

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.: 2008-1815-PST-E TCEQ ID: RN101735496 CASE NO.: 36836  
RESPONDENT NAME: AAMSON ENTERPRISES INC DBA CULLEN FOOD MART**

<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
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> 6643 Cullen Boulevard, Houston, Harris County</p> <p><b>TYPE OF OPERATION:</b> convenience store with retail sales of gasoline</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired November 2, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney:</b> Ms. Rebecca M. Combs, Litigation Division, MC 175, (512) 239-6939                  Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019  <b>TCEQ Enforcement Coordinator:</b> Mr. Thomas Greimel, Waste Enforcement Section, MC 128, (512) 239-5690  <b>TCEQ Regional Contact:</b> Ms. Nicole Bealle, Houston Regional Office, MC R-12, (713) 767-3623  <b>Respondent:</b> Ms. Fouzia Qureshi, President, Aamson Enterprises Inc., 8303 Southwest Freeway, Suite 760, Houston, Texas 77074-1621  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter.</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input 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> September 5, 2008</p> <p><b>Date of NOE Relating to this Case:</b> December 16, 2008</p> <p><b>Background Facts:</b> The case was referred to the Litigation Division on May 28, 2009. The EDRP was filed on July 7, 2009, and 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 July 13, 2009. The Respondent 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 Respondent has not yet submitted documentation to certify compliance with the technical requirements. The Respondent's delivery certificate expired in March 2009.</p> <p><b>PST:</b></p> <ol style="list-style-type: none"> <li>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)].</li> <li>Failed to ensure that at least one Station representative received training and instruction in the operation and maintenance of the Stage II vapor recovery system and that each current employee received in-house Stage II training regarding the purpose and operation of the vapor recovery system [30 TEX. ADMIN. CODE § 115.248(1) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</li> <li>Failed to maintain Stage II records at the Station and make them immediately available for review upon request by a TCEQ representative [30 TEX. ADMIN. CODE § 115.246(1) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</li> <li>Failed to verify proper operation of the Stage II equipment at least once every 12 months [30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</li> </ol>	<p><b>Total Assessed:</b> \$12,305</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> \$12,305</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 Order.</p> <p><b>Site Compliance History Classification:</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input checked="" type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification:</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input checked="" 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></p> <p>The Respondent's delivery certificate is revoked immediately upon the effective date of this Order. The Respondent must surrender its delivery certificate to the TCEQ within 10 days after the effective date of the Order. The Respondent may submit an application for a new delivery certificate only after the Respondent has complied with all of the requirements of this Order.</p> <p>The Respondent shall implement the following corrective measures:</p> <ol style="list-style-type: none"> <li>Immediately, begin conducting daily and monthly inspections of the Stage II vapor recovery system.</li> <li>Within 30 days:             <ol style="list-style-type: none"> <li>Ensure that at least one Station representative receives training in the operation and maintenance of the Stage II vapor recovery system, and each current employee receives in-house Stage II training regarding the purpose and operation of the vapor recovery system;</li> <li>Begin maintaining Stage II records at the Station;</li> <li>Conduct the required annual testing of the Stage II equipment; and</li> <li>Upgrade the Stage II equipment to ORVR compatible systems and begin maintaining the Stage II vapor recovery system in proper operating condition, including but not limited to, repairing any defective nozzles and conducting successful Stage II vapor recovery tests after completing the ORVR upgrade.</li> </ol> </li> <li>Within 45 days, submit written certification demonstrating compliance.</li> </ol>

**VIOLATION SUMMARY CHART:**

<b>VIOLATION INFORMATION</b>	<b>PENALTY CONSIDERATIONS</b>	<b>CORRECTIVE ACTIONS TAKEN/REQUIRED</b>
<p>5. Failed to upgrade the Stage II equipment to onboard refueling vapor recovery ("ORVR") compatible systems and failed to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and applicable CARB Executive Order, and free of defects that would impair the effectiveness of the system including, but not limited to, absence or discontinuation of any component that is part of the approved system [30 TEX. ADMIN. CODE § 115.242(1)(C) and 115.242(3) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>		



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

DATES	Assigned	6-Oct-2008	Screening	3-Nov-2008	EPA Due	
	PCW	2-Jun-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	Aamson Enterprises Inc dba Cullen Food Mart
Reg. Ent. Ref. No.	RN101735496
Facility/Site Region	12-Houston
Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	36836	No. of Violations	5
Docket No.	2008-1815-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Thomas Greimel
		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* **\$6,500**

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

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

**Compliance History** 67.0% Enhancement *Subtotals 2, 3, & 7* **\$4,355**

Notes: Enhancement due to poor performer classification, two previous findings orders, one previous NOV with same or similar violations and one NOV without same or similar violations.

**Culpability** No 0.0% Enhancement *Subtotal 4* **\$0**

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** *Subtotal 5* **\$0**

**Economic Benefit** 0.0% Enhancement\* *Subtotal 6* **\$0**

Total EB Amounts	\$1,662	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$5,350	

**SUM OF SUBTOTALS 1-7** *Final Subtotal* **\$10,855**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** 13.4% *Adjustment* **\$1,450**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided cost of compliance associated with Violation Nos. 1 and 4.

*Final Penalty Amount* **\$12,305**

**STATUTORY LIMIT ADJUSTMENT** *Final Assessed Penalty* **\$12,305**

**DEFERRAL** 0.0% Reduction *Adjustment* **\$0**

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** **\$12,305**

Screening Date 3-Nov-2008

Docket No. 2008-1815-PST-E

PCW

Respondent Aamson Enterprises Inc dba Cullen Food Mart

Policy Revision 2 (September 2002)

Case ID No. 36836

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101735496

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Thomas Greimel

### 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	1	2%
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	2	50%
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%

Please Enter Yes or No

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) 57%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Poor Performer

Adjustment Percentage (Subtotal 7) 10%

>> Compliance History Summary

Compliance History Notes

Enhancement due to poor performer classification, two previous findings orders, one previous NOV with same or similar violations and one NOV without same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 67%

**Screening Date** 3-Nov-2008 **Docket No.** 2008-1815-PST-E **PCW**  
**Respondent** Aamson Enterprises Inc dba Cullen Food Mart *Policy Revision 2 (September 2002)*  
**Case ID No.** 36836 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN101735496  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** Thomas Greimel  
**Violation Number**   
**Rule Cite(s)**   
**Violation Description**   
**Base Penalty**

**>> Environmental, Property and Human Health Matrix**  
**OR**

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="10%"/>
Potential	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	

  
**>> Programmatic Matrix**

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

  
**Matrix Notes**   
**Adjustment**

**Violation Events**  
**Number of Violation Events**  **Number of violation days**   
*mark only one with an x*

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

  
**Violation Base Penalty**

**Good Faith Efforts to Comply** **0.0% Reduction**   

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

  
**Notes**   
**Violation Subtotal**

**Economic Benefit (EB) for this violation** **Statutory Limit Test**  
**Estimated EB Amount**  **Violation Final Penalty Total**   
**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent** Aamson Enterprises Inc dba Cullen Food Mart  
**Case ID No.** 36836  
**Reg. Ent. Reference No.** RN101735496  
**Media** Petroleum Storage Tank  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$350	5-Aug-2008	5-Sep-2008	1.00	\$18	\$350	\$368
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to conduct daily and monthly inspections of Stage II vapor recovery system. The Date Required is one month prior to the investigation date. The Final Date is the investigation date.

Approx. Cost of Compliance

\$350

**TOTAL**

\$368

<b>Screening Date</b> 3-Nov-2008		<b>Docket No.</b> 2008-1815-PST-E		<b>PCW</b>
<b>Respondent</b> Aamson Enterprises Inc dba Cullen Food Mart			Policy Revision 2 (September 2002)	
<b>Case ID No.</b> 36836			PCW Revision October 30, 2008	
<b>Reg. Ent. Reference No.</b> RN101735496				
<b>Media [Statute]</b> Petroleum Storage Tank				
<b>Enf. Coordinator</b> Thomas Greimel				
<b>Violation Number</b>		2		
<b>Rule Cite(s)</b>		30 Tex. Admin. Code § 115.248(1) and Tex. Health & Safety Code § 382.085(b)		
<b>Violation Description</b>		Failed to ensure that at least one Station representative received training and instruction in the operation and maintenance of the Stage II vapor recovery system and that each current employee received in-house Stage II training regarding the purpose and operation of the vapor recovery system.		
<b>Base Penalty</b>				\$10,000
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
<b>OR</b>	<b>Harm</b>			
	<b>Release</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>
	<b>Actual</b>			
<b>Potential</b>		x		<b>Percent</b> 10%
<b>&gt;&gt; Programmatic Matrix</b>				
<b>Falsification</b>		<b>Major</b>	<b>Moderate</b>	<b>Minor</b>
				<b>Percent</b> 0%
<b>Matrix Notes</b>	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.			
<b>Adjustment</b>				\$9,000
				\$1,000
<b>Violation Events</b>				
<b>Number of Violation Events</b>		1	<b>Number of violation days</b> 60	
<i>mark only one with an x</i>	daily			
	weekly			
	monthly			
	quarterly	x		
	semiannual			
	annual			
	single event			
<b>Violation Base Penalty</b>				\$1,000
One quarterly event is recommended from the September 5, 2008 investigation date to the November 3, 2008 screening date.				
<b>Good Faith Efforts to Comply</b>		0.0% Reduction		\$0
		Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary				
Ordinary				
N/A	x	(mark with x)		
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.			
<b>Violation Subtotal</b>				\$1,000
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>		\$20	<b>Violation Final Penalty Total</b> \$1,893	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>				\$1,893

## Economic Benefit Worksheet

**Respondent** Aamson Enterprises Inc dba Cullen Food Mart  
**Case ID No.** 36836  
**Reg. Ent. Reference No.** RN101735496  
**Media** Petroleum Storage Tank  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

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

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$500	5-Sep-2008	30-Jun-2009	0.82	\$20	n/a	\$20
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost of training a Stage II representative in the operation and maintenance of the Stage II equipment. The Date required is the investigation date. The Final Date is the estimated date of compliance.

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

**TOTAL**

\$20

<b>Screening Date</b> 3-Nov-2008	<b>Docket No.</b> 2008-1815-PST-E	<b>PCW</b>			
<b>Respondent</b> Aamson Enterprises Inc dba Cullen Food Mart	<small>Policy Revision 2 (September 2002)</small>				
<b>Case ID No.</b> 36836	<small>PCW Revision October 30, 2008</small>				
<b>Reg. Ent. Reference No.</b> RN101735496					
<b>Media [Statute]</b> Petroleum Storage Tank					
<b>Enf. Coordinator</b> Thomas Greimel					
<b>Violation Number</b> 3					
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 115.246(1) and Tex. Health & Safety Code § 382.085(b)				
<b>Violation Description</b>	Failed to maintain Stage II records at the Station and make them immediately available for review upon request by a TCEQ representative. Specifically, a copy of the applicable California Air Resources Board ("CARB") Executive Order was not available for inspection.				
<b>Base Penalty</b>		\$10,000			
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>					
OR	<b>Harm</b>				
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
				<b>Percent</b> <input type="text" value="0%"/>	
<b>&gt;&gt; Programmatic Matrix</b>					
		<b>Falsification</b>	Major	Moderate	Minor
		<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>
				<b>Percent</b> <input type="text" value="10%"/>	
Matrix Notes	100% of the rule requirement was not met.				
<b>Adjustment</b>				\$9,000	
				<b>\$1,000</b>	
<b>Violation Events</b>					
<b>Number of Violation Events</b> <input type="text" value="1"/>		<input type="text" value="60"/> <b>Number of violation days</b>			
<small>mark only one with an x</small>	daily	<input type="text"/>			
	weekly	<input type="text"/>			
	monthly	<input type="text"/>			
	quarterly	<input type="text"/>			
	semiannual	<input type="text"/>			
	annual	<input type="text"/>			
	single event	<input checked="" type="text" value="x"/>			
				<b>Violation Base Penalty</b> <input type="text" value="\$1,000"/>	
One single event is recommended based on documentation of the violation during the September 5, 2008 investigation.					
<b>Good Faith Efforts to Comply</b>		0.0% Reduction		\$0	
		Before NOV	NOV to EDPRP/Settlement Offer		
Extraordinary	<input type="text"/>	<input type="text"/>			
Ordinary	<input type="text"/>	<input type="text"/>			
N/A	<input checked="" type="text" value="x"/>	(mark with x)			
Notes	The Respondent does not meet the good faith criteria for this violation.				
<b>Violation Subtotal</b>				\$1,000	
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>			
<b>Estimated EB Amount</b> <input type="text" value="\$20"/>		<b>Violation Final Penalty Total</b>		\$1,893	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>				\$1,893	

## Economic Benefit Worksheet

**Respondent** Aamson Enterprises Inc dba Cullen Food Mart  
**Case ID No.** 36836  
**Reg. Ent. Reference No.** RN101735496  
**Media** Petroleum Storage Tank  
**Violation No.** 3

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	5-Sep-2008	30-Jun-2009	0.82	\$20	n/a	\$20
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to maintain the required Stage II records at the Station. The Date Required is the investigation date. The Final Date is the estimated date of compliance.

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

**TOTAL**

\$20

<b>Screening Date</b> 3-Nov-2008	<b>Docket No.</b> 2008-1815-PST-E	<b>PCW</b>				
<b>Respondent</b> Aamson Enterprises Inc dba Cullen Food Mart	<small>Policy Revision 2 (September 2002)</small>					
<b>Case ID No.</b> 36836	<small>PCW Revision October 30, 2008</small>					
<b>Reg. Ent. Reference No.</b> RN101735496						
<b>Media [Statute]</b> Petroleum Storage Tank						
<b>Enf. Coordinator</b> Thomas Greimel						
<b>Violation Number</b> 4						
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 115.245(2) and Tex. Health & Safety Code § 382.085(b)					
<b>Violation Description</b>	Failed to verify proper operation of the Stage II equipment at least once every 12 months. Specifically, the Stage II annual system compliance testing had not been conducted.					
<b>Base Penalty</b>		\$10,000				
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>						
<b>OR</b>	<b>Harm</b>					
	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"/>		
				<b>Percent</b> <input type="text" value="25%"/>		
<b>&gt;&gt; Programmatic Matrix</b>						
			<b>Falsification</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<b>Percent</b> <input type="text" value="0%"/>			
<b>Matrix Notes</b>	Human health or the environment could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.					
			<b>Adjustment</b>		\$7,500	
					<b>\$2,500</b>	
<b>Violation Events</b>						
		<b>Number of Violation Events</b>	<input type="text" value="1"/>	<b>Number of violation days</b>	<input type="text" value="365"/>	
<small>mark only one with an x</small>	daily	<input type="checkbox"/>	weekly	<input type="checkbox"/>	<input type="checkbox"/>	
	monthly	<input type="checkbox"/>	quarterly	<input type="checkbox"/>	<input type="checkbox"/>	
	semiannual	<input type="checkbox"/>	annual	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
	single event	<input type="checkbox"/>				
					<b>Violation Base Penalty</b>	
					\$2,500	
One annual event is recommended for the 12-month period preceding the September 5, 2008 investigation date.						
<b>Good Faith Efforts to Comply</b>			<b>0.0%</b>	<b>Reduction</b>	<b>\$0</b>	
			<small>Before NOV</small>	<small>NOV to EDRP/Settlement Offer</small>		
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>				
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>				
N/A	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<small>(mark with x)</small>			
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.					
<b>Violation Subtotal</b>					\$2,500	
<b>Economic Benefit (EB) for this violation</b>			<b>Statutory Limit Test</b>			
<b>Estimated EB Amount</b>			<input type="text" value="\$1,082"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$4,733"/>	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>					<input type="text" value="\$4,733"/>	

## Economic Benefit Worksheet

**Respondent** Aamson Enterprises Inc dba Cullen Food Mart  
**Case ID No.** 36836  
**Reg. Ent. Reference No.** RN101735496  
**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				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$1,000	15-Dec-2007	5-Sep-2008	1.64	\$82	\$1,000	\$1,082
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost for annual testing to verify proper operation of the Stage II equipment. The Date Required is the beginning date of ownership change and the Final Date is the investigation date.

Approx. Cost of Compliance

\$1,000

TOTAL

\$1,082

<b>Screening Date</b> 3-Nov-2008	<b>Docket No.</b> 2008-1815-PST-E	<b>PCW</b>		
<b>Respondent</b> Aamson Enterprises Inc dba Cullen Food Mart	<small>Policy Revision 2 (September 2002)</small>			
<b>Case ID No.</b> 36836	<small>PCW Revision October 30, 2008</small>			
<b>Reg. Ent. Reference No.</b> RN101735496				
<b>Media [Statute]</b> Petroleum Storage Tank				
<b>Enf. Coordinator</b> Thomas Greimel				
<b>Violation Number</b> 5				
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 115.242(1)(C) and 115.242(3) and Tex. Health & Safety Code § 382.085(b)			
<b>Violation Description</b>	Failed to upgrade the Stage II equipment to onboard refueling vapor recovery ("ORVR") compatible systems. Also, failed to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and applicable CARB Executive Order, and free of defects that would impair the effectiveness of the system including, but not limited to absence or disconnection of any component that is part of the approved system. Specifically, the air-to-liquid ratio test failed due to defective nozzles.			
<b>Base Penalty</b>		\$10,000		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
<b>OR</b>	<b>Harm</b>			
	<b>Release</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>
	<b>Actual</b>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<b>Potential</b>	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	
<b>Percent</b>		10%		
<b>&gt;&gt; Programmatic Matrix</b>				
<b>Falsification</b>				
<b>Actual</b>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
<b>Potential</b>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
<b>Percent</b>		0%		
<b>Matrix Notes</b>	Human health or the environment 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.			
<b>Adjustment</b>		\$9,000		
		\$1,000		
<b>Violation Events</b>				
<b>Number of Violation Events</b>		1	<b>Number of violation days</b>	
		60		
<small>mark only one with an x</small>	daily	<input type="text"/>	<b>Violation Base Penalty</b>	
	weekly	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	<input checked="" type="text" value="x"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		
	\$1,000			
One quarterly event is recommended from the September 5, 2008 investigation date to the November 3, 2008 screening date.				
<b>Good Faith Efforts to Comply</b>				
		0.0% Reduction	\$0	
		<small>Before NOV    NOV to EDPRP/Settlement Offer</small>		
<b>Extraordinary</b>	<input type="text"/>	<input type="text"/>		
<b>Ordinary</b>	<input type="text"/>	<input type="text"/>		
<b>N/A</b>	<input checked="" type="text" value="x"/>	<small>(mark with x)</small>		
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.			
<b>Violation Subtotal</b>		\$1,000		
<b>Economic Benefit (EB) for this violation</b>				
<b>Estimated EB Amount</b>		\$171	<b>Statutory Limit Test</b>	
<b>Violation Final Penalty Total</b>		\$1,893		
<b>This violation Final Assessed Penalty (adjusted for limits)</b>		\$1,893		

## Economic Benefit Worksheet

**Respondent** Aamson Enterprises Inc dba Cullen Food Mart  
**Case ID No.** 36836  
**Reg. Ent. Reference No.** RN101735496  
**Media** Petroleum Storage Tank  
**Violation No.** 5

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	\$3,000	5-Sep-2008	30-Jun-2009	0.82	\$8	\$163	\$171
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to upgrade the Stage II equipment to ORVR compatible systems and repair or replace the defective nozzles. The Date Required is the investigation date. The Final Date is the expected compliance date.

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$3,000

**TOTAL**

\$171

# Compliance History Report

Customer/Respondent/Owner-Operator: CN603408063 Aamson Enterprises Inc Classification: POOR Rating: 112.43  
Regulated Entity: RN101735496 CULLEN FOOD MART Classification: POOR Site Rating: 112.43

ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 74264

REGISTRATION

Location: 6643 CULLEN BLVD, HOUSTON, TX, 77021

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: December 02, 2008

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: December 02, 2003 to December 02, 2008

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

Name: Thomas Greimel Phone: (512) 239-5690

## 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? Yes
3. If Yes, who is the current owner? Aamson Enterprises Inc
4. If Yes, who was/were the prior owner(s)? Billal, Inc.  
Speedys Mart Incorporated
5. When did the change(s) in ownership occur? 12/15/2007  
09/20/2007
6. Rating Date: 9/1/2008 Repeat Violator: NO

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 10/25/2007

ADMINORDER 2003-0692-PST-E

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3467(a)

30 TAC Chapter 334, SubChapter A 334.8(c)(5)(A)(i)

Description: Failure to make available to a common carrier a valid, current delivery certificate prior to delivery of a regulated substance into the UST system.

Classification: Moderate

Citation: 30 TAC Chapter 37, SubChapter I 37.815(a)

30 TAC Chapter 37, SubChapter I 37.815(b)

Description: Failure to demonstrate the required financial assurance for taking corrective action and compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.346(a)

30 TAC Chapter 334, SubChapter A 334.8(c)(4)(B)

Description: Failure to submit an accurate UST registration and self-certification form to the TCEQ.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3475(a)

2D TWC Chapter 26, SubChapter A 26.3475(c)(1)

30 TAC Chapter 334, SubChapter C 334.50(b)(1)(A)

30 TAC Chapter 334, SubChapter C 334.50(b)(2)(A)(i)

30 TAC Chapter 334, SubChapter C 334.50(d)(4)(A)(ii)(II)

Description: Failure to put the automatic tank gauge ("ATG") system into test mode at least once per month and failed to equip the regular unleaded pressurized line on the UST system with functioning automatic line leak detectors.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3475(c)(2)  
30 TAC Chapter 334, SubChapter C 334.51(b)(2)(C)

Description: Failure to have overflow prevention for the UST system.

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.48(c)

Description: Failure to conduct inventory control at the facility, regardless of which method of release detection was used.

Classification: Moderate

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

Description: Failure to insure that an automatic line leak detector was capable of detecting a release such that the probability of detecting was at least ninety-five percent (95%) and the probability of false alarms was no greater than five percent (5%).

**Effective Date: 09/18/2008**

**ADMINORDER 2006-1789-PST-E**

Classification: Major

Citation: 2D TWC Chapter 26, SubChapter A 26.3475(a)  
2D TWC Chapter 26, SubChapter A 26.3475(c)(1)  
30 TAC Chapter 334, SubChapter C 334.50(b)(2)(A)(i)(III)  
30 TAC Chapter 334, SubChapter C 334.50(b)(2)(A)(ii)(I)  
30 TAC Chapter 334, SubChapter C 334.50(b)(2)(A)(ii)(II)  
30 TAC Chapter 334, SubChapter C 334.50(d)(1)(B)(ii)

Description: Failure to test the line leak detectors at least once per year for performance and operational reliability, failed to provide proper release detection for the piping associated with the USTs and failed to conduct reconciliation of detailed inventory records.

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.48(c)

Description: Failure to conduct inventory control.

B. Any criminal convictions of the state of Texas and the federal government.

C. Chronic excessive emissions events.

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

1	02/23/2005	(398429)
2	07/14/2005	(398745)
3	04/28/2006	(459483)
4	09/05/2006	(459675)
5	11/09/2006	(518740)
6	09/29/2008	(703463)

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

**Date: 02/23/2005** (398429)

**CN603408063**

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 37, SubChapter I 37.815(a)  
30 TAC Chapter 37, SubChapter I 37.815(b)

Description: Failure to provide acceptable Financial Assurance.

**Date: 04/28/2006** (459483)

**CN603408063**

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.246(7)(A)

Description: 30 TAC §115.246 (7)(A) - 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. Environmental Protection Agency (EPA), or any local a

Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 115, SubChapter C 115.246(6)		
Description:	30 TAC §115.246 (6) - Failure to maintain a daily inspection log according to 115.244 (Inspection Requirements).		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 115, SubChapter C 115.244(3)		
Description:	30 TAC §115.244 (3) - Failure to conduct a monthly inspection of the components listed in 115.242(3)(J). These components include: any pressure/vacuum relief valves, vapor check valves and Stage I dry breaks.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 115, SubChapter C 115.246(4)		
Description:	30 TAC §115.246 (4) - Failure to maintain proof of attendance and completion of training as specified in 115.248 (state approved Stage II training course) and documentation of all Stage II training for each employee.  At the time of the investigation, documentation of attendance and completion of a Stage II training		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 115, SubChapter C 115.246(3)		
Description:	30 TAC §115.246 (3) - Failure to maintain a maintenance log for all repair/replacements conducted at the facility.  At the time of the investigation, documentation of a Stage II maintenance log was not available for review.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 115, SubChapter C 115.246(1)		
Description:	30 TAC §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.  At the time of the investigation, the applicable CARB Executive Order for the Stage II system in place at the fa		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 115, SubChapter C 115.246(5)		
Description:	30 TAC §115.246 (5) - Failure to maintain a record of the results of testing conducted at the facility according to 115.245 (Testing Requirements).		

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  
AAMSON ENTERPRISES INC DBA  
CULLEN FOOD MART,  
RN101735496**

§  
§  
§  
§  
§

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

## **DEFAULT ORDER DOCKET NO. 2008-1815-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, TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty, corrective action of the respondent and revocation of the respondent's fuel delivery certificate. The respondent made the subject of this Order is Aamson Enterprises Inc dba Cullen Food Mart ("Aamson").

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

### **FINDINGS OF FACT**

1. Aamson owns and operates a convenience store with retail sales of gasoline located at 6643 Cullen Boulevard, Houston, Harris County, Texas (the "Station").
2. Aamson's one underground storage tank ("UST") is not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. Aamson's UST contain a regulated substance as defined in the rules of the Commission. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. During an investigation on September 5, 2008, a TCEQ Houston Regional Office investigator documented that Aamson:
  - a. Failed to conduct daily and monthly inspections of the Stage II vapor recovery system;

- b. Failed to ensure that at least one Station representative received training and instruction in the operation and maintenance of the Stage II vapor recovery system and that each current employee received in-house Stage II training regarding the purpose and operation of the vapor recovery system;
  - c. Failed to maintain Stage II records at the Station and make them immediately available for review upon request by a TCEQ representative. Specifically, the California Air Resources Board ("CARB") Executive Order was not available for inspection;
  - d. Failed to verify proper operation of the Stage II equipment at least once every 12 months. Specifically, the Stage II annual system compliance testing had not been conducted; and
  - e. Failed to upgrade the Stage II equipment to onboard refueling vapor recovery ("ORVR") compatible systems. Specifically, the air-to-liquid ratio test failed due to defective nozzles. Also, failed to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and applicable CARB Executive Order, and free of defects that would impair the effective of the system including, but not limited to, absence or disconnection of any component that is part of the approved system. Specifically, the air-to-liquid ratio test failed due to defective nozzles.
4. Aamson received notice of the violations on or about December 21, 2008.
  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 Aamson Enterprises Inc dba Cullen Food Mart" (the "EDPRP") in the TCEQ Chief Clerk's office on July 7, 2009.
  6. By letter dated July 7, 2009, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Aamson with notice of the EDPRP. According to the return receipt "green card", Aamson received notice of the EDPRP on July 13, 2009, as evidenced by the signature on the card.
  7. More than 20 days have elapsed since Aamson received notice of the EDPRP, provided by the Executive Director. Aamson failed to file an answer, 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, Aamson 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., Aamson 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., Aamson failed to ensure that at least one Station representative received training and instruction in the operation and maintenance of the Stage II vapor recovery system and that each current employee received in-house Stage II training regarding the purpose and operation of the 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., Aamson failed to maintain Stage II records at the Station and make them immediately available for review upon request by a TCEQ representative, in violation of 30 TEX. ADMIN. CODE § 115.246(1) and TEX. HEALTH & SAFETY CODE § 382.085(b).
5. As evidenced by Finding of Fact No. 3.d., Aamson failed to verify proper operation of the Stage II equipment at least once every 12 months, in violation of 30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b).
6. As evidenced by Finding of Fact No. 3.e., Aamson failed to upgrade the Stage II equipment to ORVR compatible systems and failed to maintain the Stage II vapor recovery system in proper operating condition as specified by the manufacturer and applicable CARB Executive Order, and free of defects that would impair the effectiveness of the system including, but not limited to, absence or disconnection of any component that is part of the approved system, in violation of 30 TEX. ADMIN. CODE § 115.242(1)(C) and 115.242(3) and TEX. HEALTH & SAFETY CODE § 382.085(b).
7. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director timely served Aamson with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
8. As evidenced by Finding of Fact No. 7, Aamson failed to file a timely answer 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 Aamson and assess the penalty recommended by the Executive Director.

9. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Aamson 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.
10. An administrative penalty in the amount of twelve thousand three hundred five dollars (\$12,305.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
11. 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.
12. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke Aamson's UST fuel delivery certificate if the Commission finds that good cause exists.
13. Good cause for revocation of Aamson's UST fuel delivery certificate exists as justified by Findings of Fact Nos. 3, 5 through 7, and Conclusions of Law Nos. 2 through 8.

### ORDERING PROVISIONS

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

1. Aamson is assessed an administrative penalty in the amount of twelve thousand three hundred five dollars (\$12,305.00) for violations of state statutes and TCEQ rules. The payment of this administrative penalty and Aamson'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 Order 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: Aamson Enterprise Inc dba Cullen Food Mart; Docket No. 2008-1815-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. Aamson's UST fuel delivery certificate is revoked immediately upon the effective date of this Order. Aamson may submit an application for a new delivery certificate only after Aamson has complied with all of the requirements of this Order.

3. Within 10 days after the effective date of this Order, Aamson shall send its UST fuel delivery certificate to:

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

4. Aamson shall undertake the following corrective measures:

- a. Immediately upon the effective date of this Order, Aamson shall begin conducting daily and monthly inspections of the Stage II vapor recovery system;
- b. Within 30 days after the effective date of this Order, Aamson shall:
  - i. Ensure that at least one Station representative receives training in the operation and maintenance of the Stage II vapor recovery system, and each current employee receives in-house Stage II training regarding the purpose and operation of the vapor recovery system;
  - ii. Begin maintaining Stage II records at the Station;
  - iii. Conduct the required annual testing of the Stage II equipment; and
  - iv. Upgrade the Stage II equipment to ORVR compatible systems and begin maintaining the Stage II vapor recovery system in proper operating condition including, but not limited to, repairing any defective nozzles and conducting successful Stage II vapor recovery tests after completing the ORVR upgrade.

- c. Within 45 days after the effective date of this Order, Aamson shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision Nos. 2 through 4.b.iv. 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.”

Aamson shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision Nos. 2 through 4.b.iv 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:

Nicole Bealle, Waste Section Manager  
Texas Commission on Environmental Quality  
Houston Regional Office  
5425 Polk Avenue, Suite H  
Houston, Texas 77023-1486

5. All relief not expressly granted in this Order is denied.
6. The provisions of this Order shall apply to and be binding upon Aamson. Aamson is ordered to give notice of this Order to personnel who maintain day-to-day control over the Station operations referenced in this Order.
7. If Aamson 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, Aamson's failure to comply is not a violation of this Order. Aamson shall

have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Aamson shall notify the Executive Director within seven days after Aamson 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 Aamson shall be made in writing to the Executive Director. Extensions are not effective until Aamson 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 Aamson if the Executive Director determines that Aamson 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.

Aamson Enterprises Inc dba Cullen Food Mart  
Docket No. 2008-1815-PST-E  
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**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

AFFIDAVIT OF REBECCA M. COMBS

STATE OF TEXAS §  
COUNTY OF TRAVIS §

“My name is Rebecca M. Combs. 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, 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 Aamson Enterprises Inc dba Cullen Food Mart’ (the ‘EDPRP’) was filed with the Office of the Chief Clerk on July 7, 2009.

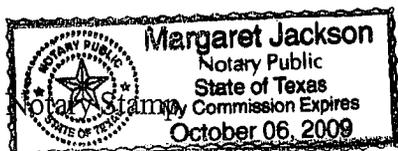
I sent the EDPRP to Aamson at its last known address on July 7, 2009 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt ‘green card’, Aamson received notice of the EDPRP on July 13, 2009, as evidenced by the signature on the card.

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

*Rebecca M. Combs*  
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Rebecca M. Combs  
Attorney  
Texas Commission on Environmental Quality

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

Given under my hand and seal of office this 17 day of September, 2009.



*Margaret Jackson*  
\_\_\_\_\_  
Notary Signature