

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.: 2009-1712-PST-E TCEQ ID: RN102231529 CASE NO.: 38573**

**RESPONDENT NAME: R N Business, Inc. dba Speedy Express 5 Food Store**

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Speedy Express 5 Food Store, 305 West House Street, Alvin, Brazoria County</p> <p><b>TYPE OF OPERATION:</b> Convenience store with retail sales of gasoline</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on April 5, 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. Danielle Porras, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-2602; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> Mr. Naushadali Maredia, Owner, Speedy Express 5 Food Store, 305 West House Street, Alvin, Texas 77511  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> August 19, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> October 9, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>WASTE</b></p> <p>1) Failure to conduct effective manual or automatic inventory control procedures for the underground storage tank ("UST") system [30 TEX. ADMIN. CODE § 334.48(c)].</p> <p>2) Failure to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>3) Failure to test the line leak detectors at least once per year for performance and operational reliability [30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a)].</p> <p>4) Failure to provide a release detection method for the USTs by failing to conduct reconciliation of inventory control records at least once a month, in a manner sufficiently accurate to detect a release which equals or exceeds the sum of 1.0% of the total substance flow-through for the month plus 130 gallons [30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>5) Failure to record inventory volume measurement for the regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day</p>	<p><b>Total Assessed:</b> \$16,214</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid (Due) to General Revenue:</b> \$534 (remaining \$15,680 due in 35 monthly payments of \$448 each)</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input checked="" type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input checked="" type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> <p><b>Findings Orders Justification:</b> The Respondent has three repeated enforcement actions over the prior five year period for the same violation.</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Station:</p> <p>a. On August 27, 2009, inventory control records and reconciled records were provided to the Houston Regional Office;</p> <p>b. On August 31, 2009, a record of the Stage II triennial test was provided to the Houston Regional Office with passing results;</p> <p>c. On September 1, 2009, Statistical Inventory Reconciliation reports for the months of May, June, and July, with passing results, were provided to the Houston Regional Office; and</p> <p>d. On November 15, 2009, the installed corrosion protection system was properly inspected and tested, with passing results.</p> <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Immediately upon the effective date of this Agreed Order, begin conducting daily and monthly inspections of the Stage II vapor recovery system;</p> <p>b. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Conduct testing of the line leak detectors;</p> <p>ii. Ensure that at least one Station representative successfully completes the required Stage II training and each current employee receives in-house training regarding the purpose and correct operating procedures of the Stage II vapor recovery system;</p> <p>iii. Install swivel adaptors on the vapor recovery drybreaks; and</p> <p>iv. Post operating instructions conspicuously on the front of each gasoline dispensing pump.</p>

<p>[30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(iii)(I) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>6) Failure to conduct daily inspections of the Stage II vapor recovery system [30 TEX. ADMIN. CODE § 115.244(1) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>7) Failure to conduct monthly inspections of the Stage II vapor recovery system [30 TEX. ADMIN. CODE § 115.244(3) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>8) Failure to ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system, and each current employee receives in-house Stage II vapor recovery training regarding the purpose and correct operation of the Stage II equipment [30 TEX. ADMIN. CODE § 115.248(1) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>9) Failure to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable California Air Resources Board Executive Order, and free of defects that would impair the effectiveness of the system. Specifically, the swivel adaptors were absent on the vapor recovery drybreaks [30 TEX. ADMIN. CODE § 115.242(3) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>10) Failure to post operating instructions conspicuously on the front of each gasoline dispensing pump [30 TEX. ADMIN. CODE § 115.242(9) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>11) Failure to maintain Stage II records at the Station. Specifically, the Respondent did not maintain the Stage II test results [30 TEX. ADMIN. CODE § 115.246(5) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>12) Failure to provide proper corrosion protection for the UST system [30 TEX. ADMIN. CODE § 334.49(a) and TEX. WATER CODE § 26.3475(d)].</p>		<p>c. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a through b.iv.</p>
--	--	---





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

<b>DATES</b>	<b>Assigned</b>	12-Oct-2009	<b>Screening</b>	21-Oct-2009	<b>EPA Due</b>	
	<b>PCW</b>	20-Jan-2010				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	R N Business, Inc. dba Speedy Express 5 Food Store		
<b>Reg. Ent. Ref. No.</b>	RN102231529		
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	38573	<b>No. of Violations</b>	8
<b>Docket No.</b>	2009-1712-PST-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Petroleum Storage Tank	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Danielle Porras
		<b>EC's Team</b>	Enforcement Team 7
<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   
 Approx. Cost of Compliance  \*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 21-Oct-2009

Docket No. 2009-1712-PST-E

PCW

Respondent R N Business, Inc. dba Speedy Express 5 Food Store

Policy Revision 2 (September 2002)

Case ID No. 38573

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN102231529

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Danielle Porras

### 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)	3	15%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria.)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 17%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Poor Performer

Adjustment Percentage (Subtotal 7) 10%

>> Compliance History Summary

Compliance History Notes

Enhancement for poor performer classification, three previous NOVs with same or similar violations, and one NOV for dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 27%

Screening Date 21-Oct-2009

Docket No. 2009-1712-PST-E

PCW

Respondent R N Business, Inc. dba Speedy Express 5 Food Store

Policy Revision 2 (September 2002)

Case ID No. 38573

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102231529

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Danielle Porras

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 334.48(c)

Violation Description

Failed to conduct effective manual or automatic inventory control procedures for the UST system.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

8 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,500

One monthly event is recommended from the August 19, 2009 investigation to the August 27, 2009 compliance date.

Good Faith Efforts to Comply

25.0% Reduction

\$625

Before NOV NOV to EDRP/Settlement Offer

Extraordinary	
Ordinary	x
N/A	(mark with x)

Notes

The Respondent came into compliance on August 27, 2009, prior to the NOE dated October 9, 2009.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$2,803

This violation Final Assessed Penalty (adjusted for limits) \$2,803

## Economic Benefit Worksheet

**Respondent** R N Business, Inc. dba Speedy Express 5 Food-Store  
**Case ID No.** 38573  
**Reg. Ent. Reference No.** RN102231529  
**Media** Petroleum Storage Tank  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

No commas or \$

### Delayed Costs

Equipment				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	\$500	19-Aug-2009	27-Aug-2009	0.02	\$1	n/a	\$1
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

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

### Avoided Costs

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

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

\$1

Screening Date 21-Oct-2009

Docket No. 2009-1712-PST-E

PCW

Respondent R N Business, Inc. dba Speedy Express 5 Food Store

Policy Revision 2 (September 2002)

Case ID No. 38573

PCW Revision October 30, 2006

Reg. Ent. Reference No. RN102231529

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Danielle Porras

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.50(b)(1)(A), (b)(2)(A)(i)(III), (d)(1)(B)(ii) and (d)(1)(B)(iii)(I) and Tex. Water Code § 26.3475(a) and (c)(1)

Violation Description

Failed to monitor underground storage tanks ("USTs") for releases at a frequency of at least once per month (not to exceed 35 days between each monitoring). Failed to test the line leak detectors at least once per year for performance and operational reliability. Failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release which equals or exceeds the sum of 1.0% of the total substance flow-through for the month plus 130 gallons. Also, failed to conduct inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 63

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

Violation Base Penalty \$2,500

One quarterly event is recommended from the August 19, 2009 investigation to the October 21, 2009 screening date.

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 \$2,500

Economic Benefit (EB) for this violation

Estimated EB Amount \$1,099

Statutory Limit Test

Violation Final Penalty Total \$3,490

This violation Final Assessed Penalty (adjusted for limits) \$3,490

# Economic Benefit Worksheet

Respondent R N Business, Inc. dba Speedy Express 5 Food Store  
 Case ID No. 38573  
 Reg. Ent. Reference No. RN102231529  
 Media Petroleum Storage Tank  
 Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Item Description No commas or \$

**Delayed Costs**

Equipment			0.00	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0
Engineering/construction			0.00	\$0	\$0	\$0
Land			0.00	\$0	n/a	\$0
Record Keeping System			0.00	\$0	n/a	\$0
Training/Sampling			0.00	\$0	n/a	\$0
Remediation/Disposal			0.00	\$0	n/a	\$0
Permit Costs			0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	19-Aug-2009	1-Sep-2009	0.04	\$3	n/a

Notes for DELAYED costs: Estimated cost to provide release detection for the USTs including recording daily volume measurement and monthly reconciliation of inventory control records. The Date Required is the investigation date and the Final Date is the date of compliance.

**Avoided Costs**

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

Disposal			0.00	\$0	\$0	\$0
Personnel			0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling			0.00	\$0	\$0	\$0
Supplies/equipment			0.00	\$0	\$0	\$0
Financial Assurance [2]			0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$1,000	19-Aug-2008	19-Aug-2009	1.92	\$96	\$1,096
Other (as needed)			0.00	\$0	\$0	\$0

Notes for AVOIDED costs: Estimated avoided cost of conducting line leak detector tests. The Date Required is one year prior to the investigation date and the Final Date is the investigation date.

Approx. Cost of Compliance \$2,500 TOTAL \$1,099

Screening Date 21-Oct-2009

Docket No. 2009-1712-PST-E

PCW

Respondent R N Business, Inc. dba Speedy Express 5 Food Store

Policy Revision 2 (September 2002)

Case ID No. 38573

PCW Revision October 30, 2006

Reg. Ent. Reference No. RN102231529

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Daniele Porras

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code §§ 115.244(1) and (3) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to conduct daily and monthly inspections of the Stage II vapor recovery system.

Base Penalty \$10,000

>> 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

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

63 Number of violation days

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

Violation Base Penalty \$1,000

One quarterly event is recommended from the August 19, 2009 investigation to the October 21, 2009 screening date.

Good Faith Efforts to Comply

0.0% Reduction Before NOV NOV to EDRP/ Settlement Offer

\$0

Extraordinary		
Ordinary		
N/A	x	(mark with x)

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

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$368

Violation Final Penalty Total \$1,396

This violation Final Assessed Penalty (adjusted for limits) \$1,396

# Economic Benefit Worksheet

**Respondent** R N Business, Inc. dba Speedy Express 5 Food Store  
**Case ID No.** 38573  
**Reg. Ent. Reference No.** RN102231529  
**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
<b>Delayed Costs</b>							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs	ANNUALIZE (1) avoided costs before entering item (except for one-time avoided costs)						
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]	\$350	20-Jul-2009	19-Aug-2009	1.00	\$18	\$350	\$368
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to conduct the required inspections of the components of the Stage II vapor recovery system. The Date Required is one month prior to the investigation date and the Final Date is the investigation date.

Approx. Cost of Compliance

\$350

TOTAL

\$368

Screening Date 21-Oct-2009

Docket No. 2009-1712-PST-E

PCW

Respondent R N Business, Inc. dba Speedy Express 5 Food Store

Policy Revision 2 (September 2002)

Case ID No. 38573

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102231529

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Dantelle Porras

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code § 115.248(1) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system, and each current employee receives in-house Stage II vapor recovery training regarding the purpose and correct operation of the Stage II equipment.

Base Penalty \$10,000

>> 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

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

63 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,000

One quarterly event is recommended from the August 19, 2009 investigation to the October 21, 2009 screening date.

Good Faith Efforts to Comply

0.0% Reduction Before NOV NOV to EDPRP/Settlement Offer

\$0

Extraordinary	
Ordinary	
N/A	X (mark with x)

Notes

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

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$23

Violation Final Penalty Total \$1,396

This violation Final Assessed Penalty (adjusted for limits) \$1,396

# Economic Benefit Worksheet

**Respondent** R N Business, Inc. dba Speedy Express 5 Food Store  
**Case ID No.** 38573  
**Reg. Ent. Reference No.** RN102231529  
**Media** Petroleum Storage Tank  
**Violation No.** 4

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

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

No commas or \$

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$500	19-Aug-2009	17-Jul-2010	0.91	\$23	n/a	\$23
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost of training a Station representative and employees in Stage II procedures. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

**Avoided Costs**

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

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**

\$23

Screening Date 21-Oct-2009

Docket No. 2009-1712-PST-E

PCW

Respondent R N Business, Inc. dba Speedy Express 5 Food Store

Policy Revision 2 (September 2002)

Case ID No. 38573

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102231529

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Danielle Porras

Violation Number 5

Rule Cite(s)

30 Tex. Admin. Code § 115.242(3) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to maintain the Stage-II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable California Air Resources Board Executive Order, and free of defects that would impair the effectiveness of the system. Specifically, the swivel adaptors were absent on the vapor recovery drybreaks.

Base Penalty \$10,000

>> 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

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

63 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,000

One quarterly event is recommended from the August 19, 2009 investigation to the October 21, 2009 screening date.

Good Faith Efforts to Comply

	0.0% Reduction	
	Before NOV	NOV to EDCRP/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 \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$13

Violation Final Penalty Total \$1,396

This violation Final Assessed Penalty (adjusted for limits) \$1,396

## Economic Benefit Worksheet

**Respondent** R N Business, Inc. dba Speedy Express 5 Food Store  
**Case ID No.** 38673  
**Reg. Ent. Reference No.** RN102231529  
**Media** Petroleum Storage Tank  
**Violation No.** 5

Percent Interest	Years of Depreciation
5.0	15

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

No commas or \$

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$200	19-Aug-2009	17-Jul-2010	0.91	\$1	\$12	\$13
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to repair the Stage II vapor recovery system. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

**Avoided Costs**

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

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

\$200

**TOTAL**

\$13

Screening Date 21-Oct-2009

Docket No. 2009-1712-PST-E

PCW

Respondent R N Business, Inc. dba Speedy Express 5 Food Store

Policy Revision 2 (September 2002)

Case ID No. 38573

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN102231529

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Danielle Porras

Violation Number 8

Rule Cite(s)

30 Tex. Admin. Code § 115.242(9) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to post operating instructions conspicuously on the front of each gasoline dispensing pump.

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 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

63 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

mark only one with an x

Violation Base Penalty \$1,000

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction 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 \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$1,396

This violation Final Assessed Penalty (adjusted for limits) \$1,396

## Economic Benefit Worksheet

**Respondent** R N Business, Inc. dba Speedy Express 5 Food Store  
**Case ID No.** 38573  
**Reg. Ent. Reference No.** RN102231529  
**Media** Petroleum Storage Tank  
**Violation No.** 6

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<i>No commas or \$</i>							
<b>Delayed Costs</b>							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$50	19-Aug-2009	17-Jul-2010	0.91	\$2	n/a	\$2

Notes for DELAYED costs

Estimated cost to post operating instructions on each dispensing pump. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

**Avoided Costs**

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

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 \$2

Screening Date 21-Oct-2009

Docket No. 2009-1712-PST-E

PCW

Respondent R N Business, Inc. dba Speedy Express 5 Food Store

Policy Revision 2 (September 2002)

Case ID No. 38573

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN102231529

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Danielle Porras

Violation Number 7

Rule Cite(s)

30 Tex. Admin. Code § 115.246(5) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to maintain Stage II records at the Station. Specifically, the Respondent did not maintain the Stage II test results.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	X			10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

	1	63	Number of violation days
mark only one with an x	daily		
	weekly		
	monthly		
	quarterly		
	semiannual		
	annual		
	single event	X	

Violation Base Penalty \$1,000

One single event is recommended.

Good Faith Efforts to Comply

	25.0%	Reduction
	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary	X	
N/A		(mark with x)

\$250

Notes

The Respondent came into compliance on August 31, 2009, prior to the NOE dated October 9, 2009.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$1,121

This violation Final Assessed Penalty (adjusted for limits) \$1,121

## Economic Benefit Worksheet

**Respondent** R N Business, Inc. dba Speedy Express 5 Food Store  
**Case ID No.** 38573  
**Reg. Ent. Reference No.** RN102231529  
**Media** Petroleum Storage Tank  
**Violation No.** 7

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

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

Item Description No commas or \$

**Delayed Costs**

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	19-Aug-2009	31-Aug-2009	0.03	\$1	n/a	\$1
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to maintain Stage II records at the Station. The Date Required is the investigation date and the Final Date is the date of compliance.

**Avoided Costs**

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

	Item 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

\$1

Screening Date 21-Oct-2009

Docket No. 2009-1712-PST-E

PCW

Respondent R N Business, Inc. dba Speedy Express 5 Food Store

Policy Revision 2 (September 2002)

Case ID No. 38573

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102231529

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Danielle Porras

Violation Number 8

Rule Cite(s)

30 Tex. Admin. Code § 334.49(a) and Tex. Water Code § 26.3475(d)

Violation Description

Failed to provide proper corrosion protection for the UST system.

Base Penalty \$10,000

>> 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

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

1

89 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

One quarterly event is recommended from the August 19, 2009 investigation to the November 15, 2009 compliance date.

Good Faith Efforts to Comply

	10.0% Reduction	
	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		X
N/A	(mark with x)	

Notes

The Respondent came into compliance on November 15, 2009, after the NOE dated October 9, 2009.

Violation Subtotal \$2,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$169

Violation Final Penalty Total \$3,215

This violation Final Assessed Penalty (adjusted for limits) \$3,215

## Economic Benefit Worksheet

**Respondent** R N Business, Inc. dba Speedy Express 6 Food Store  
**Case ID No.** 38573  
**Reg. Ent. Reference No.** RN102231529  
**Media** Petroleum Storage Tank  
**Violation No.** 8

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							
<b>Delayed Costs</b>							
Equipment	\$10,000	19-Aug-2009	15-Nov-2009	0.24	\$8	\$161	\$169
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to provide corrosion protection for the UST system. The Date Required is the investigation date and the Final Date is the date of compliance.

**Avoided Costs**

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

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

\$10,000

TOTAL

\$169



Date: 04/17/2008 (608851)

Self NO Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.47(a)(2)

Description: 30 Tex. Admin. Code Section 334.47(a)(2) - Failure to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, an existing UST system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements.

Self NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.246(7)(A)

Description: 30 TAC '115.246 (7)(A) - Failure to maintain records on-site at facilities ordinarily manned during business hours, and made immediately available for review upon request by authorized representatives of the Texas Commission on Environmental Quality (TCEQ), the U.S. Environmental Protection Agency (EPA), or any local air pollution control program with jurisdiction.

Self NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.244(1)

Description: 30 TAC '115.244 (1) - Failure to conduct daily inspections for the Stage II Vapor Recovery system. These inspections shall include the applicable portions of Section 115.242(4) and Section 115.242(3)(A)-(F), (H)-(I).

Self NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.244(3)

Description: 30 TAC '115.244 (3) - Failure to conduct a monthly inspection of the components listed in 115.242(3)(J). These components include: any pressure/vacuum relief valves, vapor check valves and Stage I dry breaks.

Self NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)

Description: 30 TAC '115.242 (3)(G) - Failure to maintain all components of the Stage II Vapor Recovery system to an approved condition free of defects that would impair the effectiveness of the system -- vapor return lines, including such components as swivels, anti-recirculation valves, and underground piping, that malfunction, are blocked, or are restricted such that the pressure decay and/or dynamic back-pressure through the line exceeds the value as certified in the approved system's CARB Executive Order

Self NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.245(2)

Description: 30 TAC '115.245 (2) - Failure to verify proper operation of the Stage II equipment at least once every twelve months or upon major system replacement or modification. The verification shall include all functional tests that were required for the initial system test, which must be performed at least once every 36 months.

Self NO Classification: Major

Citation: 30 TAC Chapter 334, SubChapter C 334.49(a)

Description: 30 TAC ' 334.49(a) - Failure to protect the UST system from corrosion.

Date: 06/23/2008 (681641)

Self NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.246(7)(A)

Description: 30 TAC '115.246 (7)(A) - Failure to maintain records on-site at facilities ordinarily manned during business hours, and made immediately available for review upon request by authorized representatives of the Texas Commission on Environmental Quality (TCEQ), the U.S. Environmental Protection Agency (EPA), or any local air pollution control program with jurisdiction.

Self NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.244(1)

Description: 30 TAC '115.244 (1) - Failure to conduct daily inspections for the Stage II Vapor Recovery system. These inspections shall include the applicable portions of Section 115.242(4) and Section 115.242(3)(A)-(F), (H)-(I).

Self NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.244(3)

Description: 30 TAC '115.244 (3) - Failure to conduct a monthly inspection of the components listed

in 115.242(3)(J). These components include: any pressure/vacuum relief valves, vapor check valves and Stage I dry breaks.

Self	NO	Classification:	Moderate
Citation:	30 TAC Chapter 115, SubChapter C 115.242(3)		
Description:	30 TAC '115.242 (3)(G) - Failure to maintain all components of the Stage II Vapor Recovery system to an approved condition free of defects that would impair the effectiveness of the system -- vapor return lines, including such components as swivels, anti-recirculation valves, and underground piping, that malfunction, are blocked, or are restricted such that the pressure decay and/or dynamic back-pressure through the line exceeds the value as certified in the approved system's CARB Executive Order		
Self	NO	Classification:	Moderate
Citation:	30 TAC Chapter 115, SubChapter C 115.245(2)		
Description:	30 TAC '115.245 (2) - Failure to verify proper operation of the Stage II equipment at least once every twelve months or upon major system replacement or modification. The verification shall include all functional tests that were required for the initial system test, which must be performed at least once every 36 months.		
Self	NO	Classification:	Major
Citation:	30 TAC Chapter 334, SubChapter C 334.49(a)		
Description:	30 TAC ' 334.49(a) - Failure to protect the UST system from corrosion.		
Dat	04/06/2009	(741294)	
Self	NO	Classification:	Moderate
Citation:	30 TAC Chapter 115, SubChapter C 115.246(7)(A)		
Description:	30 TAC '115.246 (7)(A) - Failure to maintain records on-site at facilities ordinarily manned during business hours, and made immediately available for review upon request by authorized representatives of the Texas Commission on Environmental Quality (TCEQ), the U.S. Environmental Protection Agency (EPA), or any local air pollution control program with jurisdiction.		
Self	NO	Classification:	Moderate
Citation:	30 TAC Chapter 115, SubChapter C 115.244(1)		
Description:	30 TAC '115.244 (1) - Failure to conduct daily inspections for the Stage II Vapor Recovery system. These inspections shall include the applicable portions of Section 115.242(4) and Section 115.242(3)(A)-(F), (H)-(I).		
Self	NO	Classification:	Moderate
Citation:	30 TAC Chapter 115, SubChapter C 115.244(3)		
Description:	30 TAC '115.244 (3) - Failure to conduct a monthly inspection of the components listed in 115.242(3)(J). These components include: any pressure/vacuum relief valves, vapor check valves and Stage I dry breaks.		
Self	NO	Classification:	Moderate
Citation:	30 TAC Chapter 115, SubChapter C 115.242(3)		
Description:	30 TAC '115.242 (3)(G) - Failure to maintain all components of the Stage II Vapor Recovery system to an approved condition free of defects that would impair the effectiveness of the system -- vapor return lines, including such components as swivels, anti-recirculation valves, and underground piping, that malfunction, are blocked, or are restricted such that the pressure decay and/or dynamic back-pressure through the line exceeds the value as certified in the approved system's CARB Executive Orde		
Self	NO	Classification:	Moderate
Citation:	30 TAC Chapter 115, SubChapter C 115.245(2)		
Description:	30 TAC '115.245 (2) - Failure to verify proper operation of the Stage II equipment at least once every twelve months or upon major system replacement or modification. The verification shall include all functional tests that were required for the initial system test, which must be performed at least once every 36 months.		
Self	NO	Classification:	Major
Citation:	30 TAC Chapter 334, SubChapter C 334.49(a)		
Description:	30 TAC ' 334.49(a) - Failure to protect the UST system from corrosion.		

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  
R N BUSINESS, INC. DBA SPEEDY  
EXPRESS 5 FOOD STORE  
RN102231529**

§  
§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2009-1712-PST-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding R N Business, Inc. dba Speedy Express 5 Food Store ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

### I. FINDINGS OF FACT

1. The Respondent owns and operates a convenience store with retail sales of gasoline at 305 West House Street in Alvin, Brazoria County, Texas (the "Station").
2. The Respondent's three underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. During an investigation on August 19, 2009, TCEQ staff documented the Respondent:
  - a. Did not conduct effective manual or automatic inventory control procedures for the UST system;
  - b. Did not monitor the USTs for releases;
  - c. Did not test the line leak detectors;
  - d. Did not provide a release detection method for the USTs;
  - e. Did not record inventory volume measurement for the regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day;
  - f. Did not conduct daily inspections of the Stage II vapor recovery system;
  - g. Did not conduct monthly inspections of the Stage II vapor recovery system;
  - h. Did not ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system;
  - i. Did not maintain the Stage I vapor recovery system in proper operating condition;
  - j. Did not post operating instructions conspicuously on the front of each gasoline dispensing pump;
  - k. Did not maintain Stage II records at the Station; and
  - l. Did not provide proper corrosion protection for the UST system.
4. The Respondent received notice of the violations on October 9, 2009.
5. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Station:

- a. On August 27, 2009, inventory control records and reconciled records were provided to the Houston Regional Office;
- b. On August 31, 2009, a record of the Stage II triennial test was provided to the Houston Regional Office with passing results;
- c. On September 1, 2009, Statistical Inventory Reconciliation reports for the months of May, June, and July, with passing results, were provided to the Houston Regional Office; and
- d. On November 15, 2009, the installed corrosion protection system was properly inspected and tested, with passing results.

## II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3.a., the Respondent failed to conduct effective manual or automatic inventory control procedures for the UST system, in violation of 30 TEX. ADMIN. CODE § 334.48(c).
3. As evidenced by Findings of Fact No. 3.b., the Respondent failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1).
4. As evidenced by Findings of Fact No. 3.c., the Respondent failed to test the line leak detectors at least once per year for performance and operational reliability, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a).
5. As evidenced by Findings of Fact No. 3.d., the Respondent failed to provide a release detection method for the USTs by failing to conduct reconciliation of inventory control records at least once a month, in a manner sufficiently accurate to detect a release which equals or exceeds the sum of 1.0% of the total substance flow-through for the month plus 130 gallons, in violation of 30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1).
6. As evidenced by Findings of Fact No. 3.e.; the Respondent failed to record inventory volume measurement for the regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day, in violation of 30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(iii)(I) and TEX. WATER CODE § 26.3475(c)(1).

7. As evidenced by Findings of Fact No. 3.f., the Respondent failed to conduct daily inspections of the Stage II vapor recovery system, in violation of 30 TEX. ADMIN. CODE § 115.244(1) and TEX. HEALTH & SAFETY CODE § 382.085(b).
8. As evidence by Findings of Fact No. 3.g., the Respondent failed to conduct monthly inspections of the Stage II vapor recovery system, in violation of 30 TEX. ADMIN. CODE § 115.244(3) and TEX. HEALTH & SAFETY CODE § 382.085(b).
9. As evidenced by Findings of Fact No. 3.h., the Respondent failed to ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system, and each current employee receives in-house Stage II vapor recovery training regarding the purpose and correct operation of the Stage II equipment, in violation of 30 TEX. ADMIN. CODE § 115.248(1) and TEX. HEALTH & SAFETY CODE § 382.085(b).
10. As evidenced by Findings of Fact No. 3.i., the Respondent failed to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable California Air Resources Board Executive Order, and free of defects that would impair the effectiveness of the system, in violation of 30 TEX. ADMIN. CODE § 115.242(3) and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the swivel adaptors were absent on the vapor recovery drybreaks.
11. As evidenced by Findings of Fact No. 3.j., the Respondent failed to post operating instructions conspicuously on the front of each gasoline dispensing pump, in violation of 30 TEX. ADMIN. CODE § 115.242(9) and TEX. HEALTH & SAFETY CODE § 382.085(b).
12. As evidenced by Findings of Fact No. 3.k., the Respondent failed to maintain Stage II records at the Station, in violation of 30 TEX. ADMIN. CODE § 115.246(5) and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent did not maintain the Stage II test results.
13. As evidenced by Findings of Fact No. 3.l., the Respondent failed to provide proper corrosion protection for the UST system, in violation of 30 TEX. ADMIN. CODE § 334.49(a) and TEX. WATER CODE § 26.3475(d).
14. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
15. An administrative penalty in the amount of Sixteen Thousand Two Hundred Fourteen Dollars (\$16,214) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid Five Hundred Thirty-Four Dollars (\$534) of the administrative penalty. The remaining amount of Fifteen Thousand Six Hundred Eighty Dollars (\$15,680) of the administrative penalty shall be payable in 35 monthly payments of Four Hundred Forty-Eight Dollars (\$448) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment

until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

### III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Sixteen Thousand Two Hundred Fourteen Dollars (\$16,214) as set forth in Section II, Paragraph 15 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: R N Business, Inc. dba Speedy Express 5 Food Store, Docket No. 2009-1712-PST-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
12100 Park 35 Circle, Bldg. A  
Austin, Texas 78753

2. The Respondent shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Agreed Order, begin conducting daily and monthly inspections of the Stage II vapor recovery system, in accordance with 30 TEX. ADMIN. CODE § 115.244;
  - b. Within 30 days after the effective date of this Agreed Order:
    - i. Conduct testing of the line leak detectors, in accordance with 30 TEX. ADMIN. CODE § 334.50;
    - ii. Ensure that at least one Station representative successfully completes the required Stage II training and each current employee receives in-house training regarding the purpose and correct operating procedures of the Stage II vapor recovery system, in accordance with 30 TEX. ADMIN. CODE § 115.248;

- iii. Install swivel adaptors on the vapor recovery drybreaks, in accordance with 30 TEX. ADMIN. CODE § 115.242;
- iv. Post operating instructions conspicuously on the front of each gasoline dispensing pump, in accordance with 30 TEX. ADMIN. CODE § 115.242; and
- c. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a through 2.b.iv.

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:

Waste Section Manager  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Avenue, Suite H  
Houston, Texas 77023-1486

- 3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Station operations referenced in this Agreed Order.
- 4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days

after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
7. 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.
8. 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.
9. 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.
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

R N Business, Inc. dba Speedy Express 5 Food Store  
DOCKET NO. 2009-1712-PST-E  
Page 8

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

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

\_\_\_\_\_  
Date 3/3/2010

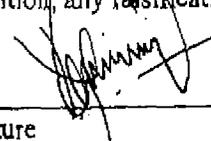
I, the undersigned, have read and understand the attached Agreed Order in the matter of R N Business, Inc. dba Speedy Express 5 Food Store. I am authorized to agree to the attached Agreed Order on behalf of R N Business, Inc. dba Speedy Express 5 Food Store, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, R N Business, Inc. dba Speedy Express 5 Food Store waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions, and
- TCEQ seeking other relief as authorized by law.

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

  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date 3-1-10

Naushad Ali Maredia  
Name (Printed or typed)  
Authorized Representative of  
R N Business, Inc. dba Speedy Express 5 Food Store

owner  
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.