

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2008-1354-PST-E **TCEQ ID:** RN102450665 **CASE NO.:** 36412

**RESPONDENT NAME:** Bobby Enterprises, Inc. dba One Stop Shopping Mart

<b>ORDER TYPE:</b>		
<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	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND 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> One Stop Shopping Mart, 550 Farm-to-Market Road 1959, 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 has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on March 16, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Mr. Wallace Myers, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-6580; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> Ms. Hamida Memon, Owner and Registered Agent, Bobby Enterprises, Inc., 550 Farm-to-Market Road 1959, Houston, Texas 77034  <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>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> March 18 and July 14, 2008</p> <p><b>Date of NOV/NOE Relating to this Case:</b> July 21, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation and a record review.</p> <p><b>WASTE</b></p> <p>1) Failure to maintain Stage II records at the Station [30 TEX. ADMIN. CODE § 115.246(4) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>2) Failure to upgrade the Stage II equipment to onboard refueling vapor recovery ("ORVR") systems [30 TEX. ADMIN. CODE § 115.242(1)(C) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>	<p><b>Total Assessed:</b> \$1,650</p> <p><b>Total Deferred:</b> \$330  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid (Due) to General Revenue:</b> \$108 (remaining \$1,212 due in 12 monthly payments of \$101 each)</p> <p><b>Site Compliance History Classification</b>  <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent began maintaining all Stage II records, including employee training records, at the Station on June 5, 2008.</p> <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, upgrade the Stage II equipment to ORVR compatible systems and conduct successful Stage II vapor recovery tests after completing the ORVR upgrade, in accordance with 30 TEX. ADMIN. CODE § 115.242; and</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>

Additional ID No(s): PST 43966



## Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

<b>DATES</b>	Assigned	28-Jul-2008			
	PCW	18-Aug-2008	Screening	30-Jul-2008	EPA Due

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	Bobby Enterprises, Inc. dba One Stop Shopping Mart		
Reg. Ent. Ref. No.	RN102450665		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	36412	No. of Violations	2
Docket No.	2008-1354-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Wallace Myers
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

### Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<i>Subtotal 1</i>	<b>\$2,000</b>
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<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>		
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.		

Compliance History	-5.0% Enhancement	<i>Subtotals 2, 3, &amp; 7</i>	<b>-\$100</b>
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Notes: Enhancement for one NOV with same or similar violations and reduction for High Performer classification.

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

Good Faith Effort to Comply Total Adjustments	<i>Subtotal 5</i>	<b>\$250</b>
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Economic Benefit	0.0% Enhancement*	<i>Subtotal 6</i>	<b>\$0</b>
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Total EB Amounts: \$144  
 Approx. Cost of Compliance: \$3,000  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<i>Final Subtotal</i>	<b>\$1,650</b>
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	<i>Adjustment</i>	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<i>Final Penalty Amount</i>	<b>\$1,650</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<i>Final Assessed Penalty</i>	<b>\$1,650</b>
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DEFERRAL	20.0%	Reduction	<i>Adjustment</i>	<b>-\$330</b>
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	<b>\$1,320</b>
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<b>Screening Date</b> 30-Jul-2008	<b>Docket No.</b> 2008-1354-PST-E	<b>PCW</b>
<b>Respondent</b> Bobby Enterprises, Inc. dba One Stop Shopping Mart	<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No.</b> 36412	<i>PCW Revision June 12, 2008</i>	
<b>Reg. Ent. Reference No.</b> RN102450665		
<b>Media [Statute]</b> Petroleum Storage Tank		
<b>Enf. Coordinator</b> Wallace Myers		

### 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 <i>(number of NOVs meeting criteria)</i>	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgements or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%
<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)**

<span style="border: 1px solid black; padding: 2px;">No</span>	<b>Adjustment Percentage (Subtotal 3)</b> <span style="border: 1px solid black; padding: 2px;">0%</span>
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>> **Compliance History Person Classification (Subtotal 7)**

<span style="border: 1px solid black; padding: 2px;">High Performer</span>	<b>Adjustment Percentage (Subtotal 7)</b> <span style="border: 1px solid black; padding: 2px;">-10%</span>
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>> **Compliance History Summary**

<b>Compliance History Notes</b>	Enhancement for one NOV with same or similar violations and reduction for High Performer classification.
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**Total Adjustment Percentage (Subtotals 2, 3, & 7)** -5%

<b>Screening Date</b>	30-Jul-2008	<b>Docket No.</b>	2008-1354-PST-E	<b>PCW</b>
<b>Respondent</b>	Bobby Enterprises, Inc. dba One Stop Shopping Mart			<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b>	36412			<i>PCW Revision June 12, 2008</i>
<b>Reg. Ent. Reference No.</b>	RN102450665			
<b>Media [Statute]</b>	Petroleum Storage Tank			
<b>Enf. Coordinator</b>	Wallace Myers			
<b>Violation Number</b>	1			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 115.246(4) and Tex. Health & Safety Code § 382.085(b)			
<b>Violation Description</b>	Failed to maintain Stage II records at the Station. Specifically, employee Stage II training records were not available.			
<b>Base Penalty</b>	\$10,000			

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

OR	Harm				Percent
	Release	Major	Moderate	Minor	
	Actual				
	Potential				0%

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
		X			
Matrix Notes	100% of the rule requirement was not met.				
<b>Adjustment</b>	\$9,000				

\$1,000

**Violation Events**

Number of Violation Events   Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

Violation Base Penalty

One single event is recommended based on documentation of the violation during the March 18, 2008 investigation.

**Good Faith Efforts to Comply**  Reduction

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

Notes: The Respondent came into compliance on June 5, 2008.

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** Bobby Enterprises, Inc. dba One Stop Shopping Mart  
**Case ID No.** 36412  
**Reg. Ent. Reference No.** RN102450665  
**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
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	18-Mar-2008	5-Jun-2008	0.22	\$5	n/a	\$5
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 Stage II records. The date required is the investigation date and the final date is the 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

\$5

<b>Screening Date</b> 30-Jul-2008	<b>Docket No.</b> 2008-1354-PST-E	<b>PCW</b>				
<b>Respondent</b> Bobby Enterprises, Inc. dba One Stop Shopping Mart		<i>Policy Revision 2 (September 2002)</i>				
<b>Case ID No.</b> 36412		<i>PCW Revision June 12, 2008</i>				
<b>Reg. Ent. Reference No.</b> RN102450665						
<b>Media [Statute]</b> Petroleum Storage Tank						
<b>Enf. Coordinator</b> Wallace Myers						
<b>Violation Number</b>	<input type="text" value="2"/>					
<b>Rule Cite(s)</b>	<input type="text" value="30 Tex. Admin. Code § 115.242(1)(C) and Tex. Health &amp; Safety Code § 382.085(b)"/>					
<b>Violation Description</b>	<input orvr")="" systems."="" type="text" value="Failed to upgrade the Stage II equipment to onboard refueling vapor recovery ("/>					
<b>Base Penalty</b>		<input type="text" value="\$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="checkbox"/>	<input type="text"/>			
		<b>Percent</b>	<input type="text" value="10%"/>			
<b>&gt;&gt; Programmatic Matrix</b>						
		<b>Falsification</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>	
		<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
					<b>Percent</b>	<input type="text" value="0%"/>
<b>Matrix Notes</b>	<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."/>					
		<b>Adjustment</b>		<input type="text" value="\$9,000"/>		
				<input type="text" value="\$1,000"/>		
<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="16"/>				
<i>mark only one with an x</i>	daily	<input type="text"/>		<b>Violation Base Penalty</b> <input type="text" value="\$1,000"/>		
	monthly	<input type="text"/>				
	quarterly	<input checked="" type="checkbox"/>				
	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 July 14, 2008 record review to the July 30, 2008 screening date."/>						
<b>Good Faith Efforts to Comply</b>			<b>0.0% Reduction</b>		<input type="text" value="\$0"/>	
			<small>Before NOV</small>	<small>NOV to EDPRP/Settlement Offer</small>		
Extraordinary	<input type="text"/>		<input type="text"/>			
Ordinary	<input type="text"/>		<input type="text"/>			
N/A	<input checked="" type="checkbox"/>	<small>(mark with x)</small>				
<b>Notes</b>	<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>					
		<b>Violation Subtotal</b>		<input type="text" value="\$1,000"/>		
<b>Economic Benefit (EB) for this violation</b>			<b>Statutory Limit Test</b>			
<b>Estimated EB Amount</b>		<input type="text" value="\$139"/>		<b>Violation Final Penalty Total</b>		
				<input type="text" value="\$950"/>		
				<b>This violation Final Assessed Penalty (adjusted for limits)</b>		
				<input type="text" value="\$950"/>		

## Economic Benefit Worksheet

**Respondent** Bobby Enterprises, Inc. dba One Stop Shopping Mart  
**Case ID No.** 36412  
**Reg. Ent. Reference No.** RN102450665  
**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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$2,500	14-Jul-2008	30-Apr-2009	0.79	\$7	\$132	\$139
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. The date required is the record review date and the final date is the estimated date of compliance.

### Avoided Costs

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

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

\$2,500

TOTAL

\$139

# Compliance History

Customer/Respondent/Owner-Operator:	CN603335407 Bobby Enterprises, Inc.	Classification: HIGH	Rating: 0.00
Regulated Entity:	RN102450665 ONE STOP SHOPPING MART	Classification: HIGH	Site Rating: 0.00
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	43966
Location:	550 FM 1959 RD, HOUSTON, TX, 77034	Rating Date: September 01 07	Repeat Violator: NO
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	August 13, 2008		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	July 30, 2003 to July 30, 2008		

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

Name: Wallace Myers Phone: 512-239-6580

### 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)? N/A
5. When did the change(s) in ownership occur? N/A

### 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 08/04/2003 (276174)
- 2 03/31/2008 (639627)
- 3 07/21/2008 (686419)

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

Date: 03/31/2008 (639627)

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.246(4)

Description: 30 Tex. Admin. Code Section 115.246 (4) - Failure to maintain proof of attendance and completion of the training specified in '115.248 of this title (relating to Training Requirements), with the documentation of all Stage II training for each employee to be maintained as long as that employee continues to work at the facility.  
\*\*\*\*\* Mr. Memon stated that the manager had received the training, but no training certificate was available for review.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(1)(C)

Description: 30 TAC Chapter 115.242(1)(C) - Failure to install a Stage II Onboard Refueling Vapor Recovery (ORVR) system compatible with Onboard Refueling Vapor Recovery (ORVR) systems on motor vehicles. Existing Stage II systems must be in compliance with this requirement. The current vapor vac system installed at the facility is not ORVR compatible and will need to be upgraded. Please submit documentation of a passing Stage II test of the ORVR system within 45 days of completion of the system installati

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





The Respondent has paid One Hundred Eight Dollars (\$108) of the administrative penalty and Three Hundred Thirty Dollars (\$330) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of One Thousand Two Hundred Twelve Dollars (\$1,212) of the administrative penalty shall be payable in 12 monthly payments of One Hundred One Dollars (\$101) each. The next 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 the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's 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 failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

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 the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent began maintaining all Stage II records, including employee training records, at the Station on June 5, 2008.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. 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.
12. 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

As owner and operator of the Station, the Respondent is alleged to have:

1. Failed to maintain Stage II records at the Station, in violation of 30 TEX. ADMIN. CODE § 115.246(4) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on March 18, 2008. Specifically, employee Stage II training records were not available.



2. Failed to upgrade the Stage II equipment to onboard refueling vapor recovery ("ORVR") systems, in violation of 30 TEX. ADMIN. CODE § 115.242(1)(C) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on July 14, 2008.

### III. DENIALS

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

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent'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 requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Bobby Enterprises, Inc. dba One Stop Shopping Mart, Docket No. 2008-1354-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. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, upgrade the Stage II equipment to ORVR compatible systems and conduct successful Stage II vapor recovery tests after completing the ORVR upgrade, in accordance with 30 TEX. ADMIN. CODE § 115.242; and
  - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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



The certification shall be submitted to:

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

with a copy to:

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

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent 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 the Respondent 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, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
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 the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this 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 agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement 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), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



TCEQ Enforcement

Fax: 512-239-0036

Feb 11 2009 10:09

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**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

*John Sadlier*  
For the Executive Director

2/20/2009  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity 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 failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

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

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

*Hamida*  
Signature

02.12.09  
Date

HAMIDA MEMON  
Name (Printed or typed)  
Authorized Representative of  
Bobby Enterprises, Inc. dba One Stop Shopping Mart

PRESIDENT  
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

