required notification to the TCEQ for emissions within 10 days following the installation or modification of the facility. It was noted during the investigation that emissions and related data associated with the Extec screening unit were not reported to the TCEQ using the required Form PI-7.

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
PASO DEL NORTE
READY-MIX, INC.;
RN104962527**

§
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§
§
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§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2014-0504-MLM-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding PASO DEL NORTE READY-MIX, INC. ("Respondent") under the authority of TEX. WATER CODE chs. 7, 26, and 28A, and TEX. HEALTH & SAFETY CODE chs. 361 and 371. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent together stipulate that:

1. Respondent is a responsible party as defined in TEX. WATER CODE § 28A.001(6), because it is the owner and operator, as defined in TEX. WATER CODE § 28A.001(5) and (4), of an aggregate production operation ("APO") located on the north side of Darrington Road, approximately one mile east of the intersection of Interstate Highway 10 and Darrington Road, in El Paso, El Paso County, Texas (the "Site").¹ Aggregates are being or have been removed or extracted from the Site's earth. Therefore, the Site is an aggregate production operation as defined in TEX. WATER CODE § 28.001(1). The Site contains and/or involves the management of municipal solid waste ("MSW") as defined in TEX. HEALTH & SAFETY CODE ch. 361, involves the management of used oil as defined in TEX. HEALTH & SAFETY CODE ch. 371, and is near or adjacent to water in the state, as defined in TEX. WATER CODE § 26.001(5).
2. The Executive Director and Respondent agree the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.051 and 7.070, and that Respondent is subject to the TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE chs. 26 and 28A, TEX. HEALTH & SAFETY CODE chs. 361 and 371, and TCEQ rules.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of ten thousand four hundred sixty-four dollars (\$10,464.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid three hundred fourteen dollars (\$314.00) of the penalty. The remaining amount of ten thousand one hundred fifty dollars (\$10,150.00) shall be paid in thirty-five (35) monthly payments of two hundred ninety dollars (\$290.00) 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 Respondent fails to timely and satisfactorily comply with the payment requirements of this Order, including the payment schedule, the Executive

¹ The legal description of the Site is "78 TSP 4 SEC 15 T & P ABST 2085 (52.0000 AC)."

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. Respondent's failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance constitutes the failure by Respondent to timely and satisfactorily comply with all the terms of this Order.

5. 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 and Respondent agree on a settlement of the matters addressed in this Order, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
7. 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 Respondent has not complied with one or more of the terms or conditions contained in this Order.
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 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.

II. ALLEGATIONS

1. During an investigation conducted on September 17, 2013, and a record review conducted on March 24, 2014, an investigator documented that Respondent:
 - a. Failed to register the site as an APO, in violation of 30 TEX. ADMIN. CODE § 342.25;
 - b. Failed to obtain authorization to discharge storm water runoff associated with industrial activities under Texas Pollutant Discharge Elimination System General Permit No. TXR050000, in violation of TEX. WATER CODE § 26.121(a)(3), 40 C.F.R. § 122.26(c), and 30 TEX. ADMIN. CODE § 281.25(a)(4);
 - c. Failed to obtain a scrap tire storage registration for the Site prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in trailers, in violation of 30 TEX. ADMIN. CODE §§ 328.56, 328.59, and 328.60(a). Specifically, more than 500 scrap tires were stored on the ground at the Site;
 - d. Failed to prevent the storage of used oil filters in a manner that results in the discharge of oil into the soil and to prevent the storage of used oil in any manner that endangers the public health or welfare of the environment, in violation of 30 TEX. ADMIN. CODE §§ 324.4(1) and 328.23(a). Specifically, used oil filter containers and used oil containers were uncovered;
 - e. Failed to label containers used to store used oil with the words "Used Oil," in violation of 40 C.F.R. § 279.22(c)(1) and 30 TEX. ADMIN. CODE § 324.1; and
 - f. Failed to properly clean up and manage the release of used oil, in violation of 40 C.F.R. § 279.22(d) and 30 TEX. ADMIN. CODE § 324.15. Specifically, used oil filter containers and used oil containers had leaked into the surrounding soil.

III. DENIALS

Respondent generally denies each Allegation in Section II.

IV. ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty as set forth in Section I, Paragraph 4. The payment of this penalty and 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 actions or penalties for violations which are not raised here. Penalty payments shall be made payable to the TCEQ and shall be sent with the notation "Re: PASO DEL NORTE READY-MIX, INC., Docket No. 2014-0504-MLM-E" to:

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

2. Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Order:
 - i. Cease storing any additional used and/or scrap tires at the Site until such time as proper registration is obtained, in accordance with 30 TEX. ADMIN. CODE § 328.60; and
 - ii. Ensure used oil and used oil filters are properly stored and the containers are properly labeled, in accordance with 30 TEX. ADMIN. CODE §§ 324.1 and 324.4.
 - b. Within 30 days after the effective date of this Order:
 - i. Either obtain a scrap tire storage generator and processing site registration for the Site, in accordance with 30 TEX. ADMIN. CODE §§ 328.56, 328.59, and 328.60, or remove all used and/or scrap tires from the Site and dispose of them at an authorized facility;
 - ii. Properly remove and dispose of contaminated soil from the affected area;
 - iii. Conduct an affected property assessment and submit an Affected Property Assessment Report ("APAR"), pursuant to 30 TEX. ADMIN. CODE ch. 350, Subchapter C, and § 350.91, to the Executive Director for approval. If response actions are necessary, Respondent shall comply with all applicable requirements of the Texas Risk Reduction Program found in 30 TEX. ADMIN. CODE ch. 350, which may include: plans, reports, and notices under Subchapter E (30 TEX. ADMIN. CODE §§ 350.92 to 350.96); financial assurance (30 TEX. ADMIN. CODE § 350.33(1)); and Institutional Controls under Subchapter F. The APAR shall be submitted to:

Remediation Division, MC 225
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

Respondent shall respond, completely and adequately, as determined by the TCEQ, to all requests for information concerning the APAR and any response actions, within 15 days after the date of such requests, or by any other deadline specified by the TCEQ in writing;

- iv. Submit an application to register the Site as an APO, in accordance with 30 TEX. ADMIN. CODE § 342.25 to:

Water Quality Processing Center, MC 140
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- v. Develop and implement a storm water pollution prevention plan, in accordance with TPDES Multi-Sector General Permit No. TXR050000 and 30 TEX. ADMIN. CODE § 281.25; and

- vi. Submit an administratively complete Notice of Intent to discharge storm water, along with associated fees, to:

Wastewater Permitting Section
Water Quality Division, MC 148
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

Respondent shall respond completely and adequately, as determined by the TCEQ, to any requests for additional information concerning the Notice of Intent and address any deficiencies identified by the Wastewater Permitting Section within 30 days of such request or by any other deadline specified in writing.

- c. Within 45 days after the effective date of this Order, submit written certification, in accordance with Ordering Provision No. 2.e., to demonstrate compliance with Ordering Provisions Nos. 2.a. and 2.b.
- d. Within 60 days after the effective date of this Order, submit written certification, in accordance with Ordering Provision No. 2.e., that storm water discharge authorization has been obtained under TPDES Multi-Sector General Permit No. TXR050000.
- e. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by Respondent, and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the submitted information is true, accurate, and complete. I am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Respondent shall submit the written certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

Waste and Water Section Managers
El Paso Regional Office
Texas Commission on Environmental Quality
401 East Franklin Avenue, Suite 560
El Paso, Texas 79901-1212

3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Site operations referenced in this Order.
5. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Order Compliance Team at the address listed above.
7. This Order, issued by the Commission, shall not be admissible against 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 TCEQ's jurisdiction or of a rule adopted or an order or permit issued by the TCEQ under such a statute.
8. 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.

9. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Order is the date of hand delivery of the fully executed Order to Respondent, or three days after the date on which the Commission mails a copy of the fully executed Order to Respondent, whichever is earlier. The Chief Clerk shall provide a copy of the fully executed Order to each of the parties.

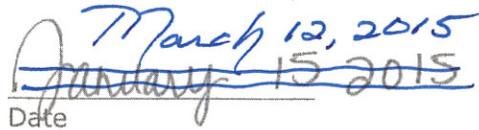
SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

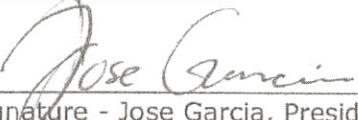

~~January 15 2015~~
Date

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.

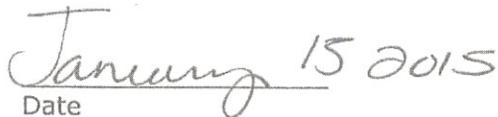
I also understand that failure to comply with the Ordering Provisions in this Order and/or failure to timely pay the penalty amount may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications;
- 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
- The TCEQ seeking other relief as authorized by law.

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



Signature - Jose Garcia, President
PASO DEL NORTE READY-MIX, INC.
117 South Moon Road
El Paso, Texas 79927-1842


Date

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