

TCEQ Interoffice Memorandum

To: Mary Smith, General Counsel
Audrey Liter, Assistant General Counsel

Thru: Anna Treadwell, Senior Attorney
AMT Litigation Division

From: *TP* Taylor Pearson, Staff Attorney
Litigation Division

Date: February 6, 2025

Subject: **Backup Revision**
February 13, 2025 Commission Agenda
Item No. 11 Lazarus Refining & Marketing, LLC
Docket No. 2020-1284-IHW-E

Enclosed please find the following:

Page 1 of the Executive Summary:

Past-Due Fees were revised to: "None"

Page 3 of the Executive Summary:

Respondent Contact information revised to: "Jonathan Carroll, Director, Lazarus Refining & Marketing, LLC, 801 Travis Street, Suite 2100, Houston, Texas 77002"

Counsel for Respondent:

Ragna Henrichs, Attorney for Respondent
Porter Hedges LLP
1000 Main Street, 36th Floor
Houston, Texas 77002

Respondent Contact:

Jonathan Carroll, Director
Lazarus Refining & Marketing, LLC
801 Travis Street, Suite 2100
Houston, Texas 77002

Please do not hesitate to call Taylor Pearson at (512) 920-3265 if you have any questions regarding this matter.

cc: Ken Moller, Enforcement Division
Bettye Urban, San Antonio Regional Office
Gill Valls, Office of the General Counsel
Michael Parrish, Enforcement Division
Leslie Gann, Enforcement Division
Stuart Beckley, Enforcement Division
Ragna Henrichs, Counsel for Respondent

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 53811
Lazarus Refining & Marketing, LLC
RN105094031
Docket No. 2020-1284-IHW-E

Page 1 of 3

Order Type:

Findings Agreed Order

Findings Order Justification:

Indifference to legal duty based on violation of a previous order.

Media:

IHW

Small Business:

No

Location Where Violations Occurred:

11372 United States Highway 87 East, Nixon, Wilson County

Type of Operation:

oil refinery

Other Significant Matters:

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	\$124.25
Other:	None
Interested Third-Parties:	None

Texas Register Publication Date: December 20, 2024

Comments Received: None

Penalty Information

Total Penalty Assessed: \$355,087

Total Paid to General Revenue: \$9,882

Total Due to General Revenue: \$345,205

Payment Plan: 35 payments of \$9,863

Compliance History Classifications:

Person/CN – Satisfactory
Site/RN – Satisfactory

Major Source: Yes

Statutory Limit Adjustment: None

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date: N/A

Dates of Investigation: January 29, 2020 to March 2, 2020;

Date of NOV: N/A

Date of NOE: August 31, 2020

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3. If the Executive Director determines that the APAR indicates that response actions are necessary, comply with all applicable requirements of TRRP.
4. If the Executive Director determines that the APAR indicates that response actions are necessary, submit written certification to demonstrate compliance with Technical Requirements 1 through 3.

Litigation Information

Date Petition Filed: March 31, 2022
Date of Service: April 4, 2022
Date Answer Filed: April 22, 2022
SOAH Referral Date: June 11, 2024
Hearing Date:
Preliminary hearing: August 8, 2024
Settlement Date: November 19, 2024

Contact Information

TCEQ Attorneys: Taylor Pearson, Litigation Division, (512) 239-3400
Sheldon Wayne, Public Interest Counsel, (512) 239-6363
TCEQ Litigation Agenda Coordinator: Katherine McKenzie, Litigation Division, (512) 239-2575
TCEQ Enforcement Coordinator: Ken Moller, Enforcement Division, (512) 239-6111
TCEQ Regional Contact: Bettye Urban, San Antonio Regional Office, (210) 403-4011
Respondent Contact: Johnathan Carroll, Director, Lazarus Refining & Marketing, LLC, ~~1614 Sidney Baker Street, Kerrville, Texas 78028-264~~
Respondent's Attorney: Ragna Henrichs, Porter Hedges LLP, 1000 Main Street, 36th Floor Houston, Texas 77002

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Date of NOV: N/A

Date of NOE: August 31, 2020

Lazarus Refining & Marketing, LLC

RN105094031

Docket No. 2020-1284-IHW-E

Violation Information

1. Caused, suffered, allowed, or permitted the storage of industrial and hazardous waste (“IHW”) without authorization [30 TEX. ADMIN. CODE §§ 335.2(a) and 335.43(a) and TCEQ Agreed Order, Docket No. (“DN”) 2017-0018-IHW-E, Ordering Provision (“OP”) No. 2.a].
2. Failed to conduct hazardous waste (“HW”) determinations and classifications [30 TEX. ADMIN. CODE §§ 335.62, 335.503(a), and 335.504, 40 C.F.R. § 262.11, and TCEQ Agreed Order, DN 2017-0018-IHW-E, OP No. 2.b.ii].
3. Failed to submit to the Executive Director a complete and correct Annual Waste Summary (“AWS”) detailing the management of each waste generated on-site during the reporting calendar year [30 TEX. ADMIN. CODE § 335.9(a)(2)].
4. Failed to properly complete all closure obligations for solid waste management units (“SWMUs”) at an IHW facility [30 TEX. ADMIN. CODE § 335.8(b)].
5. Failed to record the date that each period of waste accumulation begins on all HW storage containers; also, failed to label each waste storage container clearly with the words, “Hazardous Waste” [30 TEX. ADMIN. CODE § 335.69(a)(2) and (a)(3)].
6. Caused, suffered, allowed, or permitted the unauthorized disposal of industrial solid waste (“ISW”) [30 TEX. ADMIN. CODE § 335.4].
7. Failed to update the Facility’s Notice of Registration (“NOR”) [30 TEX. ADMIN. CODE § 335.6(c)].
8. Failed to maintain records of all IHW and ISW activities [30 TEX. ADMIN. CODE § 335.9(a)(1)(A) and TCEQ Agreed Order, DN 2017-0018-IHW-E, OP No. 2.b.i].

Corrective Actions/Technical Requirements**Corrective Actions Completed:**

1. Ceased unauthorized storage of IHW at the Facility as of February 10, 2020.
2. Ceased unauthorized disposal of IHW and ISW at the Facility as of July 30, 2024.
3. Conducted all required hazardous waste determinations and classifications at the Facility as of October 2, 2023.
4. Maintained records of all IHW and ISW at the Facility as of July 30, 2024.
5. Updated the Facility’s NOR at the Facility as of July 25, 2024.
6. Recorded the date that each period of waste accumulation begins on all HW storage containers and labeled each waste storage container clearly with the words, “Hazardous Waste,” at the Facility as of July 30, 2024.
7. Properly completed all closure obligations for SWMUs at the Facility as of May 13, 2021.
8. Submitted to the Executive Director a complete and correct AWS detailing the management of each waste generated on-site for the years of 2017, 2018 and 2019 at the Facility as of October 8, 2024.

Technical Requirements:

1. Within 105 days conduct an investigation to determine whether response actions are necessary under Texas Risk Reduction Program (“TRRP”) and submit copies of the results to the Executive Director, via both the Remediation Division and Enforcement Division.
2. If the Executive Director determines that response actions are necessary, submit an Affected Property Assessment Report (“APAR”).

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Respondent's Attorney: Ragna Henrichs, Porter Hedges LLP, 1000 Main Street, 36th Floor Houston, Texas 77002

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Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

DATES	Assigned	8-Sep-2020		
	PCW	1-Oct-2020	Screening	22-Sep-2020
			EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Lazarus Refining & Marketing, LLC		
Reg. Ent. Ref. No.	RN105094031		
Facility/Site Region	13-San Antonio	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	53811	No. of Violations	8
Docket No.	2020-1284-IHW-E	Order Type	Findings
Media Program(s)	Industrial and Hazardous Waste	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Ken Moller
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$266,250
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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	39.0%	Adjustment	Subtotals 2, 3, & 7	\$103,837
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Notes: Enhancement for two prior Agreed Orders containing denials of liability and reduction for one notice of intent to conduct an environmental audit.

Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$15,000
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$10,707
Estimated Cost of Compliance	\$100,300

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$355,087
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$355,087
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$355,087
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$355,087
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Screening Date	22-Sep-2020	Docket No.	2020-1284-IHW-E	PCW
Respondent	Lazarus Refining & Marketing, LLC			<i>Policy Revision 4 (April 2014)</i>
Case ID No.	53811			<i>PCW Revision March 26, 2014</i>
Reg. Ent. Reference No.	RN105094031			
Media	Industrial and Hazardous Waste			
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>)	2	40%
	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%
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) 39%

>> 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 two prior Agreed Orders containing denials of liability and reduction for one notice of intent to conduct an environmental audit.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 39%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 39%

Screening Date	22-Sep-2020	Docket No.	2020-1284-IHW-E	PCW	
Respondent	Lazarus Refining & Marketing, LLC				<i>Policy Revision 4 (April 2014)</i>
Case ID No.	53811				<i>PCW Revision March 26, 2014</i>
Reg. Ent. Reference No.	RN105094031				
Media	Industrial and Hazardous Waste				
Enf. Coordinator	Ken Moller				
Violation Number	1				
Rule Cite(s)	30 Tex. Admin. Code §§ 335.43(a) and 335.2(a) and TCEQ Agreed Order, Docket No. ("DN") 2017-0018-IHW-E, Ordering Provision ("OP") No. 2.a				
Violation Description	Caused, suffered, allowed, or permitted the storage of industrial and hazardous waste ("IHW") without authorization. Specifically, the Respondent stored caustic hazardous waste for longer than 90 days without authorization.				
		Base Penalty	\$25,000		

>> Environmental, Property and Human Health Matrix

OR		Release	Harm		
		Major	Moderate	Minor	
	Actual				Percent
	Potential				

0.0%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
		x			Percent

15.0%

Matrix Notes	100% of the rule requirements were not met.
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Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events	16	Number of violation days	462
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	daily			
	weekly			
	monthly	x		
	quarterly			
	semiannual			
	annual			
	single event			

Violation Base Penalty \$60,000

Sixteen monthly events are recommended, calculated from the November 5, 2018 effective date of Agreed Order, Docket No. 2017-0018-IHW-E to the February 10, 2020 compliance date.

Good Faith Efforts to Comply

	25.0%		
	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer	
Extraordinary			
Ordinary	x		
N/A			
Notes	The Respondent achieved compliance on February 10, 2020, prior to the August 31, 2020 Notice of Enforcement.		

Reduction \$15,000

Violation Subtotal \$45,000

Economic Benefit (EB) for this violation

Estimated EB Amount	\$6	Statutory Limit Test	
		Violation Final Penalty Total	\$68,400
		This violation Final Assessed Penalty (adjusted for limits)	\$68,400

Economic Benefit Worksheet

Respondent Lazarus Refining & Marketing, LLC
Case ID No. 53811
Reg. Ent. Reference No. RN105094031
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	Costs Saved	EB Amount
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	5-Nov-2018	10-Feb-2020	1.27	\$6	n/a	\$6

Notes for DELAYED costs

Estimated delayed cost to develop and implement a process designed to ensure that all IHW is disposed of at an authorized facility within 90 days of the accumulation start date. The Date Required is the Order effective date, and the Final Date is the date of compliance.

Avoided Costs

ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$6

Screening Date	22-Sep-2020	Docket No.	2020-1284-IHW-E	PCW																
Respondent	Lazarus Refining & Marketing, LLC			Policy Revision 4 (April 2014)																
Case ID No.	53811			PCW Revision March 26, 2014																
Reg. Ent. Reference No.	RN105094031																			
Media	Industrial and Hazardous Waste																			
Enf. Coordinator	Ken Moller																			
Violation Number	2																			
Rule Cite(s)	30 Tex. Admin. Code §§ 335.62, 335.503(a) and 335.504 and 40 Code of Federal Regulation ("CFR") § 262.11 and TCEQ Agreed Order, DN 2017-0018-IHW-E, OP No. 2.b.ii																			
Violation Description	<p>Failed to conduct hazardous waste ("HW") determinations and classifications. Specifically, the Respondent did not conduct HW determinations and classifications for the following waste streams: used jet fuel filters, scrap metal, used (empty) lab glass, parts washer waste, and caustic waste in the tank farm.</p>																			
		Base Penalty	\$25,000																	
>> Environmental, Property and Human Health Matrix																				
OR	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td></td> <th colspan="3">Harm</th> </tr> <tr> <td style="text-align: center;">Release</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> </tr> <tr> <td style="text-align: center;">Actual</td> <td></td> <td></td> <td></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td style="text-align: center;">x</td> <td></td> <td></td> </tr> </table>					Harm			Release	Major	Moderate	Minor	Actual				Potential	x		
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				Percent 30.0%																
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	Major	Moderate	Minor																	
Falsification																				
				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	\$17,500																		
		\$7,500																		
Violation Events																				
	Number of Violation Events	5	687	Number of violation days																
	<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td>daily</td><td></td></tr> <tr><td>weekly</td><td></td></tr> <tr><td>monthly</td><td></td></tr> <tr><td>quarterly</td><td></td></tr> <tr><td>semiannual</td><td></td></tr> <tr><td>annual</td><td></td></tr> <tr><td>single event</td><td style="text-align: center;">x</td></tr> </table>	daily		weekly		monthly		quarterly		semiannual		annual		single event	x					
daily																				
weekly																				
monthly																				
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annual																				
single event	x																			
		Violation Base Penalty \$37,500																		
	Five single events are recommended (one event per waste stream).																			
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	\$37,500																	
Economic Benefit (EB) for this violation																				
	Estimated EB Amount	\$3,231	Violation Final Penalty Total	\$52,125																
	This violation Final Assessed Penalty (adjusted for limits)			\$52,125																

Economic Benefit Worksheet

Respondent Lazarus Refining & Marketing, LLC
Case ID No. 53811
Reg. Ent. Reference No. RN105094031
Media Industrial and Hazardous Waste
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$21,000	5-Nov-2018	2-Dec-2021	3.08	\$3,231	n/a	\$3,231

Notes for DELAYED costs

Estimated delayed cost to conduct waste determinations and classifications for the used jet fuel filters, scrap metal, used (empty) lab glass, parts washer waste, and caustic waste in the tank farm waste streams (\$4,200 per waste stream). The Date Required is the Order effective date, and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$21,000

TOTAL

\$3,231

Screening Date	22-Sep-2020	Docket No.	2020-1284-IHW-E	PCW
Respondent	Lazarus Refining & Marketing, LLC			<i>Policy Revision 4 (April 2014)</i>
Case ID No.	53811			<i>PCW Revision March 26, 2014</i>
Reg. Ent. Reference No.	RN105094031			
Media	Industrial and Hazardous Waste			
Enf. Coordinator	Ken Moller			
Violation Number	3			
Rule Cite(s)	30 Tex. Admin. Code § 335.9(a)(2)			
Violation Description	Failed to submit to the Executive Director a complete and correct Annual Waste Summary ("AWS") detailing the management of each waste generated on-site during the reporting calendar year. Specifically, the Respondent submitted AWSs indicating discrepancies between the waste manifests and AWSs for the years 2017, 2018, and 2019; additionally, the Respondent generated wastes belonging to Waste Code ("WC") Nos. 00123891 (spent sandblast media) and 00184891 (Class 1 waste) that did not appear on any AWS submitted.			
			Base Penalty	\$25,000
>> Environmental, Property and Human Health Matrix				
OR	Release		Harm	
	Major	Moderate	Minor	
	Actual			
	Potential			
			Percent	0.0%
>>Programmatic Matrix				
	Falsification	Major	Moderate	Minor
		x		
			Percent	15.0%
Matrix Notes	Greater than 70% of the rule requirement was not met.			
			Adjustment	\$21,250
				\$3,750
Violation Events				
Number of Violation Events		3	237	Number of violation days
	daily			
	weekly			
	monthly			
	quarterly			
	semiannual			
	annual			
	single event	x		
			Violation Base Penalty	\$11,250
			Three single events are recommended (one event for each AWS identified with incomplete or incorrect information).	
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	\$11,250
Economic Benefit (EB) for this violation				
Statutory Limit Test				
Estimated EB Amount		\$423	Violation Final Penalty Total	\$15,638
This violation Final Assessed Penalty (adjusted for limits)			\$15,638	

Economic Benefit Worksheet

Respondent Lazarus Refining & Marketing, LLC
Case ID No. 53811
Reg. Ent. Reference No. RN105094031
Media Industrial and Hazardous Waste
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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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	\$100	29-Jan-2020	2-Dec-2021	1.84	\$9	n/a	\$9
Training/Sampling				0.00	\$0	n/a	\$0
2017 AWS	\$1,000	1-Mar-2018	2-Dec-2021	3.76	\$188	n/a	\$188
2018 AWS	\$1,000	1-Mar-2019	2-Dec-2021	2.76	\$138	n/a	\$138
2019 AWS	\$1,000	1-Mar-2020	2-Dec-2021	1.76	\$88	n/a	\$88

Notes for DELAYED costs

Estimated delayed cost to develop and implement procedures designed to ensure the submission of a complete and correct annual waste summary each calendar year (\$100). The Date Required is the investigation date, and Final Date is the estimated date of compliance.

Estimated delayed costs to submit a complete and correct AWS for the 2017, 2018, and 2019 calendar years (\$1,000 per year). The Dates Required are the relative date each year from 2017 to 2019 that a complete and correct AWS was due, and the Final Dates are the estimated date of compliance.

Avoided Costs

ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$3,100

TOTAL

\$423

Screening Date 22-Sep-2020 Respondent Lazarus Refining & Marketing, LLC Case ID No. 53811 Reg. Ent. Reference No. RN105094031 Media Industrial and Hazardous Waste Enf. Coordinator Ken Moller	Docket No. 2020-1284-IHW-E <div style="text-align: right;"> <i>Policy Revision 4 (April 2014)</i> <i>PCW Revision March 26, 2014</i> </div>	PCW
Violation Number 4		
Rule Cite(s) 30 Tex. Admin. Code § 335.8(b)		
Violation Description Failed to properly complete all closure obligations for solid waste management units ("SWMUs") at an IHW facility. Specifically, the Respondent did not complete the closure of SWMU003, SWMU004, and SWMU005, which were registered as inactive SWMUs but were observed functioning as active diesel fuel storage tanks (SWMU003, SWMU004) and jet fuel storage tanks (SWMU005), respectively; additionally, the Respondent did not complete the closure of the SWMUs for the evaporation and oxidation ponds, and the API separator. 		
Base Penalty		\$25,000
>> Environmental, Property and Human Health Matrix		
OR	Release	Harm
		Major Moderate Minor
	Actual	
Potential	x	
Percent		30.0%
>> Programmatic Matrix		
	Falsification Major Moderate Minor	
Percent		0.0%
Matrix Notes	Human health or the environment will or could be exposed to pollutants that would exceed levels that are protective of human health or environmental receptors as a result of the violation.	
Adjustment		\$17,500
		\$7,500
Violation Events		
Number of Violation Events		8
		237
		Number of violation days
	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	
Violation Base Penalty		\$60,000
Eight monthly events are recommended from the January 29, 2020 investigation date to the September 22, 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		\$60,000
Economic Benefit (EB) for this violation		
Statutory Limit Test		
Estimated EB Amount	\$922	Violation Final Penalty Total
		\$83,400
This violation Final Assessed Penalty (adjusted for limits)		\$83,400

Economic Benefit Worksheet

Respondent Lazarus Refining & Marketing, LLC
Case ID No. 53811
Reg. Ent. Reference No. RN105094031
Media Industrial and Hazardous Waste
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	29-Jan-2020	2-Dec-2021	1.84	\$922	n/a	\$922

Notes for DELAYED costs

Estimated delayed cost to submit closure reports demonstrating proper closure of SWMU Nos. SWMU003, SWMU004, and SWMU005, as well as the evaporation and oxidation ponds, and the API separator for review, possible modification, and approval. The Date Required is the investigation date, and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$922

Screening Date	22-Sep-2020	Docket No.	2020-1284-IHW-E	PCW	
Respondent	Lazarus Refining & Marketing, LLC				Policy Revision 4 (April 2014)
Case ID No.	53811				PCW Revision March 26, 2014
Reg. Ent. Reference No.	RN105094031				
Media	Industrial and Hazardous Waste				
Enf. Coordinator	Ken Moller				
Violation Number	5				
Rule Cite(s)	30 Tex. Admin. Code § 335.69(a)(2) and (a)(3)				
Violation Description	Failed to record the date that each period of waste accumulation begins on all HW storage containers; also, failed to label each waste storage container clearly with the words, "Hazardous Waste". Specifically, the Respondent stored caustic material in tanks with no accumulation start date indicated and that were not labeled with the words "Hazardous Waste".				
		Base Penalty	\$25,000		

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				
	Potential				

>> Programmatic Matrix

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

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events	8		237	Number of violation days														
	<table style="border: 1px solid black; width: 100%;"> <tr><td>daily</td><td style="border: 1px solid black; width: 50px; height: 20px;"></td></tr> <tr><td>weekly</td><td style="border: 1px solid black; width: 50px; height: 20px;"></td></tr> <tr><td>monthly</td><td style="border: 1px solid black; width: 50px; height: 20px; text-align: center;">x</td></tr> <tr><td>quarterly</td><td style="border: 1px solid black; width: 50px; height: 20px;"></td></tr> <tr><td>semiannual</td><td style="border: 1px solid black; width: 50px; height: 20px;"></td></tr> <tr><td>annual</td><td style="border: 1px solid black; width: 50px; height: 20px;"></td></tr> <tr><td>single event</td><td style="border: 1px solid black; width: 50px; height: 20px;"></td></tr> </table>	daily		weekly		monthly	x	quarterly		semiannual		annual		single event				
daily																		
weekly																		
monthly	x																	
quarterly																		
semiannual																		
annual																		
single event																		
		Violation Base Penalty	\$30,000															

Eight monthly events are recommended from the January 29, 2020 investigation date to the September 22, 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 \$30,000

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount	\$9
	Violation Final Penalty Total
	\$41,700
	This violation Final Assessed Penalty (adjusted for limits)
	\$41,700

Economic Benefit Worksheet

Respondent Lazarus Refining & Marketing, LLC
Case ID No. 53811
Reg. Ent. Reference No. RN105094031
Media Industrial and Hazardous Waste
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				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	29-Jan-2020	2-Dec-2021	1.84	\$9	n/a	\$9

Notes for DELAYED costs

Estimated delayed cost to mark accumulation start dates on all HW containers and to label all HW containers with the words "Hazardous Waste". The Date Required is the investigation date, and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$9

Screening Date	22-Sep-2020	Docket No.	2020-1284-IHW-E	PCW
Respondent	Lazarus Refining & Marketing, LLC			Policy Revision 4 (April 2014)
Case ID No.	53811			PCW Revision March 26, 2014
Reg. Ent. Reference No.	RN105094031			
Media	Industrial and Hazardous Waste			
Enf. Coordinator	Ken Moller			
Violation Number	6			
Rule Cite(s)	30 Tex. Admin. Code § 335.4			
Violation Description	Caused, suffered, allowed, or permitted the unauthorized disposal of ISW. Specifically, the Respondent disposed of spent sandblast media (WC No. 00123891) on the ground in the painting area and used it as berm reinforcement in the areas around storage tanks stored on the ground.			
		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	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	8	237	Number of violation days
	daily			
	weekly			
	monthly	x		
	quarterly			
	semiannual			
	annual			
	single event			
			Violation Base Penalty	\$60,000
	Eight monthly events are recommended from the January 29, 2020 investigation date to the September 22, 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	\$60,000	
Economic Benefit (EB) for this violation		Statutory Limit Test		
	Estimated EB Amount	\$5,993	Violation Final Penalty Total	\$83,400
	This violation Final Assessed Penalty (adjusted for limits)			\$83,400

Economic Benefit Worksheet

Respondent Lazarus Refining & Marketing, LLC
Case ID No. 53811
Reg. Ent. Reference No. RN105094031
Media Industrial and Hazardous Waste
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$50,000	29-Jan-2020	2-Dec-2021	1.84	\$4,610	n/a	\$4,610
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$15,000	29-Jan-2020	2-Dec-2021	1.84	\$1,383	n/a	\$1,383

Notes for DELAYED costs

Estimated delayed cost (\$50,000) to remove and dispose of the sandblast waste materials and soils contaminated with spent sandblast media from the Site at an authorized facility. The Date Required is the investigation date, and the Final Date is the estimated date of compliance.

Estimated delayed cost (\$15,000) to submit a report demonstrating the applicability of the Texas Risk Reduction Program ("TRRP") to the Executive Director and to comply with all applicable requirements of TRRP. The Date Required is the investigation date, and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$65,000

TOTAL

\$5,993

Screening Date	22-Sep-2020	Docket No.	2020-1284-IHW-E	PCW
Respondent	Lazarus Refining & Marketing, LLC	<i>Policy Revision 4 (April 2014)</i>		
Case ID No.	53811	<i>PCW Revision March 26, 2014</i>		
Reg. Ent. Reference No.	RN105094031			
Media	Industrial and Hazardous Waste			
Enf. Coordinator	Ken Moller			
Violation Number	7			
Rule Cite(s)	30 Tex. Admin. Code § 335.6(c)			
Violation Description	Failed to update the Facility's Notice of Registration ("NOR"). Specifically, the Respondent did not update the Facility's Notice of Registration ("NOR") to reflect its status as a large quantity generator ("LQG"), the SWMUs currently in use, or the waste streams generated by the Facility.			
		Base Penalty	\$25,000	

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual				Percent 0.0%
Potential					

>> Programmatic Matrix

Matrix Notes		Falsification	Major	Moderate	Minor	
			x			Percent 15.0%
100% of the rule requirement was not met.						
					Adjustment	\$21,250

\$3,750

Violation Events

Number of Violation Events	1	237	Number of violation days
	daily		Violation Base Penalty \$3,750
	weekly		
	monthly		
	quarterly		
	semiannual		
	annual		
	single event	x	
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	\$3,750

Economic Benefit (EB) for this violation

	Statutory Limit Test
Estimated EB Amount	\$46
	Violation Final Penalty Total
	\$5,213
This violation Final Assessed Penalty (adjusted for limits)	
\$5,213	

Economic Benefit Worksheet

Respondent Lazarus Refining & Marketing, LLC
Case ID No. 53811
Reg. Ent. Reference No. RN105094031
Media Industrial and Hazardous Waste
Violation No. 7

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	29-Jan-2020	2-Dec-2021	1.84	\$46	n/a	\$46
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 update the Facility's NOR to reflect its generator status change to a LQG, to reflect all SWMUs currently in use, and to identify all waste streams generated by the Facility. The Date Required is the investigation date, and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$46

Screening Date	22-Sep-2020	Docket No.	2020-1284-IHW-E	PCW	
Respondent	Lazarus Refining & Marketing, LLC				Policy Revision 4 (April 2014)
Case ID No.	53811				PCW Revision March 26, 2014
Reg. Ent. Reference No.	RN105094031				
Media	Industrial and Hazardous Waste				
Enf. Coordinator	Ken Moller				
Violation Number	8				
Rule Cite(s)	30 Tex. Admin. Code § 335.9(a)(1)(A) and TCEQ Agreed Order, DN 2017-0018-IHW-E, OP No. 2.b.i				
Violation Description	Failed to maintain records of all IHW and ISW activities. Specifically, the Respondent did not provide complete documentation for the spent Jet A treating clay waste stream; additionally, did not provide documentation regarding the quantities generated, stored, and disposed of from the following waste streams: used jet fuel filters, scrap metal, used (empty) lab glass, parts washer waste, and caustic waste in the tank farm.				
		Base Penalty	\$25,000		
>> Environmental, Property and Human Health Matrix					
OR	Release		Harm		
		Major	Moderate	Minor	
	Actual				
	Potential				Percent 0.0%
>> Programmatic Matrix					
	Falsification	Major	Moderate	Minor	
		x			Percent 15.0%
Matrix Notes	Greater than 70% of the rule requirement was not met.				
		Adjustment	\$21,250		
			\$3,750		
Violation Events					
	Number of Violation Events	1	687	Number of violation days	
	daily				
	weekly				
	monthly				
	quarterly				
	semiannual				
	annual				
	single event	x			Violation Base Penalty \$3,750
	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	\$3,750		
Economic Benefit (EB) for this violation					
Statutory Limit Test					
	Estimated EB Amount	\$77	Violation Final Penalty Total	\$5,213	
	This violation Final Assessed Penalty (adjusted for limits)			\$5,213	

Economic Benefit Worksheet

Respondent Lazarus Refining & Marketing, LLC
Case ID No. 53811
Reg. Ent. Reference No. RN105094031
Media Industrial and Hazardous Waste
Violation No. 8

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	5-Nov-2018	2-Dec-2021	3.08	\$77	n/a	\$77
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 records of all IHW and ISW activities. The Date Required is the effective date of Agreed Order, Docket No. 2017-0018-IHW-E, and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$77

The TCEQ is committed to accessibility.

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Compliance History Report

Compliance History Report for CN603114588, RN105094031, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

Customer, Respondent, or Owner/Operator: CN603114588, Lazarus Refining & Marketing, LLC
Classification: SATISFACTORY **Rating:** 16.17
Regulated Entity: RN105094031, Lazarus Texas Refinery 1 Nixon Refinery
Classification: SATISFACTORY **Rating:** 16.17
Complexity Points: 11 **Repeat Violator:** NO
CH Group: 02 - Oil and Petroleum Refineries
Location: 11372 United States Highway 87 East, Wilson, Wilson County, Texas
TCEQ Region: REGION 13 - SAN ANTONIO

ID Number(s):

AIR NEW SOURCE PERMITS PERMIT 81194	AIR NEW SOURCE PERMITS REGISTRATION 102682
AIR NEW SOURCE PERMITS REGISTRATION 136488	AIR NEW SOURCE PERMITS REGISTRATION 140989
AIR NEW SOURCE PERMITS REGISTRATION 134303	AIR NEW SOURCE PERMITS REGISTRATION 123717
AIR NEW SOURCE PERMITS REGISTRATION 134853	AIR NEW SOURCE PERMITS REGISTRATION 149741
AIR NEW SOURCE PERMITS AFS NUM 4849300126	STORMWATER PERMIT TXR05EM12
AIR EMISSIONS INVENTORY ACCOUNT NUMBER WLA003C	INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXR000079216
INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 88560	

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

Date Compliance History Report Prepared: August 20, 2021

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: August 20, 2016 to August 20, 2021

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: 03/20/2018 | ADMINORDER 2017-1033-AIR-E | (1660 Order-Agreed Order With Denial) |
| | Classification: Moderate | | |
| | Citation: 30 TAC Chapter 116, SubChapter B 116.115(c) | | |
| | 5C THSC Chapter 382 382.085(b) | | |
| | Rqmt Prov: 81194 PERMIT | | |
| | Description: Failure to install a flow monitor on flare LRF. | | |
| | Classification: Moderate | | |
| | Citation: 30 TAC Chapter 116, SubChapter B 116.115(c) | | |
| | 5C THSC Chapter 382 382.085(b) | | |
| | Rqmt Prov: 81194 PERMIT | | |
| | Description: Failure to keep records of tank throughput for each tank. Specifically, records of tank throughput were not maintained. | | |
| 2 | Effective Date: 11/05/2018 | ADMINORDER 2017-0018-IHW-E | (1660 Order-Agreed Order With Denial) |
| | Classification: Moderate | | |
| | Citation: 30 TAC Chapter 335, SubChapter B 335.43(a) | | |

Description: Caused, suffered, allowed, or permitted the storage, processing, or disposal of industrial solid waste without authorization

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter A 335.9(a)(1)(A)

Description: Failed to maintain records of hazardous and industrial solid waste ("ISW") activities

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter C 335.62

30 TAC Chapter 335, SubChapter R 335.503(a)

30 TAC Chapter 335, SubChapter R 335.504

40 CFR Chapter 262, SubChapter I, PT 262, SubPT A 262.11

Description: Failed to conduct a hazardous waste determination and classification

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter E 335.112(a)

40 CFR Chapter 265, SubChapter I, PT 265, SubPT I 265.174

Description: Failed to conduct weekly inspections of container storage areas

Classification: Minor

Citation: 2A TWC Chapter 5, SubChapter A 5.702

30 TAC Chapter 335, SubChapter J 335.323

Description: Failed to pay all annual Hazardous Waste Generation fees for TCEQ Financial Administration Account Nos. 0314733G and 0318048G for Fiscal Year 2017.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	June 20, 2019	(1569166)
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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:

Notice of Intent Date: 06/12/2018 (1498574)

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
LAZARUS REFINING & MARKETING, LLC;
RN105094031

§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER

DOCKET NO. 2020-1284-IHW-E

On _____, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Lazarus Refining & Marketing, LLC ("Respondent") under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE ch. 361. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, represented by Ragna Henrichs of the law firm Porter Hedges LLP, presented this Order to the Commission.

Respondent understands that 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 an oil refinery located at 11372 United States Highway 87 East in Nixon, Wilson County, Texas (the "Facility"). The Facility involves or involved the management of industrial and hazardous waste ("IHW") as defined in TEX. HEALTH & SAFETY CODE ch. 361.
2. During an investigation conducted on January 29, 2020, to March 2, 2020, an investigator documented that Respondent:
 - a. Caused, suffered, allowed, or permitted the storage of IHW without authorization. Specifically, Respondent stored caustic hazardous waste for longer than 90 days without authorization;
 - b. Failed to conduct hazardous waste ("HW") determinations and classifications. Specifically, Respondent did not conduct HW determinations and classifications for the following waste streams: used jet fuel filters, scrap metal, used (empty) lab glass, parts washer waste, and caustic waste in the tank farm;
 - c. Failed to submit to the Executive Director a complete and correct Annual Waste Summary ("AWS") detailing the management of each waste generated on-site during the reporting calendar year. Specifically, Respondent submitted AWSs indicating discrepancies between the waste manifests and AWSs for the years 2017, 2018, and 2019; additionally, Respondent generated wastes belonging to

- Waste Code ("WC") Nos. 00123891 (spent sandblast media) and 00184891 (Class 1 waste) that did not appear on any AWS submitted;
- d. Failed to properly complete all closure obligations for solid waste management units ("SWMUs") at an IHW facility. Specifically, Respondent did not complete the closure of SWMU003, SWMU004, and SWMU005, which were registered as inactive SWMUs but were observed functioning as active diesel fuel storage tanks (SWMU003, SWMU004) and jet fuel storage tanks (SWMU005), respectively; additionally, Respondent did not complete the closure of the SWMUs for the evaporation and oxidation ponds and the API separator;
 - e. Failed to record the date that each period of waste accumulation begins on all HW storage containers; also, failed to label each waste storage container clearly with the words, "Hazardous Waste." Specifically, Respondent stored caustic material in tanks with no accumulation start date indicated and that were not labeled with the words "Hazardous Waste;"
 - f. Caused, suffered, allowed, or permitted the unauthorized disposal of industrial solid waste ("ISW"). Specifically, Respondent disposed of spent sandblast media (WC No. 00123891) on the ground in the painting area and used it as berm reinforcement in the areas around storage tanks stored on the ground;
 - g. Failed to update the Facility's Notice of Registration ("NOR"). Specifically, Respondent did not update the Facility's NOR to reflect its status as a large quantity generator ("LQG"), the SWMUs currently in use, or the waste streams generated by the Facility; and
 - h. Failed to maintain records of all IHW and ISW activities. Specifically, Respondent did not provide complete documentation for the spent Jet A treating clay waste stream; additionally, did not provide documentation regarding the quantities generated, stored, and disposed of from the following waste streams: used jet fuel filters, scrap metal, used (empty) lab glass, parts washer waste, and caustic waste in the tank farm.
3. The Executive Director recognizes that Respondent:
- a. Ceased unauthorized storage of IHW at the Facility as of February 10, 2020;
 - b. Ceased unauthorized disposal of IHW and ISW at the Facility as of July 30, 2024;
 - c. Conducted all required hazardous waste determinations and classifications at the Facility as of October 2, 2023;
 - d. Maintained records of all IHW and ISW at the Facility as of July 30, 2024;
 - e. Updated the Facility's NOR at the Facility as of July 25, 2024;
 - f. Recorded the date that each period of waste accumulation begins on all HW storage containers and labeled each waste storage container clearly with the words, "Hazardous Waste," at the Facility as of July 30, 2024;
 - g. Properly completed all closure obligations for SWMUs at the Facility as of May 13, 2021; and
 - h. Submitted to the Executive Director a complete and correct AWS detailing the management of each waste generated on-site for the years of 2017, 2018 and 2019 at the Facility as of October 8, 2024.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 361 and the rules of the TCEQ.

2. As evidenced by Finding of Fact No. 2.a., Respondent caused, suffered, allowed, or permitted the storage of IHW without authorization, in violation of 30 TEX. ADMIN. CODE §§ 335.2(a) and 335.43(a) and TCEQ Agreed Order, Docket No. 2017-0018-IHW-E, Ordering Provision No. 2.a.
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to conduct HW determinations and classifications, in violation of 30 TEX. ADMIN. CODE §§ 335.62, 335.503(a), and 335.504, 40 C.F.R. § 262.11, and TCEQ Agreed Order, Docket No. 2017-0018-IHW-E, Ordering Provision No. 2.b.ii.
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to submit to the Executive Director a complete and correct AWS detailing the management of each waste generated on-site during the reporting calendar year, in violation of 30 TEX. ADMIN. CODE § 335.9(a)(2).
5. As evidenced by Finding of Fact No. 2.d., Respondent failed to properly complete all closure obligations for SWMUs at an IHW facility, in violation of 30 TEX. ADMIN. CODE § 335.8(b).
6. As evidenced by Finding of Fact No. 2.e., Respondent failed to record the date that each period of waste accumulation begins on all HW storage containers; also, failed to label each waste storage container clearly with the words, "Hazardous Waste," in violation of 30 TEX. ADMIN. CODE § 335.69(a)(2) and (a)(3).
7. As evidenced by Finding of Fact No. 2.f., Respondent caused, suffered, allowed, or permitted the unauthorized disposal of ISW, in violation of 30 TEX. ADMIN. CODE § 335.4.
8. As evidenced by Finding of Fact No. 2.g., Respondent failed to update the Facility's NOR, in violation of 30 TEX. ADMIN. CODE § 335.6(c).
9. As evidenced by Finding of Fact No. 2.h., Respondent failed to maintain records of all IHW and ISW activities, in violation of 30 TEX. ADMIN. CODE § 335.9(a)(1)(A) and TCEQ Agreed Order, Docket No. 2017-0018-IHW-E, Ordering Provision No. 2.b.i.
10. Pursuant to TEX. WATER CODE § 7.051, TCEQ has the authority to assess an administrative penalty against Respondent for violations of state statutes within TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
11. An administrative penalty in the amount of \$355,087 is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Respondent paid \$9,882 of the penalty. The remaining amount of \$345,205 shall be paid in 35 monthly payments of \$9,863 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 her 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 satisfactorily comply with all the terms of this Order.

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. 11 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 which are not raised here.

2. Respondent shall undertake the following technical requirements:

- a. Within 105 days after the effective date of this Order, conduct an investigation, in accordance with 30 TEX. ADMIN. CODE § 350.2 (see Reference 1.1, "Determining Which Releases are subject to the Texas Risk Reduction Program, ("TRRP"), attached hereto as Attachment A), to determine whether response actions are necessary under TRRP (30 TEX. ADMIN. CODE ch. 350) and submit copies of the results to the Executive Director, via both the Remediation Division and Enforcement Division, to the address listed below in Ordering Provision No. 2.e. The investigation results shall be summarized in a report and shall include detailed supporting documentation such as sampling data for chemicals of concern ("COCs"), comparisons of COC sampling data with method quantitation limits and relative response action levels, photographs, receipts, and/or other records, shall be signed by the Respondent and shall include the certification language found in Ordering Provision No. 2.e;
- b. If the Executive Director determines that response actions pursuant to 30 TEX. ADMIN. CODE ch. 350 are necessary, by the deadline prescribed by the Executive Director, Respondent shall submit an Affected Property Assessment Report ("APAR"), pursuant to 30 TEX. ADMIN. CODE § 350.91, to the Enforcement Division at the address listed below in Ordering Provision No. 2.e. and to any additional addresses as directed by the Executive Director;
- c. If the Executive Director determines that the APAR indicates that response actions are necessary, by the deadline prescribed by the Executive Director, Respondent shall comply with all applicable requirements of TRRP, 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(l)); and Institutional Controls under Subchapter F;
- d. If the Executive Director determines that the APAR indicates that response actions are necessary, by the deadline prescribed by the Executive Director, submit written certification, in accordance with Ordering Provision No. 2.e., to demonstrate compliance with Ordering Provisions Nos. 2.a. through 2.c.; and
- 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 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 fine and imprisonment for knowing violations."

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

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

and:

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

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 Enforcement Division 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 TCEQ's jurisdiction, or of a rule adopted or an order or permit issued by 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 that 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

January 13, 2025

For the Executive Director

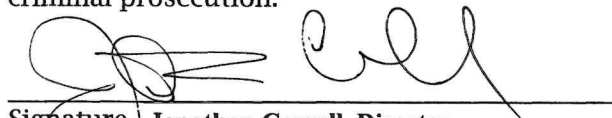
Date

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
- 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: **Jonathan Carroll, Director**
Lazarus Refining & Marketing, LLC
801 Travis Street, Suite 2100
Houston, Texas 77002-5705

11/19/24

Date

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

Attachment A



Determining Which Releases are Subject to TRRP

Purpose and Applicability

This document describes a process to help clarify when a release is subject to the Texas Risk Reduction Program (TRRP) rule (30 TAC Chapter 350). This process applies to releases that occur under the jurisdiction of a TCEQ Remediation Division program. The intention of TRRP is to focus on releases that threaten or affect water resources (groundwater, surface water/sediment) and/or those releases that necessitate a decontamination or control remedy. This document sets forth the procedure to help persons make this determination.

If any other rule, permit, or enforcement order applies and is more stringent, then the requirements of the other rule, permit, or enforcement order must be met. Release determinations do not apply to situations where materials or products are used as intended, such as lawful application of chemical pesticides and agricultural chemicals, paved parking lots or roads, or treated utility poles and railroad ties. This document replaces the August 27, 2002 memo entitled *Remediation Division Report Requirements for a Release Investigation*.

Assumptions

Use of this determination process assumes:

- The person has notified the agency of the release in accordance with the Texas Water Code and applicable program rules.
- All source areas are adequately identified.
- Properly collected samples are analyzed for all target chemicals of concern (COCs) using method quantitation limits that are at or below the applicable action levels (unless the action level is lower than the lowest MQL for the most sensitive standard available analytical method).
- Groundwater sampling, when required, is sufficient to characterize COC concentrations in the uppermost saturated zone at all source areas (not intending to include tank hold water).

If any of these assumptions are invalid for a particular release, use of the process in this document is prohibited and the release will be subject to TRRP. This document does not cover current spills handled under 30 TAC Chapter 327.

Definitions

Release

The terms “release” and “discharge” are defined by statute (Texas Health and Safety Code §361.003 and the Texas Water Code §26.001 and §26.121) and in rule (30 TAC 334.7, 335.1, and 350.4).

Report releases within 24 hours of occurrence or discovery to the appropriate part of the agency as listed below:

Table 1. Release Reporting Contacts

Releases from:	Report Release to:	Phone number
Underground and above-ground storage tanks containing regulated petroleum substances and hazardous substances	Remediation Division	512-239-2200 (phone) 512-239-2216 (fax) pstrpr@tceq.state.tx.us (email)
Industrial solid waste and municipal hazardous waste facilities, spills, or other releases	Region Office	See Locations and phone numbers

Action Levels

For the purpose of determining which releases are subject to TRRP, action levels are defined as the lowest applicable Tier 1 residential protective concentration level (PCL) for a given COC, assuming a 0.5-acre source area and Class 1 groundwater. Table 2 identifies the applicable human health exposure pathways for determining action levels for surface soils, subsurface soils, and groundwater.

Table 2 – Exposure Pathways for Action Levels

Media	Tot ^{Soil} Comb (0-15 ft)	GW ^{Soil} Ing	Air ^{Soil} Inh-V (>15 ft)	GW ^{GW} Ing	Air ^{GW} Inh-V	Background/MQL
Surface Soil	X	X				X
Subsurface Soil		X	X			X
Groundwater				X	X	X

If background or the method quantitation limit (MQL) is a higher concentration than the action level, then the higher of background or MQL is the action level. Tier 1 PCL tables may be found on the [TRRP PCL Web page](#) and background concentrations for metals are shown in Table 3.

Table 3. Texas-Specific Background Concentration

Metal	Median Background Concentration (mg/kg)	Metal	Median Background Concentration (mg/kg)
Aluminum	30,000	Lead	15
Antimony	1	Manganese	300
Arsenic	5.9	Mercury	0.04
Barium	300	Nickel	10
Beryllium	1.5	Selenium	0.3
Boron	30	Strontium	100
Total Chromium	30	Tin	0.9
Cobalt	7	Titanium	2,000
Copper	15	Thorium	9.3
Fluoride	190	Vanadium	50
Iron	15,000	Zinc	30

Determining Applicability to TRRP

Conduct an investigation when there is evidence that there may have been a release, or when there is another voluntary or mandatory reason for investigation (such as commercial real estate transactions, closure of a solid waste management unit, or permanent removal from service of an underground storage tank). The results of the investigation may result in one of three scenarios:

1. COC concentrations are below background or the MQLs.
2. COC concentrations are above background or MQLs but below action levels, as defined previously in this document.
3. COC concentrations are above action levels.

The associated procedures to be followed for these three situations are discussed in the following sections. Figure 1 illustrates the general process for determining when a release is subject to TRRP. If any of the answers are still unknown following completion of the investigation, the release is subject to TRRP. Refer to the text for detailed information.

COC Concentrations Less Than MQL or at Background (Scenario 1)

TRRP is not applicable and a report to the agency is not required (unless required by rule) when:

- the COC concentrations are not detected above the higher of the MQL or background,
- there is no other evidence of a release, and
- response actions were not required to achieve MQLs or background.

A report to the agency may be required by a program area to meet other regulations such as for closure of a waste management unit or permanent removal from service of an underground storage tank system. Background can be either site specific (following the requirements that would be applicable under Chapter 350) or from Table 3 above.

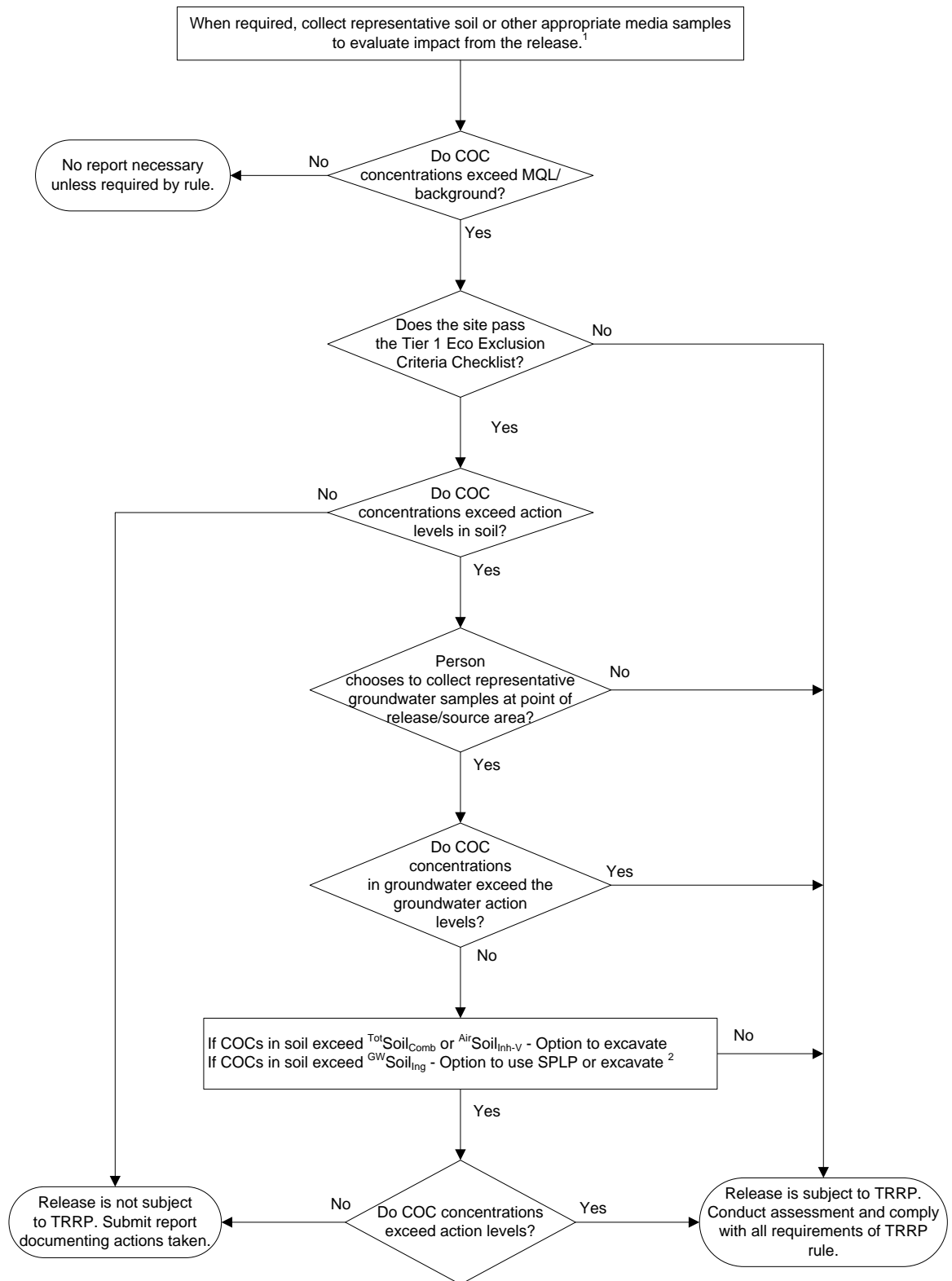
COC Concentrations Greater than MQL/Background (Scenarios 2 and 3)

When COC concentrations exceed MQL or background, both ecological and human health exposure pathways must be considered. Complete the Tier 1 Ecological Exclusion Criteria Checklist to determine if ecological exposure pathways may be of concern. If the site fails the checklist, or if water resources (groundwater, surface water/ sediment) are threatened or affected, the release is subject to TRRP. If the site passes the ecological checklist, evaluate the human health exposure pathways by comparing the analytical results to the action levels defined in Table 2. If the concentrations do not exceed the soil action levels and there is no evidence of other affected or threatened media, the release is not subject to TRRP (Figure 1). Submit a report that documents the investigation and provides justification for no further action. If the agency concurs with the conclusions, a no further action letter will be issued. Otherwise the release is subject to TRRP, unless the person can determine another basis in this document by which TRRP is not applicable.

If the concentrations exceed soil action levels, the release is subject to TRRP unless the person elects to evaluate the groundwater exposure pathway. Collect a representative groundwater sample from each source area to document whether groundwater is affected above action levels. Conduct the sampling in a manner that will prevent COCs from migrating to the groundwater during the drilling or sampling process. Compare the results to the groundwater action level. If COC concentrations exceed the groundwater action levels, the release is subject to TRRP.

Note: Groundwater sampling is always required in conjunction with exercising the excavation or SPLP option to attempt to resolve matters prior to triggering TRRP applicability.

If representative COC concentrations in groundwater do not exceed the action levels, the person can choose a course of action based on which soil action levels are exceeded. For any action level exceeded, excavation and proper disposal of affected soil can be conducted if the affected soil is located on site, entirely in the vadose zone, and can be removed within 60 days from the date the release was reported to the agency. Collect discrete samples to verify the COC concentrations after excavation. If only the $^{GW}Soil_{Ing}$ action level is exceeded, the person may choose to collect samples from the areas of highest concentrations for Synthetic Precipitation Leaching Procedure (SPLP) analysis to determine COC leachability. This process can be done before, after, or in lieu of excavation. When the SPLP analytical results are greater than the $^{GW}GW_{Ing}$ action level, the release is subject to TRRP unless further excavation is completed within the 60-day timeframe, followed by additional analysis. If the final soil and/or SPLP leachate analytical results do not exceed $^{GW}Soil_{Ing}$ or $^{GW}GW_{Ing}$, respectively, the release will not be subject to TRRP. Submit a report documenting the actions taken and justification for no further action. If the agency concurs with the conclusions, a no further action letter will be issued. Conversely, if the final soil and/or SPLP leachate analytical results do exceed $^{GW}Soil_{Ing}$ or $^{GW}GW_{Ing}$, respectively, the release will be subject to TRRP.



1. This flowchart cannot be used by itself. Refer to the text for detailed information on this process.

2. Use of SPLP test is not an option if to address exceedance of $TotSoilComb$ or $AirSoilInh-V$ action levels.

Figure 1. Generalized Process to Determine if a Release is Subject to TRRP