

**Executive Summary – Enforcement Matter – Case No. 41557
IZ, INC. d/b/a IZ Food Mart
RN102239035
Docket No. 2011-0653-PST-E**

Order Type:
Default Order

Findings Order Justification:
N/A

Media:
PST

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
699 West Renner Road, Richardson, Collin County

Type of Operation:
convenience store with retail sales of gasoline

Other Significant Matters:

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	\$15,914.74 (2006-1825-PST-E)
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

Texas Register Publication Date: October 14, 2011

Comments Received: None

Penalty Information

Total Penalty Assessed: \$16,780

Amount Deferred for Expedited Settlement: N/A

Amount Deferred for Financial Inability to Pay: N/A

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$16,780

Compliance History Classifications:

Person/CN – Poor
Site/RN – Poor

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: March 4, 2011
Date(s) of NOV(s): N/A
Date(s) of NOE(s): April 14, 2011

Violation Information

1. Failed to renew a previously, issued UST delivery certificate by submitting a properly completed UST registration and self-certification from at least 30 days before the expiration date [30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)].
2. Failed to maintain Stage II records at the Station and make them immediately available for review upon request by agency personnel [30 TEX. ADMIN. CODE § 115.246(7)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b)].
3. Failed to verify proper operation of the Stage II equipment at least once every 12 months or upon major system replacement or modification [30 TEX. ADMIN. CODE 115.245(2) and TEX. HEALTH SAFETY CODE § 382.085(b)].
4. Failed to make available to a common carrier a valid , current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs [30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a)].
5. Failed to pay the administrative penalty and associated late fees for TCEQ Financial Account No. 23703555 [TCEQ Agreed Order 2006-1825-PST-E, Ordering Provision No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:
N/A

Technical Requirements:

Respondent's UST fuel delivery certificate is revoked immediately. Respondent shall cease accepting fuel until such time as a valid delivery certificate is obtained from the TCEQ. Respondent may submit an application for a new fuel delivery certificate only after Respondent has complied with all of the requirements.

1. Immediately, Respondent shall begin maintaining all Stage II records at the Station.
2. Within 10 days, Respondent shall surrender its UST fuel delivery certificate.
3. Within 30 days:
 - a. Conduct the required annual and triennial testing of the Stage II equipment; and
 - b. Submit payment for outstanding penalties, including any associated late fees.
4. Within 45 days, submit written certification to demonstrate compliance with Technical Requirements Nos. 1 through 3.
5. Upon obtaining a new fuel delivery certificate, post the fuel delivery certificate in a location at the Station where the delivery certificate is clearly visible at all times.

Executive Summary – Enforcement Matter – Case No. 41557
IZ, INC. d/b/a IZ Food Mart
RN102239035
Docket No. 2011-0653-PST-E

Page 3 of 3

Litigation Information

Date Petition(s) Filed: July 7, 2011 (no service); July 29, 2011
Date(s) Green Card(s) Signed: August 1, 2011
Date(s) Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A

Contact Information

TCEQ Attorneys: Jim Sallans, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
TCEQ Enforcement Coordinator: Brianna Carlson, Waste Enforcement Section, (361) 825-3420
TCEQ Regional Contact: Samuel Barrett, Dallas/Fort Worth Regional Office, (817) 588-5903
Respondent: Jamila Pirani, Director, IZ, Inc., 3069 Neiman Road, Plano, Texas 75025
Muneerah Hussain, Director, IZ, Inc., 1004 Vestal Lane, Carrollton, Texas 75007
Respondent's Attorney: N/A

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Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	18-Apr-2011	Screening	25-Apr-2011	EPA Due	
	PCW	6-May-2011				

RESPONDENT/FACILITY INFORMATION			
Respondent	IZ, INC. dba IZ Food Mart		
Reg. Ent. Ref. No.	RN102239035		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	41557	No. of Violations	5
Docket No.	2011-0653-PST-E	Order Type	Findings
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Brianna Carlson
		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	\$12,500
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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	30.0% Enhancement	Subtotals 2, 3, & 7	\$3,750
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Notes	Enhancement for poor performer classification and one 1660 order.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$557	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$1,100	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$16,250
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OTHER FACTORS AS JUSTICE MAY REQUIRE	3.3%	Adjustment	\$530
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Enhancement to capture the avoided cost of compliance associated with violation no. 3.
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Final Penalty Amount	\$16,780
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$16,780
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	No deferral is recommended for Findings Orders.
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PAYABLE PENALTY	\$16,780
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Screening Date 25-Apr-2011

Docket No. 2011-0653-PST-E

PCW

Respondent IZ, INC. dba IZ Food Mart

Policy Revision 2 (September 2002)

Case ID No. 41557

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102239035

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Brianna Carlson

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	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 (<i>number of judgements or consent decrees meeting criteria</i>)	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 (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	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 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	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) 20%

>> 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 and one 1660 order.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 30%

Screening Date 25-Apr-2011
Respondent IZ, INC. dba IZ Food Mart
Case ID No. 41557
Reg. Ent. Reference No. RN102239035
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Brianna Carlson

Docket No. 2011-0653-PST-E

PCW

Policy Revision 2 (September 2002)
PCW Revision October 30, 2008

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="25%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input checked="" type="text" value="x"/>

Violation Base Penalty

Good Faith Efforts to Comply

Reduction

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

Notes

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent IZ, INC. dba IZ Food Mart
Case ID No. 41557
Req. Ent. Reference No. RN102239035
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				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)	\$100	29-Jan-2011	20-Jan-2012	0.98	\$5	n/a	\$5

Notes for DELAYED costs

Estimated cost to obtain a current TCEQ or renew the delivery certificate by submitting a properly completed UST registration and self-certification form. The date required is 30 days prior to the expiration date of the delivery certificate 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

\$100

TOTAL

\$5

Screening Date 25-Apr-2011
Respondent IZ, INC. dba IZ Food Mart
Case ID No. 41557
Reg. Ent. Reference No. RN102239035
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Brianna Carlson

Docket No. 2011-0653-PST-E

PCW

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Violation Number

Rule Cite(s)

Violation Description

Failed to maintain Stage II records at the Station and make them immediately available for review upon request by agency personnel. Specifically, the California Air Resources Board Executive Order, maintenance records, records of employee training, copies of test results, and daily and monthly inspection records were not observed on-site as required.

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="25%"/>

Matrix Notes

100% of the rule requirement was not met.

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

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

Violation Base Penalty

One single event is recommended based on documentation of the violation during the March 4, 2011 investigation.

Good Faith Efforts to Comply

Reduction

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

Notes

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

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent IZ, INC. dba IZ Food Mart
Case ID No. 41557
Req. Ent. Reference No. RN102239035
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	\$500	4-Mar-2011	20-Jan-2012	0.88	\$22	n/a	\$22
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

\$22

Screening Date 25-Apr-2011
Respondent IZ, INC. dba IZ Food Mart
Case ID No. 41557
Reg. Ent. Reference No. RN102239035
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Brianna Carlson

Docket No. 2011-0653-PST-E

PCW

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="50%"/>
	Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

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

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

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

Violation Base Penalty

Good Faith Efforts to Comply

Reduction

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="x"/>	(mark with x)

Notes

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent IZ, INC. dba IZ Food Mart
Case ID No. 41557
Req. Ent. Reference No. RN102239035
Media Petroleum Storage Tank
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$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]	\$500	19-Nov-2010	4-Mar-2011	1.21	\$30	\$500	\$530
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 annual test was due and the final date is the investigation date.

Approx. Cost of Compliance \$500

TOTAL \$530

Screening Date 25-Apr-2011
Respondent IZ, INC. dba IZ Food Mart
Case ID No. 41557
Reg. Ent. Reference No. RN102239035
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Brianna Carlson

Docket No. 2011-0653-PST-E

PCW

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 334.8(c)(5)(A)(i) and Tex. Water Code § 26.3467(a)

Violation Description Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs. Specifically, a fuel delivery was accepted without a delivery certificate.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
		x			25%

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 1 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$2,500

One single event is recommended for accepting a delivery of fuel without a valid delivery certificate.

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 \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$3,356

This violation Final Assessed Penalty (adjusted for limits) \$3,356

Economic Benefit Worksheet

Respondent IZ, INC. dba IZ Food Mart
Case ID No. 41557
Req. Ent. Reference No. RN102239035
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
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Economic benefit included in Violation No. 1

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

\$0

TOTAL

\$0

Screening Date 25-Apr-2011
Respondent IZ, INC. dba IZ Food Mart
Case ID No. 41557
Reg. Ent. Reference No. RN102239035
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Brianna Carlson

Docket No. 2011-0653-PST-E

PCW

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

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

Violation Base Penalty

Good Faith Efforts to Comply

Reduction

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

Notes

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent IZ, INC. dba IZ Food Mart
Case ID No. 41557
Req. Ent. Reference No. RN102239035
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				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

N/A

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

\$0

TOTAL

\$0

Compliance History

Customer/Respondent/Owner-Operator: CN601602030 IZ, INC. Classification: POOR Rating: 85.00
Regulated Entity: RN102239035 IZ Food Mart Classification: POOR Site Rating: 85.00
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 5663
REGISTRATION
Location: 699 W RENNERS RD, RICHARDSON, TX, 75080
TCEQ Region: REGION 04 - DFW METROPLEX
Date Compliance History Prepared: May 06, 2011
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: May 06, 2006 to May 06, 2011
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History:
Name: Brianna Carlson Phone: 361/825-3420

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: 9/1/2010 Repeat Violator: NO

Components (Multimedia) for the Site:

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

Effective Date: 04/14/2008

ADMINORDER 2006-1825-PST-E

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.244(1)
30 TAC Chapter 115, SubChapter C 115.244(3)
5C THC Chapter 382, SubChapter D 382.085(b)

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

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.248(1)
5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failed to ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system.

Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.246(1)
30 TAC Chapter 115, SubChapter C 115.246(3)
5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failed to maintain records on-site of all required Stage I and Stage II records pertaining to a UST system for inspection by Commission personnel.

Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.242(9)
5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failed to post operating instructions conspicuously on the front of each gasoline dispensing pump equipped with a Stage II vapor recovery system.

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(A)
5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failed to provide and maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable CARB Order(s), and free of defects that would impair the effectiveness of the system, including, but not limited to absence or disconnection of any component.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3475(c)(1)
30 TAC Chapter 334, SubChapter C 334.50(a)(1)(A)

Description: Failed to provide a method of release detection capable of detecting a release from any portion of the UST system which contained regulated substances including tanks, piping, and other ancillary equipment.

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.48(c)

Description: Failed to conduct effective manual or automatic monthly inventory control procedures for all USTs involved in the retail sale of petroleum substances used as motor fuel each operating day.

- 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 10/13/2006 (513856)
2 08/02/2010 (841728)
3 04/14/2011 (905553)

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

N/A

- F. Environmental audits.

N/A

- G. Type of environmental management systems (EMSs).

N/A

- H. Voluntary on-site compliance assessment dates.

N/A

- I. Participation in a voluntary pollution reduction program.

N/A

- J. Early compliance.

N/A

Sites Outside of Texas

N/A

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
IZ, INC. DBA IZ FOOD MART;
RN102239035**

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§
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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2011-0653-PST-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's First Amended Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26, TEX. HEALTH & SAFETY CODE ch. 382, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty, corrective action of the respondent, and revocation of the respondent's fuel delivery certificate. The respondent made the subject of this Order is IZ, INC. dba IZ Food Mart ("Respondent").

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

FINDINGS OF FACT

1. Respondent owns and operates, as defined in 30 TEX. ADMIN. CODE § 334.2(73) and (70), an underground storage tank ("UST") system and a convenience store with retail sales of gasoline located at 699 West Renner Road in Richardson, Collin County Texas (the "Station"). The USTs at the Station are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission, and contain a regulated petroleum substance as defined in the rules of the TCEQ. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. During an investigation conducted on March 4, 2011, a TCEQ Dallas/Fort Worth Regional Office investigator documented that Respondent:
 - a. Failed to renew a previously issued UST certificate by submitting a properly completed registration and self-certification form at least 30 days before the expiration date. Specifically, the delivery certificate had expired on February 28, 2011;
 - b. Failed to maintain Stage II records at the Station and make them immediately available for review upon request by agency personnel. Specifically, the California Air Resources Board Executive Order, maintenance records, records of employee training, copies of test results, and daily and monthly inspection records were not on-site as required;

- c. Failed to verify proper operation of the Stage II equipment at least once every 12 months or upon major system replacement or modification, whichever occurs first. Specifically, Respondent failed to conduct the annual test by the due date of November 19, 2010;
 - d. Failed to make available to a common carrier a valid, current, TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs. Specifically, a fuel delivery was accepted without a delivery certificate; and
 - e. Failed to pay administrative penalty and associated late fees for TCEQ Financial Account No. 23703555. Specifically, Respondent failed to comply with the payment requirements of TCEQ Agreed Order 2006-1825-PST-E, Ordering Provision No. 1.
3. Respondent received notice of the violations on or about April 19, 2011.
 4. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of IZ, INC. dba IZ Food Mart" (the "EDPRP") in the TCEQ Chief Clerk's office on July 7, 2011. Service was unsuccessful.
 5. The Executive Director filed the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of IZ, INC. dba IZ Food Mart" (the "EDFARP") in the TCEQ Chief Clerk's office on July 29, 2011.
 6. By letter dated July 29, 2011, sent to Respondent's last known address via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDFARP. According to the return receipt "green card," Respondent received notice of the EDFARP on August 1, 2011, as evidenced by the signature on the card.
 7. More than 20 days have elapsed since Respondent received notice of the EDFARP. Respondent failed to file an answer and failed to request a hearing.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26, TEX. HEALTH & SAFETY CODE ch. 382, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification from at least 30 days before the expiration date, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to maintain 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(7)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b).
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to verify proper operation of the Stage II equipment at least once every 12 months or upon major system replacement or modification, whichever occurs first, in violation of 30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b).
 5. As evidenced by Finding of Fact No. 2.d., Respondent failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a).
 6. As evidenced by Finding of Fact No. 2.e., Respondent failed to pay the administrative penalty and associated late fees for TCEQ Financial Account No. 23703555, in violation of TCEQ Agreed Order 2006-1825-PST-E, Ordering Provision No. 1.
 7. As evidenced by Findings of Fact Nos. 5 and 6, the Executive Director timely served Respondent with proper notice of the EDFARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
 8. As evidenced by Finding of Fact No. 7, Respondent failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.
 9. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
 10. An administrative penalty in the amount of sixteen thousand seven hundred eighty dollars (\$16,780.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
 11. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.
 12. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke Respondent's UST fuel delivery certificate if the Commission finds that good cause exists.
 13. Good cause for revocation of Respondent's UST fuel delivery certificate exists as justified by Findings of Fact Nos. 2 and 5 through 7, and Conclusions of Law Nos. 2 through 8.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty in the amount of sixteen thousand seven hundred eighty dollars (\$16,780.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here.
2. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: IZ, INC. DBA IZ Food Mart; Docket No. 2011-0653-PST-E" to:

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

3. Respondent's UST fuel delivery certificate is revoked immediately upon the effective date of this Order. Respondent shall cease accepting fuel until such time as a valid delivery certificate is obtained from the TCEQ in accordance with 30 TEX. ADMIN. CODE §§ 334.7 and 334.8. Respondent may submit an application for a new fuel delivery certificate only after Respondent has complied with all of the requirements of this Order.
4. Within 10 days after the effective date of this Order, Respondent shall send its UST fuel delivery certificate to:

Petroleum Storage Tank Registration Team, MC 138
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

5. Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Order, Respondent shall begin maintaining all Stage II records at the Station, in accordance with 30 TEX. ADMIN. CODE § 115.246 (Conclusion of Law No. 3);
 - b. Within 30 days after the effective date of this Order, Respondent shall:
 - i. Conduct the required annual and triennial testing of the Stage II equipment, in accordance with 30 TEX. ADMIN. CODE § 115.245 (Conclusion of Law No. 4); and

- ii. Submit payment for outstanding penalties, including any associated late fees, with the notation, "IZ, INC. DBA IZ Food Mart, Account No 23703555," 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

- c. Within 45 days after the effective date of this Order, Respondent shall submit written certification and detailed supporting documentation, in accordance with Ordering Provision No. 5.d., below, to demonstrate compliance with Ordering Provisions Nos. 4 through 5.b.ii.
- d. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Respondent shall submit the written certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

Sam Barrett, Waste Section Manager
Texas Commission on Environmental Quality
Dallas/Fort Worth Regional Office
2309 Gravel Drive
Fort Worth, Texas 76118-6951

6. Upon obtaining a new fuel delivery certificate, Respondent shall post the fuel delivery certificate in a location at the Station where the delivery certificate is clearly visible at all times, in accordance with 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(iii).

7. All relief not expressly granted in this Order is denied.
8. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Station operations referenced in this Order.
9. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
10. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
11. 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 Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
12. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
13. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

S I G N A T U R E P A G E

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF JIM SALLANS

STATE OF TEXAS

§

COUNTY OF TRAVIS

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"My name is Jim Sallans. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

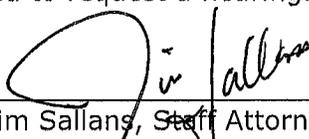
On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of IZ, INC. DBA IZ Food Mart" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on July 7, 2011.

The EDPRP was mailed to Respondent's last known address on July 7, 2011, via certified mail, return receipt requested, and via first class mail, postage prepaid. The Executive Director was not able to achieve service.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of IZ, INC. DBA IZ Food Mart" (the "EDFARP") was filed in the TCEQ Chief Clerk's office on July 29, 2011.

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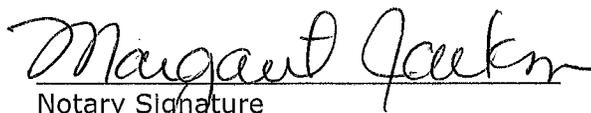
More than 20 days have elapsed since Respondent received notice of the EDFARP. Respondent failed to file an answer and failed to request a hearing."



Jim Sallans, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Jim Sallans, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that click to choose executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 23 day of September, A.D. 2011.


Notary Signature