

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 44430
SAMODA INC d/b/a Amigo Food Mart
RN102273877
Docket No. 2012-1287-PST-E

Order Type:

Agreed Order

Media:

PST

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

390 Aldine Bender Road, Houston, Harris County

Type of Operation:

convenience store

Other Significant Matters:

Additional Pending Enforcement Actions: None
Past-Due Penalties: None
Past-Due Fees: None
Other: None
Interested Third-Parties: None

Texas Register Publication Date: April 26, 2013

Comments Received: None

Penalty Information

Total Penalty Assessed: \$8,063

Total Paid to General Revenue: \$363

Total Due to General Revenue: \$7,700

Payment Plan: 35 payments of \$220

Compliance History Classifications:

Person/CN – Average
Site/RN – Average

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: September, 2011

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: May 29, 2012

Date(s) of NOV(s): N/A

Date(s) of NOE(s): May 31, 2012

Violation Information

1. 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 received in-house Stage II vapor recovery training regarding the purpose and correct operating procedure of the vapor recovery system [30 TEX. ADMIN. CODE § 115.248(1) and TEX. HEALTH & SAFETY CODE § 382.085(b)].
2. Failed to verify proper operation of the Stage II equipment at least once every 12 months and the Stage II vapor space manifolding and dynamic back pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first [30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b)].
3. 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 [30 TEX. ADMIN. CODE § 115.242(3)(G) and TEX. HEALTH & SAFETY CODE § 382.085(b)].
4. Failed to post operating instructions conspicuously on the front of each gasoline dispensing pump [30 TEX. ADMIN. CODE § 115.242(9) and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

None

Technical Requirements:

1. Within 30 days:
 - a. 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 received in-house Stage II vapor recovery training regarding the purpose and correct operating procedure of the vapor recovery system;
 - b. Conduct the required annual and triennial testing of the Stage II equipment;
 - c. Begin maintaining the Stage II vapor recovery system in proper operating condition; and
 - d. Post operating instructions conspicuously on the front of each gasoline dispensing pump.
2. Within 45 days submit written certification to demonstrate compliance

Litigation Information

Date Petition(s) Filed: December 6, 2012

Date Answer(s) Filed: N/A

Settlement Date: March 21, 2013

Contact Information

TCEQ Attorneys: Cullen McMorrow, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Garrett Arthur, Public Interest Counsel, (512) 239-6363

TCEQ SEP Coordinator: N/A

TCEQ Enforcement Coordinator: Danielle Porras, Enforcement Division, (713) 767-3682

TCEQ Regional Contact: Jason Ybarra, Houston 12 Regional Office, (713) 767-3500

Respondent: Norman Sheikh, Director, SAMODA INC, 390 Aldine Bender Road, Houston, TX 77060

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	5-Jun-2012		
	PCW	1-Oct-2012	Screening	27-Jun-2012
			EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	SAMODA INC dba Amigo Food Mart		
Reg. Ent. Ref. No.	RN102273877		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	44430	No. of Violations	4
Docket No.	2012-1287-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Danielle Porras
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$7,500
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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	0.0% Enhancement	Subtotals 2, 3, & 7	\$0
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Notes	No adjustment due to compliance history.
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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	\$601	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$1,550	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$7,500
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OTHER FACTORS AS JUSTICE MAY REQUIRE	7.5%	Adjustment	\$563
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Enhancement to capture the avoided costs of compliance associated with violation no. 2.
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Final Penalty Amount	\$8,063
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$8,063
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Deferral not offered for non-expedited settlement.
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PAYABLE PENALTY	\$8,063
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Screening Date 27-Jun-2012

Docket No. 2012-1287-PST-E

PCW

Respondent SAMODA INC dba Amigo Food Mart

Policy Revision 3 (September 2011)

Case ID No. 44430

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102273877

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Danielle Porras

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written 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>)	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 (<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)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

No adjustment due to compliance history.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100%

Screening Date 27-Jun-2012 **Docket No.** 2012-1287-PST-E **PCW**
Respondent SAMODA INC dba Amigo Food Mart *Policy Revision 3 (September 2011)*
Case ID No. 44430 *PCW Revision August 3, 2011*
Reg. Ent. Reference No. RN102273877
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Danielle Porras

Violation Number 1

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 received in-house Stage II vapor recovery training regarding the purpose and correct operating procedure of the vapor recovery system.

Base Penalty \$25,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				5.0%
	Potential		x		

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
					0.0%

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 \$23,750

\$1,250

Violation Events

Number of Violation Events 1 29 Number of violation days

<i>mark only one with an x</i>	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,250

One quarterly event is recommended from the May 29, 2012 investigation date to the June 27, 2012 screening date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$18

Violation Final Penalty Total \$1,344

This violation Final Assessed Penalty (adjusted for limits) \$1,344

Economic Benefit Worksheet

Respondent SAMODA INC dba Amigo Food Mart
Case ID No. 44430
Reg. Ent. Reference No. RN102273877
Media Violation No. 1
Media 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
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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	29-May-2012	22-Feb-2013	0.74	\$18	n/a	\$18
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 employee Stage II training. 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
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Screening Date 27-Jun-2012
Respondent SAMODA INC dba Amigo Food Mart
Case ID No. 44430
Reg. Ent. Reference No. RN102273877
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Danielle Porras

Docket No. 2012-1287-PST-E

PCW

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

Violation Number 2

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 and the Stage II vapor space manifolding and dynamic back pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first. Specifically, the Stage II annual and triennial system compliance tests were not conducted.

Base Penalty \$25,000

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

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor

Percent 0.0%

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 \$21,250

\$3,750

Violation Events

Number of Violation Events 1

610 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$3,750

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$563

Violation Final Penalty Total \$4,032

This violation Final Assessed Penalty (adjusted for limits) \$4,032

Economic Benefit Worksheet

Respondent SAMODA INC dba Amigo Food Mart
Case ID No. 44430
Reg. Ent. Reference No. RN102273877
Media Violation No. Petroleum Storage Tank
 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				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	26-Oct-2010	29-May-2012	2.51	\$63	\$500	\$563
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost for annual and triennial testing of the Stage II equipment. The Date Required is the date of ownership change and the Final Date is the investigation date.

Approx. Cost of Compliance \$500

TOTAL \$563

Screening Date 27-Jun-2012
Respondent SAMODA INC dba Amigo Food Mart
Case ID No. 44430
Reg. Ent. Reference No. RN102273877
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Danielle Porras

Docket No. 2012-1287-PST-E

PCW

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 115.242(3)(G) 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. Specifically, the Stage II system was not operating properly, which resulted in a Stage II pressure decay test failure.

Base Penalty \$25,000

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

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			x	5.0%
Potential				

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1 29 Number of violation days

<i>mark only one with an x</i>	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,250

One quarterly event is recommended from the May 29, 2012 investigation date to the June 27, 2012 screening date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$18

Violation Final Penalty Total \$1,344

This violation Final Assessed Penalty (adjusted for limits) \$1,344

Economic Benefit Worksheet

Respondent SAMODA INC dba Amigo Food Mart
Case ID No. 44430
Reg. Ent. Reference No. RN102273877
Media Violation No. 3
 Petroleum Storage Tank

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)	\$500	29-May-2012	22-Feb-2013	0.74	\$18	n/a	\$18

Notes for DELAYED costs

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

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$500

TOTAL \$18

Screening Date 27-Jun-2012
Respondent SAMODA INC dba Amigo Food Mart
Case ID No. 44430
Reg. Ent. Reference No. RN102273877
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Danielle Porras

Docket No. 2012-1287-PST-E

PCW

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

Violation Number 4

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

Violation Description Failed to post operating instructions conspicuously on the front of each gasoline dispensing pump. Specifically, dispenser nos. 1, 2, and 4 did not contain operating instructions.

Base Penalty \$25,000

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

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				5.0%
Potential		x		

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
				0.0%

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 \$23,750

\$1,250

Violation Events

Number of Violation Events 1 29 Number of violation days

<i>mark only one with an x</i>	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
single event	x	

Violation Base Penalty \$1,250

One single event is recommended based on documentation of the violation during the May 29, 2012 investigation.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$1,344

This violation Final Assessed Penalty (adjusted for limits) \$1,344

Economic Benefit Worksheet

Respondent SAMODA INC dba Amigo Food Mart
Case ID No. 44430
Reg. Ent. Reference No. RN102273877
Media Violation No. 4
Media Petroleum Storage Tank

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)	\$50	29-May-2012	22-Feb-2013	0.74	\$2	n/a	\$2

Notes for DELAYED costs
 Estimated cost to post Stage II operating instructions on each dispensing pump. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$50

TOTAL \$2

Compliance History Report

Customer/Respondent/Owner-Operator: CN603785924 SAMODA INC Classification:Average Rating:4.20
Regulated Entity: RN102273877 Amigo Food Mart Classification:Average Site Rating:4.20
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 35109
Location: 390 ALDINE BENDER RD, HOUSTON, TX, 77060
TCEQ Region: REGION 12 - HOUSTON
Date Compliance History Prepared: 6/27/2012
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: June 27, 2007 to June 27, 2012
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Danielle Porras Phone: (713) 767-3682

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? YES
2. Has there been a (known) change in ownership/operator of the site during the compliance period? YES
3. If YES, who is the current owner/operator? SAMODA INC, OWNER OPERATOR
4. If YES, who was/were the prior owner(s)/operator(s)?
BASRA, HAFEEZ, OPERATOR, 12/1/2008 to 10/26/2010
Your Corner Food Store, OWNER OPERATOR, 7/1/2007 to 12/1/2008
Your Corner Food Store, OWNER, 12/1/2008 to 10/26/2010
Your Corner Food Store, OWNER, 4/4/2001 to 7/1/2007
BASRA, HAFEEZ, OPERATOR, 9/1/1993 to 7/1/2007
5. If YES, when did the change(s) in owner or operator occur? 10/26/2010
6. Rating Date: 9/1/2011 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.
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 5/31/2012 (1008719)
2 5/17/2011 (893458)
 - 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
SAMODA INC D/B/A
AMIGO FOOD MART;
RN102273877**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2012-1287-PST-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding SAMODA INC d/b/a Amigo Food Mart ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26 and TEX. HEALTH & SAFETY CODE ch. 382. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent together stipulate that:

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 390 Aldine Bender Road in Houston, Harris County, Texas (Facility ID No. 35109) (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. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE chs. 26, TEX. HEALTH & SAFETY CODE ch. 382, and TCEQ rules.
3. The Executive Director and Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondent is subject to the Commission's jurisdiction.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of eight thousand sixty three dollars (\$8,063.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid three hundred sixty three dollars (\$363.00) of the administrative penalty. The remaining amount of seven thousand seven hundred dollars (\$7,700.00) of the administrative penalty shall be payable in thirty-five (35) monthly payments of two hundred twenty dollars (\$220.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the

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

6. 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.
7. The Executive Director and Respondent agree on a settlement of the matters addressed in this Agreed Order, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
8. 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 Respondent has not complied with one or more of the terms or conditions contained in this Agreed Order.
9. 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.
10. The provisions of this Agreed Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

1. During an investigation conducted on May 29, 2012, an investigator with the UTA Houston Stage II/PST Program (UST contractor) documented that Respondent:
 - a. 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 received in-house Stage II vapor recovery training regarding the purpose and correct operating procedure of the vapor recovery system, in violation of 30 TEX. ADMIN. CODE § 115.248(1) and TEX. HEALTH & SAFETY CODE § 382.085(b);
 - b. Failed to verify proper operation of the Stage II equipment at least once every 12 months and the Stage II vapor space manifolding and dynamic back pressure at least once every 36 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). Specifically, the Stage II annual and triennial system compliance tests were not conducted;
 - c. 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, in violation of 30 TEX. ADMIN. CODE § 115.242(3)(G) and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Stage II system was not operating properly, which resulted in a State II pressure decay test failure;
 - d. Failed to post operating instructions conspicuously on the front of each gasoline dispensing pump, in violation of 30 TEX. ADMIN. CODE § 115.242(9) and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, dispenser nos. 1, 2, and 4 did not contain operating instructions.
2. Respondent received notice of the violations on or about June 5, 2012.

III. DENIALS

Respondent generally denies each Allegation in Section II.

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Respondent pay an administrative penalty as set forth in Section I, Paragraph 5, above. The payment of this administrative penalty and 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 considering or requiring corrective actions or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: SAMODA INC d/b/a Amigo Food Mart, Docket No. 2012-1287-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
2. Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, Respondent shall:
 - i. 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 received in-house Stage II vapor recovery training regarding the purpose and correct operating procedure of the vapor recovery system, in accordance with 30 TEX. ADMIN. CODE § 115.248(1);
 - ii. Conduct the required annual and triennial testing of the Stage II equipment, in accordance with of 30 TEX. ADMIN. CODE § 115.245(2);
 - iii. Begin maintaining the Stage II vapor recovery system in proper operating condition, in accordance with 30 TEX. ADMIN. CODE § 115.242(3)(G); and
 - iv. Post operating instructions conspicuously on the front of each gasoline dispensing pump, in accordance with of 30 TEX. ADMIN. CODE § 115.242(9).
 - b. Within 45 days after the effective date of this Agreed Order, Respondent shall submit written certification to demonstrate compliance with Ordering Provision No. 2.a. The certification 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 certification 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:

Jason Ybarra, Waste Section Manager
Houston 12 Regional Office
Texas Commission on Environmental Quality
5425 Polk St., Ste. H
Houston TX 77023-1452

3. All relief not expressly granted in this Agreed Order is denied.
4. The duties and provisions imposed by this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Station operations referenced in this Agreed Order.
5. If 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, Respondent's failure to comply is not a violation of this Agreed 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.
6. 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 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.
7. This Agreed Order, issued by the Commission, shall not be admissible against 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.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created,

executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission" "owner" "person" "writing" and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

9. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails a copy of the fully executed Agreed Order to Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

[Signature]
For the Executive Director

June 12, 2013
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of SAMODA INC d/b/a Amigo Food Mart, 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 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;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.

Norman Sheikh
Signature - Norman Sheikh, Director
SAMODA INC.

03-21-13
Date

