

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2009-0455-PST-E    **TCEQ ID:** RN101787638    **CASE NO.:** 37390  
**RESPONDENT NAME:** CAL-MOD ENTERPRISES, LLC dba Hempstead Truck Stop

<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> Hempstead Truck Stop, 14304 Hempstead Road, Houston, Harris County</p> <p><b>TYPE OF OPERATION:</b> Convenience store with retail sales of gasoline</p> <p><b>SMALL BUSINESS:</b>    <input checked="" type="checkbox"/> Yes    <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on July 20, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  TCEQ Attorney/SEP Coordinator: None  TCEQ Enforcement Coordinator: Mr. Rajesh Acharya, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-0577;  Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  Respondent: Mr. Saleem Charanya, Registered Agent, CAL-MOD ENTERPRISES, LLC, 14304 Hempstead Road, Houston, Texas 77040-4904  Mr. Hasan Ali, Secretary, CAL-MOD ENTERPRISES, LLC, 14304 Hempstead Road, Houston, Texas 77040-4904  Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

DOCKET NO.: 2009-0455-PST-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> March 12, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> March 24, 2009 (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 Stage II vapor space manifold and dynamic back pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first. Specifically, Stage II annual and triennial system compliance testing had not been conducted [30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>2) Failure to maintain the Stage II vapor recovery system in proper operating condition as specified by the manufacturer and/or any applicable California Air Resources Board Executive Order, and free of defects that would impair the effectiveness of the system. Specifically, the Stage II vapor vacuum motors on all the dispensers were leaking [30 TEX. ADMIN. CODE § 115.242(3) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>	<p><b>Total Assessed:</b> \$6,790</p> <p><b>Total Deferred:</b> \$1,358  <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> \$907 (remaining \$4,525 due in 5 monthly payments of \$905 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 Respondent has implemented the following corrective measures at the Station:</p> <p>a. Successfully conducted the required annual and triennial testing of the Stage II equipment on March 17, 2009; and</p> <p>b. Repaired the Stage II vacuum motors on all the dispensers on March 17, 2009.</p>

Additional ID No(s): 73324



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	Assigned	30-Mar-2009	Screening	31-Mar-2009	EPA Due	
	PCW	31-Mar-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	CAL-MOD ENTERPRISES, LLC dba Hempstead Truck Stop		
Reg. Ent. Ref. No.	RN101787638		
Facility/Site Region	12-Houston	Major/Minor Source	Major

<b>CASE INFORMATION</b>			
Enf./Case ID No.	37390	No. of Violations	2
Docket No.	2009-0455-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Rajesh Acharya
		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>	\$7,500
---	-------------------	---------

### 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>	5.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$375
---------------------------	------------------	--------------------------------	-------

Notes: Enhancement for one NOV with same or similar violations.

<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>	\$1,875
--	-------------------	---------

<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
-------------------------	-------------------	-------------------	-----

Total EB Amounts \$790  
 Approx. Cost of Compliance \$1,160  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$6,000
-----------------------------	-----------------------	---------

<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	13.2%	<b>Adjustment</b>	\$790
---	-------	-------------------	-------

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.

<b>Final Penalty Amount</b>	\$6,790
-----------------------------	---------

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$6,790
-----------------------------------	-------------------------------	---------

<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	-\$1,358
-----------------	-----------------	-------------------	----------

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>	\$5,432
------------------------	---------

Screening Date 31-Mar-2009

Docket No. 2009-0455-PST-E

PCW

Respondent CAL-MOD ENTERPRISES, LLC dba Hempstead Truck &

Policy Revision 2 (September 2002)

Case ID No. 37390

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101787638

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rajesh Acharya

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of 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%
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) 5%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

<b>Screening Date</b> 31-Mar-2009	<b>Docket No.</b> 2009-0455-PST-E	<b>PCW</b>
<b>Respondent</b> CAL-MOD ENTERPRISES, LLC dba Hempstead Truck Stop		<small>Policy Revision 2 (September 2002)</small>
<b>Case ID No.</b> 37390		<small>PCW Revision October 30, 2008</small>
<b>Reg. Ent. Reference No.</b> RN101787638		
<b>Media [Statute]</b> Petroleum Storage Tank		
<b>Enf. Coordinator</b> Rajesh Acharya		
<b>Violation Number</b> 1		
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 115.245(2) and Tex. Health & Safety Code § 382.085(b)	
<b>Violation Description</b>	Failed to verify proper operation of the Stage II equipment at least once every 12 months and Stage II vapor space manifold and dynamic back pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first. Specifically, Stage II annual and triennial system compliance testing had not been conducted.	
	<b>Base Penalty</b>	\$10,000
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>		
OR	<b>Harm</b>	
	Release      Major      Moderate      Minor	
Actual	<input type="checkbox"/>	<input type="checkbox"/>
Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	<b>Percent</b>	50%
<b>&gt;&gt; Programmatic Matrix</b>		
	<b>Falsification</b> Major      Moderate      Minor	
	<input type="checkbox"/>	<input type="checkbox"/>
	<b>Percent</b>	0%
<b>Matrix Notes</b>	Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.	
	<b>Adjustment</b>	\$5,000
		\$5,000
<b>Violation Events</b>		
<b>Number of Violation Events</b>	1	<b>Number of violation days</b> 1095
<small>mark only one with an x</small>	daily	<input type="checkbox"/>
	weekly	<input type="checkbox"/>
	monthly	<input type="checkbox"/>
	quarterly	<input type="checkbox"/>
	semiannual	<input type="checkbox"/>
	annual	<input type="checkbox"/>
	single event	<input checked="" type="checkbox"/>
	<b>Violation Base Penalty</b>	\$5,000
	One single event is recommended for the three-year period preceding the March 12, 2009 investigation date.	
<b>Good Faith Efforts to Comply</b>		
	<b>25.0% Reduction</b>	\$1,250
	<small>Before NOV      NOV to EDPRP/Settlement Offer</small>	
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 March 17, 2009.	
	<b>Violation Subtotal</b>	\$3,750
<b>Economic Benefit (EB) for this violation</b>		
<b>Estimated EB Amount</b>	\$790	<b>Statutory Limit Test</b>
		<b>Violation Final Penalty Total</b> \$4,527
		<b>This violation Final Assessed Penalty (adjusted for limits)</b> \$4,527

## Economic Benefit Worksheet

**Respondent** CAL-MOD ENTERPRISES, LLC dba Hempstead Truck Stop  
**Case ID No.** 37390  
**Reg. Ent. Reference No.** RN101787638  
**Media** Petroleum Storage Tank  
**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**

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]	\$660	12-Mar-2006	17-Mar-2009	3.93	\$130	\$660	\$790
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Actual cost to conduct annual and triennial testing to verify proper operation of the Stage II equipment per invoice submitted by the Respondent. Date Required is three years prior to the investigation date. Final Date is the compliance date.

Approx. Cost of Compliance \$660

TOTAL \$790

<b>Screening Date</b> 31-Mar-2009	<b>Docket No.</b> 2009-0455-PST-E	<b>PCW</b>	
<b>Respondent</b> CAL-MOD ENTERPRISES, LLC dba Hempstead Truck Stop	<small>Policy Revision 2 (September 2002)</small>		
<b>Case ID No.</b> 37390	<small>PCW Revision October 30, 2008</small>		
<b>Reg. Ent. Reference No.</b> RN101787638			
<b>Media [Statute]</b> Petroleum Storage Tank			
<b>Enf. Coordinator</b> Rajesh Acharya			
<b>Violation Number</b> 2			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 115.242(3) and Tex. Health & Safety Code § 382.085(b)		
<b>Violation Description</b>	Failed to maintain the Stage II vapor recovery system in proper operating condition as specified by the manufacturer and/or any applicable California Air Resources Board Executive Order, and free of defects that would impair the effectiveness of the system. Specifically, the Stage II vapor vacuum motors on all the dispensers were leaking.		
<b>Base Penalty</b>		\$10,000	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>			
<b>OR</b>	<b>Harm</b>		
	Major	Moderate	Minor
	Actual	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Potential	<input type="checkbox"/>	<input type="checkbox"/>
<b>Percent</b>		25%	
<b>&gt;&gt; Programmatic Matrix</b>			
	Major	Moderate	Minor
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<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 environmental receptors as a result of the violation.		
<b>Adjustment</b>		\$7,500	
		\$2,500	
<b>Violation Events</b>			
<b>Number of Violation Events</b>	1	<b>Number of violation days</b>	5
<small>mark only one with an x</small>	daily	<input type="checkbox"/>	<b>Violation Base Penalty</b>
	weekly	<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 March 12, 2009 investigation date to the March 17, 2009 compliance date.			\$2,500
<b>Good Faith Efforts to Comply</b>			\$625
25.0% Reduction			
	Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>	
Ordinary	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
N/A	<input type="checkbox"/>	(mark with x)	
<b>Notes</b>	The Respondent came into compliance on March 17, 2009.		
<b>Violation Subtotal</b>		\$1,875	
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>	
<b>Estimated EB Amount</b>	\$0	<b>Violation Final Penalty Total</b>	\$2,263
		<b>This violation Final Assessed Penalty (adjusted for limits)</b>	\$2,263

## Economic Benefit Worksheet

**Respondent** CAL-MOD ENTERPRISES, LLC dba Hempstead Truck Stop  
**Case ID No.** 37390  
**Reg. Ent. Reference No.** RN101787638  
**Media** Petroleum Storage Tank  
**Violation No.** 2

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

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

Item Description No commas or \$

**Delayed Costs**

	Item 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)	\$500	12-Mar-2009	17-Mar-2009	0.01	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to repair the vacuum motors on the dispensers. Date Required is the date of the investigation. Final Date is the date of compliance.

**Avoided Costs**

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

	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

<b>Approx. Cost of Compliance</b>	\$500	<b>TOTAL</b>	\$0
-----------------------------------	-------	--------------	-----

# Compliance History

Customer/Respondent/Owner-Operator:	CN602941650 CAL-MOD ENTERPRISES, LLC	Classification: AVERAGE	Rating: 0.50
Regulated Entity:	RN101787638 Hempstead Truck Stop	Classification: AVERAGE	Site Rating: 1.00
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION		73324
Location:	14304 HEMPSTEAD RD, HOUSTON, TX, 77040		
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	March 31, 2009		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	March 31, 2004 to March 31, 2009		

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

Name: Rajesh Acharya Phone: (512) 239-0577

### 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 |
| 6. Rating Date: 9/1/2008 Repeat Violator: NO   |     |

### 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	07/09/2004	(261504)
2	08/16/2005	(394508)
3	03/24/2009	(738563)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 

Date:	08/16/2005	(394508)	
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 115, SubChapter C 115.245(2)		
Description:	Failure to verify proper operation of the Stage II equipment at least once every twelve months or upon major system replacement or modification, whichever occurs first. The verification shall include all functional tests that were required for the initial system test, except for TXP-101		
- 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  
CAL-MOD ENTERPRISES, LLC DBA  
HEMPSTEAD TRUCK STOP  
RN101787638

§  
§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**AGREED ORDER**  
**DOCKET NO. 2009-0455-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 CAL-MOD ENTERPRISES, LLC dba Hempstead Truck Stop ("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 a convenience store with retail sales of gasoline at 14304 Hempstead Road in Houston, Harris County, Texas (the "Station").
2. 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 March 29, 2009.
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 Six Thousand Seven Hundred Ninety Dollars (\$6,790) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). The Respondent has paid Nine Hundred Seven Dollars (\$907) of the administrative penalty and One Thousand Three Hundred Fifty-Eight Dollars (\$1,358) 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, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Four Thousand Five Hundred Twenty-Five Dollars (\$4,525) of the administrative penalty shall be payable in five monthly payments of Nine Hundred Five Dollars (\$905) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Station:
  - a. Successfully conducted the required annual and triennial testing of the Stage II equipment on March 17, 2009; and
  - b. Repaired the Stage II vacuum motors on all the dispensers on March 17, 2009.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

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

1. Failed to verify proper operation of the Stage II equipment at least once every 12 months and Stage II vapor space manifolding and dynamic back pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first, in violation of 30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on March 12, 2009. Specifically, Stage II annual and triennial system compliance testing had not been conducted.
2. Failed to maintain the Stage II vapor recovery system in proper operating condition as specified by the manufacturer and/or any applicable California Air Resources Board Executive Order, and free of defects that would impair the effectiveness of the system, in violation of 30 TEX. ADMIN. CODE § 115.242(3) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on March 12, 2009. Specifically, the Stage II vapor vacuum motors on all the dispensers were leaking.

## 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: CAL-MOD ENTERPRISES, LLC dba Hempstead Truck Stop, Docket No. 2009-0455-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. 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.
3. 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.

4. 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.
5. 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.
6. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

John S. Sullivan  
For the Executive Director

6/15/09  
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.

AS Buchanan  
Signature

05/20/09  
Date

Hasan Ali  
Name (Printed or typed)  
Authorized Representative of  
CAL-MOD ENTERPRISES, LLC dba Hempstead Truck Stop

SECRETARY  
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.

