

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2008-1135-AIR-E **TCEQ IDs:** RN102056835, RN101695088, and RN102390028

**CASE NO.:** 36190

**RESPONDENT NAME:** Southwest Convenience Stores, LLC

<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 checked="" 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 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> 7 Eleven 53345, 101 West Main Street, Fabens, El Paso County ("Station 1"), 7 Eleven 53316, 1259 North Zaragoza Road, El Paso, El Paso County ("Station 2"), and 7 Eleven 57616, 3101 North Yarbrough Drive, El Paso, El Paso County ("Station 3")</p> <p><b>TYPE OF OPERATION:</b> Convenience stores with retail gasoline sales</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding these facility locations.</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 December 22, 2008. 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. Cheryl Thompson, Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5886; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171  <b>Respondent:</b> Mr. Scott Prall, Director of Fuel and Transportation, Southwest Convenience Stores, LLC, 4001 Penbrook, Suite 400, Odessa, Texas 79762  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

DOCKET NO.: 2008-1135-AIR-E

**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> June 4, June 26, and July 30, 2008</p> <p><b>Date of NOV/NOE Relating to this Case:</b> June 20, July 11, and August 29, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>AIR</b></p> <p>1) Allowed the transfer of gasoline which may be used in a motor vehicle in the El Paso area with a Reid vapor pressure ("RVP") greater than 7.0 pounds per square inch absolute ("psia") at Station 1. Specifically, lab results from samples taken on June 4, 2008 from the mid-grade unleaded and the premium unleaded gasoline at pump number two indicated that the RVP was 7.2 psia for the mid-grade unleaded and 7.5 psia for premium unleaded [30 TEX. ADMIN. CODE § 115.252(2) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>2) Allowed the transfer of gasoline which may be used in a motor vehicle in the El Paso area with a RVP greater than 7.0 psia at Station 2. Specifically, lab results from a sample taken on June 26, 2008 from the unleaded grade gasoline at pump number one indicated that the RVP was 7.4 psia [30 TEX. ADMIN. CODE § 115.252(2) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>3) Allowed the transfer of gasoline which may be used in a motor vehicle in the El Paso area with a RVP greater than 7.0 psia at Station 3. Specifically, lab results from a sample taken on July 30, 2008 from the unleaded grade gasoline at pump number</p>	<p><b>Total Assessed:</b> \$4,850</p> <p><b>Total Deferred:</b> \$970  <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 to General Revenue:</b> \$3,880</p> <p>RN101695088  <b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input 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>RN102056835  <b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input checked="" type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input 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>RN102390028  <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 returned to compliance on August 26, 2008 by submitting gasoline samples showing compliance with RVP requirements at Station 3.</p> <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, establish and implement a process which will ensure the RVP for gasoline dispensed between June 1<sup>st</sup> and September 16<sup>th</sup> of each year shall not exceed 7.0 psia; and</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation to demonstrate compliance with Ordering Provision a.</p>

DOCKET NO.: 2008-1135-AIR-E

one indicated that the RVP was 7.4 psia [30 TEX. ADMIN. CODE § 115.252(2) and TEX. HEALTH & SAFETY CODE § 382.085(b).		
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Additional ID No(s): 0





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

<b>DATES</b>	<b>Assigned</b>	11-Jul-2008	<b>Screening</b>	16-Jul-2008	<b>EPA Due</b>	
	<b>PCW</b>	29-Jul-2008				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Southwest Convenience Stores, LLC 7-Eleven 53316
<b>Reg. Ent. Ref. No.</b>	RN102056835
<b>Facility/Site Region</b>	6-El Paso Major/Minor Source Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	36190	<b>No. of Violations</b>	1
<b>Docket No.</b>	2008-1135-AIR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Cheryl Thompson
		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$1,000
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	70.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$700
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**Notes** The Respondent received one Court Order and two 1660 Agreed Orders with a denial of liability.

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts \$3  
 Approx. Cost of Compliance \$300  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$1,700
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>		<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes**

**Final Penalty Amount** \$1,700

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$1,700
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	-\$340
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes**

Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$1,360
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**Screening Date** 16-Jul-2008

**Docket No.** 2008-1135-AIR-E

**PCW**

**Respondent** Southwest Convenience Stores, LLC

Policy Revision 2 (September 2002)

**Case ID No.** 36190

PCW Revision June 12, 2008

**Reg. Ent. Reference No.** RN102056835

**Media [Statute]** Air

**Enf. Coordinator** Cheryl Thompson

### 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)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	1	30%
	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)** 70%

**>> 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**

The Respondent received one Court Order and two 1660 Agreed Orders with a denial of liability.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 70%

**Screening Date** 16-Jul-2008 **Docket No.** 2008-1135-AIR-E **PCW**

**Respondent** Southwest Convenience Stores, LLC **7-Elev** *Policy Revision 2 (September 2002)*

**Case ID No.** 36190 *PCW Revision June 12, 2008*

**Reg. Ent. Reference No.** RN102056835

**Media [Statute]** Air

**Enf. Coordinator** Cheryl Thompson

**Violation Number**

**Rule Cite(s)**

**Violation Description**

**Base Penalty**

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

<b>OR</b>	<b>Harm</b>			<b>Percent</b> <input type="text" value="10%"/>
	<b>Release</b>	<b>Major</b>	<b>Moderate</b>	
	<b>Actual</b>	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>

**>> Programmatic Matrix**

	<b>Moderate</b>	<b>Minor</b>	<b>Percent</b> <input type="text" value="0%"/>
<b>Matrix Notes</b>	<input type="text" value="Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or the environment."/>		

**Adjustment**

**Violation Events**

**Number of Violation Events**  **Number of violation days**

*mark only one with an x*

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

**Violation Base Penalty**

**Good Faith Efforts to Comply**

	<b>Before NOV</b>	<b>NOV to EDRP/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"/>	(mark with x)

**Notes**

**Violation Subtotal**

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

**Estimated EB Amount**  **Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

### Economic Benefit Worksheet

**Respondent:** Southwest Convenience Stores, LLC

7-Eleven 53316

**Case ID No.:** 36190

**Reg. Ent. Reference No.:** RN102056835

**Media:** Air

**Violation No.:** 1

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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	\$300	26-Jun-2008	16-Sep-2008	0.22	\$3	n/a	\$3
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 implementing procedures designed to ensure the required RVP is maintained. Date required is the date of the investigation. Final date is the date of prospective 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

\$300

**TOTAL**

\$3



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	11-Jul-2008	<b>Screening</b>	16-Jul-2008	<b>EPA Due</b>	
	<b>PCW</b>	29-Jul-2008				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Southwest Convenience Stores, LLC 7-Eleven 53345
<b>Reg. Ent. Ref. No.</b>	RN101695088
<b>Facility/Site Region</b>	6-El Paso Major/Minor Source Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	36190	<b>No. of Violations</b>	1
<b>Docket No.</b>	2008-1135-AIR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Cheryl Thompson
		<b>EC's Team</b>	Enforcement Team.3
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** *Subtotal 1* **\$2,000**

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

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

**Compliance History** 0.0% Enhancement *Subtotals 2, 3, & 7* **\$0**

**Notes** No previous NOV's for same or similar violations.

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

**Notes** The Respondent does not meet the culpability criteria.

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

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

Total EB Amounts \$4  
 Approx. Cost of Compliance \$300  
 \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** *Final Subtotal* **\$2,000**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** 0.0% *Adjustment* **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes**

**Final Penalty Amount** **\$2,000**

**STATUTORY LIMIT ADJUSTMENT** *Final Assessed Penalty* **\$2,000**

**DEFERRAL** 20.0% Reduction *Adjustment* **-\$400**

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

**Notes**

Deferral offered for expedited settlement.

**PAYABLE PENALTY** **\$1,600**

Screening Date 16-Jul-2008

Docket No. 2008-1135-AIR-E

PCW

Respondent Southwest Convenience Stores, LLC

Policy Revision 2 (September 2002)

Case ID No. 36190

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN101695088

Media [Statute] Air

Enf. Coordinator Cheryl Thompson

**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)	0	0%
	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%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> 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

No previous NOVs for same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

<b>Screening Date</b> 16-Jul-2008	<b>Docket No.</b> 2008-1135-AIR-E	<b>PCW</b>												
<b>Respondent</b> Southwest Convenience Stores, LLC	7-Eleven	<small>Policy Revision 2 (September 2002)</small>												
<b>Case ID No.</b> 36190		<small>PCW Revision June 12, 2008</small>												
<b>Reg. Ent. Reference No.</b> RN101695088														
<b>Media [Statute]</b> Air														
<b>Enf. Coordinator</b> Cheryl Thompson														
<b>Violation Number</b> <input type="text" value="1"/>														
<b>Rule Cite(s)</b>	<input type="text" value="30 Tex. Admin. Code § 115.252(2) and Tex. Health &amp; Safety Code § 382.085(b)"/>													
<b>Violation Description</b>	<input ("psia").="" 2008="" 4,="" 7.0="" 7.2="" 7.5="" absolute="" and="" at="" for="" from="" gasoline="" greater="" inch="" indicated="" june="" lab="" mid-grade="" number="" on="" per="" pounds="" premium="" psia="" pump="" results="" rvp="" rvp")="" samples="" specifically,="" square="" taken="" than="" that="" the="" two="" type="text" unleaded="" unleaded."="" value="The Respondent allowed the transfer of gasoline which may be used in a motor vehicle in the El Paso area with a Reid vapor pressure (" was="" were=""/>													
	<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" value="X"/>												
	Potential	<input type="text"/>												
	<b>Percent</b>	<input type="text" value="10%"/>												
<b>&gt;&gt; Programmatic Matrix</b>														
	Falsification    Major    Moderate    Minor													
	<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 has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or the environment."/>													
	<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="2"/>	<b>Number of violation days</b> <input type="text" value="1"/>												
<small>mark only one with an x</small>	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr><td>daily</td><td><input type="text"/></td></tr> <tr><td>monthly</td><td><input type="text"/></td></tr> <tr><td>quarterly</td><td><input type="text"/></td></tr> <tr><td>semiannual</td><td><input type="text"/></td></tr> <tr><td>annual</td><td><input type="text"/></td></tr> <tr><td>single event</td><td style="text-align: center;"><input checked="" type="text" value="X"/></td></tr> </table>	daily	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input checked="" type="text" value="X"/>	<b>Violation Base Penalty</b> <input type="text" value="\$2,000"/>
daily	<input type="text"/>													
monthly	<input type="text"/>													
quarterly	<input type="text"/>													
semiannual	<input type="text"/>													
annual	<input type="text"/>													
single event	<input checked="" type="text" value="X"/>													
	<input type="text" value="Two single events are recommended (one event for each grade of gasoline)."/>													
<b>Good Faith Efforts to Comply</b>														
	<b>0.0% Reduction</b>	<input type="text" value="\$0"/>												
	Before NOV    NOV to EDPRP/Settlement Offer													
Extraordinary	<input type="text"/>	<input type="text"/>												
Ordinary	<input type="text"/>	<input type="text"/>												
N/A	<input checked="" type="text" value="X"/>	(mark with x)												
<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="\$2,000"/>												
<b>Economic Benefit (EB) for this violation</b>														
<b>Estimated EB Amount</b>	<input type="text" value="\$4"/>	<b>Violation Final Penalty Total</b> <input type="text" value="\$2,000"/>												
	<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$2,000"/>													

### Economic Benefit Worksheet

**Respondent** Southwest Convenience Stores, LLC

7-Eleven 53345

**Case ID No.** 36190

**Reg. Ent. Reference No.** RN101695088

**Media** Air

**Violation No.** 1

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

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

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$300	4-Jun-2008	16-Sep-2008	0.28	\$4	n/a	\$4
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 implementing procedures designed to ensure the required RVP is maintained. Date required is the date of the investigation. Final date is the date of prospective 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

\$300

**TOTAL:**

\$4



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

DATES	Assigned	2-Sep-2008	Screening	4-Sep-2008	EPA Due	
	PCW	4-Sep-2008				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	Southwest Convenience Stores, LLC		7-Eleven 57616
Reg. Ent. Ref. No.	RN102390028		
Facility/Site Region	6-EI Paso	Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	36190	No. of Violations	1
Docket No.	2008-1135-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Cheryl Thompson
Admin. Penalty \$	Limit Minimum \$0	Maximum \$10,000	EC's Team Enforcement Team 3

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$1,000</b>
---	-------------------	----------------

<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>		
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.		
<b>Compliance History</b>	40.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b> \$400

Notes: The Respondent received two Agreed Orders containing a denial of liability.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	<b>\$0</b>
--------------------	----	------------------	-------------------	------------

Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>\$250</b>
--	-------------------	--------------

<b>Economic Benefit</b>	0.0% Enhancement	<b>Subtotal 6</b>	<b>\$0</b>
Total EB Amounts	\$1	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$300		

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$1,150</b>
-----------------------------	-----------------------	----------------

<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	<b>\$0</b>
---	------	-------------------	------------

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	<b>\$1,150</b>
-----------------------------	----------------

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$1,150</b>
-----------------------------------	-------------------------------	----------------

<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	<b>-\$230</b>
-----------------	-----------------	-------------------	---------------

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

Notes: Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	<b>\$920</b>
------------------------	--------------

**Screening Date** 4-Sep-2008

**Docket No.** 2008-1135-AIR-E

**PCW**

**Respondent** Southwest Convenience Stores, LLC

Policy Revision 2 (September 2002)

**Case ID No.** 36190

PCW Revision June 12, 2008

**Reg. Ent. Reference No.** RN102390028

**Media [Statute]** Air

**Enf. Coordinator** Cheryl Thompson

### Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i>	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgements or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 40%

>> **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**

The Respondent received two Agreed Orders containing a denial of liability.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 40%

<b>Screening Date</b> 4-Sep-2008	<b>Docket No.</b> 2008-1135-AIR-E																				
<b>Respondent</b> Southwest Convenience Stores, LLC	7-Elev																				
<b>Case ID No.</b> 36190	Policy Revision 2 (September 2002)																				
<b>Reg. Ent. Reference No.</b> RN102390028	PCW Revision June 12, 2008																				
<b>Media [Statute]</b> Air																					
<b>Enf. Coordinator</b> Cheryl Thompson																					
<b>Violation Number</b> 1																					
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 115.252(2) and Tex. Health & Safety Code § 382.085(b)																				
<b>Violation Description</b>	The Respondent allowed the transfer of gasoline which may be used in a motor vehicle in the El Paso area with a Reid Vapor Pressure ("RVP") greater than 7.0 pounds per square inch absolute ("psia"). Specifically, lab results from a sample taken on July 30, 2008 from the unleaded grade gasoline at pump number one indicated that the RVP was 7.4 psia.																				
	<b>Base Penalty</b> \$10,000																				
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>																					
OR	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td></td> <th colspan="3">Harm</th> <td></td> </tr> <tr> <td></td> <th>Major</th> <th>Moderate</th> <th>Minor</th> <td></td> </tr> <tr> <td>Actual</td> <td></td> <td></td> <td style="text-align: center;">X</td> <td rowspan="2" style="vertical-align: middle;"><b>Percent</b> 10%</td> </tr> <tr> <td>Potential</td> <td></td> <td></td> <td></td> </tr> </table>		Harm					Major	Moderate	Minor		Actual			X	<b>Percent</b> 10%	Potential				
		Harm																			
	Major	Moderate	Minor																		
Actual			X	<b>Percent</b> 10%																	
Potential																					
<b>&gt;&gt; Programmatic Matrix</b>																					
	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td></td> <th>7/30/2008</th> <th>8/26/2008</th> <th>Moderate</th> <th>Minor</th> <td></td> </tr> <tr> <td>300</td> <td></td> <td></td> <td></td> <td></td> <td style="vertical-align: middle;"><b>Percent</b> 0%</td> </tr> </table>		7/30/2008	8/26/2008	Moderate	Minor		300					<b>Percent</b> 0%								
	7/30/2008	8/26/2008	Moderate	Minor																	
300					<b>Percent</b> 0%																
<b>Matrix Notes</b>	Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or the environment.																				
	<b>Adjustment</b> \$9,000																				
	<b>\$1,000</b>																				
<b>Violation Events</b>																					
	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td><b>Number of Violation Events</b></td> <td style="text-align: center;">1</td> <td><b>Number of violation days</b></td> <td style="text-align: center;">1</td> </tr> </table>	<b>Number of Violation Events</b>	1	<b>Number of violation days</b>	1																
<b>Number of Violation Events</b>	1	<b>Number of violation days</b>	1																		
mark only one with an x	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr><td>daily</td><td></td></tr> <tr><td>monthly</td><td></td></tr> <tr><td>quarterly</td><td></td></tr> <tr><td>semiannual</td><td></td></tr> <tr><td>annual</td><td></td></tr> <tr><td>single event</td><td style="text-align: center;">X</td></tr> </table>	daily		monthly		quarterly		semiannual		annual		single event	X	<b>Violation Base Penalty</b> \$1,000							
daily																					
monthly																					
quarterly																					
semiannual																					
annual																					
single event	X																				
	One single event is recommended based on the July 30, 2008 inspection date.																				
<b>Good Faith Efforts to Comply</b>																					
	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td></td> <td style="text-align: center;">25.0%</td> <td style="text-align: center;">Reduction</td> <td style="text-align: right;">\$250</td> </tr> <tr> <td></td> <td style="text-align: center;">Before NOV</td> <td style="text-align: center;">NOV to EDPRP/Settlement Offer</td> <td></td> </tr> <tr> <td>Extraordinary</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Ordinary</td> <td style="text-align: center;">X</td> <td></td> <td></td> </tr> <tr> <td>N/A</td> <td></td> <td style="text-align: center;">(mark with x)</td> <td></td> </tr> </table>		25.0%	Reduction	\$250		Before NOV	NOV to EDPRP/Settlement Offer		Extraordinary				Ordinary	X			N/A		(mark with x)	
	25.0%	Reduction	\$250																		
	Before NOV	NOV to EDPRP/Settlement Offer																			
Extraordinary																					
Ordinary	X																				
N/A		(mark with x)																			
<b>Notes</b>	The Respondent returned to compliance on August 26, 2008, before the August 29, 2008 Notice of Enforcement date.																				
	<b>Violation Subtotal</b>	\$750																			
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>																			
	Estimated EB Amount \$1	Violation Final Penalty Total	\$1,150																		
	This violation Final Assessed Penalty (adjusted for limits)		\$1,150																		

## Economic Benefit Worksheet

**Respondent** Southwest Convenience Stores, LLC

7-Eleven 57616

**Case ID No.** 36190

**Reg. Ent. Reference No.** RN102390028

**Media Air**

**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
<small>No commas or \$</small>							

**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	\$0	\$0
Record Keeping System				0.00	\$0	\$0	\$0
Training/Sampling	\$300	30-Jul-2008	26-Aug-2008	0.07	\$1	\$0	\$1
Remediation/Disposal				0.00	\$0	\$0	\$0
Permit Costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for DELAYED costs

Estimated cost of implementing procedures designed to ensure the required RVP is maintained. Date required is the date of the investigation. Final date is the date of prospective 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

\$300

**TOTAL:**

\$1

# Compliance History

Customer/Respondent/Owner-Operator: CN601563778 Southwest Convenience Stores, LLC Classification: AVERAGE Rating: 3.42  
Regulated Entity: RN102056835 7 ELEVEN 53316 Classification: POOR Site Rating: 52.50  
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 8355  
AIR NEW SOURCE PERMITS ACCOUNT NUMBER EE1125P  
Location: 1259 N ZARAGOZA RD, EL PASO, TX, 79907 Rating Date: September 01 07 Repeat Violator: NO  
TCEQ Region: REGION 06 - EL PASO  
Date Compliance History Prepared: August 05, 2008  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: August 05, 2003 to August 05, 2008  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Phone: (817) 588-5886

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

## Components (Multimedia) for the Site :

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

Effective Date: 08/18/2003 COURTORDER  
Classification: Major

Citation: 30 TAC Chapter 334, SubChapter B 334.22(a)

Rqmt Prov: 94-0270-PST-E ORDER

Description: Failed to comply with Commission Order, Docket No. 94-0270-PST-E, Order Provision 2.A., Failed to pay tank fees.

Classification: Major

Citation: 30 TAC Chapter 37, SubChapter I 37.815

Rqmt Prov: 94-0270-PST-E ORDER

Description: Failed to comply with Commission Order, Docket No. 94-0270-PST-E, Order Provision 2.B., failed to provide financial assurance.

Classification: Major

Citation: 2A TWC Chapter 7, SubChapter A 7.101

Rqmt Prov: 94-0279-pst-e ORDER

Description: Failed to comply with Commission Order, Docket No. 94-0270-PST-E, Order Provision 1, failed to pay administrative penalty.

Effective Date: 08/10/2007 ADMINORDER 2006-2038-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 114, SubChapter D 114.100(a)

5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failed to comply with the minimum oxygen content of 2.7% by weight of gasoline during the control period of October 1 through March 31.

Effective Date: 04/28/2008 ADMINORDER 2007-1181-AIR-E

Classification: Major

Citation: 30 TAC Chapter 115, SubChapter C 115.252(2)

5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failed to comply with the maximum RVP requirement of 7.0 psia during the control period of June 1 through September 16

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

N/A

- C. Chronic excessive emissions events.

N/A

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

1 08/02/2004 (283149)

2 10/27/2004 (338133)

3 07/29/2005 (401105)

4	11/10/2006	(517311)
5	11/17/2006	(511948)
6	01/08/2007	(535163)
7	07/09/2007	(564355)
8	02/28/2008	(614865)
9	06/17/2008	(683366)
10	07/11/2008	(685116)

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

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

# Compliance History

Customer/Respondent/Owner-Operator: CN601563778 Southwest Convenience Stores, LLC Classification: AVERAGE Rating: 3.42  
Regulated Entity: RN101695088 7 ELEVEN 53345 Classification: Site Rating:  
ID Number(s): AIR NEW SOURCE PERMITS ACCOUNT NUMBER EE0807M  
PETROLEUM STORAGE TANK REGISTRATION 44963  
REGISTRATION  
Location: 101 W MAIN ST, FABENS, TX, 79838  
TCEQ Region: REGION 06 - EL PASO  
Date Compliance History Prepared: July 11, 2008  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: July 11, 2003 to July 11, 2008  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Cheryl Thompson Phone:

## 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? Southwest Convenience Stores, LLC
4. If Yes, who was/were the prior owner(s)? Good Time Stores, Inc.
5. When did the change(s) in ownership occur? 7/3/2006

## 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 | 12/17/2003 | (256893) |
| 2 | 03/11/2004 | (264857) |
| 3 | 04/20/2004 | (267113) |
| 4 | 07/30/2004 | (282574) |
| 5 | 11/29/2004 | (342312) |
| 6 | 06/26/2005 | (396727) |
| 7 | 11/28/2006 | (531126) |
| 8 | 06/20/2008 | (683260) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- 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



# Compliance History

Customer/Respondent/Owner-Operator: CN601563778 Southwest Convenience Stores, LLC Classification: AVERAGE Rating: 3.72  
Regulated Entity: RN102390028 7 ELEVEN 57616 Classification: AVERAGE Site Rating: 6.00  
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 7276  
REGISTRATION  
AIR NEW SOURCE PERMITS ACCOUNT NUMBER EE1167W  
Location: 3101 N YARBROUGH DR, EL PASO, TX, 79925 Rating Date: 9/1/2008 Repeat Violator: NO  
TCEQ Region: REGION 06 - EL PASO  
Date Compliance History Prepared: September 08, 2008  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: September 08, 2003 to September 08, 2008  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Cheryl Thompson Phone: (817)588-5886

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

## Components (Multimedia) for the Site :

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

N/A Effective Date: 04/14/2008 ADMINORDER 2007-1268-AIR-E  
Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.252(2)  
5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failed to comply with the maximum Reid Vapor Pressure ("RVP") requirement of 7.0 pounds per square inch absolute ("psia") during the control period of June 1 through September 16

Effective Date: 08/29/2008 ADMINORDER 2007-1957-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 114, SubChapter D 114.100(a)  
5C THSC Chapter 382 382.085(b)

Description: Failed to comply with the minimum oxygen content of 2.7% by weight of gasoline during the control period of October 1 through March 31, in violation of 30 TEX. ADMIN. CODE § 114.100(a) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented by an investigation conducted on October 1, 2007. Specifically, samples taken from the regular, mid-grade, and premium gasoline at pump number four of 7-Eleven 57616 were found to be 1.7%, 1.7%, and 1.5% oxygen content by weight, respectively.

- 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.)

N/A

- 1 07/13/2004 (281394)
- 2 07/01/2005 (398426)
- 3 11/09/2005 (436210)

4	11/14/2006	(516682)
5	07/25/2007	(565687)
6	11/16/2007	(600136)
7	01/18/2008	(614129)
8	08/28/2008	(700975)

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

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  
SOUTHWEST CONVENIENCE  
STORES, LLC  
RN102056835, RN101695088 AND  
RN102390028

§  
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BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

**AGREED ORDER  
DOCKET NO. 2008-1135-AIR-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 Southwest Convenience Stores, LLC ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. 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 convenience stores with retail gasoline sales at 101 West Main Street in Fabens, El Paso County, Texas ("Station 1"), 1259 North Zaragoza Road in El Paso, El Paso County, Texas ("Station 2") and 3101 North Yarbrough Drive in El Paso, El Paso County, Texas ("Station 3").
2. The Stations consist 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 notices of the violations alleged in Section II ("Allegations") on or about June 25, 2008, July 16, 2008 and September 4, 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 Four Thousand Eight Hundred Fifty Dollars (\$4,850) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Thousand Eight Hundred Eighty Dollars (\$3,880) of the administrative penalty and Nine Hundred Seventy Dollars (\$970) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
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 returned to compliance on August 26, 2008 by submitting gasoline samples showing compliance with Reid Vapor Pressure ("RVP") requirements at Station 3.
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 Stations, the Respondent is alleged to have:

1. Allowed the transfer of gasoline which may be used in a motor vehicle in the El Paso area with a RVP greater than 7.0 pounds per square inch absolute ("psia") at Station 1, in violation of 30 TEX. ADMIN. CODE § 115.252(2) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on June 4, 2008. Specifically, lab results from samples taken on June 4, 2008 from the mid-grade unleaded and the premium unleaded gasoline at pump number two indicated that the RVP was 7.2 psia for the mid-grade unleaded and 7.5 psia for premium unleaded.
2. Allowed the transfer of gasoline which may be used in a motor vehicle in the El Paso area with a RVP greater than 7.0 psia at Station 2, in violation of 30 TEX. ADMIN. CODE § 115.252(2) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted



on June 26, 2008. Specifically, lab results from a sample taken on June 26, 2008 from the unleaded grade gasoline at pump number one indicated that the RVP was 7.4 psia.

3. Allowed the transfer of gasoline which may be used in a motor vehicle in the El Paso area with a RVP greater than 7.0 psia at Station 3, in violation of 30 TEX. ADMIN. CODE § 115.252(2) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on July 30, 2008. Specifically, lab results from a sample taken on July 30, 2008 from the unleaded grade gasoline at pump number one indicated that the RVP was 7.4 psia.

### 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: Southwest Convenience Stores, LLC, Docket No. 2008-1135-AIR-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, establish and implement a process which will ensure the RVP for gasoline dispensed between June 1<sup>st</sup> and September 16<sup>th</sup> of each year shall not exceed 7.0 psia; and
  - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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



The certification shall be submitted to:

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

with a copy to:

Air Section, Manager  
El Paso Regional Office  
Texas Commission on Environmental Quality  
401 East Franklin Avenue, Suite 560  
El Paso, Texas 79901-1206

and

Mr. Al Melero, Manager  
City of El Paso Environmental Services, Air Quality Program  
222 South Campbell  
El Paso, Texas 79901

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 Stations' 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.

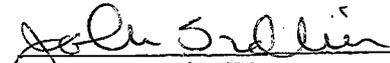


Southwest Convenience Stores, LLC  
DOCKET NO. 2008-1135-AIR-E  
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**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

  
\_\_\_\_\_  
For the Executive Director

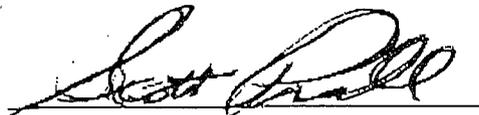
2/5/2009  
Date

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.

  
\_\_\_\_\_  
Signature

1-27-09  
Date

SCOTT PRALL  
Name (Printed or typed)  
Authorized Representative of  
Southwest Convenience Stores, LLC

PERSON OF FULL  
Title

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

