

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.: 2008-0503-PST-E TCEQ ID: RN102009602 CASE NO.: 35616  
RESPONDENT NAME: PETROLEUM WHOLESALE, L.P. DBA SUNMART 168**

<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 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

**SITE WHERE VIOLATION(S) OCCURRED:** 3800 North Interstate 35, Georgetown, Williamson County

**TYPE OF OPERATION:** Convenience store with retail sales of gasoline

**SMALL BUSINESS:**  Yes  No

**OTHER SIGNIFICANT MATTERS:** There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

**INTERESTED PARTIES:** No one other than the ED and the Respondent expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired on August 24, 2009. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Mr. Benjamin O. Thompson, Litigation Division, MC 175, (512) 239-1297  
Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

**TCEQ Enforcement Coordinator:** Mr. Tom Greimel, Waste Enforcement Section, MC 128, (512) 239-5690

**TCEQ Regional Contact:** Mr. Barry Kalda, Austin Regional Office, MC R-11, (512) 339-2929

**Respondent:** Mr. Chris Smith, Environmental Manager, Petroleum Wholesale, L.P., 2204 Timberloch Place, Suite 270, The Woodlands, Texas 77380

**Respondent's Attorney:** Mr. Stuart W. Lapp, General Counsel, Petroleum Wholesale, L.P., 2204 Timberloch Place, Suite 270, The Woodlands, Texas 77380

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> December 13, 2007</p> <p><b>Date of NOE Relating to this Case:</b> February 15, 2008</p> <p><b>Background Facts:</b> The EDPRP was filed on September 18, 2008. The Respondent filed an answer and the case was referred to SOAH. The agreed order was signed on June 11, 2009.</p> <p><b>Current Compliance Status:</b> The Respondent corrected violation nos. 1, 2, and 4. The Respondent has not yet submitted documentation verifying compliance with violation nos. 3 and 5. The Respondent's delivery certificate expires March 2010.</p> <p><b>PST:</b></p> <ol style="list-style-type: none"> <li>Failed to equip the UST system with overfill prevention equipment [30 TEX. ADMIN. CODE § 334.51(b)(2)(C) and TEX. WATER CODE § 26.3475(c)(2)].</li> <li>Failed to conduct effective manual or automatic inventory control procedures for the UST system [30 TEX. ADMIN. CODE § 334.48(c)].</li> <li>Failed to provide an amended registration for any change or additional information regarding the UST system within 30 days from the date of occurrence of the change or addition [30 TEX. ADMIN. CODE § 334.7(d)(3)].</li> <li>Failed to install and maintain a secure anchor at the base of each emergency shutoff valve in the piping system in which regulated substances are conveyed to an aboveground dispensing unit [30 TEX. ADMIN. CODE § 334.45(c)(3)(A)].</li> <li>Failed to report a suspected release to the TCEQ within 24 hours of discovery [30 TEX. ADMIN. CODE § 334.72].</li> </ol>	<p><b>Total Assessed:</b> \$6,600</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Order  <input type="checkbox"/> Financial Inability to Pay  <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Paid to General Revenue:</b> \$6,600</p> <p>The Respondent paid the administrative penalty in full.</p> <p><b>Site Compliance History Classification</b>  <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent implemented the following corrective measures at the Facility in response to this enforcement action:</p> <ol style="list-style-type: none"> <li>On January 29, 2009, submitted documentation demonstrating that overfill prevention equipment has been installed on the drop tube for tank no. 4;</li> <li>On November 30, 2008, began conducting inventory control procedures for the UST system at the Facility; and</li> <li>On January 29, 2009, submitted documentation demonstrating that the anchor shear valves are properly installed.</li> </ol> <p><b>Ordering Provision(s):</b></p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>Immediately, establish and implement a process for reporting a suspected release.</li> <li>Within 30 days, submit an amended registration to indicate the current release detection method and overfill prevention equipment information for the UST system and the correct tank material designation for UST Nos. 1, 2, and 3.</li> <li>Within 45 days, submit written certification to demonstrate compliance with these Ordering Provisions.</li> </ol>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision January 29, 2008

**TCEQ**

<b>DATES</b>	Assigned	19-Feb-2008	Screening	11-Mar-2008	EPA Due	
	PCW	24-Apr-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	Petroleum Wholesale, L.P. dba Sunmart 168
Reg. Ent. Ref. No.	RN102009602
Facility/Site Region	11-Austin
Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	35616	No. of Violations	5
Docket No.	2008-0503-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Thomas Greimel
Multi-Media		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>\$6,500</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>	0% Enhancement	<b>Subtotals 2, 3, &amp; 7:</b>	<b>\$0</b>
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Notes: No adjustment for compliance history.

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

<b>Good Faith Effort to Comply</b>	0% Reduction	<b>Subtotal 5:</b>	<b>\$0</b>
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	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes: The Respondent does not meet the good faith criteria.

<b>Total EB Amounts</b>	\$235	0% Enhancement*	<b>Subtotal 6:</b>	<b>\$0</b>
<b>Approx. Cost of Compliance</b>	\$2,100	*Capped at the Total EB \$ Amount		

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal:</b>	<b>\$6,500</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	3%	<b>Adjustment:</b>	<b>\$100</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. 5.

<b>Final Penalty Amount</b>	<b>\$6,600</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$6,600</b>
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<b>DEFERRAL</b>	0% Reduction	<b>Adjustment:</b>	<b>\$0</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 not offered for non-expedited settlement.

<b>PAYABLE PENALTY</b>	<b>\$6,600</b>
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Screening Date 11-Mar-2008

Docket No. 2008-0503-PST-E

PCW

Respondent Petroleum Wholesale, L.P. dba Sunmart 168

Policy Revision 2 (September 2002)

Case ID No. 35616

PCW Revision January 29, 2008

Reg. Ent. Reference No. RN102009602

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Thomas Greimel

### 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%

Please Enter Yes or No

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

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment for compliance history.

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

**Screening Date** 11-Mar-2008 **Docket No.** 2008-0503-PST-E **PCW**  
**Respondent** Petroleum Wholesale, L.P. dba Sunmart 168 *Policy Revision 2 (September 2002)*  
**Case ID No.** 35616 *PCW Revision January 29, 2008*  
**Reg. Ent. Reference No.** RN102009602  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** Thomas Greimel

**Violation Number**   
**Rule Cite(s)**   
**Violation Description**

**Base Penalty**

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="10%"/>
Potential	<input type="text"/>	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

**Matrix Notes**

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

mark only one with an x

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

**Violation Base Penalty**

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

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

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

## Economic Benefit Worksheet

**Respondent** Petroleum Wholesale, L.P. dba Sunmart 168

**Case ID No.** 35616

**Reg. Ent. Reference No.** RN102009602

**Media** Petroleum Storage Tank

**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

**Delayed Costs**

Equipment	\$1,200	13-Dec-2007	29-Jan-2009	1.1	\$5	\$91	\$95
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to install overfill protection equipment. The Date Required is the date of the investigation and the Final Date is the date of compliance.

**Avoided Costs**

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,200

**TOTAL**

\$95

<b>Screening Date</b> 11-Mar-2008	<b>Docket No.</b> 2008-0503-PST-E	<b>PCW</b>			
<b>Respondent</b> Petroleum Wholesale, L.P. dba Sunmart 168	<i>Policy Revision 2 (September 2002)</i>				
<b>Case ID No.</b> 35616	<i>PCW Revision January 29, 2008</i>				
<b>Reg. Ent. Reference No.</b> RN102009602					
<b>Media [Statute]</b> Petroleum Storage Tank					
<b>Enf. Coordinator</b> Thomas Greimel					
<b>Violation Number</b>	2				
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 334.48(c)				
<b>Violation Description</b>	Failed to conduct effective manual or automatic inventory control procedures for the UST system at the Facility.				
<b>Base Penalty</b>		\$10,000			
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>					
OR	<b>Harm</b>				
	<b>Release</b>	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
		<b>Percent</b>	25%		
<b>&gt;&gt; Programmatic Matrix</b>					
		<b>Falsification</b>	Major	Moderate	Minor
		<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
		<b>Percent</b>	0%		
<b>Matrix Notes</b>	Human health or the environment could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.				
		<b>Adjustment</b>	\$7,500		
					\$2,500
<b>Violation Events</b>					
		Number of Violation Events	1	89	Number of violation days
<i>mark only one with an x</i>	daily	<input type="text"/>			
	monthly	<input type="text"/>			
	quarterly	<input checked="" type="checkbox"/>			
	semiannual	<input type="text"/>			
	annual	<input type="text"/>			
	single event	<input type="text"/>			
		<b>Violation Base Penalty</b>	\$2,500		
One quarterly event is recommended from the December 13, 2007 investigation date to the March 11, 2008 screening date.					
<b>Economic Benefit (EB) for this violation</b>			<b>Statutory Limit Test</b>		
		<b>Estimated EB Amount</b>	\$24	<b>Violation Final Penalty Total</b>	\$2,538
				<b>This violation Final Assessed Penalty (adjusted for limits)</b>	\$2,538

## Economic Benefit Worksheet

**Respondent:** Petroleum Wholesale, L.P. dba Sunmart 168

**Case ID No.:** 35616

**Reg. Ent. Reference No.:** RN102009602

**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
No commas or \$							

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$500	13-Dec-2007	30-Nov-2008	1.0	\$24	n/a	\$24

**Notes for DELAYED costs**

Estimated cost to conduct inventory control procedures. The Date Required is the date of the investigation. The Final Date is the date of compliance.

### Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

**Notes for AVOIDED costs**

Approx. Cost of Compliance

\$500

**TOTAL**

\$24

<b>Screening Date</b> 11-Mar-2008	<b>Docket No.</b> 2008-0503-PST-E	<b>PCW</b>
<b>Respondent</b> Petroleum Wholesale, L.P. dba Sunmart 168	<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No.</b> 35616	<i>PCW Revision January 29, 2008</i>	
<b>Reg. Ent. Reference No.</b> RN102009602		
<b>Media [Statute]</b> Petroleum Storage Tank		
<b>Enf. Coordinator</b> Thomas Greimel		
<b>Violation Number</b> <input type="text" value="3"/>		
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 334.7(d)(3)	
<b>Violation Description</b>	Failed to provide an amended registration for any change or additional information regarding the USTs within 30 days from the date of the occurrence of the change or addition. Specifically, the registration was not updated to reflect the current release detection method and overfill prevention equipment information and the correct tank material designation for UST Nos. 1, 2, and 3.	
<b>Base Penalty</b>		<input type="text" value="\$10,000"/>
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>		
OR	<b>Harm</b>	
	Release    Major    Moderate    Minor	
	Actual <input type="text"/> <input type="text"/> <input type="text"/>	<b>Percent</b> <input type="text" value="0%"/>
Potential <input type="text"/> <input type="text"/> <input type="text"/>		
<b>&gt;&gt; Programmatic Matrix</b>		
	Falsification    Major    Moderate    Minor	
	<input type="text"/> <input type="text" value="x"/> <input type="text"/> <input type="text"/>	<b>Percent</b> <input type="text" value="10%"/>
<b>Matrix Notes</b>	100% of the rule requirement has not been met.	
<b>Adjustment</b>		<input type="text" value="\$9,000"/>
		<input type="text" value="\$1,000"/>
<b>Violation Events</b>		
<b>Number of Violation Events</b>	<input type="text" value="1"/>	<input type="text" value="89"/> <b>Number of violation days</b>
<i>mark only one with an x</i>	daily <input type="text"/>	<b>Violation Base Penalty</b> <input type="text" value="\$1,000"/>
	monthly <input type="text"/>	
	quarterly <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 December 13, 2007 investigation.		
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>
<b>Estimated EB Amount</b>	<input type="text" value="\$4"/>	<b>Violation Final Penalty Total</b> <input type="text" value="\$1,015"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b>		<input type="text" value="\$1,015"/>

## Economic Benefit Worksheet

**Respondent** Petroleum Wholesale, L.P. dba Sunmart 168

**Case ID No.** 35616

**Reg. Ent. Reference No.** RN102009602

**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**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$100	13-Dec-2007	31-Oct-2008	0.9	\$4	n/a	\$4

Notes for DELAYED costs

Estimated cost to submit an amended UST registration form to the TCEQ. The Date Required is the date of the investigation. 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				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$4

<b>Screening Date</b> 11-Mar-2008	<b>Docket No.</b> 2008-0503-PST-E	<b>PCW</b>		
<b>Respondent</b> Petroleum Wholesale, L.P. dba Sunmart 168	<i>Policy Revision 2 (September 2002)</i>			
<b>Case ID No.</b> 35616	<i>PCW Revision January 29, 2008</i>			
<b>Reg. Ent. Reference No.</b> RN102009602				
<b>Media [Statute]</b> Petroleum Storage Tank				
<b>Enf. Coordinator</b> Thomas Greimel				
<b>Violation Number</b> <input type="text" value="4"/>				
<b>Rule Cite(s)</b>	<input type="text" value="30 Tex. Admin. Code § 334.45(c)(3)(A)"/>			
<b>Violation Description</b>	<input type="text" value="Failed to install and maintain a secure anchor at the base of each emergency shutoff valve in a piping system in which regulated substances are conveyed under pressure to an aboveground dispensing unit. Specifically, it was observed that an anchored shear valve was not present on one dispenser and the remaining dispenser were missing securing bolts."/>			
<b>Base Penalty</b>	<input type="text" value="\$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="text"/>	<input type="text"/>	
	Potential	<input type="text" value="x"/>	<input type="text"/>	
		<b>Percent</b>	<input type="text" value="10%"/>	
<b>&gt;&gt; Programmatic Matrix</b>				
	<b>Falsification</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
			<b>Percent</b>	<input type="text" value="0%"/>
<b>Matrix Notes</b>	<input type="text" value="Human health or the environment 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="\$9,000"/>		
			<input type="text" value="\$1,000"/>	
<b>Violation Events</b>				
	<b>Number of Violation Events</b>	<input type="text" value="1"/>	<b>Number of violation days</b>	
		<input type="text" value="89"/>		
<i>mark only one with an x</i>	daily	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	<input checked="" type="checkbox"/>	<b>Violation Base Penalty</b>	
	semiannual	<input type="text"/>	<input type="text" value="\$1,000"/>	
	annual	<input type="text"/>		
	single event	<input type="text"/>		
	<input type="text" value="One quarterly event is recommended from the December 13, 2007 investigation date to the March 11, 2008 screening date."/>			
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>	<input type="text" value="\$11"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$1,015"/>	
		<b>This violation Final Assessed Penalty (adjusted for limits)</b>	<input type="text" value="\$1,015"/>	

## Economic Benefit Worksheet

**Respondent** Petroleum Wholesale, L.P. dba Sunmart 168  
**Case ID No.** 35616  
**Reg. Ent. Reference No.** RN102009602  
**Media** Petroleum Storage Tank  
**Violation No.** 4

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

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

**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$200	13-Dec-2007	29-Jan-2009	1.1	\$11	n/a	\$11

Notes for DELAYED costs

Estimated cost to properly install and maintain shear valve anchors and bolts. The Date Required is the date of the investigation. The Final Date is the date of compliance.

**Avoided Costs**

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$200

TOTAL

\$11

<b>Screening Date</b> 11-Mar-2008	<b>Docket No.</b> 2008-0503-PST-E	<b>PCW</b>		
<b>Respondent</b> Petroleum Wholesale, L.P. dba Sunmart 168	<i>Policy Revision 2 (September 2002)</i>			
<b>Case ID No.</b> 35616	<i>PCW Revision January 29, 2008</i>			
<b>Reg. Ent. Reference No.</b> RN102009602				
<b>Media [Statute]</b> Petroleum Storage Tank				
<b>Enf. Coordinator</b> Thomas Greimel				
<b>Violation Number</b> <input type="text" value="5"/>				
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 334.72			
<b>Violation Description</b>	Failed to report a suspected release to the agency within 24 hours of discovery. Specifically, vapor monitoring data from February 2007 indicated a suspected release was not reported.			
<b>Base Penalty</b>		<input type="text" value="\$10,000"/>		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
OR	<b>Harm</b>			
	<b>Release</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<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="10%"/>	
<b>Matrix Notes</b>	100% of the rule requirement has not been met.			
<b>Adjustment</b>		<input type="text" value="\$9,000"/>		
		<input type="text" value="\$1,000"/>		
<b>Violation Events</b>				
<b>Number of Violation Events</b> <input type="text" value="1"/>		<input type="text" value="89"/> <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="text" value="x"/>		
		<b>Violation Base Penalty</b>	<input type="text" value="\$1,000"/>	
One single event is recommended based on documentation of the violation during the December 13, 2007 investigation.				
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b> <input type="text" value="\$100"/>		<b>Violation Final Penalty Total</b> <input type="text" value="\$1,015"/>		
		<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$1,015"/>		

### Economic Benefit Worksheet

**Respondent** Petroleum Wholesale, L.P. dba Sunmart 168

**Case ID No.** 35616

**Reg. Ent. Reference No.** RN102009602

**Media** Petroleum Storage Tank

**Violation No.** 5

Percent Interest	Years of Depreciation
5.0	15

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

No commas or \$

**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

**Avoided Costs**

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)	\$100	28-Feb-2007	1-Mar-2007	0.0	\$0	\$100	\$100

Notes for AVOIDED costs

Avoided cost to report a suspected release. Date required is the date of the suspected release and final date is the date the report was due.

Approx. Cost of Compliance

\$100

**TOTAL**

\$100

# Compliance History

Customer/Respondent/Owner-Operator:	CN601542616	Petroleum Wholesale, L.P.	Classification: AVERAGE	Rating: 2.47
Regulated Entity:	RN102009602	SUNMART 168	Classification: HIGH	Site Rating: 0.00
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION EDWARDS AQUIFER REGISTRATION EDWARDS AQUIFER REGISTRATION EDWARDS AQUIFER REGISTRATION		48158  11-97092201 11-95012601 11-99123001	
Location:	3800 N INTERSTATE HIGHWAY 35, GEORGETOWN, TX, 78626		Rating Date: September 01 07 Repeat Violator: NO	
TCEQ Region:	REGION 11 - AUSTIN			
Date Compliance History Prepared:	April 14, 2008			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	April 14, 2003 to April 14, 2008			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Thomas Greimel		Phone:	(512) 239-5690

## Site Compliance History Components

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

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
N/A
  - B. Any criminal convictions of the state of Texas and the federal government.  
N/A
  - C. Chronic excessive emissions events.  
N/A
  - D. The approval dates of investigations. (CCEDS Inv. Track. No.)
    - 1 08/10/2004 (269164)
    - N/A
    - 2 02/15/2008 (611928)
  - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
  - F. Environmental audits.  
N/A
  - G. Type of environmental management systems (EMSs).  
N/A
  - H. Voluntary on-site compliance assessment dates.  
N/A
  - I. Participation in a voluntary pollution reduction program.  
N/A
  - J. Early compliance.  
N/A
- Sites Outside of Texas  
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
PETROLEUM WHOLESALE, L.P.  
DBA SUNMART 168,  
RN102009602

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2008-0503-PST-E

I. JURISDICTION AND STIPULATIONS

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Petroleum Wholesale, L.P. dba Sunmart 168 ("Petroleum Wholesale") under the authority of TEX. WATER CODE ch. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Petroleum Wholesale, represented by its general counsel Stuart Lapp, appear before the Commission and together stipulate that:

1. Petroleum Wholesale owns and operates a convenience store with retail sales of gasoline located at 3800 North Interstate 35 in Georgetown, Williamson County, Texas (the "Facility").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction over this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and TCEQ rules.
3. The Commission and Petroleum Wholesale agree that the Commission has jurisdiction to enter this Agreed Order, and that Petroleum Wholesale is subject to the Commission's jurisdiction.
4. Petroleum Wholesale received notice of the violations alleged in Section II ("Allegations") on or about February 20, 2008.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Petroleum Wholesale of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of six thousand six hundred dollars (\$6,600.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Petroleum Wholesale paid six thousand six hundred dollars (\$6,600.00) of the administrative 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 Petroleum Wholesale 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 Petroleum Wholesale implemented the following corrective measures at the Facility in response to this enforcement action:
  - a. On January 29, 2009, submitted documentation demonstrating that overfill prevention equipment are installed on the drop tube for tank no. 4;
  - b. On November 30, 2008, began conducting inventory control procedures for the UST system at the Facility; and
  - c. On January 29, 2009, submitted documentation demonstrating that the anchor shear valves are properly installed.
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 Petroleum Wholesale 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

1. During an investigation conducted on December 13, 2007, a TCEQ Austin Regional Office investigator documented that Petroleum Wholesale violated:
  - a. 30 TEX. ADMIN. CODE § 334.51(b)(2)(C) and TEX. WATER CODE § 26.3475(c)(2) by failing to equip the UST system with overfill prevention equipment. Specifically, tank No. 4 did not have overfill prevention equipment.
  - b. 30 TEX. ADMIN. CODE § 334.48(c) by failing to conduct effective manual or automatic inventory control procedures for the UST system.
  - c. 30 TEX. ADMIN. CODE § 334.7(d)(3) by failing to provide an amended registration for any change or additional information regarding the UST system within 30 days from the date of occurrence of the change or addition. Specifically, the registration was not updated to reflect the current release detection method, overfill prevention equipment information, and the correct tank material designation for tank nos. 1, 2, and 3.
  - d. 30 TEX. ADMIN. CODE § 334.45(c)(3)(A) by failing to install and maintain a secure anchor at the base of each emergency shutoff valve in the piping system in which regulated substances are conveyed to an aboveground dispensing unit. Specifically, an anchor shear valve was not present on one dispenser and the remaining dispensers were missing securing bolts.
  - e. 30 TEX. ADMIN. CODE § 334.72 by failing to report a suspected release to the TCEQ within 24 hours of discovery. Specifically, vapor monitoring data from February 2007 indicated a suspected release, which was not reported.

## III. DENIALS

Petroleum Wholesale generally denies each allegation in Section II ("Allegations").

## IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Petroleum Wholesale pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Petroleum Wholesale'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 considering or requiring corrective action or penalties for violations which

are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Petroleum Wholesale, L.P. dba Sunmart 168, Docket No. 2008-0503-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. Petroleum Wholesale shall undertake the following technical requirements:

- a. Immediately upon the effective date of the Commission Order, establish and implement a process for reporting a suspected release, in accordance to 30 TEX. ADMIN. CODE § 334.72.
- b. Within 30 days after the effective date of the Commission Order, submit an amended registration to indicate the current release detection method and overfill prevention equipment information for the UST system and the correct tank material designation for UST Nos. 1, 2, and 3, in accordance with 30 TEX. ADMIN. CODE § 334.7 to:

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

- c. Within 45 days after the effective date of this Order, Petroleum Wholesale shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision Nos. 2.a. 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."

Petroleum Wholesale shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.b. to:

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

and

Barry Kalda, Waste Section Manager  
Texas Commission on Environmental Quality  
Austin Regional Office  
2800 South IH 35, Suite 100  
Austin, Texas 78704-5712

3. The provisions of this Agreed Order shall apply to and be binding upon Petroleum Wholesale. Petroleum Wholesale is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If Petroleum Wholesale 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, Petroleum Wholesale's failure to comply is not a violation of this Agreed Order. Petroleum Wholesale shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Petroleum Wholesale shall notify the Executive Director within seven days after Petroleum Wholesale 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 Petroleum Wholesale shall be made in writing to the Executive Director. Extensions are not effective until Petroleum Wholesale 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 Petroleum Wholesale 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

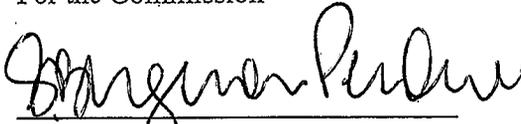
jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

7. This 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.
8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Petroleum Wholesale, or three days after the date on which the Commission mails notice of the Order to Petroleum Wholesale, 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



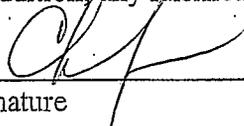
\_\_\_\_\_  
Date

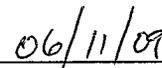
I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on Petroleum Wholesale's compliance history;
- Greater scrutiny of any permit applications submitted by Petroleum Wholesale;
- 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 against Petroleum Wholesale;
- Automatic referral to the Attorney General's Office of any future enforcement actions against Petroleum Wholesale; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
\_\_\_\_\_  
Signature

  
\_\_\_\_\_  
Date

CHRIS SMITH  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized representative of  
Petroleum Wholesale, L.P.  
dba Sunmart 168

ENV MGR  
\_\_\_\_\_  
Title