

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 3  
**DOCKET NO.:** 2008-1480-PST-E **TCEQ ID:** RN102838729 **CASE NO.:** 36520  
**RESPONDENT NAME:** Abdulbhai Momin dba Handi Plus 37

<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> Handi Plus 37, 2850 Farm-to-Market Road 528, Alvin, Brazoria 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 April 20, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Mr. Wallace Myers, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-6580; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> Mr. Abdulbhai Momin, President, Handi Plus 37, 2850 Farm-to-Market Road 528, Alvin, Texas 77511  <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> June 4, 2008</p> <p><b>Date of NOE Relating to this Case:</b> August 15, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>WASTE</b></p> <p>1) 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 system replacement or modification, which ever occurs first. Specifically, the Stage II annual and triennial compliance tests failed and the system was not retested [30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>2) Failure to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube according to the underground storage tank (UST) registration and self-certification form [30 TEX. ADMIN. CODE § 334.8(c)(5)(C)].</p> <p>3) Failure to maintain the Stage II vapor recovery system in proper operating condition 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, swivel adaptors were not installed [30 TEX. ADMIN. CODE § 115.242(3)(A) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>4) Failure to notify the agency of any</p>	<p><b>Total Assessed:</b> \$16,196</p> <p><b>Total Deferred:</b> \$3,239  <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> \$392 (remaining \$12,565 due in 35 monthly payments of \$359 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 checked="" type="checkbox"/> Yes <input 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 TCEQ Houston Regional Office received documentation on July 29, 2008, verifying that swivel adaptors were installed at the Station.</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:</p> <p>i. Conduct the required annual and triennial testing of the Stage II equipment; and</p> <p>ii. Appropriately mark the top of each fill tube or nonremovable point in the immediate area of the fill tube of each UST with an identification number that matches the number listed on the UST registration and self-certification form.</p> <p>b) Within 45 days after the effective date of this Agreed Order, submit an amended registration to reflect that tank 2 was converted to store diesel from gasoline; and</p> <p>c) Within 60 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.i through b.</p>

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change or additional information regarding the USTs within 30 days of the occurrence of the change or addition. Specifically, the registration was not updated to reflect that tank 2 was converted to store diesel from gasoline [30 TEX. ADMIN. CODE § 334.7(d)(3)].		
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Additional ID No(s): PST ID No. 63679





Policy Revision 2 (September 2002)

## Penalty Calculation Worksheet (PCW)

PCW Revision June 12, 2008

TCEQ

<b>DATES</b>	Assigned	25-Aug-2008	Screening	28-Aug-2008	EPA Due	
	PCW	15-Sep-2008				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	Abdulbhai Momin dba Handi Plus 37
Reg. Ent. Ref. No.	RN102838729
Facility/Site Region	12-Houston
Major/Minor Source	Major

<b>CASE INFORMATION</b>			
Enf./Case ID No.	36520	No. of Violations	4
Docket No.	2008-1480-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Wallace Myers
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$12,500</b>
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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>	25.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$3,125</b>
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Notes	Enhancement for one NOV with same or similar violations and for one 1660 order.
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<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	<b>\$0</b>
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Notes	The Respondent does not meet the culpability criteria.
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<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>\$625</b>
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts	\$1,210	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$1,350	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$15,000</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	8.0%	<b>Adjustment</b>	<b>\$1,196</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Recommended enhancement to capture the avoided cost of compliance associated with violation no. 1.
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<b>Final Penalty Amount</b>	<b>\$16,196</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$16,196</b>
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<b>DEFERRAL</b>	20.0%	Reduction	<b>Adjustment</b>	<b>-\$3,239</b>
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Deferral offered for expedited settlement.
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<b>PAYABLE PENALTY</b>	<b>\$12,957</b>
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Screening Date 28-Aug-2008

Docket No. 2008-1480-PST-E

PCW

Respondent Abdulbhai Momin dba Handi Plus 37

Policy Revision 2 (September 2002)

Case ID No. 36520

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN102838729

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Wallace Myers

**Compliance History Worksheet**

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (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)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 25%

>> 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 NOV with same or similar violations and for one 1660 order.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 25%

<b>Screening Date</b> 28-Aug-2008	<b>Docket No.</b> 2008-1480-PST-E	<b>PCW</b>	
<b>Respondent</b> Abdulbhai Momin dba Handi Plus 37	<small>Policy Revision 2 (September 2002)</small>		
<b>Case ID No.</b> 36520	<small>PCW Revision June 12, 2008</small>		
<b>Reg. Ent. Reference No.</b> RN102838729			
<b>Media [Statute]</b> Petroleum Storage Tank			
<b>Enf. Coordinator</b> Wallace Myers			
<b>Violation Number</b> <input type="text" value="1"/>			
<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, which ever occurs first. Specifically, the Stage II annual and triennial compliance tests failed and the system was not retested."/>		
<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>		
	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="50%"/>
<b>&gt;&gt; Programmatic Matrix</b>			
			<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="\$5,000"/>
			<input type="text" value="\$5,000"/>
<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>	
<small>mark only one with an x</small>	daily <input type="text"/>		
	monthly <input type="text"/>		
	quarterly <input type="text"/>		
	semiannual <input type="text"/>		
	annual <input type="text"/>		
	single event <input type="text" value="x"/>		
			<b>Violation Base Penalty</b> <input type="text" value="\$5,000"/>
<input type="text" value="One single event is recommended for the three-year period preceding the June 4, 2008 investigation."/>			
<b>Good Faith Efforts to Comply</b>			<input type="text" value="0.0%"/> <b>Reduction</b> <input type="text" value="\$0"/>
			<input type="text" value="0.0%"/>
<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="\$5,000"/>
<b>Economic Benefit (EB) for this violation</b>			<b>Statutory Limit Test</b>
<b>Estimated EB Amount</b> <input type="text" value="\$1,196"/>		<b>Violation Final Penalty Total</b> <input type="text" value="\$6,748"/>	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>			<input type="text" value="\$6,748"/>

## Economic Benefit Worksheet

**Respondent** Abdulbhai Momin dba Handi Plus 37  
**Case ID No.** 36520  
**Reg. Ent. Reference No.** RN102838729  
**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

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	4-Jun-2005	4-Jun-2008	3.92	\$196	\$1,000	\$1,196
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

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

Approx. Cost of Compliance	\$1,000	<b>TOTAL</b>	\$1,196
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<b>Screening Date</b> 28-Aug-2008	<b>Docket No.</b> 2008-1480-PST-E	<b>PCW</b>												
<b>Respondent</b> Abdulbhai Momin dba Handi Plus 37	<small>Policy Revision 2 (September 2002)</small>													
<b>Case ID No.</b> 36520	<small>PCW Revision June 12, 2008</small>													
<b>Reg. Ent. Reference No.</b> RN102838729														
<b>Media [Statute]</b> Petroleum Storage Tank														
<b>Enf. Coordinator</b> Wallace Myers														
<b>Violation Number</b> <input type="text" value="2"/>														
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 334.8(c)(5)(C)													
<b>Violation Description</b>	Failed to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube according to the UST registration and self-certification form.													
<b>Base Penalty</b>		<input type="text" value="\$10,000"/>												
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>														
OR	<b>Harm</b>													
	Major    Moderate    Minor													
Actual	<input type="text"/>	<b>Percent</b> <input type="text" value="0%"/>												
Potential	<input type="text"/>													
<b>&gt;&gt; Programmatic Matrix</b>														
	<b>Falsification</b>	Major    Moderate    Minor												
	<input type="text"/>	<input type="text" value="x"/> <input type="text"/> <input type="text"/>												
	<b>Percent</b> <input type="text" value="25%"/>													
<b>Matrix Notes</b>	100% of the rule requirement was not met.													
<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"/>	<input type="text" value="85"/> Number of violation days												
<small>mark only one with an x</small>	<table border="1" style="width:100%; border-collapse: collapse;"> <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><input 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 type="text" value="x"/>	<b>Violation Base Penalty</b> <input type="text" value="\$2,500"/>
daily	<input type="text"/>													
monthly	<input type="text"/>													
quarterly	<input type="text"/>													
semiannual	<input type="text"/>													
annual	<input type="text"/>													
single event	<input type="text" value="x"/>													
One single event is recommended based on documentation of the violation during the June 4, 2008 investigation.														
<b>Good Faith Efforts to Comply</b>		<input type="text" value="\$0"/>												
	<b>0.0% Reduction</b>													
	Before NOV    NOV to EDPRP/Settlement Offer													
Extraordinary	<input type="text"/>	<input type="text"/>												
Ordinary	<input type="text"/>	<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="\$2,500"/>												
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>												
<b>Estimated EB Amount</b>	<input type="text" value="\$7"/>	<b>Violation Final Penalty Total</b> <input type="text" value="\$3,374"/>												
<b>This violation Final Assessed Penalty (adjusted for limits)</b>		<input type="text" value="\$3,374"/>												

### Economic Benefit Worksheet

**Respondent:** Abdulhai Momin dba Handi Plus 37  
**Case ID No.:** 36520  
**Reg. Ent. Reference No.:** RN102838729  
**Media:** Petroleum Storage Tank  
**Violation No.:** 2

Percent Interest	Years of Depreciation
5.0	15

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

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$100	4-Jun-2008	28-May-2009	0.98	\$0	\$7	\$7
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 label the tank fill ports. The date required is the date of investigation and the final date is the estimated date of compliance.

**Avoided Costs**

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

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**

\$7

<b>Screening Date</b> 28-Aug-2008	<b>Docket No.</b> 2008-1480-PST-E	<b>PCW</b>													
<b>Respondent</b> Abdulbhai Momin dba Handi Plus 37		<small>Policy Revision 2 (September 2002)</small>													
<b>Case ID No.</b> 36520		<small>PCW Revision June 12, 2008</small>													
<b>Reg. Ent. Reference No.</b> RN102838729															
<b>Media [Statute]</b> Petroleum Storage Tank															
<b>Enf. Coordinator</b> Wallace Myers															
<b>Violation Number</b>	3														
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 115.242(3)(A) 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 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, swivel adaptors were not installed.														
	<b>Base Penalty</b>	- \$10,000													
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>															
OR	<b>Release</b>	<b>Harm</b>													
		Major      Moderate      Minor													
	Actual	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>													
	Potential	<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	<b>Percent</b> <input type="text" value="25%"/>												
<b>&gt;&gt; Programmatic Matrix</b>															
	<b>Falsification</b>	Major      Moderate      Minor													
	<input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<b>Percent</b> <input type="text" value="0%"/>												
<b>Matrix Notes</b>	Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.														
	<b>Adjustment</b>	<input type="text" value="\$7,500"/>													
		<input type="text" value="\$2,500"/>													
<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="55"/>													
<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="checkbox"/></td></tr> <tr><td>monthly</td><td><input type="checkbox"/></td></tr> <tr><td>quarterly</td><td><input checked="" type="checkbox"/></td></tr> <tr><td>semiannual</td><td><input type="checkbox"/></td></tr> <tr><td>annual</td><td><input type="checkbox"/></td></tr> <tr><td>single event</td><td><input type="checkbox"/></td></tr> </table>	daily	<input type="checkbox"/>	monthly	<input type="checkbox"/>	quarterly	<input checked="" type="checkbox"/>	semiannual	<input type="checkbox"/>	annual	<input type="checkbox"/>	single event	<input type="checkbox"/>	<b>Violation Base Penalty</b>	<input type="text" value="\$2,500"/>
daily	<input type="checkbox"/>														
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 June 4, 2008 investigation to the July 29, 2008 compliance date.														
<b>Good Faith Efforts to Comply</b>			<input type="text" value="\$625"/>												
	<input type="text" value="25.0%"/>	<b>Reduction</b>													
	Before NOV	NOV to EDRP/Settlement Offer													
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>													
Ordinary	<input checked="" type="checkbox"/>	<input type="checkbox"/>													
N/A	<input type="checkbox"/>	<input type="checkbox"/> (mark with x)													
<b>Notes</b>	The Respondent came into compliance on July 29, 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="\$2"/>	<b>Violation Final Penalty Total</b>												
			<input type="text" value="\$2,699"/>												
	<b>This violation Final Assessed Penalty (adjusted for limits)</b>		<input type="text" value="\$2,699"/>												

## Economic Benefit Worksheet

**Respondent:** Abdulbhai Momin dba Handi Plus 37  
**Case ID No.:** 36520  
**Reg. Ent. Reference No.:** RN102838729  
**Media:** Petroleum Storage Tank  
**Violation No.:** 3

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$150	4-Jun-2008	29-Jul-2008	0.15	\$0	\$2	\$2
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 install swivel adaptors. 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)

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

\$150

TOTAL

\$2

<b>Screening Date</b> 28-Aug-2008		<b>Docket No.</b> 2008-1480-PST-E		<b>PCW</b>	
<b>Respondent</b> Abdulbhai Momin dba Handi Plus 37		<i>Policy Revision 2 (September 2002)</i>			
<b>Case ID No.</b> 36520		<i>PCW Revision June 12, 2008</i>			
<b>Reg. Ent. Reference No.</b> RN102838729					
<b>Media [Statute]</b> Petroleum Storage Tank					
<b>Enf. Coordinator</b> Wallace Myers					
<b>Violation Number</b>	4				
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 334.7(d)(3)				
<b>Violation Description</b>	Failed to notify the agency of any change or additional information regarding the USTs within 30 days of the occurrence of the change or addition. Specifically, the registration was not updated to reflect that tank 2 was converted to store diesel from gasoline.				
<b>Base Penalty</b>				\$10,000	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>					
<b>OR</b>	<b>Harm</b>			<b>Percent</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"/>	<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="text" value="x"/>	<input type="text"/>	<input type="text"/>
<b>Percent</b> <input type="text" value="25%"/>					
<b>Matrix Notes</b>	100% of the rule requirement was not met.				
<b>Adjustment</b>				\$7,500	
				\$2,500	
<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="55"/>	
<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="text" value="x"/>			
<b>Violation Base Penalty</b>				\$2,500	
One single event is recommended based on documentation of the violation during the June 4, 2008 investigation.					
<b>Good Faith Efforts to Comply</b>					
		<b>0.0%</b>	<b>Reduction</b>	\$0	
		Before NOV	NOV to EDRP/Settlement Offer		
Extraordinary	<input type="text"/>				
Ordinary	<input type="text"/>				
N/A	<input checked="" type="text" value="x"/>	(mark with x)			
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.				
<b>Violation Subtotal</b>				\$2,500	
<b>Economic Benefit (EB) for this violation</b>					
<b>Statutory Limit Test</b>					
<b>Estimated EB Amount</b>		<input type="text" value="\$5"/>		<b>Violation Final Penalty Total</b>	
				\$3,374	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>				\$3,374	

## Economic Benefit Worksheet

**Respondent** Abdulbhai Momin dba Handi Plus 37  
**Case ID No.** 36520  
**Reg. Ent. Reference No.** RN102838729  
**Media** Petroleum Storage Tank  
**Violation No.** 4

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	4-Jun-2008	12-Jun-2009	1.02	\$5	n/a	\$5

**Notes for DELAYED costs** Estimated cost to accurately prepare and submit an updated UST registration. The date required is the date of the investigation and the final date is the estimated date of compliance.

### Avoided Costs

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

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**

<b>Approx. Cost of Compliance</b>	\$100	<b>TOTAL</b>	\$5
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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  
ABDULBHAI MOMIN DBA HANDI  
PLUS 37  
RN102838729

§  
§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2008-1480-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 Abdulbhai Momin dba Handi Plus 37 ("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 operates a convenience store with retail sales of gasoline at 2850 Farm-to-Market Road 528 in Alvin, Brazoria 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 August 20, 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 Sixteen Thousand One Hundred Ninety-Six Dollars (\$16,196) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Hundred Ninety-Two Dollars (\$392) of the administrative penalty and Three Thousand Two Hundred Thirty-Nine Dollars (\$3,239) 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 Five Hundred Sixty-Five Dollars (\$12,565) of the administrative penalty shall be payable in 35 monthly payments of Three Hundred Fifty-Nine Dollars (\$359) 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 TCEQ Houston Regional Office received documentation on July 29, 2008, verifying that swivel adaptors were installed at the Station.
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 operator of the Station, the Respondent is alleged to have:

1. 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, which ever 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 June 4, 2008. Specifically, the Stage II annual and triennial compliance tests failed and the system was not retested.
2. Failed to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube according to the UST registration and self-certification form, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(C), as documented during an investigation conducted on June 4, 2008.
3. Failed to maintain the Stage II vapor recovery system in proper operating condition 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 TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on June 4, 2008. Specifically, swivel adaptors were not installed.
4. Failed to notify the agency of any change or additional information regarding the USTs within 30 days 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 June 4, 2008. Specifically, the registration was not updated to reflect that tank 2 was converted to store diesel from gasoline.

## 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: Abdulbhai Momin dba Handi Plus 37, Docket No. 2008-1480-PST-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:

a. Within 30 days after the effective date of this Agreed Order:

- i. Conduct the required annual and triennial testing of the Stage II equipment, in accordance with 30 TEX. ADMIN. CODE § 115.245; and
- ii. Appropriately mark the top of each fill tube or nonremovable point in the immediate area of the fill tube of each UST with an identification number that matches the number listed on the UST registration and self-certification form, in accordance with 30 TEX. ADMIN. CODE § 334.8.

b. Within 45 days after the effective date of this Agreed Order, submit an amended registration to reflect that tank 2 was converted to store diesel from gasoline, in accordance with 30 TEX. ADMIN. CODE § 334.7 to:

Registration and Reporting Section  
Permitting & Remediation Support Division, MC138  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

c. Within 60 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.i through 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  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Avenue, Suite H  
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Station operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

TCEQ Enforcement

Fax: 512-239-0036

Jan 13 2009 14:19

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Abdulbhai Momin dba Handi Plus 37  
DOCKET NO. 2008-1480-PST-E  
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John S. Redder  
For the Executive Director

3/25/2009  
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]  
Signature

1/13/09  
Date

MOMIN, ABDULBHAJI M  
Name (Printed or typed)  
Authorized Representative of  
Abdulbhai Momin dba Handi Plus 37

President  
Title

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