

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2008-1662-AIR-E **TCEQ ID:** RN102017241 and RN102395662 **CASE NO.:** 36680

**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 57069, 5201 Fairbanks Drive and 7 Eleven 53324, 5598 Doniphan Drive, El Paso, El Paso County</p> <p><b>TYPE OF OPERATION:</b> Convenience stores with retail sales of gasoline</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 February 23, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Nadia Hameed, Enforcement Division, Enforcement Team 5, MC R-12, (713) 767-3629; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> Mr. Ted Moon, District Manager, Southwest Convenience Stores, LLC, 2002 North Piedras Street, El Paso, Texas 79930                      Mr. Scott Prau, Director of Fuel &amp; Transportation, Southwest Convenience Stores, LLC, 2002 North Piedras Street, El Paso, Texas 79930  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> August 6 and 12, 2008</p> <p><b>Date of NOV/NOE Relating to this Case:</b> September 9, 2008 (NOE)</p> <p><b>Background Facts:</b> These were routine investigations.</p> <p><b>AIR</b></p> <p>1) Failure to comply with the 7.0 pounds per square inch absolute ("psia") maximum Reid Vapor Pressure ("RVP") requirement for gasoline transferred during the control period of June 1 through September 16 in El Paso County. Specifically, gasoline samples taken during the August 6, 2008 investigation from Pump No. 4 at 7 Eleven 57069 indicated that the unleaded gasoline had a RVP exceeding the allowable maximum 7.0 psia. The sample results showed a RVP of 7.6 psia [30 TEX. ADMIN. CODE § 115.252(2) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>2) Failure to comply with the 7.0 pounds psia maximum RVP requirement for gasoline transferred during the control period of June 1 through September 16 in El Paso County. Specifically, gasoline samples taken during the August 12, 2008 investigation from Pump No. 6 at 7 Eleven 53324 indicated that the unleaded gasoline had a RVP exceeding the allowable maximum 7.0 psia. The sample results showed a RVP of 7.8 psia [30 TEX. ADMIN. CODE § 115.252(2) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>	<p><b>Total Assessed:</b> \$2,620</p> <p><b>Total Deferred:</b> \$524  <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> \$2,096</p> <p>RN102395662 and RN102017241  <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>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. On June 1<sup>st</sup> of the next control period following the effective date of this Agreed Order, conduct RVP sampling of all grades of gasoline at the Stations; and</p> <p>b. Within 15 days after sampling, submit sampling results and written certification demonstrating compliance with RVP gasoline requirements.</p>

Additional ID No(s): EE1130W, EE1160N



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

<b>DATES</b>	Assigned	22-Sep-2008	Screening	10-Oct-2008	EPA Due	
	PCW	20-Oct-2008				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	Southwest Convenience Stores, LLC		
Reg. Ent. Ref. No.	RN102395662		
Facility/Site Region	6-EI Paso	Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	36680	No. of Violations	1
Docket No.	2008-1662-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Nadia Hameed
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>		<i>Subtotal 1</i>	\$1,000
<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>			
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>			
<b>Compliance History</b>	62.0% Enhancement	<i>Subtotals 2, 3, &amp; 7</i>	\$620
Notes	Penalty enhancement due to three 1660 Orders and one non-similar NOV.		
<b>Culpability</b>	No 0.0% Enhancement	<i>Subtotal 4</i>	\$0
Notes	The Respondent does not meet the culpability criteria.		
<b>Good Faith Effort to Comply Total Adjustments</b>		<i>Subtotal 5</i>	\$0
<b>Economic Benefit</b>	0.0% Enhancement*	<i>Subtotal 6</i>	\$0
Total EB Amounts	\$17	<small>*Capped at the Total EB \$ Amount</small>	
Approx. Cost of Compliance	\$500		
<b>SUM OF SUBTOTALS 1-7</b>		<i>Final Subtotal</i>	\$1,620
<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>		0.0% <i>Adjustment</i>	
<small>Reduces or enhances the Final Subtotal by the indicated percentage.</small>			
Notes			
		<i>Final Penalty Amount</i>	\$1,620
<b>STATUTORY LIMIT ADJUSTMENT</b>		<i>Final Assessed Penalty</i>	\$1,620
<b>DEFERRAL</b>		20.0% Reduction <i>Adjustment</i>	-\$324
<small>Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)</small>			
Notes	Deferral offered for expedited settlement.		
<b>PAYABLE PENALTY</b>			\$1,296

**Screening Date** 10-Oct-2008

**Docket No.** 2008-1662-AIR-E

**PCW**

**Respondent** Southwest Convenience Stores, LLC

Policy Revision 2 (September 2002)

**Case ID No.** 36680

PCW Revision June 12, 2008

**Reg. Ent. Reference No.** RN102395662

**Media [Statute]** Air

**Enf. Coordinator** Nadia Hameed

### 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	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	3	60%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 62%

>> **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**

Penalty enhancement due to three 1660 Orders and one non-similar NOV.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 62%

<b>Screening Date</b> 10-Oct-2008	<b>Docket No.</b> 2008-1662-AIR-E	<b>PCW</b>												
<b>Respondent</b> Southwest Convenience Stores, LLC		<i>Policy Revision 2 (September 2002)</i>												
<b>Case ID No.</b> 36680		<i>PCW Revision June 12, 2008</i>												
<b>Reg. Ent. Reference No.</b> RN102395662														
<b>Media [Statute]</b> Air														
<b>Enf. Coordinator</b> Nadia Hameed														
<b>Violation Number</b> <input type="text" value="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>	Failed to comply with the 7.0 pounds per square inch absolute ("psia") maximum Reid Vapor Pressure ("RVP") requirement for gasoline transferred during the control period of June 1 through September 16 in El Paso County. Specifically, gasoline samples taken during the August 6, 2008 investigation from Pump No. 4 at 7 Eleven 57069 indicated that the unleaded gasoline had a RVP exceeding the allowable maximum 7.0 psia. The sample results showed a RVP of 7.6 psia.													
	<b>Base Penalty</b>	<input type="text" value="\$10,000"/>												
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>														
OR	Harm													
	Release	Major    Moderate    Minor												
	Actual	<input type="text"/> <input type="text"/> <input checked="" type="text" value="x"/>												
	Potential	<input type="text"/> <input type="text"/> <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"/> <input type="text"/> <input type="text"/>												
	<b>Percent</b>	<input type="text" value="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 environmental receptors as a result of the violation.													
	<b>Adjustment</b>	<input type="text" value="\$9,000"/>												
		<input type="text" value="\$1,000"/>												
<b>Violation Events</b>														
	<b>Number of Violation Events</b> <input type="text" value="1"/>	<input type="text" value="41"/> <b>Number of violation days</b>												
<i>mark only one with an x</i>	<table border="1" style="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 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="\$1,000"/>
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"/>													
	One single event is recommended.													
<b>Good Faith Efforts to Comply</b>														
	<b>0.0% Reduction</b>	<input type="text" value="\$0"/>												
	Before NOV    NOV to EDRP/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>	The Respondent does not meet the good faith criteria for this violation.													
	<b>Violation Subtotal</b>	<input type="text" value="\$1,000"/>												
<b>Economic Benefit (EB) for this violation</b>														
	<b>Estimated EB Amount</b> <input type="text" value="\$17"/>	<b>Violation Final Penalty Total</b> <input type="text" value="\$1,620"/>												
	<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$1,620"/>													

## Economic Benefit Worksheet

**Respondent** Southwest Convenience Stores, LLC  
**Case ID No.** 36680  
**Reg. Ent. Reference No.** RN102395662  
**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
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	\$500	6-Aug-2008	8-Apr-2009	0.67	\$17	n/a	\$17
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 to ensure the required RVP is maintained. Date required is the investigation date and the final date is the estimated date of compliance.

### Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$500

TOTAL \$17



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

<b>DATES</b>	Assigned	22-Sep-2008	Screening	10-Oct-2008	EPA Due	
	PCW	20-Oct-2008				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	Southwest Convenience Stores, LLC
Reg. Ent. Ref. No.	RN102017241
Facility/Site Region	6-El Paso
Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	36680	No. of Violations	1
Docket No.	2008-1662-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Nadia Hameed
		EC's Team	Enforcement Team 5
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>\$1,000</b>
<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>		
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>		
<b>Compliance History</b>	0.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b> \$0
Notes	No penalty enhancements or reductions due to average performer classification.	
<b>Culpability</b>	No 0.0% Enhancement	<b>Subtotal 4</b> \$0
Notes	The Respondent does not meet the culpability criteria.	
<b>Good Faith Effort to Comply Total Adjustments</b>		<b>Subtotal 5</b> \$0
<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b> \$0
Total EB Amounts	\$16	
Approx. Cost of Compliance	\$500	
	*Capped at the Total EB \$ Amount	
<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$1,000</b>
<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b> \$0
<small>Reduces or enhances the Final Subtotal by the indicated percentage.</small>		
Notes		
	<b>Final Penalty Amount</b>	<b>\$1,000</b>
<b>STATUTORY LIMIT ADJUSTMENT</b>		<b>Final Assessed Penalty</b> \$1,000
<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b> -\$200
<small>Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)</small>		
Notes	Deferral offered for expedited settlement.	
<b>PAYABLE PENALTY</b>		<b>\$800</b>

**Screening Date** 10-Oct-2008

**Docket No.** 2008-1662-AIR-E

**PCW**

**Respondent** Southwest Convenience Stores, LLC

Policy Revision 2 (September 2002)

**Case ID No.** 36680

PCW Revision June 12, 2008

**Reg. Ent. Reference No.** RN102017241

**Media [Statute]** Air

**Enf. Coordinator** Nadia Hameed

**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 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)** 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 penalty enhancements or reductions due to average performer classification.

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

<b>Screening Date</b> 10-Oct-2008		<b>Docket No.</b> 2008-1662-AIR-E		<b>PCW</b>
<b>Respondent</b> Southwest Convenience Stores, LLC		<i>Policy Revision 2 (September 2002)</i>		
<b>Case ID No.</b> 36680		<i>PCW Revision June 12, 2008</i>		
<b>Reg. Ent. Reference No.</b> RN102017241				
<b>Media [Statute]</b> Air				
<b>Enf. Coordinator</b> Nadia Hameed				
<b>Violation Number</b>		<input type="text" value="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>		Failed to comply with the 7.0 pounds per square inch absolute ("psia") maximum Reid Vapor Pressure ("RVP") requirement for gasoline transferred during the control period of June 1 through September 16 in El Paso County. Specifically, gasoline samples taken during the August 12, 2008 investigation from Pump No. 6 at 7 Eleven 53324 indicated that the unleaded gasoline had a RVP exceeding the allowable maximum 7.0 psia. The sample results showed a RVP of 7.8 psia.		
<b>Base Penalty</b>				<input type="text" value="\$10,000"/>
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
<b>OR</b>	<b>Harm</b>			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>
	Potential	<input type="text"/>	<input type="text"/>	<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"/>	<input type="text"/>	<input type="text"/>
<b>Percent</b>				<input type="text" value="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 environmental receptors as a result of the violation.			
<b>Adjustment</b>				<input type="text" value="\$9,000"/>
				<input type="text" value="\$1,000"/>
<b>Violation Events</b>				
<b>Number of Violation Events</b>		<input type="text" value="1"/>		
		<input type="text" value="35"/> <b>Number of violation days</b>		
<i>mark only one with an x</i>	daily	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input checked="" type="checkbox"/>		
<b>Violation Base Penalty</b>				<input type="text" value="\$1,000"/>
One single event is recommended.				
<b>Good Faith Efforts to Comply</b>				
		<input type="text" value="0.0%"/> <b>Reduction</b>	<input type="text" value="\$0"/>	
		Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="text"/>			
Ordinary	<input type="text"/>			
N/A	<input checked="" type="checkbox"/>	(mark with x)		
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.			
<b>Violation Subtotal</b>				<input type="text" value="\$1,000"/>
<b>Economic Benefit (EB) for this violation</b>				
<b>Estimated EB Amount</b>		<input type="text" value="\$16"/>		
<b>Statutory Limit Test</b>				<input type="text" value="\$1,000"/>
<b>Violation Final Penalty Total</b>				<input type="text" value="\$1,000"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b>				<input type="text" value="\$1,000"/>

## Economic Benefit Worksheet

**Respondent:** Southwest Convenience Stores, LLC  
**Case ID No.:** 36680  
**Reg. Ent. Reference No.:** RN102017241  
**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
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	\$500	12-Aug-2008	8-Apr-2009	0.65	\$16	n/a	\$16
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 to ensure the required RVP is maintained. Date required is the investigation date and the final date is the estimated date of compliance.

### Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$500

TOTAL \$16

# Compliance History Report

Customer/Respondent/Owner-Operator: CN601563778 Southwest Convenience Stores, LLC Classification: AVERAGE Rating: 4.14  
Regulated Entity: RN102395662 7 ELEVEN 57609 Classification: AVERAGE Site Rating: 13.80

ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 7289  
REGISTRATION  
AIR NEW SOURCE PERMITS ACCOUNT NUMBER EE1160N  
Location: 5201 FAIRBANKS DR, EL PASO, TX, 79924 Rating Date: 9/1/2008 Repeat Violator: NO  
TCEQ Region: REGION 06 - EL PASO  
Date Compliance History Prepared: October 10, 2008  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: October 10, 2003 to October 10, 2008  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Nadia Hameed Phone: 713-767-3629

## 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: 04/10/2005 ADMINORDER 2004-0076-AIR-E  
N/A  
Classification: Moderate  
Citation: 30 TAC Chapter 115, SubChapter C 115.252(2)  
5C THC Chapter 382, SubChapter A 382.085(b)  
Description: Failure to comply with 30 TAC 115.252(2), RVP Fuel Requirements.

Effective Date: 05/12/2006 ADMINORDER 2005-1670-AIR-E  
Classification: Moderate  
Citation: 30 TAC Chapter 115, SubChapter C 115.252(2)  
5C THC Chapter 382, SubChapter D 382.085(b)  
Description: Failure to comply with the maximum 7.0 psia Reid Vapor Pressure (RVP) requirements during the control period of June 1, 2005 - September 16, 2005.

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.

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	12/30/2003	(257546)
N/A	2	07/06/2004	(278515)
	3	04/13/2005	(371673)
	4	08/05/2005	(403424)
	5	08/27/2005	(407120)

6 07/06/2006 (485241)

7 11/10/2006 (518323)

8 07/05/2007 (564943)

9 11/13/2007 (593954)

10 09/09/2008 (701433)

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

Date:	11/14/2007	(593954)	
N/A Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 115, SubChapter C 115.245(2)		
Description:	Failure to successfully conduct annual testing within the preceding 12 month period.		

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 Report

Customer/Respondent/Owner-Operator: CN601563778 Southwest Convenience Stores, LLC Classification: AVERAGE Rating: 4.14  
Regulated Entity: RN102017241 7 ELEVEN 53324 Classification: AVERAGE Site Rating: 15.00

ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 8334  
REGISTRATION  
AIR NEW SOURCE PERMITS ACCOUNT NUMBER EE1130W  
Location: 5598 DONIPHAN DR, EL PASO, TX, 79932 Rating Date: 9/1/2008 Repeat Violator: NO

TCEQ Region: REGION 06 - EL PASO

Date Compliance History Prepared: October 10, 2008

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: October 10, 2003 to October 10, 2008

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

Name: Nadia Hameed Phone: 713-767-3629

## 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? N/A  
Good Time Enterprise, LLC  
Southwest Convenience Stores, LLC
4. If Yes, who was/were the prior owner(s)? Good Time Stores, Inc.  
N/A  
N/A
5. When did the change(s) in ownership occur? 01/12/2006

## 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	03/19/2004	(248323)
N/A	2	03/16/2005	(349455)
	3	03/29/2006	(453907)
	4	01/08/2007	(533093)
	5	01/15/2008	(613005)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)  
N/A
- 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  
RN102395662 AND  
RN102017241

§  
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BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

**AGREED ORDER**  
**DOCKET NO. 2008-1662-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 sales of gasoline at 5201 Fairbanks Drive ("7 Eleven 57069") and 5598 Doniphan Drive ("7 Eleven 53324") in El Paso, El Paso County, Texas (the "Stations").
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 notice of the violations alleged in Section II ("Allegations") on or about September 14, 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 Two Thousand Six Hundred Twenty Dollars (\$2,620) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Thousand Ninety-Six Dollars (\$2,096) of the administrative penalty and Five Hundred Twenty-Four Dollars (\$524) 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 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.
10. 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.
11. 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. Failed to comply with the 7.0 pounds per square inch absolute ("psia") maximum Reid Vapor Pressure ("RVP") requirement for gasoline transferred during the control period of June 1 through September 16 in El Paso County, 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 August 6, 2008. Specifically, gasoline samples taken during the August 6, 2008 investigation from Pump No. 4 at 7 Eleven 57069 indicated that the unleaded gasoline had a RVP exceeding the allowable maximum 7.0 psia. The sample results showed a RVP of 7.6 psia.
2. Failed to comply with the 7.0 pounds psia maximum RVP requirement for gasoline transferred during the control period of June 1 through September 16 in El Paso County, 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 August 12, 2008. Specifically, gasoline samples taken during the August 12, 2008 investigation from Pump No. 6 at 7 Eleven 53324 indicated that the unleaded gasoline had a RVP exceeding the allowable maximum 7.0 psia. The sample results showed a RVP of 7.8 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. 2008-1662-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. On June 1<sup>st</sup> of the next control period following the effective date of this Agreed Order, conduct RVP sampling of all grades of gasoline at the Stations; and
  - b. Within 15 days after sampling, submit sampling results and written certification demonstrating compliance with RVP gasoline requirements. 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:

Code Enforcement Supervisor  
Environmental Services Department  
City of El Paso  
7969 San Paulo  
El Paso, Texas 79907

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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

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

2/4/2009  
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

12-2-08  
Date

SCOTT P. HALL  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Southwest Convenience Stores, LLC

Director of  
Fuel + Transportation  
\_\_\_\_\_  
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.

