

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2009-2057-MLM-E **TCEQ ID:** RN101435261 **CASE NO.:** 38852  
**RESPONDENT NAME:** Fikes Wholesale, Inc. dba CEFCO Convenience Stores aka CEFCO 55

<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 checked="" type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" 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> CEFCO 55, at the northeast intersection of Farm-to-Market Road 50 and Farm-to-Market Road 60, Burleson County</p> <p><b>TYPE OF OPERATION:</b> Gas station and convenience store with a public water supply</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 June 21, 2010. 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. Rebecca Clausewitz, Enforcement Division, Enforcement Team 2, MC R-13, (210) 403-4012; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> Mr. James Fikes, Registered Agent, Fikes Wholesale, Inc. dba CEFCO Convenience Stores, 2002 Scott Boulevard, Temple, Texas 76504  Ms. Kim Fikes, Secretary/Treasurer, Fikes Wholesale, Inc. dba CEFCO Convenience Stores, 2002 Scott Boulevard, Temple, Texas 76504  <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> November 3, 2009</p> <p><b>Date of NOE Relating to this Case:</b> November 23, 2009</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>WATER</b></p> <p>1) Failure to provide a written notice to the Executive Director of a change in the ownership of the PWS Facility at least 120 days prior to the date the change is to occur [30 TEX. ADMIN. CODE § 290.46(p)(1)].</p> <p>2) Failure to submit plans and specifications for the PWS Facility to the Executive Director and to receive written approval of plans and specifications prior to beginning construction of a new public water system [30 TEX. ADMIN. CODE § 290.39(e)(1), (e)(3) and (h)(1)].</p> <p>3) Failure to provide a ground storage tank ("GST") that is designed in strict accordance with American Water Work Association ("AWWA") standards at the PWS Facility [30 TEX. ADMIN. CODE § 290.43(c), (c)(1), (c)(2), (c)(3), (c)(4), and (c)(5)].</p> <p>4) Failure to provide a minimum pressure tank capacity of 220 gallons at the PWS Facility [30 TEX. ADMIN. CODE § 290.45(d)(2)(B)(v) and TEX. HEALTH &amp; SAFETY CODE § 341.0315(c)].</p> <p>5) Failure to submit a copy of the well completion data to the Commission and obtain approval from the Executive Director prior to placing the well into service at the PWS Facility [30 TEX.</p>	<p><b>Total Assessed:</b> \$10,115</p> <p><b>Total Deferred:</b> \$2,023  <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> \$8,092</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 PWS and PST Facilities:</p> <p>a. On November 19, 2009, affixed a permanent label with the UST identification number to each fill tube which corresponds to the number listed on the registration and self-certification form filed with the Commission for the PST Facility;</p> <p>b. On November 30, 2009, provided records regarding the spill and overflow controls installed at the PST Facility; and</p> <p>c. On December 14, 2009:</p> <p>i. Provided written notice to the Commission of the change in ownership of the PWS Facility;</p> <p>ii. Filed an incident report with the Commission regarding the monitoring results that indicated that a release may have occurred at the PST Facility; and</p> <p>iii. Filed a release determination report with the Commission regarding the results of the investigation that was performed for the suspected release at the PST Facility.</p> <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Install three strands of barbed wire on the fence surrounding the well site at the PWS Facility that extend out from the top of the fence a 45 degree angle;</p> <p>ii. Seal the wellhead with a gasket or sealing compound and install a well casing vent that is properly elevated, faces downwards, and has an opening that is covered with a 16-mesh or finer corrosion-resistant screen at the PWS Facility; and</p> <p>iii. Begin maintaining supply of calcium</p>

<p>ADMIN. CODE § 290.41(c)(3)(A)].</p> <p>6) Failure to provide an intruder-resistant fence around the well site at the PWS Facility [30 TEX. ADMIN. CODE § 290.41(c)(3)(O)].</p> <p>7) Failure to provide an automatic low water level cutoff device on each of the PWS Facility's two service pumps that take suction from the storage tank [30 TEX. ADMIN. CODE § 290.43(f)].</p> <p>8) Failure to provide a well casing that extends a minimum of 18 inches above the elevation of the finished floor of the pump room or the natural ground surface at the PWS Facility [30 TEX. ADMIN. CODE § 290.41(c)(3)(B)].</p> <p>9) Failure to ensure that the wellhead is sealed with a gasket or sealing compound and that a well casing vent is provided that is properly elevated, faces downwards, and has an opening that is covered with a 16-mesh or finer corrosion-resistant screen at the PWS Facility [30 TEX. ADMIN. CODE § 290.41(c)(3)(K)].</p> <p>10) Failure to maintain a supply of calcium hypochlorite on hand for use when making repairs to the PWS Facility [30 TEX. ADMIN. CODE § 290.46(h)].</p> <p><b>WASTE</b></p> <p>1) Failure to permanently affix a legible tag, label, or marking to either the top of the fill tube or to a non-removable point in the immediate area of the fill tube for each regulated UST at the PST Facility that clearly and legibly shows the designated UST identification number of that UST at that facility and that corresponds to the identification number listed on the UST registration and self-certification form filed with the Commission. Specifically, on the date of the investigation, none of the three USTs at the Facility were properly labeled [30 TEX. ADMIN. CODE § 334.8(c)(5)(C)].</p> <p>2) Failure to maintain records regarding spill and overfill controls installed at the PST Facility. Specifically, on the date of the investigation, no records could be made available demonstrating that the USTs have been equipped with overfill prevention equipment [30 TEX. ADMIN. CODE §§ 334.10(b)(1)(B) and (b)(2)(B)(vii) and 334.51(c)(1) and (c)(2)(A)].</p>		<p>hypochlorite on hand for use when making repairs to the PWS Facility.</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision f. and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p> <p>c. Within 90 days after the effective date of this Agreed Order:</p> <p>i. Submit plans and specifications for the PWS Facility to the Commission's Executive Director at the address listed in Ordering Provision 2.c.ii below for review and approval;</p> <p>ii. Provide the well completion data for the PWS Facility to the Executive Director for review and approval.</p> <p>iii. Provide an automatic low water level cutoff device on each of the PWS Facility's two service pumps; and</p> <p>iv. Provide a well casing that extends a minimum of 18 inches above the elevation of the finished floor of the pump room or the natural ground surface at the PWS Facility.</p> <p>d. Within 135 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision f. and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision c.</p> <p>e. Within 180 days after the effective date of this Agreed Order:</p> <p>i. Obtain approval of the plans, specifications and well completion data for the PWS Facility from the Executive Director;</p> <p>ii. Provide a GST that is designed in strict accordance with AWWA standards at the PWS Facility; and</p> <p>iii. Provide a minimum pressure tank capacity of 220 gallons at the PWS Facility.</p> <p>f. Within 195 days after the effective date of this Agreed Order, submit written</p>
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<p>3) Failure to report a potential release at the PST Facility to the Commission within 24 hours of monitoring results from a release detection method indicating that a release may have occurred. Specifically, on the date of the investigation, it was discovered that daily inventory control records for the months of June, July and August 2009 showed an overage greater than the threshold value, indicating that a leak may have occurred. The Respondent did not file an incident report form with the Commission until December 14, 2009 [30 TEX. ADMIN. CODE § 334.72].</p>		<p>certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision e.</p>
<p>4) Failure to file a release determination report with the Commission within 45 days after a suspected release has occurred. Specifically, on the date of the investigation, it was discovered that daily inventory control records for the months of June, July and August 2009 showed an overage greater than the threshold value, indicating that a leak may have occurred. The Respondent did not file an investigation report with the Commission within the required 45 day time frame which expired on October 15, 2009 [30 TEX. ADMIN. CODE § 334.74(3)].</p>		

Additional ID No(s): PST Facility ID No. 73971 and PWS ID No. 0260046



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

<b>DATES</b>	<b>Assigned</b> 23-Nov-2009	<b>Screening</b> 10-Dec-2009	<b>EPA Due</b>
	<b>PCW</b> 16-Dec-2009		

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Fikes Wholesale, Inc. dba CEFCO Convenience Stores aka CEFCO 55 (PWS Facility)
<b>Reg. Ent. Ref. No.</b>	RN101435261
<b>Facility/Site Region</b>	9-Waco Major/Minor Source Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	38852	<b>No. of Violations</b>	10
<b>Docket No.</b>	2009-2057-MLM-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>	Petroleum Storage Tank	<b>Enf. Coordinator</b>	Rebecca Clausewitz
		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$1,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$1,500**

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

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

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

**Notes** No enhancement due to compliance history is recommended.

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

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

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5** **\$10**

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

Total EB Amounts \$1,012  
 Approx. Cost of Compliance \$12,905  
 \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$1,490**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes**

**Final Penalty Amount** **\$1,490**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$1,490**

**DEFERRAL** 20.0% Reduction **Adjustment** **-\$298**

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

**Notes**

Deferral offered for expedited settlement.

**PAYABLE PENALTY** **\$1,192**

Screening Date: 10-Dec-2009

Docket No.: 2009-2057-MLM-E

PCW

Respondent: Fikes Wholesale, Inc. dba CEFCO Convenience Stores :

Policy Revision 2 (September 2002)

Case ID No.: 38852

PCW Revision October 30, 2008

Reg. Ent. Reference No.: RN101435261

Media [Statute]: Public Water Supply

Enf. Coordinator: Rebecca Clausewitz

### 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 enhancement due to compliance history is recommended.

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

Screening Date 10-Dec-2009

Docket No. 2009-2057-MLM-E

PCW

Respondent Fikes Wholesale, Inc. dba CEFCO Convenience Stores aka CEFCO

Policy Revision 2 (September 2002)

Case ID No. 38852

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101435261

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number 1

Rule Cite(s)

80 Tex. Admin. Code § 290.48(p)(1)

Violation Description

Failed to provide a written notice to the Executive Director of a change in the ownership of the Facility at least 120 days prior to the date the change is to occur. Specifically, the Executive Director was never notified of the ownership change of the Facility that occurred on March 8, 2008.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release Major Moderate Minor

Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification Major Moderate Minor

	X		
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Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1

1738 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

10.0% Reduction

\$10

Before NOV NOV to EDPRP/Settlement

Extraordinary	
Ordinary	X
N/A	(mark with x)

Notes

The Respondent achieved compliance with this violation as of December 14, 2009.

Violation Subtotal \$90

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$9

Violation Final Penalty Total \$90

This violation Final Assessed Penalty (adjusted for limits) \$90

## Economic Benefit Worksheet

**Respondent:** Fikes Wholesale, Inc. dba CEFCO Convenience Stores aka CEFCO 55 (PWS Facility)

**Case ID No.:** 38862

**Reg. Ent. Reference No.:** RN101435261

**Media:** Public Water Supply

**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				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$25	8-Nov-2004	14-Dec-2009	5.10	\$0	\$9	\$9
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

The delayed cost includes the estimated amount to provide notification of the change in ownership to the Executive Director, calculated from the date the Facility should have provided notice to the date of compliance.

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$25

TOTAL

\$9



**Screening Date** 10-Dec-2009 **Docket No.** 2009-2057-MLM-E **PCW**  
**Respondent** Fikes Wholesale, Inc. dba CEFCO Convenience Stores aka CEFCO *Policy Revision 2 (September 2002)*  
**Case ID No.** 38852 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN101435261  
**Media [Statute]** Public Water Supply  
**Enf. Coordinator** Rebecca Clausewitz

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

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

OR	Harm				Percent <input type="text" value="0%"/>
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent <input type="text" value="10%"/>
	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

**Matrix Notes**

**Adjustment**

**Violation Events**

**Number of Violation Events**  **Number of violation days**   
*mark only one with an x*  
 daily   
 weekly   
 monthly   
 quarterly   
 semiannual   
 annual   
 single event   
**Violation Base Penalty**

**Good Faith Efforts to Comply**

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/>	(mark with x)
Notes	<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>	

**Violation Subtotal**

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

**Estimated EB Amount**  **Violation Final Penalty Total**   
**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent:** Fikes Wholesale, Inc. dba CEFCO Convenience Stores aka CEFCO 55 (PWS Facility)

**Case ID No.:** 38852

**Reg. Ent. Reference No.:** RN101435261

**Media:** Public Water Supply

**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				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$5,000	3-Nov-2009	30-Nov-2010	1.07	\$18	\$358	\$376
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

The delayed cost includes the estimated amount to prepare and submit plans and specifications for the Facility, calculated from the date of the investigation to the estimated date of compliance.

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

**TOTAL**

\$376

Screening Date 10-Dec-2009

Docket No. 2009-2057-MLM-E

PCW

Respondent Fikes Wholesale, Inc. dba CEFCO Convenience Stores aka CEFCO

Policy Revision 2 (September 2002)

Case ID No. 38852

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101435261

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 290.43(c), (c)(1), (c)(2), (c)(3), (c)(4), and (c)(5)

Violation Description

Failed to provide a ground storage tank ("GST") that is designed in strict accordance with American Water Work Association ("AWWA") standards. Specifically, the following deficiencies were noted on the date of the investigation: the GST is constructed of polyethylene which is not an approved material for potable water tanks, the GST does not have a roof vent installed, the GST does not have a roof hatch which is at least 30 inches in diameter with raised curbing and a lockable cover that overlaps the curbing, the GST does not have an overflow pipe and a liquid level indicator installed, and the GST's inlet and outlet connections are not located so as to prevent short-circuiting or stagnation.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	X		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to provide a storage tank that meets AWWA requirements could result in customers of the Facility being exposed to significant amounts of contaminants, which would exceed levels that are protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 2

Number of violation days 37

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$500

Two monthly events are recommended, calculated from the date of the investigation, November 3, 2009, to the date of case screening, December 10, 2009.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$174

Violation Final Penalty Total \$500

This violation Final Assessed Penalty (adjusted for limits) \$500

## Economic Benefit Worksheet

**Respondent:** Fikes Wholesale, Inc. dba CEFCO Convenience Stores aka CEFCO 55 (PWS Facility)  
**Case ID No.:** 38862  
**Req. Ent. Reference No.:** RN101435261  
**Media:** Public Water Supply  
**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				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$2,000	3-Nov-2009	31-Jan-2011	1.24	\$8	\$166	\$174
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

The delayed cost includes the estimated amount to provide a GST for the Facility that meets AWWA requirements, calculated from the date of the investigation to the estimated date of compliance.

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,000

**TOTAL**

\$174

Screening Date: 10-Dec-2009

Docket No.: 2009-2057-MLM-E

PCW

Respondent: Fikes Wholesale, Inc. dba CEFCO Convenience Stores aka CEFCO

Policy Revision 2 (September 2002)

Case ID No.: 38852

PCW Revision October 30, 2008

Reg. Ent. Reference No.: RN101435281

Media [Statute]: Public Water Supply

Enf. Coordinator: Rebecca Clausewitz

Violation Number: 4

Rule Cite(s)

30 Tex. Admin. Code § 290.45(d)(2)(B)(v) and Tex. Health & Safety Code § 341.0315(c)

Violation Description

Failed to provide a minimum pressure tank capacity of 220 gallons. Specifically, on the date of the investigation, it was noted that the Facility has one 120 gallon pressure tank installed, which is a 45% deficiency in pressure tank capacity.

Base Penalty: \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		X	

Percent: 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent: 0%

Matrix Notes

Without adequate pressure tank capacity, low pressure or outages could be experienced and customers of the Facility could be exposed to significant amounts of contaminants, which would not exceed levels that are protective of human health.

Adjustment: \$900

\$100

Violation Events

Number of Violation Events: 1

Number of violation days: 37

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty: \$100

One quarterly event is recommended, calculated from the date of the investigation, November 3, 2009, to the date of case screening, December 10, 2009.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal: \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount: \$218

Violation Final Penalty Total: \$100

This violation Final Assessed Penalty (adjusted for limits): \$100

# Economic Benefit Worksheet

**Respondent:** Fikes Wholesale, Inc. dba GEFCO Convenience Stores aka GEFCO 55 (PWS Facility)

**Case ID No.:** 38852

**Req. Ent. Reference No.:** RN101435261

**Media:** Public Water Supply

**Violation No.:** 4

Percent Interest	Years of Depreciation
5.0	15

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

**Delayed Costs**

Equipment	\$2,500	3-Nov-2009	31-Jan-2011	1.24	\$10	\$207	\$218
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

The delayed cost includes the estimated amount to purchase and install an additional 120 gallon pressure tank at the Facility, calculated from the date of the investigation to the estimated date of compliance.

**Avoided Costs**

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,500

**TOTAL**

\$218

Screening Date: 10-Dec-2009

Docket No.: 2009-2057-MLM-E

PCW

Respondent: Fikes Wholesale, Inc. dba CEFCO Convenience Stores aka CEFCO

Policy Revision 2 (September 2002)

Case ID No.: 38852

PCW Revision October 30, 2008

Reg. Ent. Reference No.: RN101435261

Media [Statute]: Public Water Supply

Enf. Coordinator: Rebecca Clausewitz

Violation Number: 5

Rule Cite(s):

30-Tex. Admin. Code § 290.41(c)(3)(A)

Violation Description:

Failed to submit a copy of the well completion data to the Commission and obtain approval from the Executive Director prior to placing the well into service.

Base Penalty: \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent: 0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	X		

Percent: 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment: \$900

\$100

Violation Events

Number of Violation Events: 1

37 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty: \$100

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal: \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount: \$76

Violation Final Penalty Total: \$100

This violation Final Assessed Penalty (adjusted for limits): \$100

## Economic Benefit Worksheet

**Respondent:** Fikes Wholesale, Inc. dba CEFCO Convenience Stores aka CEFCO 55 (PWS Facility)

**Case ID No.:** 38852

**Reg. Ent. Reference No.:** RN101435261

**Media:** Public Water Supply

**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

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)	\$1,000	3-Nov-2009	30-Nov-2010	1.07	\$4	\$72	\$75
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

The delayed cost includes the estimated amount to submit well completion data to the Commission, calculated from the date of the investigation to 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

\$1,000

**TOTAL**

\$75



**Screening Date:** 10-Dec-2009 **Docket No.:** 2009-2057-MLM-E **PCW**  
**Respondent:** Fikes Wholesale, Inc. dba CEFCO Convenience Stores aka CEFCO *Policy Revision 2 (September 2002)*  
**Case ID No.:** 38852 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.:** RN101435261  
**Media [Statute]:** Public Water Supply  
**Enf. Coordinator:** Rebecca Clausewitz

**Violation Number:** 6  
**Rule Cite(s):** 30 Tex. Admin. Code § 290.41(c)(3)(O)  
**Violation Description:** Failed to provide an intruder-resistant fence around the well site. Specifically, on the date of the investigation, it was noted that the top of the fence did not have three strands of barbed wire extending out from the top of the fence at a 45 degree angle.  
**Base Penalty:** \$1,000

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

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				10%
Potential		x		

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
				0%

**Matrix Notes:** Failure to provide an intruder-resistant fence could make the Facility vulnerable to trespassers, causing customers to be exposed to significant amounts of contaminants, which would not exceed levels that are protective of human health.  
**Adjustment:** \$900

**Violation Events**

Number of Violation Events: 1      37      Number of violation days  
 mark only one with an x  
 daily:       weekly:       monthly:       quarterly:       semiannual:       annual:       single event:   
**Violation Base Penalty:** \$100  
 One quarterly event is recommended, calculated from the date of the investigation, November 8, 2009, to the date of case screening, December 10, 2009.

**Good Faith Efforts to Comply:** 0.0% Reduction      \$0  
 Before NOV      NOV to EDPRP/Settlement Offer  
 Extraordinary:         
 Ordinary:         
 N/A:       (mark with x)  
**Notes:** The Respondent does not meet the good faith criteria for this violation.  
**Violation Subtotal:** \$100

**Economic Benefit (EB) for this violation:**      **Statutory Limit Test**  
 Estimated EB Amount: \$29      Violation Final Penalty Total: \$100  
 This violation Final Assessed Penalty (adjusted for limits): \$100

## Economic Benefit Worksheet

**Respondent:** Filkes Wholesale, Inc. dba CEFCO Convenience Stores aka CEFCO 55 (PWS Facility)

**Case ID No.:** 38852

**Reg. Ent. Reference No.:** RN101435261

**Media:** Public Water Supply

**Violation No.:** 6

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$500	3-Nov-2009	31-Aug-2010	0.82	\$1	\$27	\$29
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

The delayed cost includes the estimated amount to install three strands of barbed wire on the top of the fence, calculated from the date of the investigation to the estimated date of compliance.

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

**TOTAL**

\$29

Screening Date: 10-Dec-2009

Docket No.: 2009-2067-MLM-E

PCW

Respondent: Fikes Wholesale, Inc. dba CEFCO Convenience Stores aka CEFCO

Policy Revision 2 (September 2002)

Case ID No.: 38852

PCW Revision October 30, 2008

Reg. Ent. Reference No.: RN101435261

Media [Statute]: Public Water Supply

Enf. Coordinator: Rebecca Clausewitz

Violation Number: 7

Rule Cite(s):

30 Tex. Admin. Code §290.43(f)

Violation Description:

Failed to provide an automatic low water level cutoff device on each of the Facility's two service pumps that take suction from the storage tank.

Base Penalty: \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		X	

Percent: 10%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor

Percent: 0%

Matrix Notes

Failure to provide an automatic cutoff device could result in damage to the service pumps which could cause water shortages or outages. As a result, customers could be exposed to significant amounts of contaminants which would not exceed levels that are protective of human health.

Adjustment: \$900

\$100

Violation Events

2

37 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty: \$200

Two quarterly events are recommended (one event per pump), calculated from the date of the investigation, November 3, 2009, to the date of case screening, December 10, 2009.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	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 for this violation.

Violation Subtotal: \$200

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount: \$23

Violation Final Penalty Total: \$200

This violation Final Assessed Penalty (adjusted for limits): \$200

## Economic Benefit Worksheet

**Respondent:** Filkes Wholesale, Inc. dba CEFCO Convenience Stores aka CEFCO 55 (PWS Facility)  
**Case ID No.:** 38862  
**Reg. Ent. Reference No.:** RN101435261  
**Media:** Public Water Supply  
**Violation No.:** 7

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 Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$300	3-Nov-2009	30-Nov-2010	1.07	\$1	\$21	\$23
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

The delayed cost includes the estimated amount to purchase and install cutoff devices on the two service pumps, calculated from the date of the investigation to the estimated 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

Approx. Cost of Compliance

\$300

**TOTAL**

\$23

Screening Date: 10-Dec-2009

Docket No: 2009-2057-MLM-E

PCW

Respondent: Fikes Wholesale, Inc. dba CEFCO Convenience Stores aka CEFCO

Policy Revision 2 (September 2002)

Case ID No: 38852

PCW Revision October 30, 2008

Reg. Ent. Reference No: RN101435261

Media [Statute]: Public Water Supply

Enf. Coordinator: Rebecca Clausewitz

Violation Number: 8

Rule Cite(s):

30 Tex. Admin. Code § 290.41(c)(3)(B)

Violation Description:

Failed to provide a well casing that extends a minimum of 18 inches above the elevation of the finished floor of the pump room or the natural ground surface. Specifically, on the date of the investigation, the well casing was noted to be nine inches above the natural ground surface.

Base Penalty: \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		X	

Percent: 10%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent: 0%

Matrix Notes:

Failure to have a well casing of the proper height could allow contaminants to enter the well, exposing customers to significant amounts of contaminants which would not exceed levels that are protective of human health.

Adjustment: \$900

\$100

Violation Events

1

37 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty: \$100

One quarterly event is recommended, calculated from the date of the investigation, November 3, 2009, to the date of case screening, December 10, 2009.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes:

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal: \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount: \$75

Violation Final Penalty Total: \$100

This violation Final Assessed Penalty (adjusted for limits): \$100

## Economic Benefit Worksheet

**Respondent:** Fikes Wholesale, Inc. dba CEFCO Convenience Stores aka CEFCO 65 (PWS Facility)  
**Case ID No.:** 38852  
**Reg. Ent. Reference No.:** RN101435261  
**Media:** Public Water Supply  
**Violation No.:** 8

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)	\$1,000	3-Nov-2009	30-Nov-2010	1.07	\$4	\$72	\$76
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

The delayed cost includes the estimated amount to raise the well casing a minimum of an additional nine inches, calculated from the date of the investigation to 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

\$1,000

TOTAL

\$76

**Screening Date:** 10-Dec-2009 **Docket No.:** 2009-2057-MLM-E **PCW**  
**Respondent:** Fikes Wholesale, Inc. dba CEFCO Convenience Stores aka CEFCO *Policy Revision 2 (September 2002)*  
**Case ID No.:** 38852 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.:** RN101435261  
**Media [Statute]:** Public Water Supply  
**Enf. Coordinator:** Rebecca Clausewitz

**Violation Number:** 9  
**Rule Cite(s):** 30 Tex. Admin. Code § 290.41(c)(3)(K)  
**Violation Description:** Failed to ensure that the wellhead is sealed with a gasket or sealing compound and that a well casing vent is provided that is properly elevated, faces downwards, and has an opening that is covered with a 16-mesh or finer corrosion-resistant screen. Specifically, on the date of the investigation, it was noted that there was no seal around the wellhead and there was no well casing vent provided.  
**Base Penalty:** \$1,000

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

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				10%
Potential		X		

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
				0%

**Matrix Notes:** Failure to have the wellhead sealed and a well casing vent provided could result in customers being exposed to significant amounts of contaminants, which would not exceed levels that are protective of human health.

**Adjustment:** \$900

**Violation Events**

Number of Violation Events: 1 Number of violation days: 37  
 mark only one with an x  
 daily:   
 weekly:   
 monthly:   
 quarterly:   
 semiannual:   
 annual:   
 single event:   
**Violation Base Penalty:** \$100  
 One quarterly event is recommended; calculated from the date of the investigation, November 3, 2009, to the date of case screening, December 10, 2009.

**Good Faith Efforts to Comply:** 0.0% Reduction **\$0**  
 Before NOV NOV to EOPRP/Settlement Offer  
 Extraordinary:    
 Ordinary:    
 N/A:  (mark with x)  
**Notes:** The Respondent does not meet the good faith criteria for this violation.  
**Violation Subtotal:** \$100

**Economic Benefit (EB) for this violation** **Statutory Limit Test**  
 Estimated EB Amount: \$29 Violation Final Penalty Total: \$100  
**This violation Final Assessed Penalty (adjusted for limits):** \$100

## Economic Benefit Worksheet

**Respondent:** Fikes Wholesale, Inc. dba CEFCO Convenience Stores aka CEFCO 55 (PWS Facility)

**Case ID No.:** 38852

**Reg. Ent. Reference No.:** RN101435261

**Media:** Public Water Supply

**Violation No.:** 9

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	\$500	3-Nov-2009	31-Aug-2010	0.82	\$1	\$27	\$29
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

The delayed cost includes the estimated amount to seal the wellhead and to install a well casing vent, calculated from the date of the investigation to 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**

\$29



Screening Date: 10-Dec-2009

Docket No: 2009-2057-MLM-E

PCW

Respondent: Fikes Wholesale, Inc. dba CEFCO Convenience Stores aka CEFCO

Policy Revision 2 (September 2002)

Case ID No: 38852

PCW Revision October 30, 2008

Reg. Ent. Reference No: RN101435261

Media [Statute]: Public Water Supply

Enf. Coordinator: Rebecca Clausewitz

Violation Number: 10

Rule Cite(s):

30 Tex. Admin. Code § 290.46(h)

Violation Description:

Failed to maintain a supply of calcium hypochlorite on hand for use when making repairs to the Facility.

Base Penalty: \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent: 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent: 0%

Matrix Notes:

Without calcium hypochlorite on hand, repairs made to the Facility may not be properly disinfected and customers could be exposed to significant amounts of contaminants, which would not exceed levels that are protective of human health.

Adjustment: \$900

\$100

Violation Events

Number of Violation Events: 1

Number of violation days: 37

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty: \$100

One quarterly event is recommended, calculated from the date of the investigation, November 3, 2009, to the date of case screening, December 10, 2009.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes:

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal: \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount: \$5

Violation Final Penalty Total: \$100

This violation Final Assessed Penalty (adjusted for limits): \$100

## Economic Benefit Worksheet

**Respondent:** Fikes Wholesale, Inc. dba CEFCO Convenience Stores aka CEFCO 55 (PWS Facility)

**Case ID No.:** 38852

**Reg. Ent. Reference No.:** RN101435261

**Media:** Public Water Supply

**Violation No.:** 10

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$80	3-Nov-2009	31-Aug-2010	0.82	\$0	\$4	\$5
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

The delayed cost includes the estimated amount to purchase a supply of calcium hypochlorite, calculated from the date of the investigation to the estimated date of compliance.

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$80

TOTAL

\$5



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

<b>DATES</b>	<b>Assigned</b>	23-Nov-2009	<b>Screening</b>	10-Dec-2009	<b>EPA Due</b>	
	<b>PCW</b>	15-Mar-2010				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Fikes Wholesale, Inc. dba CEFCO Convenience Stores aka CEFCO 55 (PST Facility)		
<b>Reg. Ent. Ref. No.</b>	RN101435261		
<b>Facility/Site Region</b>	9-Waco	<b>Major/Minor Source</b>	Major

## CASE INFORMATION

<b>Enf./Case ID No.</b>	38852	<b>No. of Violations</b>	4
<b>Docket No.</b>	2009-2057-MLM-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Petroleum Storage Tank	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>	Public Water Supply	<b>Enf. Coordinator</b>	Rebecca Clausewitz
		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1**

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

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

**Compliance History**  **Enhancement** **Subtotals 2, 3, & 7**

**Notes**

**Culpability**   **Enhancement** **Subtotal 4**

**Notes**

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5**

**Economic Benefit**  **Enhancement** **Subtotal 6**

Total EB Amounts	\$3
Approx. Cost of Compliance	\$550

\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal**

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes**

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL**  **Reduction** **Adjustment**

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

**Notes**

**PAYABLE PENALTY**

Screening Date 10-Dec-2009

Docket No. 2009-2057-MLM-E

PCW

Respondent Fikes Wholesale, Inc. dba CEFCO Convenience Stores

Policy Revision 2 (September 2002)

Case ID No. 38852

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101435261

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rebecca Clausewitz

### 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 enhancement due to compliance history is recommended.

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

Screening Date 10-Dec-2009

Docket No. 2009-2057-MLM-E

PCW

Respondent Fikes Wholesale, Inc. dba CEFCO Convenience Stores aka CEFCO

Policy Revision 2 (September 2002)

Case ID No. 38852

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101435281

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rebecca Clausewitz

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 334.8(c)(5)(C)

Violation Description

Failed to permanently affix a legible tag, label, or marking to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube for each regulated underground storage tank ("UST") at the facility that clearly and legibly shows the designated UST identification number of that UST at that facility and that corresponds to the identification number listed on the UST registration and self-certification form filed with the Commission. Specifically, on the date of the investigation, none of the three USTs at the Facility were properly labeled.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

18 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$2,500

One single event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$625

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes

The Respondent achieved compliance with this violation as of November 19, 2009.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$1,875

This violation Final Assessed Penalty (adjusted for limits) \$1,875

## Economic Benefit Worksheet

**Respondent:** Fikes Wholesale, Inc. dba CEFCO Convenience Stores aka CEFCO 65 (PST Facility)  
**Case ID No.:** 38852  
**Reg. Ent. Reference No.:** RN101436261  
**Media:** Petroleum Storage Tank  
**Violation No.:** 1

Percent Interest	Years of Depreciation
5.0	15

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

**Delayed Costs**

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$300	3-Nov-2009	19-Nov-2009	0.04	\$0	\$1	\$1
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: The delayed cost includes the estimated amount to label the three USTs, calculated from the date of the investigation to the date of compliance.

**Avoided Costs**

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

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

Notes for AVOIDED costs:

Approx. Cost of Compliance	\$300	TOTAL	\$1
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Screening Date: 10-Dec-2009

Docket No. 2009-2057-MLM-E

PGW

Respondent Fikes Wholesale, Inc. dba CEFCO Convenience Stores aka CEFCO

Policy Revision 2 (September 2002)

Case ID No. 38852

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101435261

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rebecca Clausewitz

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code §§ 334.10(b)(1)(B) and (b)(2)(B)(vii) and 334.51(c)(1) and (c)(2)(A)

Violation Description

Failed to maintain records regarding spill and overfill controls installed at the Facility. Specifically, on the date of the investigation, no records were made available demonstrating that the USTs had been equipped with overfill prevention equipment.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes

100% of the rule requirements were not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

27 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$2,500

One single event is recommended.

Good Faith Efforts to Comply

10.0% Reduction

\$250

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	x
N/A	(mark with x)

Notes

The Respondent achieved compliance with this violation as of November 30, 2009.

Violation Subtotal \$2,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$2,250

This violation Final Assessed Penalty (adjusted for limits) \$2,250

# Economic Benefit Worksheet

**Respondent:** Fikes Wholesale, Inc. dba CEFCO Convenience Stores aka CEFCO 65 (PST Facility)

**Case ID No.:** 38852

**Reg. Ent. Reference No.:** RN101435261

**Media:** Petroleum Storage Tank

**Violation No.:** 2

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

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$50	3-Nov-2009	30-Nov-2009	0.07	\$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

The delayed cost includes the estimated amount to create and begin maintaining spill and overfill records, calculated from the date of the investigation to the date of compliance.

**Avoided Costs**

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$50

TOTAL

\$0



Screening Date 10-Dec-2009

Docket No. 2009-2057-MLM-E

PCW

Respondent Fikes Wholesale, Inc. dba CEFCO Convenience Stores aka CEFCO

Policy Revision 2 (September 2002)

Case ID No. 38852

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101435261

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rebecca Clausewitz

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 334.72

Violation Description Failed to report a potential release to the Commission within 24 hours of monitoring results from a release detection method indicating that a release may have occurred. Specifically, on the date of the investigation, it was discovered that daily inventory control records for the months of June, July and August 2009 showed an average greater than the threshold value, indicating that a leak may have occurred. The Respondent did not file an incident report form with the Commission until December 14, 2009.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	X			25%

Matrix Notes

100% of the reporting requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 41

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

Violation Base Penalty \$2,500

One single event is recommended.

Good Faith Efforts to Comply

10.0% Reduction

\$250

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		X
N/A		(mark with x)

Notes The Respondent achieved compliance with this violation as of December 14, 2009.

Violation Subtotal \$2,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$2,250

This violation Final Assessed Penalty (adjusted for limits) \$2,250

## Economic Benefit Worksheet

**Respondent** Fikes Wholesale, Inc. dba CEFCO Convenience Stores aka CEFCO 55 (PST Facility)  
**Case ID No.** 38852  
**Reg. Ent. Reference No.** RN101435261  
**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
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**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)	\$100	3-Nov-2009	14-Dec-2009	0.11	\$0	\$1	\$1
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: The delayed cost includes the estimated amount to provide a incident report to the Commission; calculated from the date of the investigation to the date of compliance.

**Avoided Costs**

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

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

Notes for AVOIDED costs:

Approx. Cost of Compliance	\$100	TOTAL	\$1
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Screening Date 10-Dec-2009

Docket No. 2009-2067-MLM-E

PCW

Respondent Fikes Wholesale, Inc. dba CEFCO Convenience Stores aka CEFCO

Policy Revision 2 (September 2002)

Case ID No. 38852

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101435261

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rebecca Clausewitz

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 334.74(3)

Violation Description

Failed to file a release determination report with the Commission within 45 days after a suspected release has occurred. Specifically, on the date of the investigation, it was discovered that daily inventory control records for the months of June, July and August 2009 showed an overage greater than the threshold value, indicating that a leak may have occurred. The Respondent did not file an investigation report with the Commission within the required 45 day time frame which expired on October 15, 2009.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
	X			25%

Matrix Notes

100% of this requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 56

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

mark only one with an x

Violation Base Penalty \$2,500

One single event is recommended.

Good Faith Efforts to Comply

10.0% Reduction \$250

Extraordinary	Before NOV	NOV to ED/PRP/Settlement Offer
Ordinary		X
N/A	(mark with x)	

Notes The Respondent achieved compliance with this violation as of December 14, 2009.

Violation Subtotal \$2,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$2,250

This violation Final Assessed Penalty (adjusted for limits) \$2,250

## Economic Benefit Worksheet

**Respondent** Fikos Wholesale, Inc. dba CEFCO Convenience Stores aka CEFCO 55 (PST Facility)

**Case ID No.** 38852

**Reg. Ent. Reference No.** RN101435261

**Media** Petroleum Storage Tank

**Violation No.** 4

<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
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**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)	\$100	16-Oct-2009	14-Dec-2009	0.18	\$0	\$1	\$1
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

The delayed cost includes the estimated amount to report the results of the investigation to the Commission, calculated from the date the investigation should have been submitted, to 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

Approx. Cost of Compliance

\$100

TOTAL

\$1

# Compliance History Report

Customer/Respondent/Owner-Operator: CN601260144 Fikes Wholesale, Inc. Classification: AVERAGE Rating: 2.78  
Regulated Entity: RN101435261 CEFCO 55 Classification: AVERAGE Site Rating: 3.01  
BY DEFAULT  
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0260046  
PETROLEUM STORAGE TANK REGISTRATION 73971  
Location: NE INTERSECTION OF FM 50 AND FM 60, BURLESON COUNTY, TEXAS  
TCEQ Region: REGION 09 - WACO  
Date Compliance History Prepared: December 10, 2009  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: December 10, 2004 to December 10, 2009  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Rebecca Clausewitz Phone: (210) 403-4012

## 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/operator of the site during the compliance period? Yes
3. If Yes, who is the current owner/operator? Fikes Wholesale, Inc.
4. If Yes, who was/were the prior owner(s)/operator(s) ? Fifty Six, Inc.
5. When did the change(s) in owner or operator occur? 03/08/2005

## Components (Multimedia) for the Site:

- A. Final Enforcement Orders, court judgments, 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 11/18/2009 (780455)
- 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  
FIKES WHOLESALE, INC. DBA  
CEFCO CONVENIENCE STORES  
AKA CEFCO 55  
RN101435261**

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**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2009-2057-MLM-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 Fikes Wholesale, Inc. dba CEFCO Convenience Stores aka CEFCO 55 ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26 and TEX. HEALTH & SAFETY CODE ch. 341. 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 gas station and convenience store with a public water supply (the "PWS Facility") and with retail sales of gasoline (the "PST Facility") at the northeast intersection of Farm-to-Market Road 50 and Farm-to-Market Road 60 in Burleson County, Texas.
2. The PWS Facility includes one service connection and serves at least 25 or more people for at least 60 days per year and the PST Facility includes three underground storage tanks ("USTs") that are not exempt or excluded from regulation under the TEXAS WATER CODE or the rules of the Commission.
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 November 28, 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 Ten Thousand One Hundred Fifteen Dollars (\$10,115) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Eight Thousand Ninety-Two Dollars (\$8,092) of the administrative penalty and Two Thousand Twenty-Three Dollars (\$2,023) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the PWS and PST Facilities:
  - a. On November 19, 2009, affixed a permanent label with the UST identification number to each fill tube which corresponds to the number listed on the registration and self-certification form filed with the Commission for the PST Facility;
  - b. On November 30, 2009, provided records regarding the spill and overflow controls installed at the PST Facility; and
  - c. On December 14, 2009:
    - i. Provided written notice to the Commission of the change in ownership of the PWS Facility;
    - ii. Filed an incident report with the Commission regarding the monitoring results that indicated that a release may have occurred at the PST Facility; and
    - iii. Filed a release determination report with the Commission regarding the results of the investigation that was performed for the suspected release at the PST Facility.
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 PWS and PST Facilities, the Respondent is alleged to have:

1. Failed to provide a written notice to the Executive Director of a change in the ownership of the PWS Facility at least 120 days prior to the date the change is to occur, in violation of 30 TEX. ADMIN. CODE § 290.46(p)(1), as documented during an investigation conducted on November 3, 2009.
2. Failed to submit plans and specifications for the PWS Facility to the Executive Director and to receive written approval of plans and specifications prior to beginning construction of a new public water system, in violation of 30 TEX. ADMIN. CODE § 290.39(e)(1), (e)(3) and (h)(1), as documented during an investigation conducted on November 3, 2009.
3. Failed to provide a ground storage tank ("GST") that is designed in strict accordance with American Water Work Association ("AWWA") standards at the PWS Facility, in violation of 30 TEX. ADMIN. CODE § 290.43(c), (c)(1), (c)(2), (c)(3), (c)(4), and (c)(5), as documented during an investigation conducted on November 3, 2009.
4. Failed to provide a minimum pressure tank capacity of 220 gallons at the PWS Facility, in violation of 30 TEX. ADMIN. CODE § 290.45(d)(2)(B)(v) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during an investigation conducted on November 3, 2009.
5. Failed to submit a copy of the well completion data to the Commission and obtain approval from the Executive Director prior to placing the well into service at the PWS Facility, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(A), as documented during an investigation conducted on November 3, 2009.
6. Failed to provide an intruder-resistant fence around the well site at the PWS Facility, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(O), as documented during an investigation conducted on November 3, 2009.
7. Failed to provide an automatic low water level cutoff device on each of the PWS Facility's two service pumps that take suction from the storage tank, in violation of 30 TEX. ADMIN. CODE § 290.43(f), as documented during an investigation conducted on November 3, 2009.
8. Failed to provide a well casing that extends a minimum of 18 inches above the elevation of the finished floor of the pump room or the natural ground surface at the PWS Facility, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(B), as documented during an investigation conducted on November 3, 2009.
9. Failed to ensure that the wellhead is sealed with a gasket or sealing compound and that a well casing vent is provided that is properly elevated, faces downwards, and has an opening that is covered with a 16-mesh or finer corrosion-resistant screen at the PWS Facility, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(K), as documented during an investigation conducted on November 3, 2009.

10. Failed to maintain a supply of calcium hypochlorite on hand for use when making repairs to the PWS Facility, in violation of 30 TEX. ADMIN. CODE § 290.46(h), as documented during an investigation conducted on November 3, 2009.
11. Failed to permanently affix a legible tag, label, or marking to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube for each regulated UST at the PST Facility that clearly and legibly shows the designated UST identification number of that UST at that facility and that corresponds to the identification number listed on the UST registration and self-certification form filed with the Commission, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(C), as documented during an investigation conducted on November 3, 2009. Specifically, on the date of the investigation, none of the three USTs at the Facility were properly labeled.
12. Failed to maintain records regarding spill and overfill controls installed at the PST Facility, in violation of 30 TEX. ADMIN. CODE §§ 334.10(b)(1)(B) and (b)(2)(B)(vii) and 334.51(c)(1) and (c)(2)(A), as documented during an investigation conducted on November 3, 2009. Specifically, on the date of the investigation, no records could be made available demonstrating that the USTs have been equipped with overfill prevention equipment.
13. Failed to report a potential release at the PST Facility to the Commission within 24 hours of monitoring results from a release detection method indicating that a release may have occurred, in violation of 30 TEX. ADMIN. CODE § 334.72, as documented during an investigation conducted on November 3, 2009. Specifically, on the date of the investigation, it was discovered that daily inventory control records for the months of June, July and August 2009 showed an overage greater than the threshold value, indicating that a leak may have occurred. The Respondent did not file an incident report form with the Commission until December 14, 2009.
14. Failed to file a release determination report with the Commission within 45 days after a suspected release has occurred, in violation of 30 TEX. ADMIN. CODE § 334.74(3). Specifically, on the date of the investigation, it was discovered that daily inventory control records for the months of June, July and August 2009 showed an overage greater than the threshold value, indicating that a leak may have occurred. The Respondent did not file an investigation report with the Commission within the required 45 day time frame which expired on October 15, 2009.

### **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: Fikes Wholesale, Inc. dba CEFCO Convenience Stores aka CEFCO 55, Docket No. 2009-2057-MLM-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order:
    - i. Install three strands of barbed wire on the fence surrounding the well site at the PWS Facility that extend out from the top of the fence a 45 degree angle, in accordance with 30 TEX. ADMIN. CODE § 290.41;
    - ii. Seal the wellhead with a gasket or sealing compound and install a well casing vent that is properly elevated, faces downwards, and has an opening that is covered with a 16-mesh or finer corrosion-resistant screen at the PWS Facility, in accordance with 30 TEX. ADMIN. CODE § 290.41; and
    - iii. Begin maintaining supply of calcium hypochlorite on hand for use when making repairs to the PWS Facility, in accordance with 30 TEX. ADMIN. CODE § 290.46.
  - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision 2.f below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision 2.a.
  - c. Within 90 days after the effective date of this Agreed Order:
    - i. Submit plans and specifications for the PWS Facility to the Commission's Executive Director at the address listed in Ordering Provision 2.c.ii below for review and approval, as required by 30 TEX. ADMIN. CODE § 290.39;
    - ii. Provide the well completion data for the PWS Facility to the Executive Director for review and approval, in accordance with 30 TEX. ADMIN. CODE § 290.41. The plans, specifications and well completion data shall be submitted to:

Utility Technical Review Team  
Water Supply Division, MC 153  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

- iii. Provide an automatic low water level cutoff device on each of the PWS Facility's two service pumps, in accordance with 30 TEX. ADMIN. CODE § 290.43; and
  - iv. Provide a well casing that extends a minimum of 18 inches above the elevation of the finished floor of the pump room or the natural ground surface at the PWS Facility, in accordance with 30 TEX. ADMIN. CODE § 290.41.
- d. Within 135 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision 2.f below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision 2.c.
- e. Within 180 days after the effective date of this Agreed Order:
- i. Obtain approval of the plans, specifications and well completion data for the PWS Facility from the Executive Director, in accordance with 30 TEX. ADMIN. CODE §§ 290.39 and 290.41;
  - ii. Provide a GST that is designed in strict accordance with AWWA standards at the PWS Facility, in accordance with 30 TEX. ADMIN. CODE § 290.43; and
  - iii. Provide a minimum pressure tank capacity of 220 gallons at the PWS Facility, in accordance with 30 TEX. ADMIN. CODE § 290.45.
- f. Within 195 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision 2.e. 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 fines 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:

Water Section Manager  
Waco Regional Office  
Texas Commission on Environmental Quality  
6801 Sanger Avenue, Suite 2500  
Waco, Texas 76710-7826

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 Facility 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 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.
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

John S. Zoller  
For the Executive Director

9/22/2010  
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.

Kimi Fikes  
Signature

7-30-10  
Date

Kimi Fikes  
Name (Printed or typed)  
Authorized Representative of  
Fikes Wholesale, Inc. dba CEFCO Convenience Stores aka  
CEFCO 55

Secretary/Treasurer  
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.