

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-1716-PST-E **TCEQ ID:** RN102050762 **CASE NO.:** 38575

RESPONDENT NAME: CARMAX AUTO SUPERSTORES, INC. dba Carmax 7207

ORDER TYPE:		
<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	
CASE TYPE:		
<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>SITE WHERE VIOLATION(S) OCCURRED: Carmax 7207, 4448 West Plano Parkway, Plano, Collin County</p> <p>TYPE OF OPERATION: Automobile dealership with one aboveground storage tank for fleet refueling</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on April 12, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Wallace Myers, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-6580; Ms. Laurie Baves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Ms. Ali Woodworth, Environmental Health & Safety Coordinator, CARMAX AUTO SUPERSTORES, INC., 12800 Tuckahoe Creek Parkway, Richmond, Virginia 23238 Mr. Fred S. Wilson, Vice President, CARMAX AUTO SUPERSTORES, INC., 12800 Tuckahoe Creek Parkway, Richmond, Virginia 23238 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

DOCKET NO.: 2009-1716-PST-E

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: September 11, 2009</p> <p>Date of NOV/NOE Relating to this Case: September 22, 2009 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WASTE</p> <p>1) Failure to conduct daily and monthly inspections of the Stage II vapor recovery system [30 TEX. ADMIN. CODE § 115.244(1) and (3) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>2) 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 & SAFETY CODE § 382.085(b)].</p> <p>3) Failure to maintain all required Stage II records at the Station and make them immediately available for review upon request by agency personnel. Specifically, a copy of the California Air Resources Board (CARB) Executive Order was not available for review [30 TEX. ADMIN. CODE § 115.246(1) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>4) Failure to verify proper operation of the Stage II equipment at least once every 12 months. Specifically, the annual test was due January 18, 2009, but was not conducted until May 18, 2009 [30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$12,130</p> <p>Total Deferred: \$2,426 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$9,704</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Station:</p> <p>a. Replaced the dispenser hose on September 17, 2009;</p> <p>b. Completed certified Stage II representative training and all current employees received in-house Stage II vapor recovery training on September 28, 2009; and</p> <p>c. Successfully conducted the required annual testing of the Stage II equipment on May 18, 2009.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Immediately upon the effective date of this Agreed Order, begin maintaining all Stage II records at the Station.</p> <p>b. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Begin conducting daily and monthly inspections of the Stage II vapor recovery system; and</p> <p>ii. Implement improvements to reporting practices that address late submittal of the Stage II testing notifications/results and that are designed to prevent recurrence of late notifications/results.</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.ii.</p>

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<p>5) Failure to notify the agency of Stage II testing at least 10 working days prior to the test being conducted and failure to provide notification of a scheduled test cancellation within 24-hours of cancellation. Specifically, the Respondent did not submit notification, at least 10 days prior to the test date, for the test conducted on May 18, 2009 and did not notify the agency of cancellation of the test scheduled for April 7, 2009 [30 TEX. ADMIN. CODE § 115.245(3) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>6) Failure to submit Stage II test results to the agency within 10 working days after the test completion. Specifically, the Respondent did not submit Stage II test results, within 10 days, for tests conducted on January 18, 2009, March 4, 2009, and May 18, 2009 [30 TEX. ADMIN. CODE § 115.245(6) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>7) Failure to maintain the Stage II vapor recovery system in proper operating condition and free of defects that would impair the effectiveness of the system, including but not limited to absence or disconnection of any component that is a part of the approved system. Specifically, the dispenser had more than six inches of hose in contact with the ground [30 TEX. ADMIN. CODE § 115.242(3) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>		
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Additional ID No(s): 72687



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	28-Sep-2009	Screening	29-Sep-2009	EPA Due	
	PCW	22-Oct-2009				

RESPONDENT/FACILITY INFORMATION			
Respondent	CARMAX AUTO SUPERSTORES, INC. dba Carmax 7207		
Reg. Ent. Ref. No.	RN102050762		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	38575	No. of Violations	6
Docket No.	2009-1716-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Wallace Myers
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$11,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	5.0% Enhancement	Subtotals 2, 3, & 7	\$550
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Notes: Enhancement for one NOV with same or similar violations.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$850
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$1,478
Approx. Cost of Compliance	\$3,031

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$10,700
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OTHER FACTORS AS JUSTICE MAY REQUIRE	13.4%	Adjustment	\$1,430
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Reduces or enhances the Final Subtotal by the Indicated percentage.

Notes: Recommended enhancement to capture the avoided cost of compliance associated with violation nos. 1 and 4.

Final Penalty Amount	\$12,130
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$12,130
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DEFERRAL	20.0% Reduction	Adjustment	-\$2,426
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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	\$9,704
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Screening Date 29-Sep-2009

Docket No. 2009-1716-PST-E

PCW

Respondent CARMAX AUTO SUPERSTORES, INC. dba Carmax 721

Policy Revision 2 (September 2002)

Case ID No. 38575

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102050762

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Wallace Myers

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<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) 5%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with same or similar violations.

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

Screening Date 29-Sep-2009

Docket No. 2009-1716-PST-E

PCW

Respondent CARMAX AUTO SUPERSTORES, INC. dba Carmax 7207

Policy Revision 2 (September 2002)

Case ID No. 38575

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102050762

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Wallace Myers

Violation Number 1

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			Percent
	Major	Moderate	Minor	
Actual				10%
Potential		x		

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
				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 \$8,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 18

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 based on documentation of the violation during the September 11, 2009 investigation to the September 29, 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 \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$368

Violation Final Penalty Total \$1,190

This violation Final Assessed Penalty (adjusted for limits) \$1,190

Economic Benefit Worksheet

Respondent: CARMAX AUTO SUPERSTORES, INC. dba Carmax 7207
Case ID No.: 38575
Reg. Ent. Reference No.: RN102050762
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
<small>No commas or \$</small>							

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)				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	12-Aug-2009	11-Sep-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 29-Sep-2009

Docket No. 2009-1716-PST-E

PCW

Respondent CARMAX AUTO SUPERSTORES, INC. dba Carmax 7207

Policy Revision 2 (September 2002)

Case ID No. 38575

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN102050762

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Wallace Myers

Violation Number 2

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

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				10%
Potential		X		

>> 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 Number of violation days 11

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 based on documentation of the violation during the September 11, 2009 investigation to the September 28, 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 September 28, 2009.

Violation Subtotal \$900

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$1,077

This violation Final Assessed Penalty (adjusted for limits) \$1,077

Economic Benefit Worksheet

Respondent CARMAX AUTO SUPERSTORES, INC. dba Carmax 7207

Case ID No. 38575

Reg. Ent. Reference No. RN102050762

Media Petroleum Storage Tank

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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	11-Sep-2009	28-Sep-2009	0.05	\$1	n/a	\$1
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 Stage II Station representative and to conduct in-house Stage II training for current employees. 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 29-Sep-2009

Docket No. 2009-1716-PST-E

PCW

Respondent CARMAX AUTO SUPERSTORES, INC. dba Carmax 7207

Policy Revision 2 (September 2002)

Case ID No. 38575

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN102050762

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Wallace Myers

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 115.246(1) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to maintain all required Stage II records at the Station and make them immediately available for review upon request by agency personnel. Specifically, a copy of the California Air Resources Board (CARB) Executive Order was not available for review.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					0%
Potential					

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		X			10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 18

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 based on documentation of the violation during the September 11, 2009 investigation.

Good Faith Efforts to Comply

	0.0%	Reduction	\$0
	Before NCV	NCV to EDP RP/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 \$18

Violation Final Penalty Total \$1,190

This violation Final Assessed Penalty (adjusted for limits) \$1,190

Economic Benefit Worksheet

Respondent CARMAX AUTO SUPERSTORES, INC. dba Carmax 7207

Case ID No. 38575

Reg. Ent. Reference No. RN102050762

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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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	11-Sep-2009	29-May-2010	0.71	\$18	n/a	\$18
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 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

\$18

Screening Date	29-Sep-2009	Docket No.	2009-1716-PST-E	PCW
Respondent	CARMAX AUTO SUPERSTORES, INC. dba Carmax 7207			Policy Revision 2 (September 2002)
Case ID No.	38575			PCW Revision October 30, 2008
Reg. Ent. Reference No.	RN102050762			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Wallace Myers			
Violation Number	4			
Rule Cite(s)	30 Tex. Admin. Code § 115.245(2) and Tex. Health & Safety Code § 382.085(b)			
Violation Description	Failed to verify proper operation of the Stage II equipment at least once every 12 months. Specifically, the annual test was due January 18, 2009. A passing test was not conducted until May 18, 2009.			
Base Penalty				\$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			
	Major	Moderate	Minor	
	Actual	Potential		Percent
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	25%

>> Programmatic Matrix

	Major	Moderate	Minor	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Percent
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	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 Number of violation days

mark only one with an x

daily	<input type="checkbox"/>
weekly	<input type="checkbox"/>
monthly	<input type="checkbox"/>
quarterly	<input type="checkbox"/>
semiannual	<input type="checkbox"/>
annual	<input checked="" type="checkbox"/>
single event	<input type="checkbox"/>

Violation Base Penalty \$2,500

One annual event is recommended for the period preceding the May 18, 2009 date of compliance.

Good Faith Efforts to Comply

25.0% Reduction \$625

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>
Ordinary	<input checked="" type="checkbox"/>	<input type="checkbox"/>
N/A	(mark with x)	

Notes
The Respondent came into compliance on May 18, 2009, prior to the NOE issued on September 22, 2009.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,062

Violation Final Penalty Total \$2,267

This violation Final Assessed Penalty (adjusted for limits) \$2,267

Economic Benefit Worksheet

Respondent CARMAX AUTO SUPERSTORES, INC. dba Carmax 7207
Case ID No. 38575
Reg. Ent. Reference No. RN102050762
Media Petroleum Storage Tank
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				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]	\$1,000	18-Jan-2009	18-May-2009	1.25	\$62	\$1,000	\$1,062
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost for annual testing to verify proper operation of the Stage II equipment. The date required is the date the test was due and the final date is the date of compliance.

Approx. Cost of Compliance

\$1,000

TOTAL

\$1,062

Screening Date 29-Sep-2009

Docket No. 2009-1716-PST-E

PCW

Respondent CARMAX AUTO SUPERSTORES, INC. dba Carmax 7207

Policy Revision 2 (September 2002)

Case ID No. 38575

PCW Revisions October 30, 2009

Reg. Ent. Reference No. RN102050762

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Wallace Myers

Violation Number 5

Rule Cite(s)

30 Tex. Admin. Code § 115.245(3), (6) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to notify the agency of Stage II testing at least 10 working days prior to the test being conducted and failed to provide notification of a scheduled test cancellation within 24-hours of cancellation. Specifically, the Respondent did not submit notification, at least 10 days prior to the test date, for the test conducted on May 18, 2009 and did not notify the agency of cancellation of the test scheduled for April 7, 2009. Failed to submit Stage II test results to the agency within 10 working days after the test completion. Specifically, the Respondent did not submit Stage II test results, within 10 days, for tests conducted on January 18, 2009, March 4, 2009, and May 18, 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			10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 5 Number of violation days 5

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

Violation Base Penalty \$5,000

Five single events (one per notification) are recommended based on documentation of the violations during the September 11, 2009 investigation.

Good Faith Efforts to Comply

	0.0% Reduction	
	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

\$0

Notes

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

Violation Subtotal \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$29

Violation Final Penalty Total \$5,952

This violation Final Assessed Penalty (adjusted for limits) \$5,952

Economic Benefit Worksheet

Respondent CARMAX AUTO SUPERSTORES, INC. dba Carmax 7207

Case ID No. 38575

Reg. Ent. Reference No. RN102050762

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
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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	6-Apr-2009	29-May-2010	1.15	\$29	n/a	\$29
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 for additional oversight and management practices designed to ensure proper notification practices are followed. The date required is 24-hours prior to the April 7, 2009 test 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

\$600

TOTAL

\$29

Screening Date 29-Sep-2009

Docket No. 2009-1716-PST-E

PCW

Respondent CARMAX AUTO SUPERSTORES, INC. dba Carmax 7207

Policy Revision 2 (September 2002)

Case ID No. 38575

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102050762

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Wallace Myers

Violation Number 6

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 and free of defects that would impair the effectiveness of the system, including but not limited to absence or disconnection of any component that is a part of the approved system. Specifically, the dispenser had more than six inches of hose in contact with the ground.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				5%
Potential			x	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

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

Adjustment \$9,500

\$500

Violation Events

	1	6	Number of violation days
mark only one with an x	daily		
	weekly		
	monthly		
	quarterly	x	
	semiannual		
	annual		
	single event		

Violation Base Penalty \$500

One quarterly event is recommended based on documentation of the violation during the September 11, 2009 investigation to the September 17, 2009 compliance date.

Good Faith Efforts to Comply

	25.0%	Reduction	\$125
	Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary			
Ordinary	x		
N/A		(mark with x)	

Notes

The Respondent came into compliance on September 17, 2009, prior to the NOE received on September 28, 2009.

Violation Subtotal \$375

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$453

This violation Final Assessed Penalty (adjusted for limits) \$453

Economic Benefit Worksheet

Respondent CARMAX AUTO SUPERSTORES, INC. dba Carmax 7207
Case ID No. 38575
Reg. Ent. Reference No. RN102050762
Media Petroleum Storage Tank
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
<i>No commas or \$</i>							
Delayed Costs							
Equipment	\$181	11-Sep-2009	17-Sep-2009	0.02	\$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
 Actual cost, as per invoice, to replace the dispenser hose. 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
 (Empty box for notes)

Approx. Cost of Compliance **TOTAL**
\$0

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600366355	CARMAX AUTO SUPERSTORES, INC.	Classification: AVERAGE	Rating: 7.84
Regulated Entity:	RN102050762	Carmax 7207	Classification: AVERAGE	Site Rating: 2.00
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION		REGISTRATION	72687
Location:	4448 W PLANO PKWY, PLANO, TX, 75093			
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	September 29, 2009			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	September 29, 2004 to September 29, 2009			

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

Name: Wallace Myers Phone: 512-239-6580

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? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2009 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A
- B. Any criminal convictions of the state of Texas and the federal government.

N/A
- C. Chronic excessive emissions events.

N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	11/03/2004	(338501)
2	03/31/2005	(371953)
3	09/22/2009	(776126)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	11/04/2004	(338501)	Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 115, SubChapter C 115.241					
Description:	Failure to install an approved Stage II Vapor Recovery System.					
Self Report?	NO	Classification:	Moderate			
Citation:	30 TAC Chapter 115, SubChapter C 115.246(7)(A)					
Description:	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).					
- 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
CARMAX AUTO SUPERSTORES,
INC. DBA CARMAX 7207
RN102050762**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2009-1716-PST-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding CARMAX AUTO SUPERSTORES, INC. dba Carmax 7207 ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates an automobile dealership with one aboveground storage tank ("AST") for fleet refueling at 4448 West Plano Parkway in Plano, Collin County, Texas (the "Station").
2. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about September 27, 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 Twelve Thousand One Hundred Thirty Dollars (\$12,130) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Nine Thousand Seven Hundred Four Dollars (\$9,704) of the administrative penalty and Two Thousand Four Hundred Twenty-Six Dollars (\$2,426) 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 Station:
 - a. Replaced the dispenser hose on September 17, 2009;
 - b. Completed certified Stage II representative training and all current employees received in-house Stage II vapor recovery training on September 28, 2009; and
 - c. Successfully conducted the required annual testing of the Stage II equipment on May 18, 2009.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

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

1. Failed to conduct daily and monthly inspections of the Stage II vapor recovery system, in violation of 30 TEX. ADMIN. CODE § 115.244(1) and (3) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on September 11, 2009.

2. 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), as documented during an investigation conducted on September 11, 2009.
3. Failed to maintain all required Stage II records at the Station and make them immediately available for review upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 115.246(1) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on September 11, 2009. Specifically, a copy of the California Air Resources Board (CARB) Executive Order was not available for review.
4. Failed to verify proper operation of the Stage II equipment at least once every 12 months, in violation of 30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on September 11, 2009. Specifically, the annual test was due January 18, 2009, but was not conducted until May 18, 2009.
5. Failed to notify the agency of Stage II testing at least 10 working days prior to the test being conducted and failed to provide notification of a scheduled test cancellation within 24-hours of cancellation, in violation of 30 TEX. ADMIN. CODE § 115.245(3) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on September 11, 2009. Specifically, the Respondent did not submit notification, at least 10 days prior to the test date, for the test conducted on May 18, 2009 and did not notify the agency of cancellation of the test scheduled for April 7, 2009.
6. Failed to submit Stage II test results to the agency within 10 working days after the test completion, in violation of 30 TEX. ADMIN. CODE § 115.245(6) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on September 11, 2009. Specifically, the Respondent did not submit Stage II test results, within 10 days, for tests conducted on January 18, 2009, March 4, 2009, and May 18, 2009.
7. Failed to maintain the Stage II vapor recovery system in proper operating condition and free of defects that would impair the effectiveness of the system, including but not limited to absence or disconnection of any component that is a part of the approved system, in violation of 30 TEX. ADMIN. CODE § 115.242(3) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on September 11, 2009. Specifically, the dispenser had more than six inches of hose in contact with the ground.

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: CARMAX AUTO SUPERSTORES, INC. dba Carmax 7207, Docket No. 2009-1716-PST-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, begin maintaining all Stage II records at the Station, in accordance with 30 TEX. ADMIN. CODE § 115.246.
 - b. Within 30 days after the effective date of this Agreed Order:
 - i. Begin conducting daily and monthly inspections of the Stage II vapor recovery system, in accordance with 30 TEX. ADMIN. CODE § 115.244; and
 - ii. Implement improvements to reporting practices that address late submittal of the Stage II testing notifications/results and that are designed to prevent recurrence of late notifications/results, in accordance with TEX. ADMIN. CODE § 115.245.
 - 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.ii. 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
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

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. 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 Zedler
For the Executive Director

3/30/2010
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.

Felsner
Signature

1/25/2010
Date

Greg S. Wilson
Name (Printed or typed)
Authorized Representative of
CARMAX AUTO SUPERSTORES, INC. dba Carmax 7207

Vice President
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.