

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 54368  
IMMANUEL ENTERPRISE, INC. dba Fast Trac Food Mart  
RN102055076  
Docket No. 2020-0230-PST-E

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

Indifference to legal duty based on violation of a previous order

**Media:**

PST

**Small Business:**

Yes

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

1702 West Main Street, Grand Prairie, Dallas County

**Type of Operation:**

convenience store with underground storage tank (“UST”) system

**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:**

March 18, 2022

**Comments Received:**

None

**Penalty Information**

**Total Penalty Assessed:** \$42,067

**Deferred for Financial Inability to Pay:** \$38,467

**Total Paid to General Revenue:** \$100

**Total Due to General Revenue:** \$3,500

Payment Plan: 35 payments of \$100 each

**Compliance History Classifications:**

Person/CN – Satisfactory  
Site/RN – Satisfactory

**Major Source:**

No

**Statutory Limit Adjustment:**

None

**Applicable Penalty Policy:**

April 2014

**Investigation Information**

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

**Date(s) of Investigation:** November 21, 2019

**Date(s) of NOV(s):** N/A

**Date(s) of NOE(s):** January 23, 2020

**Violation Information**

1. Failed to monitor the USTs for releases in a manner which will detect a release at a frequency of at least once every 30 days [TEX. WATER CODE § 26.3475(c)(1), 30 TEX. ADMIN. CODE § 334.50(b)(1)(A), and TCEQ Agreed Order, Docket No. 2017-0585-PST-E, Ordering Provisions Nos. 2.b.i. and 2.c.].
2. Failed to provide release detection for the pressurized piping associated with the UST system [TEX. WATER CODE § 26.3475(a), 30 TEX. ADMIN. CODE § 334.50(b)(2), and TCEQ Agreed Order, Docket No. 2017-0585-PST-E, Ordering Provisions Nos. 2.b.ii. and 2.c.].
3. Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel [30 TEX. ADMIN. CODE § 334.10(b)(1)(B) and TCEQ Agreed Order, Docket No. 2017-0585-PST-E, Ordering Provisions Nos. 2.a. and 2.c.].
4. Failed to ensure that a certified Class A, Class B, and Class C operator is re-trained within three years of their last training date [30 TEX. ADMIN. CODE § 334.605(a) and (b)].

**Corrective Actions/Technical Requirements**

**Corrective Action(s) Completed:**

None

**Technical Requirements:**

1. Immediately begin maintaining all UST records, including those for overflow prevention, and ensure they are made immediately available for inspection upon request by agency personnel.
2. Within 30 days:
  - a. Implement a release detection method for all USTs at the Facility;
  - b. Conduct the annual piping tightness and line leak detector testing; and
  - c. Re-train named individuals as Class A, Class B, and Class C operators for the Facility.
- d. In lieu of Technical Requirement No. 2, within 90 days properly and permanently remove the UST system from service.
- e. Within 105 days submit written certification to demonstrate compliance.

**Litigation Information**

**Date Petition(s) Filed:** November 5, 2020  
**Date Answer(s) Filed:** December 21, 2020  
**SOAH Referral Date:** March 4, 2021  
**Settlement Date:** February 12, 2022

**Contact Information**

**TCEQ Attorneys:** Jess Robinson, Litigation Division, (512) 239-3400  
Garrett Arthur, Public Interest Counsel, (512) 239-6363  
**TCEQ Litigation Agenda Coordinator:** Katherine McKenzie, Litigation Division, (512) 239-2575  
**TCEQ Enforcement Coordinator:** Ken Moller, Enforcement, (512) 239-6111  
**TCEQ Regional Contact:** Erin Gorman, Dallas/Fort Worth Regional Office, (817) 588-5800  
**Respondent Contact:** Nirbik Rana, President, IMMANUEL ENTERPRISE, INC., 1702 West Main Street, Grand Prairie, Texas 75050  
**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>	27-Jan-2020			
	<b>PCW</b>	26-Jan-2022	<b>Screening</b>	4-Feb-2020	<b>EPA Due</b>

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	IMMANUEL ENTERPRISE, INC. dba Fast Trac Food Mart				
<b>Reg. Ent. Ref. No.</b>	RN102055076				
<b>Facility/Site Region</b>	4-Dallas/Fort Worth	<b>Major/Minor Source</b>	Minor		

## CASE INFORMATION

<b>Enf./Case ID No.</b>	54368	<b>No. of Violations</b>	3
<b>Docket No.</b>	2020-0230-PST-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Petroleum Storage Tank	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Ken Moller
		<b>EC's Team</b>	Enforcement Team 7
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$34,750</b>
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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.

<b>Compliance History</b>	<b>20.0%</b> Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$6,950</b>
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<b>Notes</b>	Enhancement for one order containing a denial of liability.
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<b>Culpability</b>	No	<b>0.0%</b> Enhancement	<b>Subtotal 4</b>	<b>\$0</b>
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<b>Notes</b>	The Respondent does not meet the culpability criteria.
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<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>\$0</b>
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<b>Economic Benefit</b>	<b>0.0%</b> Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts	\$837	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	#NAME?	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$41,700</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>0.9%</b> Adjustment	<b>\$367</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	Recommended enhancement to capture the avoided cost of compliance associated with Violation Nos. 1 and 3.
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<b>Final Penalty Amount</b>	<b>\$42,067</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$42,067</b>
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<b>DEFERRAL</b>	<b>0.0%</b> Reduction Adjustment	<b>\$0</b>
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Reduces the Final Assessed Penalty by the indicated percentage.

<b>Notes</b>	No deferral is recommended for Findings Orders.
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<b>PAYABLE PENALTY</b>	<b>\$42,067</b>
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**Screening Date** 4-Feb-2020

**Docket No.** 2020-0230-PST-E

**PCW**

**Respondent** IMMANUEL ENTERPRISE, INC. dba Fast Trac Food Mart

*Policy Revision 4 (April 2014)*

**Case ID No.** 54368

*PCW Revision March 26, 2014*

**Reg. Ent. Reference No.** RN102055076

**Media [Statute]** Petroleum Storage Tank

**Enf. Coordinator** Ken Moller

### Compliance History Worksheet

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

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgments or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 20%

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

No

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

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

Satisfactory Performer

**Adjustment Percentage (Subtotal 7)** 0%

**>> Compliance History Summary**

**Compliance History Notes**

Enhancement for one order containing a denial of liability.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 20%

**>> Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** 20%

Screening Date 4-Feb-2020

Docket No. 2020-0230-PST-E

PCW

Respondent IMMANUEL ENTERPRISE, INC. dba Fast Trac Food Mart

Policy Revision 4 (April 2014)

Case ID No. 54368

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102055076

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Ken Moller

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 334.50(b)(1)(A) and (b)(2) and Tex. Water Code § 26.3475(a) and (c)(1) and TCEQ Agreed Order, Docket No. 2017-0585-PST-E, Ordering Provision Nos. 2.b.i, 2.b.ii, and 2.c

Violation Description

Failed to monitor the underground storage tanks ("USTs") for releases in a manner which will detect a release at a frequency of at least once every 30 days. Also, failed to provide release detection for the pressurized piping associated with the UST system. Specifically, the Respondent had not conducted the annual piping tightness and line leak detector testing.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				15.0%
Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes

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

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 9 Number of violation days 791

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$33,750

Nine quarterly events are recommended from the Order effective date of December 5, 2017 to the February 4, 2020 screening date.

Good Faith Efforts to Comply

0.0%

Reduction \$0

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

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

Violation Subtotal \$33,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$509

Violation Final Penalty Total \$40,856

This violation Final Assessed Penalty (adjusted for limits) \$40,856

## Economic Benefit Worksheet

**Respondent** IMMANUEL ENTERPRISE, INC. dba Fast Trac Food Mart  
**Case ID No.** 54368  
**Reg. Ent. Reference No.** RN102055076  
**Media** Petroleum Storage Tank  
**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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### 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
Other (as needed)	\$1,500	5-Dec-2017	22-Nov-2020	2.97	\$223	n/a	\$223
Other (as needed)	\$118	5-Dec-2017	22-Nov-2020	2.97	\$18	n/a	\$18

**Notes for DELAYED costs**

Estimated delayed cost to monitor the USTs for releases (\$1,500) and to conduct the annual piping tightness and line leak detector testing (\$118). The Dates Required are the effective date of TCEQ Agreed Order, Docket No. 2017-0585-PST-E, and the Final Dates are 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	\$118	5-Dec-2017	4-Feb-2020	2.17	\$13	\$256	\$269
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**

Estimated avoided cost to conduct the annual piping tightness and line leak detector testing. The Date Required is the effective date of TCEQ Agreed Order, Docket No. 2017-0585-PST-E, and the Final Date is the screening date.

Approx. Cost of Compliance

\$1,736

**TOTAL**

\$509

Screening Date 4-Feb-2020

Docket No. 2020-0230-PST-E

PCW

Respondent IMMANUEL ENTERPRISE, INC. dba Fast Trac Food Mart

Policy Revision 4 (April 2014)

Case ID No. 54368

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102055076

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Ken Moller

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.10(b)(1)(B) and TCEQ Agreed Order, Docket No. 2017-0585-PST-E, Ordering Provision Nos. 2.a and 2.c

Violation Description Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel. Specifically, the Respondent failed to provide overfill control records.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
			x	1.0%

Matrix Notes Less than 30% of the rule requirement was not met.

Adjustment \$24,750

\$250

Violation Events

Number of Violation Events 1 791 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$250

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	
N/A	x

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

Violation Subtotal \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$7

Violation Final Penalty Total \$303

This violation Final Assessed Penalty (adjusted for limits) \$303

## Economic Benefit Worksheet

**Respondent** IMMANUEL ENTERPRISE, INC. dba Fast Trac Food Mart  
**Case ID No.** 54368  
**Reg. Ent. Reference No.** RN102055076  
**Media** Petroleum Storage Tank  
**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
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### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$45	5-Dec-2017	22-Nov-2020	2.97	\$7	n/a	\$7
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

Estimated delayed cost to maintain overfill control records. The Date Required is the effective date of TCEQ Agreed Order, Docket No. 2017-0585-PST-E, and the 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]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

Approx. Cost of Compliance

\$45

**TOTAL**

\$7



Screening Date 4-Feb-2020

Docket No. 2020-0230-PST-E

PCW

Respondent IMMANUEL ENTERPRISE, INC. dba Fast Trac Food Mart

Policy Revision 4 (April 2014)

Case ID No. 54368

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102055076

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Ken Moller

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 334.605(a) and (b)

Violation Description Failed to ensure that a certified Class A, Class B, and Class C operator is re-trained within three years of their last training date. Specifically, the Respondent's Class A, Class B, and Class C operator certification expired on March 17, 2019.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			x

Percent 3.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes Human health or the environment will or could be exposed to insignificant amounts pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$24,250

\$750

Violation Events

Number of Violation Events 1 249 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$750

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	

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

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$103

Violation Final Penalty Total \$908

This violation Final Assessed Penalty (adjusted for limits) \$908

## Economic Benefit Worksheet

**Respondent** IMMANUEL ENTERPRISE, INC. dba Fast Trac Food Mart  
**Case ID No.** 54368  
**Reg. Ent. Reference No.** RN102055076  
**Media** Petroleum Storage Tank  
**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
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

### 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	\$90	21-Nov-2019	22-Nov-2020	1.01	\$5	n/a	\$5
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**

Actual delayed cost to re-train one named individual as Class A and Class B operator for the Facility. The Date Required is the investigation date, and the 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]	\$90	17-Mar-2019	4-Feb-2020	1.81	\$8	\$90	\$98
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

Actual avoided cost to re-train one named individual as Class A and Class B operator for the Facility. The Date Required is the expiration date of the previous Class A, Class B, and Class C Operator training, and the Final Date is the screening date.

Approx. Cost of Compliance

\$180

**TOTAL**

\$103

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



# Compliance History Report

Compliance History Report for CN604906206, RN102055076, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

**Customer, Respondent, or Owner/Operator:** CN604906206, IMMANUEL ENTERPRISE, INC. **Classification:** SATISFACTORY **Rating:** 19.29

**Regulated Entity:** RN102055076, Fast Trac Food Mart **Classification:** SATISFACTORY **Rating:** 19.29

**Complexity Points:** 7 **Repeat Violator:** NO

**CH Group:** 14 - Other

**Location:** 1702 West Main Street, Grand Prairie, Dallas County, Texas

**TCEQ Region:** REGION 04 - DFW METROPLEX

**ID Number(s):**

**TIRES REGISTRATION** 8594

**PETROLEUM STORAGE TANK REGISTRATION**  
REGISTRATION 43820

**Compliance History Period:** September 01, 2015 to August 31, 2020 **Rating Year:** 2020 **Rating Date:** 09/01/2020

**Date Compliance History Report Prepared:** January 26, 2022

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** November 06, 2015 to November 05, 2020

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

**Name:** Ken Moller

**Phone:** (512) 239-6111

**Site and Owner/Operator History:**

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

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

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

1 Effective Date: 12/05/2017 ADMINORDER 2017-0585-PST-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3475(c)(1)  
30 TAC Chapter 334, SubChapter C 334.50(b)(1)(A)

Description: Failure to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring).

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3475(a)  
30 TAC Chapter 334, SubChapter C 334.50(b)(2)

Description: Failure to provide release detection for the pressurized piping associated with the UST system.

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter A 334.10(b)(1)(B)  
30 TAC Chapter 334, SubChapter C 334.51(c)(1)

Description: Failure to maintain UST records and make them immediately available for inspection upon request by agency personnel.

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

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

N/A

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

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

N/A

**F. Environmental audits:**

N/A

**G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A

**Component Appendices**

**Appendix A**

**All NOVs Issued During Component Period 11/6/2015 and 11/5/2020**

N/A

For Informational Purposes Only

**Appendix B**

**All Investigations Conducted During Component Period November 06, 2015 and November 05, 2020**

(1401880)

Item 1

April 13, 2017\*\*

For Informational Purposes Only

(1616804)

Item 2

January 23, 2020\*\*

For Informational Purposes Only

\* No violations documented during this investigation

\*\*Investigation applicable for the Compliance History Rating period between 09/01/2015 and 08/31/2020.

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN ENFORCEMENT  
ACTION CONCERNING  
IMMANUEL ENTERPRISE, INC.  
DBA FAST TRAC FOOD MART;  
RN102055076

§  
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§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

## AGREED ORDER

DOCKET NO. 2020-0230-PST-E

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding IMMANUEL ENTERPRISE, INC. dba Fast Trac Food Mart ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent presented this Order to the Commission.

Respondent understands it has certain procedural rights at certain points in the enforcement process, including the right to formal notice of violations, to request an evidentiary hearing, receive notice of an evidentiary hearing, and a right to appeal. By entering into this Order, Respondent agrees to waive all notice and procedural rights which might otherwise be authorized or required in this action.

It is further understood and agreed that this Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Order are binding upon Respondent.

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

### FINDINGS OF FACT

1. Respondent owns and operates, as defined in 30 TEX. ADMIN. CODE § 334.2(78) and (75), an underground storage tank ("UST") system located at 1702 West Main Street in Grand Prairie, Dallas County, Texas (Facility ID No. 43820) (the "Facility"). The USTs at the Facility are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission, and they contain or contained a regulated petroleum substance as defined in the rules of the TCEQ.
2. During an investigation conducted on and around November 21, 2019, an investigator documented that Respondent:
  - a. Failed to monitor the USTs for releases in a manner which will detect a release at a frequency of at least once every 30 days;
  - b. Failed to provide release detection for the pressurized piping associated with the UST system. Specifically, Respondent had not conducted the annual piping tightness and line leak detector testing;
  - c. Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel. Specifically, Respondent failed to provide overfill control records; and

- d. Failed to ensure that a certified Class A, Class B, and Class C operator is re-trained within three years of their last training date. Specifically, Respondent's Class A, Class B, and Class C operator certification expired on March 17, 2019.

#### CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to monitor the USTs for releases in a manner which will detect a release at a frequency of at least once every 30 days, in violation of TEX. WATER CODE § 26.3475(c)(1), 30 TEX. ADMIN. CODE § 334.50(b)(1)(A), and TCEQ Agreed Order, Docket No. 2017-0585-PST-E, Ordering Provisions Nos. 2.b.i. and 2.c.
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to provide release detection for the pressurized piping associated with the UST system, in violation of TEX. WATER CODE § 26.3475(a), 30 TEX. ADMIN. CODE § 334.50(b)(2), and TCEQ Agreed Order, Docket No. 2017-0585-PST-E, Ordering Provisions Nos. 2.b.ii. and 2.c.
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to maintain UST records and make them immediately available for inspection upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 334.10(b)(1)(B) and TCEQ Agreed Order, Docket No. 2017-0585-PST-E, Ordering Provisions Nos. 2.a. and 2.c.
5. As evidenced by Finding of Fact No. 2.d., Respondent failed to ensure that a certified Class A, Class B, and Class C operator is re-trained within three years of their last training date, in violation of 30 TEX. ADMIN. CODE § 334.605(a) and (b).
6. Pursuant to TEX. WATER CODE § 7.051, the TCEQ has the authority to assess an administrative penalty against Respondent for violations of state statutes within the TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount of forty-two thousand sixty-seven dollars (\$42,067.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Revenue Operations Section of the TCEQ's Financial Administration Division reviewed the financial documentation submitted by Respondent and determined that Respondent is unable to pay all or part of the penalty. Therefore, thirty-eight thousand four hundred sixty-seven dollars (\$38,467.00) of the penalty is deferred contingent upon Respondent's timely and satisfactory compliance with all the terms of this Order and shall be waived only upon full compliance with all the terms and conditions contained in this Order.

Respondent paid one hundred dollars (\$100.00) of the three thousand six hundred dollar undeferred penalty. The remaining amount of three thousand five hundred dollars (\$3,500.00) of the undeferred penalty shall be paid in thirty-five (35) monthly payments of one hundred dollars (\$100.00) 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 Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, 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 and conditions of this Order and the Executive Director may demand payment of all or part of the deferred penalty amount.

### ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty as set forth in Conclusion of Law No. 7 for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondent's compliance with all requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations not raised here. Penalty payments shall be made payable to the TCEQ and shall be sent with the notation "Re: IMMANUEL ENTERPRISE, INC. dba Fast Trac Food Mart, Docket No. 2020-0230-PST-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, begin maintaining all UST records, including those for overfill prevention, and ensure they are made immediately available for inspection upon request by agency personnel, in accordance with 30 TEX. ADMIN. CODE § 334.10;
  - b. Within 30 days after the effective date of this Order:
    - i. Implement a release detection method for all USTs at the Facility, in accordance with 30 TEX. ADMIN. CODE § 334.50;
    - ii. Conduct the annual piping tightness and line leak detector testing, in accordance with 30 TEX. ADMIN. CODE § 334.50; and
    - iii. Re-train named individuals as Class A, Class B, and Class C operators for the Facility, in accordance with 30 TEX. ADMIN. CODE § 334.605.
  - c. In lieu of Ordering Provision No. 2.b., within 90 days after the effective date of this Order, properly and permanently remove the UST system from service, in accordance with 30 TEX. ADMIN. CODE § 334.55; and
  - d. Within 105 days after the effective date of this Order, submit written certification to demonstrate compliance with Ordering Provisions Nos. 2.a., and either 2.b. or 2.c. The certification shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by Respondent, and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and 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."

The written certification and supporting documentation necessary to demonstrate compliance with these Ordering Provisions shall be sent to:

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

and:

Waste Section Manager  
Dallas/Fort Worth Regional Office  
Texas Commission on Environmental Quality  
2309 Gravel Drive  
Fort Worth, Texas 76118-6951

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 Facility operations referenced in this Order.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by 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.
6. 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.
7. This Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the Office of the Attorney General of the State of Texas ("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. The Executive Director may, without further notice or hearing, refer this matter to the OAG for further enforcement proceedings if the Executive Director determines Respondent has not complied with one or more of the terms or conditions in this Order.
8. 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.
9. 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.



10. 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.
11. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

*Erin E. Chanallop*

04/18/22

For the Executive Director

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.

*Nirbik Rana*

Feb/12/2022

Signature - Nirbik Rana, President  
IMMANUEL ENTERPRISE, INC. dba Fast Trac Food Mart  
1702 West Main Street  
Grand Prairie, Texas 75050

Date

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

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