

**Executive Summary – Enforcement Matter – Case No. 48765  
Calumet San Antonio Refining, LLC  
RN101485183  
Docket No. 2014-0769-MLM-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

IHW and WQ

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

San Antonio Refinery, LLC, 7811 South Presa Street, San Antonio, Bexar County

**Type of Operation:**

petroleum refinery

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date: *To Be Determined***

**Comments Received: No**

***Penalty Information***

**Total Penalty Assessed: \$37,225**

**Amount Deferred for Expedited Settlement: \$7,445**

**Amount Deferred for Financial Inability to Pay: \$0**

**Total Paid to General Revenue: \$29,780**

**Total Due to General Revenue: \$0**

Payment Plan: N/A

**Supplemental Environmental Project ("SEP") Conditional Offset: \$0**

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - High

Site/RN - High

**Major Source: Yes**

**Statutory Limit Adjustment: N/A**

**Applicable Penalty Policy: April 2014**

**Executive Summary – Enforcement Matter – Case No. 48765**  
**Calumet San Antonio Refining, LLC**  
**RN101485183**  
**Docket No. 2014-0769-MLM-E**

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** April 12, 2014 through May 14, 2014

**Date(s) of NOE(s):** May 16, 2014

***Violation Information***

1. Failed to notify the TCEQ as soon as possible after the discovery of an unauthorized discharge of approximately 1,008 gallons of jet fuel at the Facility. Specifically, the Respondent became aware of the unauthorized discharge April 11, 2014 at approximately 11:45 P.M. and did not notify the TCEQ until April 12, 2014 at approximately 11:20 A.M. [30 TEX. ADMIN. CODE § 327.3(b) and TEX. WATER CODE § 26.039(b)].
2. Failed to prevent the unauthorized discharge of industrial solid waste (“ISW”) into or adjacent to waters in the state and to immediately abate and contain the spill or discharge. Specifically, while loading a railroad tank car at the Facility on April 11, 2014 at approximately 11:45 P.M. a spill of approximately 1,008 gallons of jet fuel occurred into an improved stormwater drainage channel, resulting in approximately 126 gallons of jet fuel being discharged into the San Antonio River. [30 TEX. ADMIN. CODE §§ 327.5(a) and 335.4 and TEX. WATER CODE § 26.121(a)(1)].
3. Failed to prevent the unauthorized discharge of ISW into or adjacent to waters in the state. Specifically, the Respondent discovered a breach of a protective barrier containment wall/berm on May 13, 2014 at approximately 8:45 A.M. which allowed petroleum-contaminated stormwater to discharge into the Mission Espada Aqueduct. [30 TEX. ADMIN. CODE § 335.4 and TEX. WATER CODE § 26.121(a)(1)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Respondent submitted documentation to the TCEQ San Antonio Regional Office demonstrating that the protective barrier containment wall/berm had been repaired on June 4, 2014.

**Technical Requirements:**

The order will require the Respondent to:

a. Within 30 days:

- i. Update the Facility’s operational guidance and conduct employee training to ensure that any future reportable discharges or spills be reported to the TCEQ as soon as possible, but no later than 24 hours after discovery;

**Executive Summary – Enforcement Matter – Case No. 48765**  
**Calumet San Antonio Refining, LLC**  
**RN101485183**  
**Docket No. 2014-0769-MLM-E**

- ii. Repair and/or replace the gate valve in the Facility's improved stormwater drainage channel;
  - iii. Develop and implement procedures designed to abate and contain unauthorized discharges at the Facility; and
  - iv. Submit a report, which includes a summary of remediation activities that took place, confirming that all contaminated media at the Facility associated with the incidents have been properly remediated.
- b. Within 45 days, submit written certification to demonstrate compliance with a.

***Litigation Information***

**Date Petition(s) Filed:** N/A  
**Date Answer(s) Filed:** N/A  
**SOAH Referral Date:** N/A  
**Hearing Date(s):** N/A  
**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A  
**TCEQ Enforcement Coordinator:** Keith Frank, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-1203; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456  
**TCEQ SEP Coordinator:** N/A  
**Respondent:** F. William Grube, Chief Executive Officer, Calumet San Antonio Refining, LLC, 2780 Waterfront Parkway East, Suite 200, Indianapolis, Indiana 46214-2030  
**Respondent's Attorney:** N/A





# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	19-May-2014	<b>Screening</b>	21-May-2014	<b>EPA Due</b>	
	<b>PCW</b>	2-Jun-2014				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Calumet San Antonio Refining, LLC				
<b>Reg. Ent. Ref. No.</b>	RN101485183				
<b>Facility/Site Region</b>	13-San Antonio	<b>Major/Minor Source</b>	Major		

## CASE INFORMATION

<b>Enf./Case ID No.</b>	48765	<b>No. of Violations</b>	2
<b>Docket No.</b>	2014-0769-MLM-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Industrial and Hazardous Waste	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>	Water Quality	<b>Enf. Coordinator</b>	Keith Frank
		<b>EC's Team</b>	Enforcement Team 6
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$18,750**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History** -10.0% Reduction **Subtotals 2, 3, & 7** **-\$1,875**

Notes: 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 \$3,222  
 Approx. Cost of Compliance \$68,100  
 \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$16,875**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** 0.6% **Adjustment** **\$100**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided cost of compliance associated with violation no. 1.

**Final Penalty Amount** **\$16,975**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$16,975**

**DEFERRAL** 20.0% Reduction **Adjustment** **-\$3,395**

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

Notes: Deferral offered for expedited settlement.

**PAYABLE PENALTY** **\$13,580**

**Screening Date** 21-May-2014

**Docket No.** 2014-0769-MLM-E

**PCW**

**Respondent** Calumet San Antonio Refining, LLC

Policy Revision 4 (April 2014)

**Case ID No.** 48765

PCW Revision March 26, 2014

**Reg. Ent. Reference No.** RN101485183

**Media [Statute]** Industrial and Hazardous Waste

**Enf. Coordinator** Keith Frank

### 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> )	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgments or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	1	-1%
	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)** 0%

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

No

**Adjustment Percentage (Subtotal 3)** 0%

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

High Performer

**Adjustment Percentage (Subtotal 7)** -10%

>> **Compliance History Summary**

**Compliance History Notes**

Reduction for high performer classification.

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

>> **Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** -10%

Screening Date 21-May-2014

Docket No. 2014-0769-MLM-E

PCW

Respondent Calumet San Antonio Refining, LLC

Policy Revision 4 (April 2014)

Case ID No. 48765

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101485183

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Keith Frank

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 327.3(b) and Tex. Water Code § 26.039(b)

Violation Description Failed to notify the TCEQ as soon as possible after the discovery of an unauthorized discharge of approximately 1,008 gallons of jet fuel at the Facility. Specifically, the Respondent became aware of the unauthorized discharge April 11, 2014 at approximately 11:45 P.M. and did not notify the TCEQ until April 12, 2014 at approximately 11:20 A.M.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			15.0%

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

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1 Number of violation days 1

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$3,750

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	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 \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$184

Violation Final Penalty Total \$3,395

This violation Final Assessed Penalty (adjusted for limits) \$3,395

# Economic Benefit Worksheet

**Respondent** Calumet San Antonio Refining, LLC  
**Case ID No.** 48765  
**Reg. Ent. Reference No.** RN101485183  
**Media** Industrial and Hazardous Waste  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	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	\$2,000	12-Apr-2014	13-Feb-2015	0.84	\$84	n/a	\$84
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to update the Facility's operational guidance and conduct employee training. Date Required is the investigation date. Final Date is the estimated date of compliance.

### 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]	\$100	11-Apr-2014	11-Apr-2014	0.00	\$0	\$100	\$100
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to provide notice to the TCEQ as soon as possible. Date Required and Final Date is the date of the unauthorized discharge.

Approx. Cost of Compliance

\$2,100

**TOTAL**

\$184

Screening Date 21-May-2014

Docket No. 2014-0769-MLM-E

PCW

Respondent Calumet San Antonio Refining, LLC

Policy Revision 4 (April 2014)

Case ID No. 48765

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101485183

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Keith Frank

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 327.5(a) and 335.4 and Tex. Water Code § 26.121(a)(1)

Violation Description

Failed to prevent the unauthorized discharge of industrial solid waste into or adjacent to waters in the state and to immediately abate and contain the spill or discharge. Specifically, while loading a railroad tank car at the Facility on April 11, 2014 at approximately 11:45 P.M. a spill of approximately 1,008 gallons of jet fuel occurred into an improved stormwater drainage channel, resulting in approximately 126 gallons of jet fuel being discharged into the San Antonio River. The Respondent was aware that the improved stormwater drainage channel had a faulty valve which would not contain the fuel spill but did not take immediate response actions to abate or contain the spill.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		X	
Potential			

Percent 30.0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

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.

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 2

40 Number of violation days

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$15,000

Two monthly events are recommended based on documentation of the violation from the April 11, 2014 date the spill occurred to the May 21, 2014 screening date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	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 \$15,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3,038

Violation Final Penalty Total \$13,580

This violation Final Assessed Penalty (adjusted for limits) \$13,580

# Economic Benefit Worksheet

**Respondent** Calumet San Antonio Refining, LLC  
**Case ID No.** 48765  
**Reg. Ent. Reference No.** RN101485183  
**Media** Industrial and Hazardous Waste  
**Violation No.** 2

<b>Percent Interest</b>	<b>Years of Depreciation</b>
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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$15,000	11-Apr-2014	13-Feb-2015	0.84	\$42	\$844	\$886
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	\$50,000	11-Apr-2014	13-Feb-2015	0.84	\$2,110	n/a	\$2,110
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,000	11-Apr-2014	13-Feb-2015	0.84	\$42	n/a	\$42

**Notes for DELAYED costs**

Estimated cost to conduct necessary repairs to Facility equipment designed to prevent unauthorized discharges (\$15,000). Estimated cost to properly assess and remediate the contaminated media and affected area and dispose of the contaminated media at an authorized facility (\$50,000). Estimated cost to develop and implement procedures designed to abate and contain unauthorized discharges at the Facility (\$1,000). Date Required is the date of the unauthorized discharge. Final Date is the estimated date of compliance.

### Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

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

<b>Approx. Cost of Compliance</b>	\$66,000	<b>TOTAL</b>	\$3,038
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# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

<b>DATES</b>	<b>Assigned</b>	28-Jul-2014	<b>Screening</b>	7-Aug-2014	<b>EPA Due</b>	
	<b>PCW</b>	11-Aug-2014				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Calumet San Antonio Refining, LLC				
<b>Reg. Ent. Ref. No.</b>	RN101485183				
<b>Facility/Site Region</b>	13-San Antonio	<b>Major/Minor Source</b>	Major		

## CASE INFORMATION

<b>Enf./Case ID No.</b>	48765	<b>No. of Violations</b>	1
<b>Docket No.</b>	2014-0769-MLM-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Industrial and Hazardous Waste	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>	Water Quality	<b>Enf. Coordinator</b>	Keith Frank
		<b>EC's Team</b>	Enforcement Team 6
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$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**  Reduction **Subtotals 2, 3, & 7**

Notes

**Culpability**   Enhancement **Subtotal 4**

Notes

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5**

**Economic Benefit**  Enhancement\* **Subtotal 6**

Total EB Amounts    
 Approx. Cost of Compliance    
 \*Capped at the Total EB \$ Amount

**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

**Final Penalty Amount**

**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

**PAYABLE PENALTY**

**Screening Date** 7-Aug-2014

**Docket No.** 2014-0769-MLM-E

**PCW**

**Respondent** Calumet San Antonio Refining, LLC

Policy Revision 4 (April 2014)

**Case ID No.** 48765

PCW Revision March 26, 2014

**Reg. Ent. Reference No.** RN101485183

**Media [Statute]** Industrial and Hazardous Waste

**Enf. Coordinator** Keith Frank

**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> )	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgments or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	1	-1%
	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)** 0%

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

No

**Adjustment Percentage (Subtotal 3)** 0%

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

High Performer

**Adjustment Percentage (Subtotal 7)** -10%

>> **Compliance History Summary**

**Compliance History Notes**

Reduction for high performer classification.

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

>> **Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** -10%

Screening Date 7-Aug-2014

Docket No. 2014-0769-MLM-E

PCW

Respondent Calumet San Antonio Refining, LLC

Policy Revision 4 (April 2014)

Case ID No. 48765

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101485183

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Keith Frank

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 335.4 and Tex. Water Code § 26.121(a)(1)

Violation Description

Failed to prevent the unauthorized discharge of industrial solid waste into or adjacent to waters in the state. Specifically, the Respondent discovered a breach of a protective barrier containment wall/berm on May 13, 2014 at approximately 8:45 A.M. which allowed petroleum-contaminated stormwater to discharge into the Mission Espada Aqueduct. The Respondent was aware that the source of the petroleum-contaminated stormwater was an area of the Facility containing railroad tank car loading operations which was involved in a fuel spill on April 11, 2014.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		X	
Potential			

Percent 30.0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

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.

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 3

86 Number of violation days

mark only one with an x

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$22,500

Three monthly events are recommended based on documentation of the violation from the May 13, 2014 date the discharge occurred to the August 7, 2014 screening date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/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 \$22,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$20,250

This violation Final Assessed Penalty (adjusted for limits) \$20,250

# Economic Benefit Worksheet

**Respondent** Calumet San Antonio Refining, LLC  
**Case ID No.** 48765  
**Req. Ent. Reference No.** RN101485183  
**Media** Industrial and Hazardous Waste  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Economic benefit calculated on other Penalty Calculation Worksheet.

### 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

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 CN604256628, RN101485183, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

<b>Customer, Respondent, or Owner/Operator:</b>	CN604256628, Calumet San Antonio Refining, LLC	<b>Classification:</b> HIGH	<b>Rating:</b> 0.00
<b>Regulated Entity:</b>	RN101485183, San Antonio Refinery	<b>Classification:</b> HIGH	<b>Rating:</b> 0.00
<b>Complexity Points:</b>	20	<b>Repeat Violator:</b> NO	
<b>CH Group:</b>	14 - Other		
<b>Location:</b>	7811 S PRESA ST SAN ANTONIO, TX 78223-3547, BEXAR COUNTY		
<b>TCEQ Region:</b>	REGION 13 - SAN ANTONIO		

## ID Number(s):

**INDUSTRIAL AND HAZARDOUS WASTE EPA ID**  
TXD049754047

**POLLUTION PREVENTION PLANNING ID NUMBER**  
P00321

**AIR NEW SOURCE PERMITS REGISTRATION 8755**

**AIR NEW SOURCE PERMITS AFS NUM 4802900017**

**AIR NEW SOURCE PERMITS REGISTRATION 113296**

**IHW CORRECTIVE ACTION SOLID WASTE REGISTRATION # (SWR) 34356**

**AIR OPERATING PERMITS PERMIT 3534**

**PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 85586**

**INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 34356**  
**AIR NEW SOURCE PERMITS PERMIT 6113**

**AIR NEW SOURCE PERMITS ACCOUNT NUMBER BG0103P**

**AIR NEW SOURCE PERMITS REGISTRATION 113301**

**STORMWATER PERMIT TXR05BQ43**

**AIR EMISSIONS INVENTORY ACCOUNT NUMBER BG0103P**

**AIR OPERATING PERMITS ACCOUNT NUMBER BG0103P**

**WASTEWATER PERMIT TXG670214**

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

**Date Compliance History Report Prepared:** May 21, 2014

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** May 21, 2009 to May 21, 2014

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

**Name:** Keith Frank

**Phone:** (512) 239-1203

## 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 (CEEDS Inv. Track. No.):**

Item 1	August 31, 2010	(828727)
Item 2	October 07, 2010	(858316)
Item 3	May 01, 2011	(913578)
Item 4	January 19, 2012	(964834)
Item 5	August 20, 2012	(1022996)
Item 6	May 16, 2014	(1164481)

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

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

N/A

**F. Environmental audits:**

Notice of Intent Date: 04/29/2011 (934284)

No DOV Associated

**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  
CALUMET SAN ANTONIO  
REFINING, LLC  
RN101485183**

**§ BEFORE THE  
§  
§ TEXAS COMMISSION ON  
§  
§ ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2014-0769-MLM-E**

### **I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Calumet San Antonio Refining, LLC ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a petroleum refinery at 7811 South Presa Street in San Antonio, Bexar County, Texas (the "Facility").
2. The Facility involves or involved the management of industrial solid waste ("ISW") as defined in TEX. HEALTH & SAFETY CODE ch. 361. The Respondent has discharged industrial waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notices of the violations alleged in Section II ("Allegations") on or about May 21, 2014 and July 29, 2014.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Thirty-Seven Thousand Two Hundred Twenty-Five Dollars (\$37,225) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Twenty-Nine Thousand Seven Hundred Eighty Dollars (\$29,780) of the administrative penalty and Seven Thousand Four Hundred Forty-Five Dollars (\$7,445) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. 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.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent submitted documentation to the TCEQ San Antonio Regional Office demonstrating that the protective barrier containment wall/berm had been repaired on June 4, 2014.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to notify the TCEQ as soon as possible after the discovery of an unauthorized discharge of approximately 1,008 gallons of jet fuel at the Facility, in violation of 30 TEX. ADMIN. CODE § 327.3(b) and TEX. WATER CODE § 26.039(b), as documented during investigations conducted on April 12 and 14, 2014. Specifically, the Respondent became aware of the unauthorized discharge April 11, 2014 at approximately 11:45 P.M. and did not notify the TCEQ until April 12, 2014 at approximately 11:20 A.M.
2. Failed to prevent the unauthorized discharge of ISW into or adjacent to waters in the state and to immediately abate and contain the spill or discharge, in violation of 30 TEX. ADMIN. CODE §§ 327.5(a) and 335.4 and TEX. WATER CODE § 26.121(a)(1), as documented during investigations conducted on April 12 and 14, 2014. Specifically, while loading a

railroad tank car at the Facility on April 11, 2014 at approximately 11:45 P.M. a spill of approximately 1,008 gallons of jet fuel occurred into an improved stormwater drainage channel, resulting in approximately 126 gallons of jet fuel being discharged into the San Antonio River. The Respondent was aware that the improved stormwater drainage channel had a faulty valve which would not contain the fuel spill but did not take immediate response actions to abate or contain the spill.

3. Failed to prevent the unauthorized discharge of ISW into or adjacent to waters in the state, in violation of 30 TEX. ADMIN. CODE § 335.4 and TEX. WATER CODE § 26.121(a)(1), as documented during investigations conducted on May 13 and 14, 2014. Specifically, the Respondent discovered a breach of a protective barrier containment wall/berm on May 13, 2014 at approximately 8:45 A.M. which allowed petroleum-contaminated stormwater to discharge into the Mission Espada Aqueduct. The Respondent was aware that the source of the petroleum-contaminated stormwater was an area of the Facility containing railroad tank car loading operations which was involved in a fuel spill on April 11, 2014.

### III. DENIALS

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

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Calumet San Antonio Refining, LLC, Docket No. 2014-0769-MLM-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order:
    - i. Update the Facility's operational guidance and conduct employee training to ensure that any future reportable discharges or spills be reported to the TCEQ as soon as possible, but no later than 24 hours after discovery, in accordance with 30 TEX. ADMIN. CODE § 327.3(b) and TEX. WATER CODE § 26.039(b);

- ii. Repair and/or replace the gate valve in the Facility's improved stormwater drainage channel;
  - iii. Develop and implement procedures designed to abate and contain unauthorized discharges at the Facility; and
  - iv. Submit a report, which includes a summary of remediation activities that took place, confirming that all contaminated media at the Facility associated with the incidents addressed in Section II, Paragraphs 1 through 3 have been properly remediated. Remediation activities will address all areas at the Facility where any media has been contaminated with fuel associated with the incidents addressed in Section II, Paragraphs 1 through 3. The report shall include analytical results of soil confirmation sampling which characterizes the effectiveness of contaminated media removal in all contaminated areas and documentation that contaminated media has been disposed at an authorized facility. This report shall be submitted to the addresses listed in Ordering Provision No. 2.b.
- b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

Waste Section Manager  
San Antonio Regional Office  
Texas Commission on Environmental Quality  
14250 Judson Road  
San Antonio, Texas 78233-4480

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed 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 Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
For the Executive Director

6/22/15  
Date

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

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

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

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

  
Signature GSM

9/22/2014  
Date

JENNIFER STRAUHNS  
Name (Printed or typed)  
Authorized Representative of  
Calumet San Antonio Refining, LLC

President + Chief Operating Officer  
Title

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