

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.:** 2008-1592-PST-E **TCEQ ID:** RN101536431 **CASE NO.:** 36631  
**RESPONDENT NAME:** NNY, Inc. dba A & I Food Store

<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> A &amp; I Food Store, 2286 West Pleasant Run Road, Lancaster, Dallas 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> Ms. Judy Kluge, Enforcement Division, Enforcement Team 6, MC R-04, (817) 588-5825; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> Mr. Songsu No, Owner, A &amp; I Food Store, 2286 West Pleasant Run Road, Suite 112, Lancaster, Texas 75146  <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 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> August 6, 2008</p> <p><b>Date of NOV/NOE Relating to this Case:</b> September 23, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>WASTE</b></p> <p>1) Failure to conduct daily and monthly inspections of the Stage II vapor recovery system [30 TEX. ADMIN. CODE § 115.244(1) and (3) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>2) Failure to ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system, and each current employee receives in-house Stage II vapor recovery training regarding the purpose and operation of the vapor recovery system [30 TEX. ADMIN. CODE § 115.248(1) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>3) Failure to maintain Stage II records at the Station and make them immediately available for inspection upon request by agency personnel. Specifically, records not available for review included a copy of the applicable California Air Resources Board ("CARB") Executive Order and maintenance records for the Stage II vapor recovery system [30 TEX. ADMIN. CODE § 115.246(1) and (3) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>4) Failure 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</p>	<p><b>Total Assessed:</b> \$15,570</p> <p><b>Total Deferred:</b> \$3,114  <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> \$346 (remaining \$12,110 due in 35 monthly payments of \$346 each)</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Station:</p> <p>a. On September 18, 2008, the TCEQ DFW Regional Office received documentation verifying that daily and monthly inspections of the Stage II vapor recovery system are being conducted at the Station;</p> <p>b. The TCEQ DFW Regional Office received documentation verifying that the Station representative Stage II training has been completed and that each current employee received in-house Stage II vapor recovery awareness training on August 30, 2008;</p> <p>c. On September 18, 2008, the TCEQ DFW Regional Office received documentation verifying that the Station is maintaining all Stage II records on-site;</p> <p>d. On September 4, 2008, the TCEQ DFW Regional Office visually verified that the Station successfully conducted the required annual and triennial testing of the Stage II equipment;</p> <p>e. The TCEQ DFW Regional Office received documentation verifying that all drop tubes have been replaced on August 23, 2008;</p> <p>f. On September 4, 2008, the TCEQ DFW Regional Office visually verified that locking rings had been installed on all three fill risers, two dry breaks had been capped off, and a swivel adaptor had been installed on the super unleaded dry break;</p> <p>g. On September 18, 2008, the TCEQ DFW Regional Office received documentation verifying that all USTs are being monitored, reconciliation of inventory control records is being conducted, and inventory volume measurements are being recorded daily;</p>

system replacement or modification, whichever occurs first. Specifically, the Stage II annual and triennial system compliance testing had not been conducted [30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b)].

5) Failure to ensure that the submerged drop tubes have a maximum clearance of six inches from the bottom of the tank. Specifically, all three gasoline fill pipe drop tubes had a clearance of more than six inches from the bottom of the tank [30 TEX. ADMIN. CODE § 115.222(1) and TEX. HEALTH & SAFETY CODE § 382.085(b)].

6) Failure to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable CARB Executive Order, 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 a part of the approved system. Specifically, the super unleaded fill adaptor was not equipped with devices which prevent loosening and over-tightening and all three dry breaks were severely rusted [30 TEX. ADMIN. CODE § 115.242(3)(A) and (3)(J) and TEX. HEALTH & SAFETY CODE § 382.085(b)].

7) Failure to provide an amended underground storage tank ("UST") registration to the agency for any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition. Specifically, the registration was not amended to reflect the correct tank material as composite and the current method of release detection [30 TEX. ADMIN. CODE § 334.7(d)(3)].

8) Failure 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). Specifically, the automatic tank gauge was not being put into test mode monthly [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].

9) Failure to provide release detection for the piping associated with the USTs [30 TEX. ADMIN. CODE § 334.50(b)(2) and TEX. WATER CODE § 26.3475(a)].

h. The TCEQ DFW Regional Office visually verified that piping tightness and line leak detector tests were successfully conducted on September 4, 2008;

i. On September 18, 2008, the TCEQ DFW Regional Office received documentation verifying that the Respondent began conducting proper inventory control procedures for all USTs at the Station; and

j. The TCEQ DFW Regional Office visually verified that the spill bucket on the regular unleaded tank was replaced on September 4, 2008.

**Ordering Provisions:**

The Order will require the Respondent to:

a. Immediately upon the effective date of this Agreed Order, begin maintaining all UST records;

b. Within 30 days after the effective date of this Agreed Order, submit an amended registration to indicate correct tank material and current method of release detection; and

c. 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 Provisions a. and b.

<p>10) Failure to test the line leak detectors at least once per year for performance and operational reliability [30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a)].</p> <p>11) Failure to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release which equals or exceeds the sum of 1.0 percent of the total substance flow-through for the month plus 130 gallons [30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(4)].</p> <p>12) Failure to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day [30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(iii)(I) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>13) Failure to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as motor fuel [30 TEX. ADMIN. CODE § 334.48(c)].</p> <p>14) Failure to maintain the required UST records and make them immediately available for the inspection upon request by agency personnel. Specifically, documentation for the installation of overfill prevention equipment was not available for review [30 TEX. ADMIN. CODE § 334.10(b)].</p> <p>15) Failure to ensure that all spill and overfill prevention devices are maintained in good operating condition and that such devices are inspected and serviced in accordance with manufacturers' specifications. Specifically, the spill bucket on the regular unleaded tank was broken [30 TEX. ADMIN. CODE § 334.51(a)(6) and TEX. WATER CODE § 26.3475(c)(2)].</p>		
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Additional ID No(s): PST No. 22884



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

**TCEQ**

<b>DATES</b>	Assigned	29-Sep-2008	Screening	1-Oct-2008	EPA Due	
	PCW	2-Oct-2008				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	NNY, Inc. dba A & I Food Store
Reg. Ent. Ref. No.	RN101536431
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	36631	No. of Violations	11
Docket No.	2008-1592-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Judy Kluge
Admin. Penalty \$ Limit Minimum	\$0	EC's Team	Enforcement Team 6
Maximum	\$10,000		

## Penalty Calculation Section

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

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

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

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

Notes

**Culpability**   **Subtotal 4**

Notes

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5**

**Economic Benefit**  **Subtotal 6**

Total EB Amounts   
 Approx. Cost of Compliance

\*Capped at the Total EB \$ Amount

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

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL**  Reduction **Adjustment**

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

Notes

**PAYABLE PENALTY**

**Screening Date** 1-Oct-2008

**Docket No.** 2008-1592-PST-E

**PCW**

**Respondent** NNY, Inc. dba A & I Food Store

Policy Revision 2 (September 2002)

**Case ID No.** 36631

PCW Revision June 12, 2008

**Reg. Ent. Reference No.** RN101536431

**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 judgments 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%

<b>Screening Date</b> 1-Oct-2008	<b>Docket No.</b> 2008-1592-PST-E	<b>PCW</b>		
<b>Respondent</b> NNY, Inc. dba A & I Food Store	<i>Policy Revision 2 (September 2002)</i>			
<b>Case ID No.</b> 36631	<i>PCW Revision June 12, 2008</i>			
<b>Reg. Ent. Reference No.</b> RN101536431				
<b>Media [Statute]</b> Petroleum Storage Tank				
<b>Enf. Coordinator</b> Judy Kluge				
<b>Violation Number</b>	1			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 115.244(1) and (3) and Tex. Health & Safety Code § 382.085(b)			
<b>Violation Description</b>	Failed to conduct daily and monthly inspections of the Stage II vapor recovery system.			
<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="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Potential	<input type="checkbox"/>	x	<input type="checkbox"/>
		<b>Percent</b>	10%	
<b>&gt;&gt; Programmatic Matrix</b>				
	Falsification	Major	Moderate	Minor
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<b>Percent</b>	0%	
<b>Matrix Notes</b>	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.			
<b>Adjustment</b>		\$9,000		
		\$1,000		
<b>Violation Events</b>				
<b>Number of Violation Events</b>		1	43	
		<b>Number of violation days</b>		
<i>mark only one with an x</i>	daily	<input type="checkbox"/>		
	monthly	<input type="checkbox"/>		
	quarterly	x		
	semiannual	<input type="checkbox"/>		
	annual	<input type="checkbox"/>		
	single event	<input type="checkbox"/>		
		<b>Violation Base Penalty</b>	\$1,000	
One quarterly event is recommended based on documentation of the violation during the August 6, 2008 investigation to the September 18, 2008 compliance date.				
<b>Good Faith Efforts to Comply</b>		25.0% Reduction	\$250	
		Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="checkbox"/>			
Ordinary	x			
N/A	(mark with x)			
<b>Notes</b>	The Respondent came into compliance on September 18, 2008.			
<b>Violation Subtotal</b>		\$750		
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>		\$370	Violation Final Penalty Total	
		\$966		
		This violation Final Assessed Penalty (adjusted for limits)		
		\$966		

## Economic Benefit Worksheet

**Respondent** NNY, Inc. dba A & I Food Store  
**Case ID No.** 36631  
**Reg. Ent. Reference No.** RN101536431  
**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				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	6-Jul-2008	18-Sep-2008	1.12	\$20	\$350	\$370
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to conduct monthly inspections of the Stage II system. The date required is one month prior to the investigation date and the final date is the compliance date.

Approx. Cost of Compliance \$350

TOTAL \$370

<b>Screening Date</b> 1-Oct-2008	<b>Docket No.</b> 2008-1592-PST-E	<b>PCW</b>	
<b>Respondent</b> NNY, Inc. dba A & I Food Store	<small>Policy Revision 2 (September 2002)</small>		
<b>Case ID No.</b> 36631	<small>PCW Revision June 12, 2008</small>		
<b>Reg. Ent. Reference No.</b> RN101536431			
<b>Media [Statute]</b> Petroleum Storage Tank			
<b>Enf. Coordinator</b> Judy Kluge			
<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 in the operation and maintenance of the Stage II vapor recovery system, and each current employee receives in-house Stage II vapor recovery training regarding the purpose and operation of the vapor recovery system.		
<b>Base Penalty</b>		\$10,000	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>			
Harm			
Release	Major	Moderate	Minor
Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Potential	<input type="checkbox"/>	x	<input type="checkbox"/>
<b>Percent</b>		10%	
<b>&gt;&gt; Programmatic Matrix</b>			
Falsification			
Major	Moderate	Minor	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Percent</b>		0%	
<b>Matrix Notes</b>	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.		
<b>Adjustment</b>		\$9,000	
		\$1,000	
<b>Violation Events</b>			
<b>Number of Violation Events</b>		1	24
		<b>Number of violation days</b>	
<small>mark only one with an x</small>	daily	<input type="checkbox"/>	
	monthly	<input type="checkbox"/>	
	quarterly	x	
	semiannual	<input type="checkbox"/>	
	annual	<input type="checkbox"/>	
	single event	<input type="checkbox"/>	
<b>Violation Base Penalty</b>		\$1,000	
One quarterly event is recommended based on documentation of the violation during the August 6, 2008 investigation to the August 30, 2008 compliance date.			
<b>Good Faith Efforts to Comply</b>		25.0% Reduction	\$250
		Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>	
Ordinary	x	<input type="checkbox"/>	
N/A	<input type="checkbox"/>	(mark with x)	
<b>Notes</b>	The Respondent came into compliance on August 30, 2008.		
<b>Violation Subtotal</b>		\$750	
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>	
<b>Estimated EB Amount</b>	\$2	<b>Violation Final Penalty Total</b>	\$966
		<b>This violation Final Assessed Penalty (adjusted for limits)</b>	
		\$966	

## Economic Benefit Worksheet

**Respondent** NNY, Inc. dba A & I Food Store  
**Case ID No.** 36631  
**Reg. Ent. Reference No.** RN101536431  
**Media** Petroleum Storage Tank  
**Violation No.** 2

<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
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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	6-Aug-2008	30-Aug-2008	0.07	\$2	n/a	\$2
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 Station representative and in-house employee Stage II training. 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 \$2

<b>Screening Date</b> 1-Oct-2008		<b>Docket No.</b> 2008-1592-PST-E		<b>PCW</b>
<b>Respondent</b> NNY, Inc. dba A & I Food Store		<i>Policy Revision 2 (September 2002)</i>		
<b>Case ID No.</b> 36631		<i>PCW Revision June 12, 2008</i>		
<b>Reg. Ent. Reference No.</b> RN101536431				
<b>Media [Statute]</b> Petroleum Storage Tank				
<b>Enf. Coordinator</b> Judy Kluge				
<b>Violation Number</b>	<input type="text" value="3"/>			
<b>Rule Cite(s)</b>	<input type="text" value="30 Tex. Admin. Code § 115.246(1) and (3) and Tex. Health &amp; Safety Code § 382.085(b)"/>			
<b>Violation Description</b>	<input and="" carb")="" executive="" for="" ii="" maintenance="" order="" records="" recovery="" stage="" system."="" the="" type="text" value="Failed to maintain Stage II records at the Station and make them immediately available for inspection upon request by agency personnel. Specifically, records not available for review included a copy of the applicable California Air Resources Board (" vapor=""/>			
<b>Base Penalty</b>				<input type="text" value="\$10,000"/>
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
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"/>	<b>Percent</b> <input type="text" value="0%"/>
<b>&gt;&gt; Programmatic Matrix</b>				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	x	<input type="text"/>	<input type="text"/>
				<b>Percent</b> <input type="text" value="10%"/>
<b>Matrix Notes</b>	<input type="text" value="100% of the rule requirement was not met."/>			
<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="43"/>		
<i>mark only one with an x</i>	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"/>		
<b>Violation Base Penalty</b>				<input type="text" value="\$1,000"/>
	<input type="text" value="One single event is recommended based on documentation of the violation during the August 6, 2008 investigation."/>			
<b>Good Faith Efforts to Comply</b>				
		<input type="text" value="25.0%"/>	Reduction	<input type="text" value="\$250"/>
		Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Ordinary	x	<input type="text"/>	<input type="text"/>	
N/A	<input type="text"/>	(mark with x)	<input type="text"/>	
<b>Notes</b>	<input type="text" value="The Respondent came into compliance on September 18, 2008."/>			
<b>Violation Subtotal</b>				<input type="text" value="\$750"/>
<b>Economic Benefit (EB) for this violation</b>				
<b>Estimated EB Amount</b>		<input type="text" value="\$3"/>	<b>Statutory Limit Test</b>	
			<b>Violation Final Penalty Total</b>	
			<input type="text" value="\$966"/>	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>				<input type="text" value="\$966"/>

## Economic Benefit Worksheet

**Respondent** NNY, Inc. dba A & I Food Store  
**Case ID No.** 36631  
**Reg. Ent. Reference No.** RN101536431  
**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
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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	6-Aug-2008	18-Sep-2008	0.12	\$3	n/a	\$3
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 at the Station. 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 \$3

<b>Screening Date</b> 1-Oct-2008	<b>Docket No.</b> 2008-1592-PST-E	<b>PCW</b>		
<b>Respondent</b> NNY, Inc. dba A & I Food Store	<i>Policy Revision 2 (September 2002)</i>			
<b>Case ID No.</b> 36631	<i>PCW Revision June 12, 2008</i>			
<b>Reg. Ent. Reference No.</b> RN101536431				
<b>Media [Statute]</b> Petroleum Storage Tank				
<b>Enf. Coordinator</b> Judy Kluge				
<b>Violation Number</b> <input type="text" value="4"/>				
<b>Rule Cite(s)</b>	<input type="text" value="30 Tex. Admin. Code § 115.245(2) and Tex. Health &amp; Safety Code § 382.085(b)"/>			
<b>Violation Description</b>	<input type="text" value="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."/>			
	<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>
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	
	<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="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 pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation."/>			
	<b>Adjustment</b>		<input type="text" value="\$7,500"/>	
			<input type="text" value="\$2,500"/>	
<b>Violation Events</b>				
	<b>Number of Violation Events</b>	<input type="text" value="1"/>	<input type="text" value="1095"/> <b>Number of violation days</b>	
<i>mark only one with an x</i>	daily	<input type="text"/>	<b>Violation Base Penalty</b>	
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text" value="x"/>		
	<b>Violation Base Penalty</b>		<input type="text" value="\$2,500"/>	
	<input type="text" value="One single event is recommended for the three-year period preceding the August 6, 2008 investigation."/>			
<b>Good Faith Efforts to Comply</b>			<input type="text" value="\$625"/>	
	<b>25.0% Reduction</b>			
	Before NOV	NOV to EDPRP/Settlement Offer		
Extraordinary	<input type="text"/>	<input type="text"/>		
Ordinary	<input type="text" value="x"/>	<input type="text"/>		
N/A	<input type="text"/>	(mark with x)		
<b>Notes</b>	<input type="text" value="The Respondent came into compliance on September 4, 2008."/>			
	<b>Violation Subtotal</b>		<input type="text" value="\$1,875"/>	
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>	<input type="text" value="\$1,200"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$2,414"/>	
		<b>This violation Final Assessed Penalty (adjusted for limits)</b>	<input type="text" value="\$2,414"/>	

### Economic Benefit Worksheet

**Respondent** NNY, Inc. dba A & I Food Store  
**Case ID No.** 36631  
**Reg. Ent. Reference No.** RN101536431  
**Media** Petroleum Storage Tank  
**Violation No.** 4

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

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

**Delayed Costs**

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

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]	\$1,000	6-Aug-2005	4-Sep-2008	4.00	\$200	\$1,000	\$1,200
Other (as needed)				0.00	\$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 compliance date.

Approx. Cost of Compliance    **\$1,000**    **TOTAL**    **\$1,200**

<b>Screening Date</b> 1-Oct-2008	<b>Docket No.</b> 2008-1592-PST-E	<b>PCW</b>	
<b>Respondent</b> NNY, Inc. dba A & I Food Store	<i>Policy Revision 2 (September 2002)</i>		
<b>Case ID No.</b> 36631	<i>PCW Revision June 12, 2008</i>		
<b>Reg. Ent. Reference No.</b> RN101536431			
<b>Media [Statute]</b> Petroleum Storage Tank			
<b>Enf. Coordinator</b> Judy Kluge			
<b>Violation Number</b> <input type="text" value="5"/>			
<b>Rule Cite(s)</b>	<input type="text" value="30 Tex. Admin. Code § 115.222(1) and Tex. Health &amp; Safety Code § 382.085(b)"/>		
<b>Violation Description</b>	<input type="text" value="Failed to ensure that the submerged drop tubes have a maximum clearance of six inches from the bottom of the tank. Specifically, all three gasoline fill pipe drop tubes had a clearance of more than six inches from the bottom of the tank."/>		
<b>Base Penalty</b>		<input type="text" value="\$10,000"/>	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</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"/>	x	<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"/>	
<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 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."/>		
<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="17"/>
<i>mark only one with an x</i>	<b>daily</b>	<input type="text"/>	
	<b>monthly</b>	<input type="text"/>	
	<b>quarterly</b>	x	
	<b>semiannual</b>	<input type="text"/>	
	<b>annual</b>	<input type="text"/>	
	<b>single event</b>	<input type="text"/>	
<b>Violation Base Penalty</b>			<input type="text" value="\$1,000"/>
<input type="text" value="One quarterly event is recommended based on documentation of the violation during the August 6, 2008 investigation to the August 23, 2008 compliance date."/>			
<b>Good Faith Efforts to Comply</b>		<b>25.0%</b> Reduction	<input type="text" value="\$250"/>
	<b>Before NOV</b>	<b>NOV to EDPRP/Settlement Offer</b>	
<b>Extraordinary</b>	<input type="text"/>	<input type="text"/>	
<b>Ordinary</b>	x	<input type="text"/>	
<b>N/A</b>	<input type="text"/>	(mark with x)	
<b>Notes</b>	<input type="text" value="The Respondent came into compliance on August 23, 2008."/>		
<b>Violation Subtotal</b>			<input type="text" value="\$750"/>
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>	
<b>Estimated EB Amount</b>	<input type="text" value="\$1"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$966"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b>			<input type="text" value="\$966"/>

## Economic Benefit Worksheet

**Respondent** NNY, Inc. dba A & I Food Store  
**Case ID No.** 36631  
**Reg. Ent. Reference No.** RN101536431  
**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	\$250	6-Aug-2008	23-Aug-2008	0.05	\$0	\$1	\$1
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 expense to replace drop tubes in the gasoline tanks. 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

\$250

**TOTAL**

\$1

<b>Screening Date</b> 1-Oct-2008	<b>Docket No.</b> 2008-1592-PST-E	<b>PCW</b>	
<b>Respondent</b> NNY, Inc. dba A & I Food Store	<i>Policy Revision 2 (September 2002)</i>		
<b>Case ID No.</b> 36631	<i>PCW Revision June 12, 2008</i>		
<b>Reg. Ent. Reference No.</b> RN101536431			
<b>Media [Statute]</b> Petroleum Storage Tank			
<b>Enf. Coordinator</b> Judy Kluge			
<b>Violation Number</b>	6		
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 115.242(3)(A) and (3)(J) and Tex. Health & Safety Code § 382.085(b)		
<b>Violation Description</b>	Failed to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any 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 a part of the approved system. Specifically, the super unleaded swivel adaptor was not equipped with devices which prevent loosening and over-tightening and all three dry breaks were severely rusted.		
<b>Base Penalty</b>		\$10,000	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>			
<b>OR</b>	<b>Release</b>	<b>Harm</b>	
		Major      Moderate      Minor	
	Actual	Potential	<b>Percent</b>
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	10%
<b>&gt;&gt; Programmatic Matrix</b>			
	Falsification	Major      Moderate      Minor	<b>Percent</b>
	<input type="checkbox"/>	<input type="checkbox"/>	0%
<b>Matrix Notes</b>	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.		
<b>Adjustment</b>		\$9,000	
		\$1,000	
<b>Violation Events</b>			
<b>Number of Violation Events</b>		1	<b>Number of violation days</b>
		29	
<i>mark only one with an x</i>	daily	<input type="checkbox"/>	<b>Violation Base Penalty</b>
	monthly	<input type="checkbox"/>	
	quarterly	<input checked="" type="checkbox"/>	
	semiannual	<input type="checkbox"/>	
	annual	<input type="checkbox"/>	
	single event	<input type="checkbox"/>	
One quarterly event is recommended based on documentation of the violation during the August 6, 2008 investigation to the September 4, 2008 compliance date.			\$1,000
<b>Good Faith Efforts to Comply</b>		25.0% Reduction	
		\$250	
	Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>	
Ordinary	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
N/A	<input type="checkbox"/>	(mark with x)	
<b>Notes</b>	The Respondent came into compliance on September 4, 2008.		
<b>Violation Subtotal</b>		\$750	
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>	
<b>Estimated EB Amount</b>		<b>Violation Final Penalty Total</b>	
\$3		\$966	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>		\$966	

## Economic Benefit Worksheet

**Respondent** NNY, Inc. dba A & I Food Store  
**Case ID No.** 36631  
**Reg. Ent. Reference No.** RN101536431  
**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
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No commas or \$

**Delayed Costs**

Equipment	\$500	6-Aug-2008	4-Sep-2008	0.08	\$0	\$3	\$3
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 repair or replace the fill risers, swivel adaptors, and dry breaks for the Stage II vapor recovery system. The date required is the investigation date and the final date is the 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

\$500

TOTAL

\$3

<b>Screening Date</b> 1-Oct-2008	<b>Docket No.</b> 2008-1592-PST-E	<b>PCW</b>				
<b>Respondent</b> NNY, Inc. dba A & I Food Store	<i>Policy Revision 2 (September 2002)</i>					
<b>Case ID No.</b> 36631	<i>PCW Revision June 12, 2008</i>					
<b>Reg. Ent. Reference No.</b> RN101536431						
<b>Media [Statute]</b> Petroleum Storage Tank						
<b>Enf. Coordinator</b> Judy Kluge						
<b>Violation Number</b> <input type="text" value="7"/>						
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 334.7(d)(3)					
<b>Violation Description</b>	Failed to provide an amended UST registration to the agency for any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition. Specifically, the registration was not amended to reflect the correct tank material as composite and the current method of release detection.					
<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>					
	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>						
		Falsification	Major	Moderate	Minor	
		<input type="text"/>	x	<input type="text"/>	<input type="text"/>	
		<b>Percent</b>	<input type="text" value="10%"/>			
<b>Matrix Notes</b>	100% of the rule requirement was not met.					
		<b>Adjustment</b>	<input type="text" value="\$9,000"/>			
					<input type="text" value="\$1,000"/>	
<b>Violation Events</b>						
		<input type="text" value="1"/>	<input type="text" value="56"/>	Number of violation days		
<i>mark only one with an x</i>	daily	<input type="text"/>				
	monthly	<input type="text"/>				
	quarterly	<input type="text"/>				
	semiannual	<input type="text"/>				
	annual	<input type="text"/>				
	single event	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 August 6, 2008 investigation.						
<b>Good Faith Efforts to Comply</b>						
		<input type="text" value="0.0%"/>	Reduction		<input type="text" value="\$0"/>	
		Before NOV		NOV to EDPRP/Settlement Offer		
Extraordinary	<input type="text"/>					
Ordinary	<input type="text"/>					
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>					<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="\$3"/>	<b>Violation Final Penalty Total</b>		<input type="text" value="\$1,267"/>	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>					<input type="text" value="\$1,267"/>	

## Economic Benefit Worksheet

**Respondent** NNY, Inc. dba A & I Food Store  
**Case ID No.** 36631  
**Reg. Ent. Reference No.** RN101536431  
**Media** Petroleum Storage Tank  
**Violation No.** 7

<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
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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				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$100	6-Aug-2008	2-Apr-2009	0.65	\$3	n/a	\$3
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount required to amend the UST registration. 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				0.00	\$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 \$100

TOTAL \$3

<b>Screening Date</b> 1-Oct-2008	<b>Docket No.</b> 2008-1592-PST-E	<b>PCW</b>						
<b>Respondent</b> NNY, Inc. dba A & I Food Store	<small>Policy Revision 2 (September 2002)</small>							
<b>Case ID No.</b> 36631	<small>PCW Revision June 12, 2008</small>							
<b>Reg. Ent. Reference No.</b> RN101536431								
<b>Media [Statute]</b> Petroleum Storage Tank								
<b>Enf. Coordinator</b> Judy Kluge								
<b>Violation Number</b> 8								
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 334.50(b)(1)(A), (b)(2), (b)(2)(A)(i)(II), (d)(1)(B)(ii), (d)(1)(B)(iii)(I) and Tex. Water Code § 26.3475(a) and (c)(1)							
<b>Violation Description</b>	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). Specifically, the automatic tank gauge was not being put into test mode monthly. Failed to provide release detection for the piping associated with the USTs. Failed to test the line leak detectors at least once per year for performance and operational reliability. Failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release which equals or exceeds the sum of 1.0 percent of the total substance flow-through for the month plus 130 gallons. Failed to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day.							
<b>Base Penalty</b>		\$10,000						
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>								
<b>OR</b>	<b>Release</b>	<b>Harm</b>						
		Major      Moderate      Minor						
	Actual	<table border="1" style="display: inline-table; border-collapse: collapse;"><tr><td style="width: 50px; height: 15px;"></td><td style="width: 50px; height: 15px;"></td><td style="width: 50px; height: 15px;"></td></tr><tr><td style="text-align: center;">x</td><td></td><td></td></tr></table>				x		
x								
	Potential	<table border="1" style="display: inline-table; border-collapse: collapse;"><tr><td style="width: 50px; height: 15px;"></td><td style="width: 50px; height: 15px;"></td><td style="width: 50px; height: 15px;"></td></tr><tr><td style="text-align: center;">x</td><td></td><td></td></tr></table>				x		
x								
<b>Percent</b>		25%						
<b>&gt;&gt; Programmatic Matrix</b>								
	Falsification	Major						
	Moderate	Minor						
	<table border="1" style="display: inline-table; border-collapse: collapse;"><tr><td style="width: 50px; height: 15px;"></td><td style="width: 50px; height: 15px;"></td><td style="width: 50px; height: 15px;"></td></tr></table>				<table border="1" style="display: inline-table; border-collapse: collapse;"><tr><td style="width: 50px; height: 15px;"></td><td style="width: 50px; height: 15px;"></td><td style="width: 50px; height: 15px;"></td></tr></table>			
<b>Percent</b>		0%						
<b>Matrix Notes</b>	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.							
<b>Adjustment</b>		\$7,500						
		\$2,500						
<b>Violation Events</b>								
	1	43						
	Number of violation days							
<small>mark only one with an x</small>	daily	<table border="1" style="display: inline-table; border-collapse: collapse;"><tr><td style="width: 50px; height: 15px;"></td></tr></table>						
	monthly	<table border="1" style="display: inline-table; border-collapse: collapse;"><tr><td style="width: 50px; height: 15px;"></td></tr></table>						
	quarterly	<table border="1" style="display: inline-table; border-collapse: collapse;"><tr><td style="width: 50px; height: 15px; text-align: center;">x</td></tr></table>	x					
	x							
semiannual	<table border="1" style="display: inline-table; border-collapse: collapse;"><tr><td style="width: 50px; height: 15px;"></td></tr></table>							
annual	<table border="1" style="display: inline-table; border-collapse: collapse;"><tr><td style="width: 50px; height: 15px;"></td></tr></table>							
single event	<table border="1" style="display: inline-table; border-collapse: collapse;"><tr><td style="width: 50px; height: 15px;"></td></tr></table>							
<b>Violation Base Penalty</b>		\$2,500						
One quarterly event is recommended based on documentation of the violation during the August 6, 2008 investigation to the September 18, 2008 compliance date.								
<b>Good Faith Efforts to Comply</b>								
	25.0%	Reduction						
	Before NOV	NOV to EDPRP/Settlement Offer						
Extraordinary	<table border="1" style="display: inline-table; border-collapse: collapse;"><tr><td style="width: 50px; height: 15px;"></td></tr></table>		<table border="1" style="display: inline-table; border-collapse: collapse;"><tr><td style="width: 50px; height: 15px;"></td></tr></table>					
Ordinary	<table border="1" style="display: inline-table; border-collapse: collapse;"><tr><td style="width: 50px; height: 15px; text-align: center;">x</td></tr></table>	x	<table border="1" style="display: inline-table; border-collapse: collapse;"><tr><td style="width: 50px; height: 15px;"></td></tr></table>					
x								
N/A	<table border="1" style="display: inline-table; border-collapse: collapse;"><tr><td style="width: 50px; height: 15px;"></td></tr></table>		(mark with x)					
<b>Notes</b>	The Respondent came into compliance on September 18, 2008.							
<b>Violation Subtotal</b>		\$1,875						
<b>Economic Benefit (EB) for this violation</b>								
<b>Statutory Limit Test</b>								
<b>Estimated EB Amount</b>	\$1,109	<b>Violation Final Penalty Total</b> \$2,414						
<b>This violation Final Assessed Penalty (adjusted for limits)</b>		\$2,414						

## Economic Benefit Worksheet

**Respondent** NNY, Inc. dba A & I Food Store  
**Case ID No.** 36631  
**Reg. Ent. Reference No.** RN101536431  
**Media** Petroleum Storage Tank  
**Violation No.** 8

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

**Item Cost**    **Date Required**    **Final Date**    **Yrs**    **Interest Saved**    **Onetime Costs**    **EB Amount**  
**Item Description**    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)	\$1,500	6-Aug-2008	18-Sep-2008	0.12	\$9	\$9

Notes for DELAYED costs

The estimated cost of monitoring all USTs for releases, to include recording daily inventory volume measurement, and monthly reconciliation of inventory control 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]	\$1,000	6-Aug-2007	4-Sep-2008	2.00	\$100	\$1,100
Other (as needed)			0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Avoided cost for piping tightness and line leak detector tests. The date required is one year prior to the investigation date and the final date is the compliance date.

Approx. Cost of Compliance

\$2,500

TOTAL

\$1,109

<b>Screening Date</b> 1-Oct-2008	<b>Docket No.</b> 2008-1592-PST-E	<b>PCW</b>		
<b>Respondent</b> NNY, Inc. dba A & I Food Store	<i>Policy Revision 2 (September 2002)</i>			
<b>Case ID No.</b> 36631	<i>PCW Revision June 12, 2008</i>			
<b>Reg. Ent. Reference No.</b> RN101536431				
<b>Media [Statute]</b> Petroleum Storage Tank				
<b>Enf. Coordinator</b> Judy Kluge				
<b>Violation Number</b> <input type="text" value="9"/>				
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 334.48(c)			
<b>Violation Description</b>	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.			
<b>Base Penalty</b>		<input type="text" value="\$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" value="x"/>	<input type="text"/>	<input type="text"/>
		<b>Percent</b>	<input type="text" value="25%"/>	
<b>&gt;&gt; Programmatic Matrix</b>				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
		<b>Percent</b>	<input type="text" value="0%"/>	
<b>Matrix Notes</b>	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.			
		<b>Adjustment</b>	<input type="text" value="\$7,500"/>	
		<input type="text" value="\$2,500"/>		
<b>Violation Events</b>				
	Number of Violation Events	<input type="text" value="1"/>	Number of violation days	<input type="text" value="43"/>
<i>mark only one with an x</i>	daily	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	<input checked="" type="checkbox"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		
		<b>Violation Base Penalty</b>	<input type="text" value="\$2,500"/>	
One quarterly event is recommended based on documentation of the violation during the August 6, 2008 investigation to the September 18, 2008 compliance date.				
<b>Good Faith Efforts to Comply</b>				
		<input type="text" value="25.0%"/>	Reduction	<input type="text" value="\$625"/>
		Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="text"/>			
Ordinary	<input checked="" type="checkbox"/>			
N/A	<input type="text"/>	(mark with x)		
<b>Notes</b>	The Respondent came into compliance on September 18, 2008.			
		<b>Violation Subtotal</b>	<input type="text" value="\$1,875"/>	
<b>Economic Benefit (EB) for this violation</b>			<b>Statutory Limit Test</b>	
Estimated EB Amount	<input type="text" value="\$3"/>		Violation Final Penalty Total	<input type="text" value="\$2,414"/>
			<b>This violation Final Assessed Penalty (adjusted for limits)</b>	<input type="text" value="\$2,414"/>

## Economic Benefit Worksheet

**Respondent** NNY, Inc. dba A & I Food Store  
**Case ID No.** 36631  
**Reg. Ent. Reference No.** RN101536431  
**Media** Petroleum Storage Tank  
**Violation No.** 9

<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
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No commas or \$

**Delayed Costs**

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	6-Aug-2008	18-Sep-2008	0.12	\$3	n/a	\$3
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 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 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 \$500

TOTAL \$3

<b>Screening Date</b> 1-Oct-2008		<b>Docket No.</b> 2008-1592-PST-E		<b>PCW</b>	
<b>Respondent</b> NNY, Inc. dba A & I Food Store		<i>Policy Revision 2 (September 2002)</i>			
<b>Case ID No.</b> 36631		<i>PCW Revision June 12, 2008</i>			
<b>Reg. Ent. Reference No.</b> RN101536431					
<b>Media [Statute]</b> Petroleum Storage Tank					
<b>Enf. Coordinator</b> Judy Kluge					
<b>Violation Number</b>	<input type="text" value="10"/>				
<b>Rule Cite(s)</b>	<input type="text" value="30 Tex. Admin. Code § 334.10(b)"/>				
<b>Violation Description</b>	<input type="text" value="Failed to maintain the required UST records and make them immediately available for the inspection upon request by agency personnel. Specifically, documentation for installation of overfill prevention equipment was not available for review."/>				
<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 type="text"/>	<input type="text"/>	
<b>Percent</b>	<input type="text" value="0%"/>				
<b>&gt;&gt; Programmatic Matrix</b>					
	<b>Falsification</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>	
	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text"/>	
<b>Percent</b>	<input type="text" value="10%"/>				
<b>Matrix Notes</b>	<input type="text" value="100% of the rule requirement was not met."/>				
<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"/>	<input type="text" value="56"/>	<b>Number of violation days</b>		
<i>mark only one with an x</i>	<b>daily</b>	<input type="text"/>			
	<b>monthly</b>	<input type="text"/>			
	<b>quarterly</b>	<input type="text"/>			
	<b>semiannual</b>	<input type="text"/>			
	<b>annual</b>	<input type="text"/>			
	<b>single event</b>	<input checked="" type="checkbox"/>			
<b>Violation Base Penalty</b>	<input type="text" value="\$1,000"/>				
<input type="text" value="One single event is recommended based on documentation of the violation during the August 6, 2008 investigation."/>					
<b>Good Faith Efforts to Comply</b>					
<b>0.0% Reduction</b>		<input type="text" value="\$0"/>			
	<b>Before NOV</b>	<b>NOV to EDPRP/Settlement Offer</b>			
<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="checkbox"/>	<input type="text" value="(mark with x)"/>			
<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="\$14"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$1,267"/>		
<b>This violation Final Assessed Penalty (adjusted for limits)</b>				<input type="text" value="\$1,267"/>	

## Economic Benefit Worksheet

**Respondent** NNY, Inc. dba A & I Food Store  
**Case ID No.** 36631  
**Reg. Ent. Reference No.** RN101536431  
**Media** Petroleum Storage Tank  
**Violation No.** 10

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

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

**Delayed Costs**

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	6-Aug-2008	2-Mar-2009	0.57	\$14	n/a	\$14
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 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)

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 \$500

TOTAL \$14

<b>Screening Date</b> 1-Oct-2008	<b>Docket No.</b> 2008-1592-PST-E	<b>PCW</b>			
<b>Respondent</b> NNY, Inc. dba A & I Food Store	<i>Policy Revision 2 (September 2002)</i>				
<b>Case ID No.</b> 36631	<i>PCW Revision June 12, 2008</i>				
<b>Reg. Ent. Reference No.</b> RN101536431					
<b>Media [Statute]</b> Petroleum Storage Tank					
<b>Enf. Coordinator</b> Judy Kluge					
<b>Violation Number</b> <input type="text" value="11"/>					
<b>Rule Cite(s)</b>	<input type="text" value="30 Tex. Admin. Code § 334.51(a)(6) and Tex. Water Code § 26.3475(c)(2)"/>				
<b>Violation Description</b>	<input type="text" value="Failed to ensure that all spill and overfill prevention devices are maintained in good operating condition and that such devices are inspected and serviced in accordance with manufacturers' specifications. Specifically, the spill bucket on the regular unleaded tank was broken."/>				
<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>Percent</b> <input type="text" value="10%"/>	
	<b>Release</b>	<b>Major</b>	<b>Moderate</b>		<b>Minor</b>
	Actual	<input type="text"/>	<input type="text"/>		<input type="text"/>
Potential	<input type="text"/>	x	<input type="text"/>		
<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>Matrix Notes</b>			<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."/>		
<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"/>		<input type="text" value="29"/> <b>Number of violation days</b>			
<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	x			
	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 August 6, 2008 investigation to the September 4, 2008 compliance date."/>					
<b>Good Faith Efforts to Comply</b>			<input type="text" value="25.0%"/> <b>Reduction</b>	<input type="text" value="\$250"/>	
			<small>Before NOV    NOV to EDPRP/Settlement Offer</small>		
Extraordinary	<input type="text"/>	<input type="text"/>			
Ordinary	x	<input type="text"/>			
N/A	<input type="text"/>	(mark with x)			
<b>Notes</b>	<input type="text" value="The Respondent came into compliance on September 4, 2008."/>				
<b>Violation Subtotal</b>				<input type="text" value="\$750"/>	
<b>Economic Benefit (EB) for this violation</b>			<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b> <input type="text" value="\$6"/>			<b>Violation Final Penalty Total</b> <input type="text" value="\$966"/>		
			<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$966"/>		

## Economic Benefit Worksheet

**Respondent** NNY, Inc. dba A & I Food Store  
**Case ID No.** 36631  
**Reg. Ent. Reference No.** RN101536431  
**Media** Petroleum Storage Tank  
**Violation No.** 11

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**

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$1,000	6-Aug-2008	4-Sep-2008	0.08	\$0	\$5	\$6
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**  
 The estimated cost of replacing the spill bucket on the regular unleaded tank and maintaining all spill and overfill prevention devices in good operating condition. The date required is the investigation date and the final date is the compliance date.

**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**    \$1,000    **TOTAL**    \$6

# Compliance History

Customer/Respondent/Owner-Operator: CN603166844 NNY, Inc. Classification: AVERAGE Rating: 1.67  
Regulated Entity: RN101536431 A & I FOOD STORE Classification: AVERAGE Site Rating: 1.67  
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 22884  
Location: 2286 W PLEASANT RUN RD, LANCASTER, TX, 75146 Rating Date: 9/1/2008 Repeat Violator: NO  
TCEQ Region: REGION 04 - DFW METROPLEX  
Date Compliance History Prepared: October 01, 2008  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: October 01, 2003 to October 01, 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? Yes
3. If Yes, who is the current owner? NNY, Inc.
4. If Yes, who was/were the prior owner(s)? New Apna Corporation
5. When did the change(s) in ownership occur? 1/01/2007

## 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 | 12/27/2004 | (343755) |
| 2 | 02/03/2005 | (348980) |
| 3 | 09/17/2008 | (703060) |
| 4 | 09/24/2008 | (689528) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- |              |   |          |                          |
|--------------|---|----------|--------------------------|
| Date:        | 01/03/2005  | (343755) |                          |
| 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).  |          |                          |
| 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, whichever occurs first. The verification shall include all functional tests that were required for the initial system test, except for TXP-101 and TXP-103.                |          |                          |
| Self Report? | NO  |          | Classification: Minor    |
| Citation:    | 30 TAC Chapter 115, SubChapter C 115.242(3)(A)  |          |                          |
| Description: | Failure to provide and maintain the Stage II vapor recovery system in proper operating condition, as specified by California Air Resources Board (CARB) Executive Order(s), and free of defects that would impair the effectiveness of the system, including the absence of any component that is a part of the system. |          |                          |
- F. Environmental audits.  
N/A
- G. Type of environmental management systems (EMSs).  
N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
NNY, INC. DBA A & I FOOD STORE  
RN101536431

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2008-1592-PST-E

I. JURISDICTION AND STIPULATIONS

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding NNY, Inc. dba A & I Food Store ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a convenience store with retail sales of gasoline at 2286 West Pleasant Run Road in Lancaster, Dallas County, Texas (the "Station").
2. The Respondent's three underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about September 28, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Fifteen Thousand Five Hundred Seventy Dollars (\$15,570) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). The Respondent has paid Three Hundred Forty-Six Dollars (\$346) of the administrative penalty and Three Thousand One Hundred Fourteen Dollars (\$3,114) 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 Twelve Thousand One Hundred Ten Dollars (\$12,110) of the administrative penalty shall be payable in 35 monthly payments of Three Hundred Forty-Six Dollars (\$346) 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 has implemented the following corrective measures at the Station:
  - a. On September 18, 2008, the TCEQ Dallas/Fort Worth Regional Office received documentation verifying that daily and monthly inspections of the Stage II vapor recovery system are being conducted at the Station;
  - b. The TCEQ Dallas/Fort Worth Regional Office received documentation verifying that the Station representative Stage II training has been completed and that each current employee received in-house Stage II vapor recovery awareness training on August 30, 2008;
  - c. On September 18, 2008, the TCEQ Dallas/Fort Worth Regional Office received documentation verifying that the Station is maintaining all Stage II records on-site;
  - d. On September 4, 2008, the TCEQ Dallas/Fort Worth Regional Office visually verified that the Station successfully conducted the required annual and triennial testing of the Stage II equipment;
  - e. The TCEQ Dallas/Fort Worth Regional Office received documentation verifying that all drop tubes have been replaced on August 23, 2008;

- f. On September 4, 2008, the TCEQ Dallas/Fort Worth Regional Office visually verified that locking rings had been installed on all three fill risers, two dry breaks had been capped off, and a swivel adaptor had been installed on the super unleaded dry break;
  - g. On September 18, 2008, the TCEQ Dallas/Fort Worth Regional Office received documentation verifying that all USTs are being monitored, reconciliation of inventory control records is being conducted, and inventory volume measurements are being recorded daily;
  - h. The TCEQ Dallas/Fort Worth Regional Office visually verified that piping tightness and line leak detector tests were successfully conducted on September 4, 2008;
  - i. On September 18, 2008, the TCEQ Dallas/Fort Worth Regional Office received documentation verifying that the Respondent began conducting proper inventory control procedures for all USTs at the Station; and
  - j. The TCEQ Dallas/Fort Worth Regional Office visually verified that the spill bucket on the regular unleaded tank was replaced on September 4, 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 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), as documented during an investigation conducted on August 6, 2008.
2. Failed to ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system, and each current employee receives in-house Stage II vapor recovery training regarding the purpose and operation of the vapor recovery system, in violation of 30 TEX. ADMIN. CODE § 115.248(1) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on August 6, 2008.
3. Failed to maintain Stage II records at the Station and make them immediately available for inspection upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 115.246(1) and (3) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation

conducted on August 6, 2008. Specifically, records not available for review included a copy of the applicable California Air Resources Board ("CARB") Executive Order and maintenance records for the Stage II vapor recovery system.

4. Failed 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, in violation of 30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on August 6, 2008. Specifically, the Stage II annual and triennial system compliance testing had not been conducted.
5. Failed to ensure that the submerged drop tubes have a maximum clearance of six inches from the bottom of the tank, in violation of 30 TEX. ADMIN. CODE § 115.222(1) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on August 6, 2008. Specifically, all three gasoline fill pipe drop tubes had a clearance of more than six inches from the bottom of the tank.
6. Failed to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any 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 a part of the approved system, in violation of 30 TEX. ADMIN. CODE § 115.242(3)(A) and (3)(J) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on August 6, 2008. Specifically, the super unleaded fill adaptor was not equipped with devices which prevent loosening and over-tightening and all three dry breaks were severely rusted.
7. Failed to provide an amended UST registration to the agency for any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition, in violation of 30 TEX. ADMIN. CODE § 334.7(d)(3), as documented during an investigation conducted on August 6, 2008. Specifically, the registration was not amended to reflect the correct tank material as composite and the current method of release detection.
8. 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), in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on August 6, 2008. Specifically, the automatic tank gauge was not being put into test mode monthly.
9. Failed to provide release detection for the piping associated with the USTs, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2) and TEX. WATER CODE § 26.3475(a), as documented during an investigation conducted on August 6, 2008.
10. Failed to test the line leak detectors at least once per year for performance and operational reliability, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a), as documented during an investigation conducted on August 6, 2008.
11. Failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release which equals or exceeds the sum of 1.0 percent of the total substance flow-through for the month plus 130 gallons, in violation of 30 TEX. ADMIN. CODE §

334.50(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on August 6, 2008.

12. Failed to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day, in violation of 30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(iii)(I) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on August 6, 2008.
13. 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, in violation of 30 TEX. ADMIN. CODE § 334.48(c), as documented during an investigation conducted on August 6, 2008.
14. Failed to maintain the required UST records and make them immediately available for the inspection upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 334.10(b), as documented during an investigation conducted on August 6, 2008. Specifically, documentation for the installation of overfill prevention equipment was not available for review.
15. Failed to ensure that all spill and overfill prevention devices are maintained in good operating condition and that such devices are inspected and serviced in accordance with manufacturers' specifications, in violation of 30 TEX. ADMIN. CODE § 334.51(a)(6) and TEX. WATER CODE § 26.3475(c)(2), as documented during an investigation conducted on August 6, 2008. Specifically, the spill bucket on the regular unleaded tank was broken.

### 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: NNY, Inc. dba A & I Food Store, Docket No. 2008-1592-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. Immediately upon the effective date of this Agreed Order, 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, submit an amended registration to indicate correct tank material and current method of release detection, in accordance with 30 TEX. ADMIN. CODE § 334.7 to:

Registration and Reporting Section  
Permitting & Remediation Support Division, MC 138  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

- c. 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 Nos. 2.a. and 2.b. 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  
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 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.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

*John Srdin*  
For the Executive Director

2/27/2009  
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.

*Songsu No*  
Signature

1-12-09  
Date

SONGSU No  
Name (Printed or typed)  
Authorized Representative of  
NNY, Inc. dba A & I Food Store

OWNER  
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.