

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-0544-PST-E TCEQ ID: RN102355690 CASE NO.: 35666

**RESPONDENT NAME: SAMMY EL-HAMED AKA SAMMY K. ELHAMED AKA SAMMY ELHAMMED
AKA SAEB EL-HAMED DBA SAVEWAY FS**

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input 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	

CASE TYPE:		
<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: 1802 SE 14th Street, Grand Prairie, Dallas 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 expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired September 7, 2009. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Laurencia Fasoyiro, Litigation Division, MC R-12, (713) 422-8914
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: Mr. Sam Barrett, Dallas/Fort Worth Regional Office, MC R-4, (817) 588-5903

Respondent: Sammy K. Elhamed, Owner, Saveway FS, 1802 SE 14th Street, Grand Prairie, TX 75051-4240

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

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: N/A</p> <p>Date of Investigation Relating to this Case: March 17, 2008</p> <p>Date of NOE Relating to this Case: March 23, 2008</p> <p>Background Facts: The EDP RP was filed October 20, 2008. The Respondent filed an answer and the case was referred to SOAH. Settlement was achieved and the agreed order was signed June 29, 2009.</p> <p>Current Compliance Status: Not yet in compliance. The Respondent's delivery certificate expired June 2008.</p> <p>PST:</p> <ol style="list-style-type: none"> Failed to submit a site assessment report to the agency within 45 days of confirmation of a release [30 TEX. ADMIN. CODE § 334.78]. Failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years [30 TEX. ADMIN. CODE § 334.49(c)(4) and TEX. WATER CODE § 26.3475(d)]. Failed to ensure that all USTs are monitored in a manner which will detect a release at a frequency of at least once every month (not to exceed 35 days between each monitoring) and failed to conduct proper release detection for the product piping associated with the UST system [30 TEX. ADMIN. CODE § 334.50(b)(1)(A), (b)(2) and (b)(2)(A)(i)(III), and TEX. WATER CODE § 26.3475(a) and 26.3475(c)(1)]. Failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as motor fuel each operating day [30 TEX. ADMIN. CODE § 334.48(c)]. 	<p>Total Assessed: \$18,188</p> <p>Total Deferred: \$14,588 <input type="checkbox"/> Expedited Order <input checked="" type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid/Due to General Revenue: \$100/\$3,500</p> <p>The Respondent paid \$100 of the undeferred administrative penalty. The remaining amount of \$3,500 shall be payable in 35 monthly payments of \$100 each.</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>*Explanation of Initial Calculated Penalty Reduction: Financial Inability to pay review resulted in a recommended penalty reduction.</p>	<p>Ordering Provisions:</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Immediately: <ol style="list-style-type: none"> Begin conducting effective manual or automatic inventory control procedures for all USTs; and Begin maintaining all UST records. Within 30 days: <ol style="list-style-type: none"> Conduct triennial testing of the cathodic protection system; Install and implement a release detection method for the USTs and the piping associated with the USTs, and conduct annual testing of the line leak detectors for performance and operational reliability; Ensure shear valves are installed and securely anchored at the base of each dispenser; Conduct the required annual and triennial testing of the Stage II equipment; and Begin maintaining the Stage II vapor recovery system in proper operating condition, this shall include, but not be limited to installing an approved ORVR compatible Stage II vapor recovery system and conducting successful Stage II vapor recovery tests after completing the ORVR upgrade. Within 60 days, submit a copy of the site assessment report. Within 75 days, submit written certification demonstrating compliance.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>5. Failed to install an emergency shutoff valve (also known as shear or impact valve) on each pressurized delivery or product line and ensure that it is securely anchored at the base of the dispenser [30 TEX. ADMIN. CODE § 334.45(c)(3)(A)].</p> <p>6. Failed to verify proper operation of the Stage II equipment at least once every 12 months and the Stage II vapor space manifold and dynamic back pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first [30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>7. Failed to upgrade the Stage II equipment to onboard refueling vapor recovery (ORVR) compatible systems [30 TEX. ADMIN. CODE § 115.242(1)(C) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>8. Failed to maintain the required UST records and make them immediately available for inspection upon request by agency personnel [30 TEX. ADMIN. CODE § 334.10(b)].</p>		

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) PCW Revision February 29, 2008

TCEQ	Assigned	31-Mar-2008			
	PCW	15-Sep-2008			

RESPONDENT/FACILITY INFORMATION	
Respondent	Sammy El-Hamed dba Saveway FS
Reg. Ent. Ref. No.	RN102355690
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	35666	No. of Violations	8	
Docket No.	2008-0544-PST-E	Order Type	1660	
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Judy Kluge	
Multi-Media		EC's Team	Enforcement Team 6	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section		
TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$14,000
ADJUSTMENTS (+/-) TO SUBTOTAL 1		
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.		
Compliance History	5% Enhancement	Subtotals 2, 3, & 7
Notes	Enhancement for one prior NOV with same or similar violations.	\$700
Culpability	No 0% Enhancement	Subtotal 4
Notes	The Respondent does not meet the culpability criteria.	\$0
Good Faith Effort to Comply	0% Reduction	Subtotal 5
Extraordinary	Before NOV	NOV to EDRP/Settlement Offer
Ordinary		
N/A	X	(mark with x)
Notes	The Respondent does not meet the good faith criteria.	
	0% Enhancement*	Subtotal 6
Total EB Amounts	\$3,896	\$0
Approx. Cost of Compliance	\$9,600	<i>*Capped at the Total EB \$ Amount</i>
SUM OF SUBTOTALS 1-7	Final Subtotal	\$14,700
OTHER FACTORS AS JUSTICE MAY REQUIRE	24%	Adjustment
Reduces or enhances the Final Subtotal by the indicated percentage.		
Notes	Recommended enhancement to capture the avoided costs of compliance associated with Violation Nos. 2, 3, and 6.	
	Final Penalty Amount	\$18,188
STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$18,188
DEFERRAL	0% Reduction	Adjustment
Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)		
Notes	Deferral not offered for non-expedited settlement.	
PAYABLE PENALTY		\$18,188

Screening Date 2-Apr-2008

Docket No. 2008-0544-PST-E

PCW

Respondent Sammy El-Hamed dba Saveway FS

Policy Revision 2 (September 2002)

Case ID No. 35666

PCW Revision February 29, 2008

Reg. Ent. Reference No. RN102355690

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 submitted)	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

Enhancement for one prior NOV with same or similar violations.

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

Screening Date 2-Apr-2008	Docket No. 2008-0544-PST-E	PCW		
Respondent Sammy El-Hamed dba Saveway FS	<small>Policy Revision 2 (September 2002)</small>			
Case ID No. 35666	<small>PCW Revision February 29, 2008</small>			
Reg. Ent. Reference No. RN102355690				
Media [Statute] Petroleum Storage Tank				
Enf. Coordinator Judy Kluge				
Violation Number <input type="text" value="1"/>				
Rule Cite(s)	30 Tex. Admin. Code § 334.78			
Violation Description	Failed to submit a site assessment report to the agency within 45 days of confirmation of a release.			
Base Penalty		<input type="text" value="\$10,000"/>		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
		Percent	<input type="text" value="0%"/>	
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text"/>
		Percent	<input type="text" value="10%"/>	
Matrix Notes	100% of the rule requirement was not met.			
		Adjustment	<input type="text" value="\$9,000"/>	
		<input type="text" value="\$1,000"/>		
Violation Events				
Number of Violation Events		<input type="text" value="1"/>	Number of violation days	
		<input type="text" value="16"/>		
<small>mark only one with an x</small>	daily	<input type="text"/>	Violation Base Penalty <input type="text" value="\$1,000"/>	
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input checked="" type="checkbox"/>		
One single event recommended based on documentation of the violation during the March 17, 2008 investigation.				
Economic Benefit (EB) for this violation			Statutory Limit Test	
Estimated EB Amount		<input type="text" value="\$140"/>	Violation Final Penalty Total	
		<input type="text" value="\$1,299"/>		
This violation Final Assessed Penalty (adjusted for limits)			<input type="text" value="\$1,299"/>	

Economic Benefit Worksheet

Respondent Sammy El-Hamed dba Saveway FS
Case ID No. 35666
Reg. Ent. Reference No. RN102355690
Media Petroleum Storage Tank
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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)	\$1,500	17-Apr-2007	28-Feb-2009	1.9	\$140	n/a	\$140

Notes for DELAYED costs

Estimated cost submit a site assessment report. The date required is 45 days after the date of the suspected release and the final date is the expected 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

\$1,500

TOTAL

\$140

Screening Date 2-Apr-2008

Docket No. 2008-0544-PST-E

PCW

Respondent Sammy El-Hamed dba Saveway FS

Policy Revision 2 (September 2002)

Case ID No. 35666

PCW Revision February 29, 2008

Reg. Ent. Reference No. RN102355690

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 334.49(c)(4) and Tex. Water Code § 26.3475(d)

Violation Description Failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years. Specifically, the triennial test had not been conducted.

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="25%"/>
Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

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

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

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

Violation Base Penalty

One single event is recommended for the three-year period preceding the March 17, 2008 investigation.

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 Sammy El-Hamed dba Saveway FS
Case ID No. 35666
Reg. Ent. Reference No. RN102355690
Media Petroleum Storage Tank
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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
Monitoring				0.0	\$0	n/a	\$0

Notes for DELAYED costs

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]	\$1,000	17-Mar-2005	17-Mar-2008	3.9	\$196	\$1,000	\$1,196
Piping Tightness & Line Leak Tests				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Avoided cost for completing the triennial test. The date required is three years before the investigation date and the final date is the investigation date.

Approx. Cost of Compliance

\$1,000

TOTAL

\$1,196

Screening Date 2-Apr-2008	Docket No. 2008-0544-PST-E	PCW
Respondent Sammy El-Hamed dba Saveway FS	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 35666	<i>PCW Revision February 29, 2008</i>	
Reg. Ent. Reference No. RN102355690		
Media [Statute] Petroleum Storage Tank		
Enf. Coordinator Judy Kluge		
Violation Number	3	
Rule Cite(s)	30 Tex. Admin. Code § 334.50(b)(1)(A), (b)(2), and (b)(2)(A)(i)(III) and Tex. Water Code § 26.3475(a) and (c)(1)	
Violation Description	Failed to ensure that all USTs are monitored in a manner which will detect a release at a frequency of at least once every month (not to exceed 35 days between each monitoring). Failed to conduct proper release detection for the product piping associated with the UST system. Specifically, the annual piping tightness tests had not been conducted. Also, failed to test the line leak detectors at least once per year for performance and operational reliability. Specifically, the line leak detectors had not been performance tested annually.	
Base Penalty		\$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm					
		Major	Moderate	Minor		
	Release					
	Actual				Percent	25%
	Potential	x				

>> Programmatic Matrix

		Major	Moderate	Minor		
	Falsification					
					Percent	0%
Matrix Notes	Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.					
Adjustment					\$7,500	

\$2,500

Violation Events

Number of Violation Events	1		16	Number of violation days
<i>mark only one with an x</i>	daily	monthly	quarterly	Violation Base Penalty \$2,500
	x	semiannual	annual	
		single event		

One monthly event recommended based on documentation of the violation during the March 17, 2008 investigation to the April 2, 2008 screening date.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount	\$1,161
	Violation Final Penalty Total \$3,248
This violation Final Assessed Penalty (adjusted for limits) \$3,248	

Economic Benefit Worksheet

Respondent Sammy El-Hamed dba Saveway FS
Case ID No. 35666
Reg. Ent. Reference No. RN102355690
Media Petroleum Storage Tank
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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				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)	\$1,500	17-Mar-2008	29-Jan-2009	0.9	\$65	n/a	\$65

Notes for DELAYED costs The estimated cost of monitoring all USTs for releases. The date required is the investigation date and the final date is expected 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)	\$1,000	17-Mar-2007	17-Mar-2008	1.9	\$96	\$1,000	\$1,096

Notes for AVOIDED costs Avoided costs for conducting annual piping tightness test and line leak detector test. The date required is one year prior to the investigation date and the final date is the date of investigation.

Approx. Cost of Compliance	\$2,500	TOTAL	\$1,161
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Screening Date 2-Apr-2008	Docket No. 2008-0544-PST-E	PCW
Respondent Sammy El-Hamed dba Saveway FS	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 35666	<i>PCW Revision February 29, 2008</i>	
Reg. Ent. Reference No. RN102355690		
Media [Statute] Petroleum Storage Tank		
Enf. Coordinator Judy Kluge		
Violation Number	4	
Rule Cite(s)	30 Tex. Admin. Code § 334.48(c)	
Violation Description	Failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as motor fuel each operating day.	
Base Penalty		\$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm				
	Release	Major	Moderate		Minor
	Actual	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
	Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
				Percent <input type="text" value="25%"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Percent <input type="text" value="0%"/>

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

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="checkbox"/>
	monthly	<input checked="" type="checkbox"/>
	quarterly	<input type="checkbox"/>
	semiannual	<input type="checkbox"/>
	annual	<input type="checkbox"/>
	single event	<input type="checkbox"/>

Violation Base Penalty

One monthly event recommended based on documentation of the violation during the March 17, 2008 investigation to the April 2, 2008 screening date.

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: Sammy El-Hamed dba Saveway FS

Case ID No.: 35666

Reg. Ent. Reference No.: RN102355690

Media: Petroleum Storage Tank

Violation No.: 4

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.0	\$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	\$500	17-Mar-2008	29-Jan-2009	0.9	\$22	n/a	\$22
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 conduct inventory control for all USTs involved in the retail sale of petroleum substances used as motor fuel. The date required is the date of the investigation and final date is the expected 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

<p>Screening Date 2-Apr-2008</p> <p>Respondent Sammy El-Hamed dba Saveway FS</p> <p>Case ID No. 35666</p> <p>Reg. Ent. Reference No. RN102355690</p> <p>Media [Statute] Petroleum Storage Tank</p> <p>Enf. Coordinator Judy Kluge</p> <p>Violation Number <input type="text" value="5"/></p> <p>Rule Cite(s) <input type="text" value="30 Tex. Admin. Code § 334.45(c)(3)(A)"/></p> <p>Violation Description <input type="text" value="Failed to install an emergency shutoff valve (also known as shear or impact valve) on each pressurized delivery or product line and ensure that it is securely anchored at the base of the dispenser. Specifically, the shear valves installed on the pressurized delivery product lines were not securely anchored at the base of the dispensers."/></p>	<p>Docket No. 2008-0544-PST-E</p> <p style="text-align: right;">PCW</p> <p style="text-align: right;"><small>Policy Revision 2 (September 2002)</small></p> <p style="text-align: right;"><small>PCW Revision February 29, 2008</small></p>																			
Base Penalty <input type="text" value="\$10,000"/>																				
>> Environmental, Property and Human Health Matrix																				
<p>OR</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td></td> <td colspan="3" style="text-align: center;">Harm</td> <td></td> </tr> <tr> <td style="text-align: center;">Release</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td></td> </tr> <tr> <td style="text-align: center;">Actual</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td rowspan="2" style="text-align: right; vertical-align: middle;">Percent <input type="text" value="10%"/></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td><input type="text"/></td> <td style="text-align: center;">x</td> <td><input type="text"/></td> </tr> </table>		Harm				Release	Major	Moderate	Minor		Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="10%"/>	Potential	<input type="text"/>	x	<input type="text"/>	
	Harm																			
Release	Major	Moderate	Minor																	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="10%"/>																
Potential	<input type="text"/>	x	<input type="text"/>																	
>> Programmatic Matrix																				
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td></td> </tr> <tr> <td style="text-align: center;">Falsification</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td rowspan="2" style="text-align: right; vertical-align: middle;">Percent <input type="text" value="0%"/></td> </tr> </table> <p>Matrix Notes <input type="text" value="Human health or the environment will or could be exposed to a significant amount of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation."/></p>		Major	Moderate	Minor		Falsification	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>										
	Major	Moderate	Minor																	
Falsification	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>																
Adjustment <input type="text" value="\$9,000"/>																				
<input type="text" value="\$1,000"/>																				
Violation Events																				
<p>Number of Violation Events <input type="text" value="1"/> <input type="text" value="16"/> Number of violation days</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td rowspan="6" style="text-align: center; vertical-align: middle;"><small>mark only one with an x</small></td> <td style="text-align: center;">daily</td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">monthly</td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">quarterly</td> <td style="text-align: center;">x</td> </tr> <tr> <td style="text-align: center;">semiannual</td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">annual</td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">single event</td> <td><input type="text"/></td> </tr> </table> <p style="text-align: right;">Violation Base Penalty <input type="text" value="\$1,000"/></p> <p><input type="text" value="One quarterly event recommended based on documentation of the violation during the March 17, 2008 investigation to the April 2, 2008 screening date."/></p>	<small>mark only one with an x</small>	daily	<input type="text"/>	monthly	<input type="text"/>	quarterly	x	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input type="text"/>							
<small>mark only one with an x</small>		daily	<input type="text"/>																	
		monthly	<input type="text"/>																	
		quarterly	x																	
		semiannual	<input type="text"/>																	
		annual	<input type="text"/>																	
	single event	<input type="text"/>																		
Economic Benefit (EB) for this violation																				
Estimated EB Amount <input type="text" value="\$7"/>	Statutory Limit Test																			
Violation Final Penalty Total <input type="text" value="\$1,299"/>																				
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$1,299"/>																				

Economic Benefit Worksheet

Respondent: Sammy El-Hamed dba Saveway FS

Case ID No.: 35666

Reg. Ent. Reference No.: RN102355690

Media: Petroleum Storage Tank

Violation No.: 5

Percent Interest	Years of Depreciation
5.0	15

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

Item Description No commas or \$

Delayed Costs

Equipment	\$100	17-Mar-2008	28-Feb-2009	1.0	\$0	\$6	\$7
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)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to securely anchor all emergency shutoff valves at the base of the dispensing unit. The date required is the date of the investigation and the final date is the expected 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

\$100

TOTAL

\$7

Screening Date 2-Apr-2008	Docket No. 2008-0544-PST-E	PCW
Respondent Sammy El-Hamed dba Saveway FS	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 35666	<i>PCW Revision February 29, 2008</i>	
Reg. Ent. Reference No. RN102355690		
Media [Statute] Petroleum Storage Tank		
Enf. Coordinator Judy Kluge		
Violation Number	6	
Rule Cite(s)	30 Tex. Admin. Code § 115.245(2) and Tex. Health & Safety Code § 382.085(b)	
Violation Description	Failed to verify proper operation of the Stage II equipment at least once every 12 months and the Stage II vapor space manifold and dynamic back pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first. Specifically, the Stage II annual and triennial system compliance testing had not been conducted.	
	Base Penalty	\$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				Percent <input type="text" value="25%"/>

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>

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

Adjustment

Violation Events

	<input type="text" value="1"/>		<input type="text" value="1095"/>	Number of violation days												
<i>mark only one with an x</i>	<table style="width:100%; border-collapse: collapse;"> <tr><td style="padding: 2px;">daily</td><td style="border: 1px solid black; width: 50px;"><input type="text"/></td></tr> <tr><td style="padding: 2px;">monthly</td><td style="border: 1px solid black;"><input type="text"/></td></tr> <tr><td style="padding: 2px;">quarterly</td><td style="border: 1px solid black;"><input type="text"/></td></tr> <tr><td style="padding: 2px;">semiannual</td><td style="border: 1px solid black;"><input type="text"/></td></tr> <tr><td style="padding: 2px;">annual</td><td style="border: 1px solid black;"><input type="text"/></td></tr> <tr><td style="padding: 2px;">single event</td><td style="border: 1px solid black;"><input checked="" type="checkbox"/></td></tr> </table>	daily	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input checked="" type="checkbox"/>			Violation Base Penalty <input type="text" value="\$2,500"/>
daily	<input type="text"/>															
monthly	<input type="text"/>															
quarterly	<input type="text"/>															
semiannual	<input type="text"/>															
annual	<input type="text"/>															
single event	<input checked="" type="checkbox"/>															

One single event is recommended for the three-year period preceding the March 17, 2008 investigation.

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

Estimated EB Amount <input type="text" value="\$1,196"/>	Violation Final Penalty Total <input type="text" value="\$3,248"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$3,248"/>	

Economic Benefit Worksheet

Respondent Sammy El-Hamed dba Saveway FS
Case ID No. 35666
Reg. Ent. Reference No. RN102355690
Media Petroleum Storage Tank
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.0	\$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)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

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]	\$1,000	17-Mar-2005	17-Mar-2008	3.9	\$196	\$1,000	\$1,196
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost for annual and triennial testing of the Stage II equipment. The date required is three years prior to the investigation date and the final date is the investigation date.

Approx. Cost of Compliance

\$1,000

TOTAL

\$1,196

Screening Date 2-Apr-2008	Docket No. 2008-0544-PST-E	PCW			
Respondent Sammy El-Hamed dba Saveway FS		<i>Policy Revision 2 (September 2002)</i>			
Case ID No. 35666		<i>PCW Revision February 29, 2008</i>			
Reg. Ent. Reference No. RN102355690					
Media [Statute] Petroleum Storage Tank					
Enf. Coordinator Judy Kluge					
Violation Number <input type="text" value="7"/>					
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 115.242(1)(C) and Tex. Health & Safety Code § 382.085(b)"/>				
Violation Description	<input type="text" value="Failed to upgrade the Stage II equipment to onboard refueling vapor recovery (ORVR) compatible systems."/>				
	Base Penalty	<input type="text" value="\$10,000"/>			
>> Environmental, Property and Human Health Matrix					
OR	Harm				
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Potential	<input type="text"/>	x	<input type="text"/>	Percent <input type="text" value="10%"/>	
>> Programmatic Matrix					
	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>
Matrix Notes	<input type="text" value="Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation."/>				
	Adjustment	<input type="text" value="\$9,000"/>			
		<input type="text" value="\$1,000"/>			
Violation Events					
	<input type="text" value="1"/>	<input type="text" value="16"/>	Number of violation days		
<i>mark only one with an x</i>	daily	<input type="text"/>			
	monthly	<input type="text"/>			
	quarterly	x		Violation Base Penalty <input type="text" value="\$1,000"/>	
	semiannual	<input type="text"/>			
	annual	<input type="text"/>			
	single event	<input type="text"/>			
	<input type="text" value="One quarterly event is recommended based on documentation of the violation during the March 17, 2008 investigation to the April 2, 2008 screening date."/>				
Economic Benefit (EB) for this violation			Statutory Limit Test		
Estimated EB Amount	<input type="text" value="\$152"/>		Violation Final Penalty Total	<input type="text" value="\$1,299"/>	
	This violation Final Assessed Penalty (adjusted for limits)			<input type="text" value="\$1,299"/>	

Economic Benefit Worksheet

Respondent Sammy El-Hamed dba Saveway FS
Case ID No. 35666
Reg. Ent. Reference No. RN102355690
Media Petroleum Storage Tank
Violation No. 7

Percent Interest	Years of Depreciation
5.0	15

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

Equipment	\$2,500	17-Mar-2008	29-Jan-2009	0.9	\$7	\$145	\$152
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)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to upgrade the Stage II equipment to ORVR compatible systems. The date required is the investigation date and the final date is the expected compliance date.

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

\$2,500

TOTAL

\$152

Screening Date 2-Apr-2008	Docket No. 2008-0544-PST-E	PCW			
Respondent Sammy EI-Hamed dba Saveway FS	<small>Policy Revision 2 (September 2002)</small>				
Case ID No. 35666	<small>PCW Revision February 29, 2008</small>				
Reg. Ent. Reference No. RN102355690					
Media [Statute] Petroleum Storage Tank					
Enf. Coordinator Judy Kluge					
Violation Number	8				
Rule Cite(s)	30 Tex. Admin. Code § 334.10(b)				
Violation Description	Failed to maintain the required UST records and make them immediately available for the inspection upon request by agency personnel.				
Base Penalty		\$10,000			
>> Environmental, Property and Human Health Matrix					
OR	Harm				
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>		
		Percent	0%		
>> Programmatic Matrix					
		Falsification	Major	Moderate	Minor
		<input type="text"/>	x	<input type="text"/>	<input type="text"/>
		Percent	10%		
Matrix Notes	100% of the rule requirement was not met.				
		Adjustment	\$9,000		
		\$1,000			
Violation Events					
		Number of Violation Events	1	Number of violation days	16
<small>mark only one with an x</small>	daily	<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"/>				
		Violation Base Penalty	\$1,000		
One single event is recommended based on documentation of the violation during the March 17, 2008 investigation.					
Economic Benefit (EB) for this violation			Statutory Limit Test		
		Estimated EB Amount	\$22	Violation Final Penalty Total	\$1,299
				This violation Final Assessed Penalty (adjusted for limits)	\$1,299

Economic Benefit Worksheet

Respondent Sammy El-Hamed dba Saveway FS

Case ID No. 35666

Reg. Ent. Reference No. RN102355690

Media Petroleum Storage Tank

Violation No. 8

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.0	\$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	\$500	17-Mar-2008	29-Jan-2009	0.9	\$22	n/a	\$22
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 all UST records. The date required is the investigation date and the final date is the expected 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

Compliance History

Customer/Respondent/Owner-Operator:	CN602492944 EL-HAMED, SAMMY	Classification: AVERAGE	Rating: 2.33
Regulated Entity:	RN102355690 SAVEWAY FS	Classification: AVERAGE	Site Rating: 2.33
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	39342
Location:	1802 SE 14TH ST, GRAND PRAIRIE, TX, 75051	Rating Date: September 01 07	Repeat Violator: NO
TCEQ Region:	REGION 04 - DFW METROPLEX		
Date Compliance History Prepared:	April 02, 2008		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	April 02, 2003 to April 02, 2008		

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? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | <u>N/A</u> |
| 5. When did the change(s) in ownership occur? | <u>N/A</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.)
- | | | |
|---|------------|----------|
| 1 | 10/07/2003 | (250695) |
| 2 | 10/23/2003 | (252534) |
| 3 | 03/27/2008 | (639341) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- | | | | |
|--------------|---|-----------------|----------|
| Date: | 10/07/2003 | (250695) | |
| Self Report? | NO | Classification: | Minor |
| Citation: | 30 TAC Chapter 115, SubChapter C 115.246(7)(A) | | |
| Description: | Failure to maintain records on-site at facilities ordinarily manned during business hours, and made immediately available for review upon request by authorized representatives of the Texas Commission on Environmental Quality (TCEQ), the U.S. EPA, or any local air pollution control program. | | |
| Self Report? | NO | Classification: | Moderate |
| Citation: | 30 TAC Chapter 115, SubChapter C 115.245(2) | | |
| Description: | Failure to verify proper operation of the Stage II equipment at least once every 12 months or upon major system replacement or modification. The verification shall include all functional tests that were required for the initial system test, except for the 101 and 103 tests, which must be performed every 3 years. | | |
| Self Report? | NO | Classification: | Moderate |
| Citation: | 30 TAC Chapter 115, SubChapter C 115.222(3)
30 TAC Chapter 115, SubChapter C 115.242(4) | | |
| Description: | Failure to ensure that no gasoline leaks, as detected by sampling, sight, sound, or smell exist anywhere in the dispensing equipment or Stage II vapor recovery 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
SAMMY EL-HAMED, AKA
SAMMY K. ELHAMED, AKA
SAMMY ELHAMMED, AKA SAEB
EL-HAMED DBA SAVEWAY FS;
RN102355690

§
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BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-0544-PST-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Sammy El-Hamed, aka Sammy K. Elhamed, aka Sammy Elhammed, aka Saeb El-Hamed dba Saveway FS ("Mr. El-Hamed") under the authority of TEX. WATER CODE chs. 7 and 26 and TEX. HEALTH & SAFETY CODE ch. 382. The Executive Director of the TCEQ, represented by the Litigation Division, and Mr. El-Hamed, appear before the Commission and together stipulate that:

1. Mr. El-Hamed owns and operates a convenience store with retail sales of gasoline located at 1802 SE 14th Street, Grand Prairie, Dallas County, Texas (the "Station").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26, TEX. HEALTH & SAFETY CODE ch. 382 and TCEQ rules.
3. The Commission and Mr. El-Hamed agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. El-Hamed is subject to the Commission's jurisdiction.
4. Mr. El-Hamed received notice of the violations alleged in Section II ("Allegations") on or about March 28, 2008.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. El-Hamed of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of eighteen thousand one hundred eighty-eight dollars (\$18,188) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Financial Assurance Section of the Commission's Financial Administration Division reviewed the financial documentation submitted by Mr. El-Hamed and determined that Mr. El-Hamed is unable to pay part of the administrative penalty. Therefore, fourteen thousand five hundred eighty-eight dollars (\$14,588.00) of the penalty is deferred contingent upon Mr. El-Hamed's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Mr. El-Hamed fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require Mr. El-Hamed to pay all or part of the deferred penalty.

Mr. El-Hamed paid one hundred dollars (\$100.00) of the undeferred administrative penalty. The remaining amount of three thousand five hundred dollars (\$3,500.00) shall be payable in 35 monthly payments of one hundred dollars (\$100.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If Mr. El-Hamed fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the acceleration of any remaining balance constitutes the failure by Mr. El-Hamed to timely and satisfactorily comply with all the terms of this Agreed Order and the Executive Director may demand payment of any deferred penalty amount.

7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Mr. El-Hamed agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. 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 Mr. El-Hamed has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

During an investigation conducted on March 17, 2008, a TCEQ Dallas Regional Office investigator documented that Mr. El-Hamed violated the following requirements:

- a. 30 TEX. ADMIN. CODE § 334.78 by failing to submit a site assessment report to the agency within 45 days of confirmation of a release.
- b. 30 TEX. ADMIN. CODE § 334.49(c)(4) and TEX. WATER CODE § 26.3475(d) by failing to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years.
- c. 30 TEX. ADMIN. CODE § 334.50(b)(1)(A), (b)(2) and (b)(2)(A)(i)(III), and TEX. WATER CODE §§ 26.3475(a) and 26.3475(c)(1) by failing to ensure that all USTs are monitored in a manner which will detect a release at a frequency of at least once every month (not to exceed 35 days between each monitoring) and by failing to conduct proper release detection for the product piping associated with the UST system.
- d. 30 TEX. ADMIN. CODE § 334.48(c) by failing to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as motor fuel each operating day.
- e. 30 TEX. ADMIN. CODE § 334.45(c)(3)(A) by failing to install an emergency shutoff valve (also known as shear or impact valve) on each pressurized delivery or product line and ensure that it is securely anchored at the base of the dispenser.
- f. 30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b) by failing to verify proper operation of the Stage II equipment at least once every 12 months and the Stage II vapor space manifolding and dynamic back pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first.
- g. 30 TEX. ADMIN. CODE § 115.242(1)(C) and TEX. HEALTH & SAFETY CODE § 382.085(b) by failing to upgrade the Stage II equipment to onboard refueling vapor recovery (ORVR) compatible systems.

- h. 30 TEX. ADMIN. CODE § 334.10(b) by failing to maintain the required UST records and make them immediately available for inspection upon request by agency personnel.

III. DENIALS

Mr. El-Hamed generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Mr. El-Hamed pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Mr. El-Hamed's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Sammy El-Hamed, aka Sammy K. Elhamed, aka Sammy Elhammed, aka Saeb El-Hamed dba Saveway FS, Docket No. 2008-0544-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. Mr. El-Hamed shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, Mr. El-Hamed shall:
 - i. Begin conducting effective manual or automatic inventory control procedures for all USTs, in accordance with 30 TEX. ADMIN. CODE § 334.48;
 - ii. Begin maintaining all UST records, in accordance with 30 TEX. ADMIN. CODE § 334.10.
 - b. Within 30 days after the effective date of this Agreed Order, Mr. El-Hamed shall:
 - i. Conduct triennial testing of the cathodic protection system, in accordance with 30 TEX. ADMIN. CODE § 334.49;

- ii. Install and implement a release detection method for the USTs and the piping associated with the USTs, and conduct annual testing of the line leak detectors for performance and operational reliability, in accordance with 30 TEX. ADMIN. CODE § 334.50;
 - iii. Ensure shear valves are installed and securely anchored at the base of each dispenser, in accordance with 30 TEX. ADMIN. CODE § 334.45;
 - iv. Conduct the required annual and triennial testing of the Stage II equipment, in accordance with 30 TEX. ADMIN. CODE § 115.245;
 - v. Begin maintaining the Stage II vapor recovery system in proper operating condition, this shall include, but not be limited to installing an approved ORVR compatible Stage II vapor recovery system and conducting successful Stage II vapor recovery tests after completing the ORVR upgrade, in accordance with 30 TEX. ADMIN. CODE § 115.242;
- c. Within 60 days after the effective date of this Agreed Order, Mr. El-Hamed shall submit a copy of the site assessment report, in accordance with 30 TEX. ADMIN. CODE § 334.78; and
- d. Within 75 days after the effective date of this Agreed Order, Mr. El-Hamed shall submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i. through 2.c. 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 this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, 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

with a copy to:

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

3. The provisions of this Agreed Order shall apply to and be binding upon Mr. El-Hamed. Mr. El-Hamed is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Station operations referenced in this Agreed Order.
4. If Mr. El-Hamed fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Mr. El-Hamed's failure to comply is not a violation of this Agreed Order. Mr. El-Hamed shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. El-Hamed shall notify the Executive Director within seven days after Mr. El-Hamed becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. El-Hamed shall be made in writing to the Executive Director. Extensions are not effective until Mr. El-Hamed receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Mr. El-Hamed in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

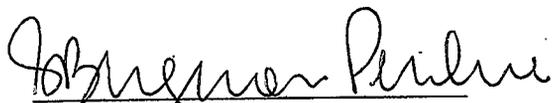
7. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Agreed Order to Mr. El-Hamed, or three days after the date on which the Commission mails notice of this Agreed Order to Mr. El-Hamed, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

9/17/2009

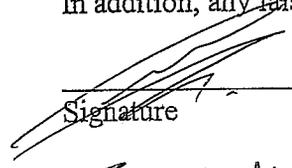
Date

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

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

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

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



Signature

06/29/09
Date

Sammy K Elhamed
Name (Printed or typed)

Manager
Title

Authorized representative of

Sammy El-Hamed, aka Sammy K. Elhamed, aka Sammy Elhammed, aka Saeb El-Hamed dba Saveway FS