

Executive Summary – Enforcement Matter – Case No. 61707

AZTEC WASTE, INC.

RN103991634

Docket No. 2022-0169-MSW-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MSW

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Aztec Waste, 13242 Lookout Road, San Antonio, Bexar County

Type of Operation:

Recycling business

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

Texas Register Publication Date: July 26, 2024

Comments Received: No

Penalty Information

Total Penalty Assessed: \$24,074

Amount Deferred for Expedited Settlement: \$4,814

Total Paid to General Revenue: \$535

Total Due to General Revenue: \$18,725

Payment Plan: 35 payments of \$535 each

Compliance History Classifications:

Person/CN - Unclassified

Site/RN - Unclassified

Major Source: MSW: No; Waste Tires: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: January 2021

Investigation Information

Complaint Date(s): June 2, 2021

Complaint Information: Alleged that the Respondent may be dumping solid waste at their facility. The complainant alleges that the facility is not a permitted disposal site and transfer station.

Date(s) of Investigation: June 23, 2021 through September 13, 2021

Date(s) of NOE(s): November 19, 2021

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AZTEC WASTE, INC.

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Docket No. 2022-0169-MSW-E

Violation Information

1. Failed to maintain recycling records and make them immediately available for inspection upon request by agency personnel. Specifically, the Respondent failed to make available records demonstrating the turnover rate of recyclable material, percentage of non-recyclable material received, records to show a notice to customers of source-separation requirements, records documenting staff training in the inspection of incoming loads to ensure they have no more than 10% incidental non-recyclable waste, documentation of loads that have been rejected for exceeding 10% non-recyclable waste in the load, and documentation to show that incidental non-recyclable waste constitutes no more than 5% of the average total scale weight or volume of material received at the Facility [30 TEX. ADMIN. CODE § 328.5(g)].

2. Failed to establish and maintain financial assurance for closure of a facility that stores combustible materials outdoors. Specifically, the Facility had financial assurance to cover 4,100 cubic yards of combustible material; however, there was 16,005 cubic yards of material stored on the ground outdoors at the time of the investigation [30 TEX. ADMIN. CODE § 328.5(d) and (f)(3)].

3. Caused, suffered, allowed, or permitted the unauthorized disposal of MSW. Specifically, MSW comprised of three discarded spent lead acid batteries, cardboard, plastics (both recyclable and non-recyclable), sheetrock, scrap tires, polyvinyl chloride piping, insulation, mattresses, furniture, rubber hoses, electrical wires, fiberglass, paint cans, shingles, buckets of hydraulic oil, carpet, stained soils, and construction and demolition debris was disposed of on the ground at the Facility. Additionally, soil sample analysis revealed that arsenic levels exceeded the Texas Risk Reduction Program ("TRRP") Tier 1 residential total soil combined values [30 TEX. ADMIN. CODE § 330.15(a) and (c) and TEX. WATER CODE § 26.121].

4. Failed to obtain a registration to process scrap tires. Specifically, the Facility processes used or scrap tires by cutting off the walls of the tires and does not have a scrap tire registration for the processing of scrap tires [30 TEX. ADMIN. CODE § 328.63(c)].

5. Failed to immediately abate and contain a spill or discharge of used oil. Specifically, approximately 40 cubic yards of stained soils were affected by discharges of used oil and used oil filter disposal and no response actions were initiated. Additionally, stained soil sample analysis revealed that total petroleum hydrocarbons exceeded the TRRP Tier 1 residential total soil combined values [30 TEX. ADMIN. CODE §§ 327.5(a) and 324.15 and 40 CODE OF FEDERAL REGULATIONS § 279.22(d)].

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RN103991634
Docket No. 2022-0169-MSW-E

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

a. Immediately:

- i. Cease accepting any additional MSW for recycling until acceptable financial assurance for closure of the Facility has been obtained;
- ii. Cease any additional discharges of used oil, engine fluids, and fuel at the Facility;
- iii. Cease any additional unauthorized processing of loads of recyclable material containing more than incidental amounts of non-recyclable waste until proper authorization by a permit is obtained; and
- iv. Cease storing and processing additional unauthorized used or scrap tires at the Facility until the required TCEQ registration is obtained.

b. Within 30 days:

- i. Obtain a scrap tire registration for the processing of scrap tires;
- ii. Remove all stained soils and dispose of them at an authorized facility;
- iii. Remove all MSW, including scrap tires, from the Facility and dispose of it at an authorized facility; or
- iv. In lieu of b.iii., submit documentation to demonstrate acceptable financial assurance for closure of the Facility.

c. Within 60 days, conduct an investigation to determine whether response actions are necessary and submit the investigation results to the Executive Director.

d. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the investigation results within 15 days after the date of such requests or by any other deadline specified in writing by the TCEQ.

e. Within 75 days, submit written certification to demonstrate compliance with a. through b.ii. and b.iii. or b.iv.

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f. Within 365 days, obtain a permit or registration for processing loads of recyclable material that contain more than incidental amounts of non-recyclable waste.

g. Within 380 days, submit written certification to demonstrate compliance with f.

h. If the Executive Director determines that response actions are necessary, the Respondent shall submit, by the deadline prescribed by the Executive Director, an Affected Property Assessment Report ("APAR").

i. If the Executive Director determines that the APAR indicates that additional response actions are necessary, within 150 days, the Respondent shall comply with and perform, all applicable requirements of the TRRP and shall submit, by the deadline prescribed by the Executive Director, written certification to demonstrate compliance with h.

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Ken Moller, Enforcement Division, Enforcement Team 3, MC 219, (512) 239-6111; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: Heriberto Gonzalez, Jr., Vice President, AZTEC WASTE, INC., P.O. Box 171181, San Antonio, Texas 78217

Respondent's Attorney: Helen Gilbert, Barton Benson Jones PLLC, 2000 Broadway, San Antonio, Texas 78215



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	22-Nov-2021			
	PCW	26-Mar-2024	Screening	17-Dec-2021	EPA Due

RESPONDENT/FACILITY INFORMATION	
Respondent	AZTEC WASTE, INC.
Reg. Ent. Ref. No.	RN103991634
Facility/Site Region	13-San Antonio
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	61707	No. of Violations	3
Docket No.	2022-0169-MSW-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	No
Multi-Media	Waste Tires	Enf. Coordinator	Ken Moller
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit	Minimum	\$0	Maximum
			\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$11,250
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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	0.0% Adjustment	Subtotals 2, 3, & 7	\$0
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Notes	No adjustment for compliance history.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	50.0% Enhancement*	Subtotal 6	\$5,625
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Total EB Amounts	\$38,045	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$229,823	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$16,875
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OTHER FACTORS AS JUSTICE MAY REQUIRE	5.6%	Adjustment	\$949
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Recommended enhancement to capture the avoided cost of compliance associated with Violation No. 2.
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Final Penalty Amount	\$17,824
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$17,824
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DEFERRAL	20.0%	Reduction	Adjustment	-\$3,564
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes	Deferral offered for expedited settlement.
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PAYABLE PENALTY	\$14,260
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Screening Date 17-Dec-2021

Docket No. 2022-0169-MSW-E

PCW

Respondent AZTEC WASTE, INC.

Policy Revision 5 (January 28, 2021)

Case ID No. 61707

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN103991634

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

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Unclassified

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment for compliance history.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date 17-Dec-2021 **Docket No.** 2022-0169-MSW-E **PCW**
Respondent AZTEC WASTE, INC. *Policy Revision 5 (January 28, 2021)*
Case ID No. 61707 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN103991634
Media Municipal Solid Waste
Enf. Coordinator Ken Moller

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="10.0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Good Faith Efforts to Comply Reduction

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

Notes

Violation Subtotal

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

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent AZTEC WASTE, INC.
Case ID No. 61707
Reg. Ent. Reference No. RN103991634
Media Municipal Solid 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	\$500	23-Jun-2021	18-Sep-2024	3.24	\$81	n/a	\$81
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 begin maintaining all recycling records and make them immediately available for inspection upon request by agency personnel. The Date Required is the investigation start 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 \$81

Screening Date 17-Dec-2021 **Docket No.** 2022-0169-MSW-E **PCW**
Respondent AZTEC WASTE, INC. *Policy Revision 5 (January 28, 2021)*
Case ID No. 61707 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN103991634
Media Municipal Solid Waste
Enf. Coordinator Ken Moller

Violation Number 2
Rule Cite(s) 30 Tex. Admin. Code § 328.5(d) and (f)(3)
Violation Description Failed to establish and maintain financial assurance for closure of a facility that stores combustible materials outdoors. Specifically, the Facility had financial assurance to cover 4,100 cubic yards of combustible material; however, there was 16,005 cubic yards of material stored on the ground outdoors at the time of the investigation.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual				Percent 0.0%
Potential					

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
		x			Percent 10.0%
Matrix Notes	Greater than 70% of the rule requirement was not met.				

Adjustment \$22,500

\$2,500

Violation Events

Number of Violation Events 1 177 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$2,500

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 \$2,500

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

Estimated EB Amount \$1,255 **Violation Final Penalty Total** \$3,961

This violation Final Assessed Penalty (adjusted for limits) \$3,961

Economic Benefit Worksheet

Respondent AZTEC WASTE, INC.
Case ID No. 61707
Reg. Ent. Reference No. RN103991634
Media Violation No. Municipal Solid Waste
 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)	\$1,887	23-Jun-2021	18-Sep-2024	3.24	\$306	n/a	\$306

Notes for DELAYED costs

Estimated delayed cost to update the financial assurance to include the additional 11,905 cubic yards of combustible material stored outdoors at the Facility. The Date Required is the investigation start 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	\$1,887	23-Jun-2021	17-Dec-2021	0.48	\$34	\$915	\$949
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to update the financial assurance to include the additional 11,905 cubic yards of combustible material stored outdoors at the Facility. The Date Required is the investigation start date and the Final Date is the screening date.

Approx. Cost of Compliance \$2,802

TOTAL \$1,255

Screening Date 17-Dec-2021 **Docket No.** 2022-0169-MSW-E **PCW**
Respondent AZTEC WASTE, INC. *Policy Revision 5 (January 28, 2021)*
Case ID No. 61707 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN103991634
Media Municipal Solid Waste
Enf. Coordinator Ken Moller

Violation Number 3
Rule Cite(s) 30 Tex. Admin. Code § 330.15(a) and (c) and Tex. Water Code § 26.121
Violation Description Caused, suffered, allowed, or permitted the unauthorized disposal of municipal solid waste ("MSW"). Specifically, MSW comprised of three discarded spent lead acid batteries, cardboard, plastics (both recyclable and non-recyclable), sheetrock, scrap tires, polyvinyl chloride piping, insulation, mattresses, furniture, rubber hoses, electrical wires, fiberglass, paint cans, shingles, buckets of hydraulic oil, carpet, stained soils, and construction and demolition debris was disposed of on the ground at the Facility. Additionally, soil sample analysis revealed that arsenic levels exceeded the Texas Risk Reduction Program ("TRRP") Tier 1 residential total soil combined values.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual		X		25.0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

Matrix Notes Human health or the environment has been exposed to significant amounts of pollutants.

Adjustment \$18,750

\$6,250

Violation Events

Number of Violation Events 1 177 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	X
annual	
single event	

Violation Base Penalty \$6,250

One semiannual event is recommended from the June 23, 2021 investigation start date to the December 17, 2021 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 \$6,250

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

Estimated EB Amount \$36,709 **Violation Final Penalty Total** \$9,902

This violation Final Assessed Penalty (adjusted for limits) \$9,902

Economic Benefit Worksheet

Respondent AZTEC WASTE, INC.
Case ID No. 61707
Reg. Ent. Reference No. RN103991634
Media Violation No. Municipal Solid Waste
 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				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$196,521	23-Jun-2021	18-Sep-2024	3.24	\$31,847	n/a	\$31,847
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$30,000	23-Jun-2021	18-Sep-2024	3.24	\$4,862	n/a	\$4,862

Notes for DELAYED costs

Estimated delayed cost to remove approximately 11,370 cubic yards of MSW, including scrap tires, from the Facility and dispose of it at an authorized facility (\$196,521). The Date Required is the investigation start date and the Final Date is the estimated date of compliance.

Estimated delayed cost to submit a report demonstrating the applicability of TRRP to the Executive Director, and to comply with all applicable requirements of TRRP (\$30,000). The Date Required is the investigation start 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 \$226,521

TOTAL \$36,709



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	22-Nov-2021			
	PCW	26-Mar-2024	Screening	17-Dec-2021	EPA Due

RESPONDENT/FACILITY INFORMATION	
Respondent	AZTEC WASTE, INC.
Reg. Ent. Ref. No.	RN103991634
Facility/Site Region	13-San Antonio
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	61707	No. of Violations	1
Docket No.	2022-0169-MSW-E	Order Type	1660
Media Program(s)	Waste Tires	Government/Non-Profit	No
Multi-Media	Municipal Solid Waste	Enf. Coordinator	Ken Moller
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$5,000
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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	0.0% Adjustment	Subtotals 2, 3, & 7	\$0
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Notes	No adjustment for compliance history.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$1,621	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$10,000	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$5,000
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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	
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Final Penalty Amount	\$5,000
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$5,000
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DEFERRAL	20.0%	Reduction	Adjustment	-\$1,000
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes	Deferral offered for expedited settlement.
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PAYABLE PENALTY	\$4,000
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Screening Date 17-Dec-2021

Docket No. 2022-0169-MSW-E

PCW

Respondent AZTEC WASTE, INC.

Policy Revision 5 (January 28, 2021)

Case ID No. 61707

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN103991634

Media Waste Tires

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

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Unclassified

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment for compliance history.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date 17-Dec-2021
Respondent AZTEC WASTE, INC.
Case ID No. 61707
Reg. Ent. Reference No. RN103991634
Media Waste Tires
Enf. Coordinator Ken Moller

Docket No. 2022-0169-MSW-E

PCW

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="20.0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Good Faith Efforts to Comply

Reduction

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

Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	<input type="text"/>

Notes

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent AZTEC WASTE, INC.
Case ID No. 61707
Reg. Ent. Reference No. RN103991634
Media Waste Tires
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
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$10,000	23-Jun-2021	18-Sep-2024	3.24	\$1,621	n/a	\$1,621
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated delayed cost to obtain a scrap tire management registration for the processing of scrap tires. The Date Required is the investigation start 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

\$1,621



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	22-Nov-2021			
	PCW	14-Mar-2022	Screening	17-Dec-2021	EPA Due

RESPONDENT/FACILITY INFORMATION	
Respondent	AZTEC WASTE, INC.
Reg. Ent. Ref. No.	RN103991634
Facility/Site Region	13-San Antonio
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	61707	No. of Violations	1
Docket No.	2022-0169-MSW-E	Order Type	1660
Media Program(s)	Used Oil	Government/Non-Profit	No
Multi-Media	Municipal Solid Waste	Enf. Coordinator	Ken Moller
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$5,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$1,250
---	-------------------	---------

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	0.0% Adjustment	Subtotals 2, 3, & 7	\$0
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Notes	No adjustment for compliance history.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$107	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$659	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$1,250
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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	
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Final Penalty Amount	\$1,250
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$1,250
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DEFERRAL	20.0%	Reduction	Adjustment	-\$250
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes	Deferral offered for expedited settlement.
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PAYABLE PENALTY	\$1,000
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Screening Date 17-Dec-2021

Docket No. 2022-0169-MSW-E

PCW

Respondent AZTEC WASTE, INC.

Policy Revision 5 (January 28, 2021)

Case ID No. 61707

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN103991634

Media Used Oil

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

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Unclassified

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment for compliance history.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date 17-Dec-2021

Docket No. 2022-0169-MSW-E

PCW

Respondent AZTEC WASTE, INC.

Policy Revision 5 (January 28, 2021)

Case ID No. 61707

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN103991634

Media Used Oil

Enf. Coordinator Ken Moller

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 327.5(a) and 324.15 and 40 Code of Federal Regulations § 279.22(d)

Violation Description

Failed to immediately abate and contain a spill or discharge of used oil. Specifically, approximately 40 cubic yards of stained soils were affected by discharges of used oil and used oil filter disposal and no response actions were initiated. Additionally, stained soil sample analysis revealed that total petroleum hydrocarbons exceeded the Texas Risk Reduction Program ("TRRP") Tier 1 residential total soil combined values.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		x	
Potential			

Percent 25.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants.

Adjustment \$3,750

\$1,250

Violation Events

Number of Violation Events 1

177 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	x
annual	
single event	

Violation Base Penalty \$1,250

One semiannual event is recommended from the June 23, 2021 investigation start date to the December 17, 2021 screening date.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	

Notes

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

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$107

Violation Final Penalty Total \$1,250

This violation Final Assessed Penalty (adjusted for limits) \$1,250

Economic Benefit Worksheet

Respondent AZTEC WASTE, INC.
Case ID No. 61707
Reg. Ent. Reference No. RN103991634
Media Used Oil
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$659	23-Jun-2021	18-Sep-2024	3.24	\$107	n/a	\$107
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 remove 40 cubic yards of stained soils from the Facility and dispose of it at an authorized facility. The Date Required is the investigation start 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 \$659

TOTAL \$107



Compliance History Report

Compliance History Report for CN603188392, RN103991634, Rating Year 2023 which includes Compliance History (CH) components from September 1, 2018, through August 31, 2023.

Customer, Respondent, or Owner/Operator:	CN603188392, AZTEC WASTE, INC.	Classification: UNCLASSIFIED	Rating: -----
Regulated Entity:	RN103991634, Aztec Waste	Classification: UNCLASSIFIED	Rating: -----
Complexity Points:	4	Repeat Violator:	NO
CH Group:	14 - Other		
Location:	13242 Lookout Road in San Antonio, Bexar County, Texas		
TCEQ Region:	REGION 13 - SAN ANTONIO		

ID Number(s):			
MUNICIPAL SOLID WASTE PROCESSING PERMIT 100242		MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER	R13103991634
PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 79866		WATER QUALITY NON PERMITTED ID NUMBER	R13103991634

Compliance History Period:	<u>September 01, 2018 to August 31, 2023</u>	Rating Year:	<u>2023</u>	Rating Date:	<u>09/01/2023</u>
Date Compliance History Report Prepared:	<u>November 02, 2023</u>				
Agency Decision Requiring Compliance History:	<u>Enforcement</u>				
Component Period Selected:	<u>November 02, 2018 to November 02, 2023</u>				
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.					
Name:	<u>Ken Moller</u>	Phone:	<u>(512) 239-6111</u>		

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:
N/A

B. Criminal convictions:
N/A

C. Chronic excessive emissions events:
N/A

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

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):
A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.
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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
AZTEC WASTE, INC.
RN103991634

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

AGREED ORDER
DOCKET NO. 2022-0169-MSW-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding AZTEC WASTE, INC. (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE chs. 361 and 371 and TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent, represented by Helen Gilbert of the law firm of Barton Benson Jones PLLC, together stipulate that:

1. The Respondent operates a recycling business located at 13242 Lookout Road in San Antonio, Bexar County, Texas (the "Facility"). The Facility involves or involved the management of municipal solid waste ("MSW"), including scrap tires, as defined in TEX. HEALTH & SAFETY CODE ch. 361, and involves or involved the management of used oil, as defined in TEX. HEALTH & SAFETY CODE ch. 371.
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE chs. 361 and 371, TEX. WATER CODE ch. 26, and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$24,074 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$535 of the penalty and \$4,814 is deferred contingent upon the 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 of this Order.

The remaining amount of \$18,725 of the undeferred penalty shall be paid in 35 monthly payments of \$535 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 the Respondent fails to comply with the payment requirements of this Order, including the payment schedule, the Executive Director may accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. The Respondent's failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance constitutes the failure by the 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.

5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Order.
7. 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.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.

II. ALLEGATIONS

During an investigation conducted at the Facility on June 23, 2021 through September 13, 2021, an investigator documented that the Respondent:

1. Failed to maintain recycling records and make them immediately available for inspection upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 328.5(g). Specifically, the Respondent failed to make available records demonstrating the turnover rate of recyclable material, percentage of non-recyclable material received, records to show a notice to customers of source-separation requirements, records documenting staff training in the inspection of incoming loads to ensure they have no more than 10% incidental non-recyclable waste, documentation of loads that have been rejected for exceeding

10% non-recyclable waste in the load, and documentation to show that incidental non-recyclable waste constitutes no more than 5% of the average total scale weight or volume of material received at the Facility.

2. Failed to establish and maintain financial assurance for closure of a facility that stores combustible materials outdoors, in violation of 30 TEX. ADMIN. CODE § 328.5(d) and (f)(3). Specifically, the Facility had financial assurance to cover 4,100 cubic yards of combustible material; however, there was 16,005 cubic yards of material stored on the ground outdoors at the time of the investigation.
3. Caused, suffered, allowed, or permitted the unauthorized disposal of MSW, in violation of 30 TEX. ADMIN. CODE § 330.15(a) and (c) and TEX. WATER CODE § 26.121. Specifically, MSW comprised of three discarded spent lead acid batteries, cardboard, plastics (both recyclable and non-recyclable), sheetrock, scrap tires, polyvinyl chloride piping, insulation, mattresses, furniture, rubber hoses, electrical wires, fiberglass, paint cans, shingles, buckets of hydraulic oil, carpet, stained soils, and construction and demolition debris was disposed of on the ground at the Facility. Additionally, soil sample analysis revealed that arsenic levels exceeded the Texas Risk Reduction Program ("TRRP") Tier 1 residential total soil combined values.
4. Failed to obtain a registration to process scrap tires, in violation of 30 TEX. ADMIN. CODE § 328.63(c). Specifically, the Facility processes used or scrap tires by cutting off the walls of the tires and does not have a scrap tire registration for the processing of scrap tires.
5. Failed to immediately abate and contain a spill or discharge of used oil, in violation of 30 TEX. ADMIN. CODE §§ 327.5(a) and 324.15 and 40 CODE OF FEDERAL REGULATIONS § 279.22(d). Specifically, approximately 40 cubic yards of stained soils were affected by discharges of used oil and used oil filter disposal and no response actions were initiated. Additionally, stained soil sample analysis revealed that total petroleum hydrocarbons exceeded the TRRP Tier 1 residential total soil combined values.

III. DENIALS

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

IV. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: AZTEC WASTE, INC., Docket No. 2022-0169-MSW-E" to:

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

2. The Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Order:
 - i. Cease accepting any additional MSW for recycling until acceptable financial assurance for closure of the Facility has been obtained;
 - ii. Cease any additional discharges of used oil, engine fluids, and fuel at the Facility;
 - iii. Cease any additional unauthorized processing of loads of recyclable material containing more than incidental amounts of non-recyclable waste until proper authorization by a permit is obtained, in accordance with 30 TEX. ADMIN. CODE § 328.4; and
 - iv. Cease storing and processing additional unauthorized used or scrap tires at the Facility until the required TCEQ registration is obtained, in accordance with 30 TEX. ADMIN. CODE § 328.63;
 - b. Within 30 days after the effective date of this Order:
 - i. Obtain a scrap tire registration for the processing of scrap tires, in accordance with 30 TEX. ADMIN. CODE § 328.63;
 - ii. Remove all stained soils and dispose of them at an authorized facility, in accordance with 30 TEX. ADMIN. CODE §§ 327.5 and 327.23;
 - iii. Remove all MSW, including scrap tires, from the Facility and dispose of it at an authorized facility; or

- iv. In lieu of Ordering Provision No. 2.b.iii, submit documentation to demonstrate acceptable financial assurance for closure of the Facility, in accordance with 30 TEX. ADMIN. CODE §§ 37.141 and 328.5(d), to:

Financial Assurance Team, MC 184
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- c. Within 60 days after the effective date of this Order, conduct an investigation to determine whether response actions are necessary under the TRRP, 30 TEX. ADMIN. CODE ch. 350, and submit the investigation results to the Executive Director via the Enforcement Division at the address listed in Ordering Provision No. 2.j. The investigation results shall be accompanied by detailed supporting documentation, as described in Ordering Provision No. 2.j;
- d. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the investigation results within 15 days after the date of such requests or by any other deadline specified in writing by the TCEQ;
- e. Within 75 days after the effective date of this Order, submit written certification as described in Ordering Provision No. 2.j to demonstrate compliance with Ordering Provision Nos. 2.a through 2.b.ii, and either 2.b.iii or 2.b.iv;
- f. Within 365 days after the effective date of this Order, obtain a permit or registration for processing loads of recyclable material that contain more than incidental amounts of non-recyclable waste, in accordance with 30 TEX. ADMIN. CODE § 328.4;
- g. Within 380 days after the effective date of this Order, submit written certification as described in Ordering Provision No. 2.j to demonstrate compliance with Ordering Provision No. 2.f.
- h. If the Executive Director determines that response actions pursuant to 30 TEX. ADMIN. CODE ch. 350 are necessary, the Respondent shall submit, by the deadline prescribed by the Executive Director, an Affected Property Assessment Report ("APAR"), pursuant to 30 TEX. ADMIN. CODE § 350.91, to the Executive Director at the Enforcement Division address listed in Ordering Provision No. 2.j, and to any additional addresses as directed by the Executive Director;
- i. If the Executive Director determines that the APAR indicates that additional response actions are necessary, within 150 days after, the Respondent shall comply with and perform, 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 (30 TEX. ADMIN. CODE § 350.111); and shall submit, by the deadline prescribed by the Executive Director, written certification, in accordance with Ordering Provision No. 2.j, to demonstrate compliance with Ordering Provision No. 2.h; and

- j. 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 fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

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

3. 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 the Respondent. The 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. If the 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, the Respondent's failure to comply is not a violation of this Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Enforcement Division at the address listed above.
7. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. 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



For the Executive Director

7/22/2024

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, if any, in this Order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the OAG 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 OAG of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

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



Signature

6-12-24

Date

Heriberto Gonzalez Jr

Name (Printed or typed)
Authorized Representative of
AZTEC WASTE, INC.

VP

Title

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

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