

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.: 2006-1569-PST-E TCEQ ID: RN104586540 CASE NO.: 31104**

**RESPONDENT NAME: SAIF MALIK ENTERPRISES, INC. DBA STEP N GO**

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	

<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

**SITE WHERE VIOLATION(S) OCCURRED:** 8398 North Houston Rosslyn Road, Houston, Harris County

**TYPE OF OPERATION:** Convenience store with retail sales of gasoline

**SMALL BUSINESS:**  Yes  No

**OTHER SIGNIFICANT MATTERS:** There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

**INTERESTED PARTIES:** No one other than the ED and the Respondent has expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired on December 29, 2008. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Mr. Xavier Guerra, Litigation Division, MC R-13, (210) 403-4016  
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

**TCEQ Enforcement Coordinator:** Ms. Judy Kluge, Waste Enforcement Section, MC R-4, (817) 588-5825

**TCEQ Regional Contact:** Ms. Nicole Bealle, Houston Regional Office, MC R-12, (713) 767-3623

**Respondent:** Mr. Sohail Malik, Director and Registered Agent, Saif Malik Enterprises, Inc. dba Step N Go, 5326 Mornington Drive, Sugar Land, Texas 77478-9758

**Respondent's Attorney:** Not represented by counsel on this enforcement matter.

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> August 11, 2006</p> <p><b>Date of NOE Relating to this Case:</b> August 17, 2006</p> <p><b>Background Facts:</b> The EDRP was filed on October 4, 2007, and re-filed for service on April 3, 2008. The EDRP was mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," the Respondent received notice of the EDRP on April 5, 2008, as evidenced by the signature on the card. The Respondent has failed to answer the EDRP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p><b>Current Compliance Status:</b> The Facility is not currently in compliance.</p> <p><b>PST:</b></p> <p>1. Failed to conduct daily and monthly inspections of the Stage II Vapor Recovery System [30 TEX. ADMIN. CODE § 115.244(1) and (3), and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>2. Failed to ensure that at least one Station representative received training in the operation and maintenance of the Stage II Vapor Recovery System [30 TEX. ADMIN. CODE § 115.248(1) and, TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>3. Failed to maintain Stage II records on-site and make immediately available for review upon a request [30 TEX. ADMIN. CODE § 115.246(1), (3) and (7)(A), and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>	<p><b>Total Assessed:</b> \$3,150</p> <p><b>Total Deferred:</b> \$0</p> <p><input type="checkbox"/> Expedited Order  <input type="checkbox"/> Financial Inability to Pay  <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Due to General Revenue:</b> \$3,150</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this proposed Order.</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b> The Respondent's UST delivery certificate is revoked immediately.</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>1. Immediately, begin maintaining Stage II records on site.</li> <li>2. Within 10 days, send its delivery certificate to the TCEQ.</li> <li>3. Within 30 days:                     <ol style="list-style-type: none"> <li>a. Begin conducting daily and monthly inspections of the Stage II Vapor Recovery System; and</li> <li>b. Ensure that at least one Facility representative receives training in the operation and maintenance of the Stage II Vapor Recovery System, and each current employee receives in-house Stage II vapor recovery training regarding the purpose and operation of the Vapor Recovery System.</li> </ol> </li> <li>4. Within 45 days, submit written certification to demonstrate compliance with Ordering Provisions 1 and 3.</li> </ol>



DATES	Assigned	05-Sep-2006	Screening	06-Sep-2006	EPA Due	
	PCW	02-Jan-2007				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	Saif Malik Enterprises, Inc. dba Step N Go
Reg. Ent. Ref. No.	RN104586540
Facility/Site Region	12-Houston
Major/Minor Source	Minor Source

<b>CASE INFORMATION</b>			
Enf./Case ID No.	31104	No. of Violations	3
Docket No.	2006-1569-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Judy Kluge
Multi-Media		EC's Team	Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

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

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

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

**Compliance History**  Enhancement Subtotals 2, 3, & 7

Notes

**Culpability**   Enhancement Subtotal 4

Notes

**Good Faith Effort to Comply**  Reduction Subtotal 5

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with a small x)

Notes

**Economic Benefit**  Enhancement\* Subtotal 6

Total EB Amounts	<input type="text" value="\$74"/>	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	<input type="text" value="\$1,700"/>	

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

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty

**DEFERRAL**  Reduction Adjustment

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

Notes

**PAYABLE PENALTY**

Screening Date 06-Sep-2006

Docket No. 2006-1569-PST-E

PCW

Respondent Saif Malik Enterprises, Inc. dba Step N Go

Policy Revision 2 (September 2002)

Case ID No. 31104

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN104586540

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

**Compliance History Worksheet**

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	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 (number of judgements or consent decrees meeting criteria)	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 (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	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 (number of audits for which notices were	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2) 5%**

>> Repeat Violator (Subtotal 3)

No

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

>> Compliance History Person Classification (Subtotal 7)

Average Performer

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

>> Compliance History Summary

Compliance History Notes

Enforcement for one prior NOV with same or similar violations.

**Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%**

Screening Date 06-Sep-2006

Docket No. 2006-1569-PST-E

PCW

Respondent Saif Malik Enterprises, Inc. dba Step N Go

Policy Revision 2 (September 2002)

Case ID No. 31104

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN104586540

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number 1

Primary Rule Cite(s) 30 Tex. Admin. Code § 115.244(1) and (3)

Secondary Rule Cite(s) Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to conduct daily and monthly inspections of the Stage II Vapor Recovery System.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

		Harm				
Release		Major	Moderate	Minor		
OR	Actual				Percent	10%
	Potential		X			

>> Programmatic Matrix

		Falsification				
		Major	Moderate	Minor		
					Percent	

Matrix Notes Failure to conduct daily and monthly inspections of the Stage II System can result in the exposure of a significant amount of pollutants which may not exceed levels that are protective of human health and the environment.

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 1

mark only one use a small x	daily	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,000

One quarterly event is recommended from the August 11, 2006 investigation date to the September 6, 2006 screening date.

Economic Benefit (EB) for this violation

Estimated EB Amount \$44

Statutory Limit Test

Violation Final Penalty Total \$1,050

This violation Final Assessed Penalty (adjusted for limits) \$1,050

## Economic Benefit Worksheet

**Respondent** Saif Malik Enterprises, Inc. dba Step N Go  
**Case ID No.** 31104  
**Reg. Ent. Reference No.** RN104586540  
**Media [Statute]** Petroleum Storage Tank  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$1,000	11-Aug-2006	27-Jun-2007	0.9	\$44	n/a	\$44

**Notes for DELAYED costs** Estimated expense for an employee to conduct daily and monthly inspections of the Stage II system. The date required based on the investigation date and the final date is the estimated date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

**Notes for AVOIDED costs**

**Approx. Cost of Compliance** \$1,000
**TOTAL** \$44

Screening Date 06-Sep-2006

Docket No. 2006-1569-PST-E

PCW

Respondent Saif Malik Enterprises, Inc. dba Step N Go

Policy Revision 2 (September 2002)

Case ID No. 31104

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN104586540

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number 2

Primary Rule Cite(s) 30 Tex. Admin. Code § 115.248(1)

Secondary Rule Cite(s) Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

		Harm			
Release		Major	Moderate	Minor	
OR	Actual				Percent 10%
	Potential		X		

>> Programmatic Matrix

		Falsification	Major	Moderate	Minor	Percent

Matrix Notes

Failure to ensure training is received in the operation and maintenance of the Stage II Vapor Recovery System can result in the exposure of a significant amount of pollutants which may not exceed levels that are protective of human health and the environment.

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 1

mark only one use a small x	daily	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,000

One quarterly event is recommended from the date of the investigation, August 11, 2006, to the September 6, 2006 screening date.

Economic Benefit (EB) for this violation

Estimated EB Amount \$22

Statutory Limit Test

Violation Final Penalty Total \$1,050

This violation Final Assessed Penalty (adjusted for limits) \$1,050

## Economic Benefit Worksheet

**Respondent** Saif Malik Enterprises, Inc. dba Step N Go  
**Case ID No.** 31104  
**Reg. Ent. Reference No.** RN104586540  
**Media [Statute]** Petroleum Storage Tank  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling	\$500	11-Aug-2006	27-Jun-2007	0.9	\$22	n/a	\$22
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

**Notes for DELAYED costs** Estimated cost of training of Stage II Station representative. The date required is the investigation date and the final date is the estimated date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

**Notes for AVOIDED costs**  

**Approx. Cost of Compliance** \$500 **TOTAL** \$22

Screening Date 06-Sep-2006

Docket No. 2006-1569-PST-E

PCW

Respondent Saif Malik Enterprises, Inc. dba Step N Go

Policy Revision 2 (September 2002)

Case ID No. 31104

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN104586540

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number 3

Primary Rule Cite(s) 30 Tex. Admin. Code § 115.246(1), (3) and (7)(A)

Secondary Rule Cite(s) Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to maintain Stage II records on-site and make immediately available for review upon request. Specifically, a copy of the CARB Executive Order and maintenance records were not available for review.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent.

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (10%).

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

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 1

Table with columns: Frequency (daily, monthly, quarterly, semiannual, annual, single event) and a checkbox column.

Violation Base Penalty \$1,000

One single event is recommended based on the investigation conducted on August 11, 2006.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$8

Violation Final Penalty Total \$1,050

This violation Final Assessed Penalty (adjusted for limits) \$1,050

## Economic Benefit Worksheet

Respondent Saif Malik Enterprises, Inc. dba Step N Go  
 Case ID No. 31104  
 Reg. Ent. Reference No. RN104586540  
 Media [Statute] Petroleum Storage Tank  
 Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$200	11-Aug-2006	27-May-2007	0.8	\$8	n/a	\$8
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost to maintain Stage II records as required. The date required is the investigation date and the final date is estimated date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance \$200

TOTAL \$8

# Compliance History

Customer/Respondent/Owner-Operator:	CN603031733 Saif Malik Enterprises, Inc.	Classification: AVERAGE	Rating: 4.5
Regulated Entity:	RN104586540 STEP N GO	Classification: AVERAGE	Site Rating: 4.5
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	76601
Location:	8398 N HOUSTON ROSSLYN RD, HOUSTON, TX, 77088	Rating Date: September 01 06	Repeat Violator: NO
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	September 06, 2006		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	September 06, 2001 to September 06, 2006		

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Judy Kluge Phone: 817-588-5825

## Site Compliance History Components

- |  |                                     |
|--|-------------------------------------|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | No                                  |
| 2. Has there been a (known) change in ownership of the site during the compliance period?    | Yes                                 |
| 3. If Yes, who is the current owner?   | <u>Saif Malik Enterprises, Inc.</u> |
| 4. If Yes, who was/were the prior owner(s)?  | <u>Rossllyn Enterprises, Inc.</u>   |
| 5. When did the change(s) in ownership occur?  | <u>04/01/2006</u>                   |

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
 N/A
- C. Chronic excessive emissions events.  
 N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
- |            |          |
|------------|----------|
| 08/17/2006 | (497694) |
| 07/20/2006 | (486296) |
| 06/02/2006 | (480162) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- |                  |  |                          |
|------------------|--|--------------------------|
| Date: 06/02/2006 | (480162)   | Classification: Moderate |
| Self Report? NO  |  |                          |
| Citation:        | 30 TAC Chapter 115, SubChapter C 115.248(1)[G]   |                          |
| Description:     | 30 Tex. Admin. Code Section 115.248(1)- Failure to ensure at least one facility representative receive training and instruction in the operation and maintenance of the Stage 11 vapor recovery system by successfully completing a training course approved by the executive director. Successful completion shall constitute c |                          |
| Self Report? NO  |  | Classification: Minor    |
| Citation:        | 30 TAC Chapter 115, SubChapter C 115.246(7)(A)   |                          |
| Description:     | 30 Tex. Admin. Code Section 115.246 (7)(A) - Failure to maintain records on-site and make immediately available for review upon request by authorized representatives of the executive director, EPA, or any local air pollution control program with jurisdiction at sites ordinarily manned during business hours.             |                          |
| Self Report? NO  |  | Classification: Moderate |
| Citation:        | 30 TAC Chapter 115, SubChapter C 115.244(1)  |                          |
| Description:     | Tex. Admin. Code Section 115.244 (1) - Failure to conduct daily inspections of the Stage vapor recovery system for the defects specified in §115.242(3)(A) - (F), (H), and (K).  |                          |
| Self Report? NO  |  | Classification: Moderate |
| Citation:        | 30 TAC Chapter 115, SubChapter C 115.244(3)  |                          |

Description: Tex. Admin. Code Section 115.244 (3) - Failure to conduct monthly inspections of the components listed in §115.242(3)(J) of this title.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.246(3)

Description: 30 Tex. Admin. Code Section 115.246(3)- Failure to maintain a record of any maintenance conducted on any part of the Stage II equipment, including a general part description, the date and time the equipment was taken out of service, the date of repair or replacement, the replacement part manufacturer's information, a g

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.246(1)

Description: 30 Tex. Admin Code Section 115.246 (1)- Failure to maintain a copy of the California Air Resources Board (CARB) Executive Order(s) for the Stage II vapor recovery system and any related components installed at the facility.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.245(2)[G]

Description: Tex. Admin. Code Section 115.245 (2)- Failure to verify proper operation of the Stage II equipment at least once every twelve months or upon major system replacement or modification, whichever occurs first. The verification shall include all functional tests that were required for the initial system test, except for TX

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)[G]

Description: 30 Tex. Admin. Code Section 115.242 (3) - Failure to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable CARB Executive Order(s), and free of defects that would impair the effectiveness of the system.

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  
SAIF MALIK ENTERPRISES, INC.  
DBA STEP N GO,  
RN104586540

§  
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BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**DEFAULT ORDER**  
**DOCKET NO. 2006-1569-PST-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26, and TEX. HEALTH & SAFETY CODE ch. 382, and the rules of the TCEQ, which requests appropriate relief, including the revocation of the respondent's underground storage tank delivery certificate, the imposition of an administrative penalty, and corrective action of the respondent. The respondent made the subject of this Order is Saif Malik Enterprises, Inc. dba Step N Go ("Saif Malik").

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

**FINDINGS OF FACT**

1. Saif Malik owns and operates a convenience store with retail sales of gasoline located at 8398 North Houston Rosslyn Road, Houston, Harris County, Texas (the "Facility").
2. Saif Malik's underground storage tank ("UST") is not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. Saif Malik's UST contains a regulated substance as defined in the rules of the Commission. The Facility consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. During an inspection on August 11, 2006, a University of Texas at Arlington investigator documented that Saif Malik:
  - a. Failed to conduct daily and monthly inspections of the Stage II vapor recovery system;
  - b. Failed to ensure that at least one Facility representative received training in the operation and maintenance of the Stage II vapor recovery system;

- c. Failed to maintain Stage II records on site and make them immediately available for review upon request.
4. Saif Malik received notice of the violations on or about August 22, 2006.
5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Saif Malik Enterprises, Inc. dba Step N Go" (the "EDPRP") in the TCEQ Chief Clerk's office on April 3, 2008.
6. By letter dated April 3, 2008, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Saif Malik with notice of the EDPRP. According to the return receipt "green card", Saif Malik received notice of the EDPRP on April 5, 2008, as evidenced by the signature on the card.
7. More than 20 days have elapsed since Saif Malik received notice of the EDPRP, provided by the Executive Director. Saif Malik failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

#### CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Saif Malik is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26, TEX. HEALTH & SAFETY CODE ch. 382, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Saif Malik failed to conduct daily and monthly inspections of the Stage II vapor recovery system, in violation of 30 TEX. ADMIN. CODE § 115.244(1) and (3), and TEX. HEALTH & SAFETY CODE § 382.085(b).
3. As evidenced by Finding of Fact No. 3.b., Saif Malik failed to ensure that at least one Facility representative received training in the operation and maintenance of the Stage II vapor recovery system, in violation of 30 TEX. ADMIN. CODE § 115.248(1), and TEX. HEALTH & SAFETY CODE § 382.085(b).
4. As evidenced by Finding of Fact No. 3.c., Saif Malik failed to maintain Stage II records on site and make them immediately available for review upon request, in violation of 30 TEX. ADMIN. CODE § 115.246(1), (3), and (7)(A), and TEX. HEALTH & SAFETY CODE § 382.085(b).

5. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director has timely served Saif Malik with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
6. As evidenced by Finding of Fact No. 7, Saif Malik has failed to file a timely answer to the EDPRP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Saif Malik and assess the penalty recommended by the Executive Director.
7. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Saif Malik for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
8. An administrative penalty in the amount of three thousand one hundred fifty dollars (\$3,150.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
9. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.
10. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke Saif Malik's UST delivery certificate if the Commission finds that good cause exists.
11. Good cause for revocation of Saif Malik's UST delivery certificate exists as justified by Findings of Fact Nos. 3, 5, 6, and 7, and Conclusions of Law Nos. 2, 3, 4, 5, and 6.

### ORDERING PROVISIONS

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

1. Saif Malik is assessed an administrative penalty in the amount of three thousand one hundred fifty dollars (\$3,150.00) for violations of TEX. WATER CODE ch. 26, TEX. HEALTH & SAFETY CODE ch. 382, and rules of the TCEQ. The payment of this administrative penalty and Saif Malik's compliance with all the terms and conditions set forth in this Order completely resolve 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 other violations which are not raised here. All checks submitted to pay the penalty imposed by this

shall be made out to the "Texas Commission on Environmental Quality". The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Saif Malik Enterprises, Inc. dba Step N Go; Docket No. 2006-1569-PST-E" to:

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

2. Saif Malik's UST delivery certificate is revoked immediately upon the effective date of this Order. Saif Malik may submit an application for a new delivery certificate only after Saif Malik has complied with all of the requirements of this Order.
3. Within 10 days after the effective date of this Order, Saif Malik shall send its UST delivery certificate to:

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

4. Saif Malik shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Order, Saif Malik shall begin maintaining Stage II records on site, in accordance with 30 TEX. ADMIN. CODE § 115.246.
  - b. Within 30 days after the effective date of this Order, Saif Malik shall:
    - i. Begin conducting daily and monthly inspections of the Stage II vapor recovery system, in accordance with 30 TEX. ADMIN. CODE § 115.244.
    - ii. Ensure that at least one Facility representative receives training in the operation and maintenance of the Stage II vapor recovery system, and each current employee receives in-house Stage II vapor recovery training regarding the purpose and operation of the vapor recovery system, in accordance with 30 TEX. ADMIN. CODE § 115.248.

- c. Within 45 days after the effective date of this Order, Saif Malik shall submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions Nos. 4.a. through 4.b.ii.

The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

and

Ms. Nicole Bealle, Waste Section Manager  
Texas Commission on Environmental Quality  
Houston Regional Office  
5425 Polk Street, Suite H  
Houston, Texas 77023-1452

5. All relief not expressly granted in this Order is denied.
6. The provisions of this Order shall apply to and be binding upon Saif Malik. Saif Malik is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
7. If Saif Malik 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, Saif Malik's failure to comply is not a violation of this Order. Saif Malik shall have the burden of establishing to the Executive Director's satisfaction that such an

event has occurred. Saif Malik shall notify the Executive Director within seven days after Saif Malik becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

8. 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 Saif Malik shall be made in writing to the Executive Director. Extensions are not effective until Saif Malik receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
9. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Saif Malik if the Executive Director determines that Saif Malik has not complied with one or more of the terms or conditions in this Order.
10. 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.
11. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

Saif Malik Enterprises, Inc. dba Step N Go  
DOCKET NO. 2006-1569-PST-E  
Page 7

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

**AFFIDAVIT OF XAVIER GUERRA**

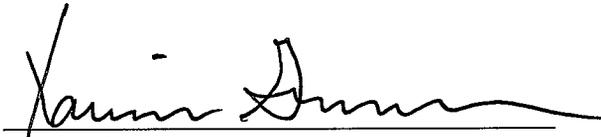
STATE OF TEXAS           §  
  §  
COUNTY OF BEXAR       §

“My name is Xavier Guerra. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.”

On behalf of the Executive Director of the Texas Commission on Environmental Quality, Mary E. Coleman filed the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Saif Malik Enterprises, Inc. dba Step N Go” (the “EDPRP”) with the Office of the Chief Clerk on April 3, 2008.

Mary E. Coleman sent the EDPRP to Saif Malik at its last known address on April 3, 2008, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card”, Saif Malik received notice of the EDPRP on April 5, 2008, as evidenced by the signature on the card.

More than 20 days have elapsed since Saif Malik received notice of the EDPRP. Saif Malik failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference”.

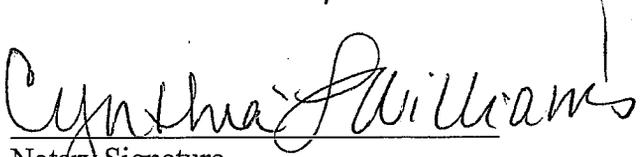


Xavier Guerra  
Attorney  
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Xavier Guerra, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 24<sup>th</sup> day of Sept., A.D., 2008.

Notary Seal:  **CYNTHIA L. WILLIAMS**  
Notary Public, State of Texas  
My Commission Expires  
**JULY 17, 2010**  
Notary without Bond

  
Notary Signature