

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE No. 54555
M.A.A.A. ENTERPRISES, INC. dba Clinton Food Market
RN100647593
Docket No. 2017-0804-PST-E

Page 1 of 3

Order Type:

Default Shutdown Order

Media:

PST

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

9919 Clinton Drive, Houston, Harris County

Type of Operation:

convenience store with retail sales of gasoline

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: June 15, 2018

Comments Received: None

Penalty Information

Total Penalty Assessed: \$24,800

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$24,800

Compliance History Classifications:

Person/CN – Satisfactory
Site/RN – Satisfactory

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: March 16, 2017

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

Date(s) of NOE(s): May 15, 2017

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Docket No. 2017-0804-PST-E

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Violation Information

1. Failed to conduct daily and monthly inspections of the Stage II vapor recovery system [TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.244(1) and (3)].
2. Failed to maintain Stage II records at the Station and make them immediately available for review upon request by agency personnel [TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.246(a)(1), (a)(3), and (a)(4)].
3. Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel [30 TEX. ADMIN. CODE §§ 37.815(a), 334.10(b)(1)(B), 334.49(e)(2), 334.51(c)(1), 334.603(b)(1) and (b)(2), and 334.606].
4. Failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) [TEX. WATER CODE § 26.3475(c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(A)].
5. Failed to remove and properly dispose of any liquid or debris found in any sumps, manways, overspill containers or catchment basins associated with a UST system within 96 hours of discovery [TEX. WATER CODE § 26.3475(c)(2) and 30 TEX. ADMIN. CODE § 334.42(i)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

None

Technical Requirements:

1. Immediately shut down operations of all USTs at the Station:
 - a. Cease dispensing fuel from the USTs;
 - b. Cease receiving deliveries of regulated substances into the USTs;
 - c. Padlock the dispensers;
 - d. Empty the USTs of all regulated substances; and
 - e. Temporarily remove the USTs from service.
2. The USTs shall remain out of service until such time as Respondent demonstrates to the satisfaction of the Executive Director that the release detection violations has/have been corrected and Respondent obtains a new fuel delivery certificate for the Station.
3. The Station's UST fuel delivery certificate is revoked immediately. Respondent may submit an application for a new fuel delivery certificate only after Respondent has complied with all of the requirements set forth in the Order, including payment of the administrative penalty in full.
4. Immediately cease accepting fuel at the Station until such time as a valid delivery certificate is obtained from the TCEQ.
5. Within 10 days surrender the Station's UST fuel delivery certificate to the TCEQ.
6. Within 15 days, submit a detailed written report documenting the steps taken to comply with Technical Requirements Nos. 1, 4, and 5.
7. Prior to receiving deliveries of gasoline and resuming retail sales of gasoline:
 - a. Begin maintaining all Stage II and UST records at the Station, including a copy of the California Air Resources Board Executive Order for the Stage II vapor recovery system, a copy of the maintenance records for the Stage II vapor recovery system, employee training records, proof of financial assurance, proof of corrosion protection, overspill prevention verification, and Class A, B, and C Operator training certificates;

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- b. Implement a release detection method for the UST system at the Station;
 - c. Begin conducting the required daily and monthly inspections of the components of the Stage II vapor recovery system or decommission the Stage II vapor recovery system at the Station; and
 - d. Obtain a new fuel delivery certificate.
8. 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.
9. Within 10 days of resuming sales of gasoline, submit written certification to demonstrate compliance with Technical Requirements Nos. 7 and 8.

Litigation Information

Date Petition(s) Filed: March 15, 2018
Date Green Card(s) Signed: March 23, 2018
Date Answer(s) Filed: N/A

Contact Information

TCEQ Attorneys: Isaac Ta, Litigation Division, (512) 239-3400
Garrett Arthur, Public Interest Counsel, (512) 239-6363
TCEQ Litigation Division Agenda Coordinator: Janice Hernandez, (512) 239-2575
TCEQ Enforcement Coordinator: Danielle Porras, Enforcement Division, (713) 767-3682
TCEQ Regional Contact: Jason Ybarra, Houston Regional Office, (713) 767-3500
Respondent Contact: Amirali R. Sunesara, President, M.A.A.A. ENTERPRISES, INC., 4107 Angel Spring Drive, Sugar Land, Texas 77029
Respondent's Attorney: N/A

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Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	22-May-2017		
	PCW	13-Nov-2017	Screening	31-May-2017
			EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	M.A.A.A. ENTERPRISES, INC. dba Clinton Food Market			
Reg. Ent. Ref. No.	RN100647593			
Facility/Site Region	12-Houston	Major/Minor Source	Major	

CASE INFORMATION

Enf./Case ID No.	54555	No. of Violations	5
Docket No.	2017-0804-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	\$20,500
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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	20.0%	Adjustment	Subtotals 2, 3, & 7	\$4,100
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Notes	Enhancement due to one order containing a denial of liability.
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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	\$325	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$3,000	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$24,600
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.8%	Adjustment	\$200
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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. 1.
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Final Penalty Amount	\$24,800
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$24,800
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DEFERRAL		Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes	Deferral not offered for non-expedited settlement.
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PAYABLE PENALTY	\$24,800
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Screening Date	31-May-2017	Docket No.	2017-0804-PST-E	PCW
Respondent	M.A.A.A. ENTERPRISES, INC. dba Clinton Food Market			Policy Revision 4 (April 2014)
Case ID No.	54555			PCW Revision March 26, 2014
Reg. Ent. Reference No.	RN100647593			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Danielle Porras			

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	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 judgments 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%
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)

Satisfactory Performer **Adjustment Percentage (Subtotal 7)** 0%

>> Compliance History Summary

Compliance History Notes	Enhancement due to one order containing a denial of liability.
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Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 20%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 20%

Screening Date 31-May-2017

Docket No. 2017-0804-PST-E

PCW

Respondent M.A.A.A. ENTERPRISES, INC. dba Clinton Food Market

Policy Revision 4 (April 2014)

Case ID No. 54555

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100647593

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Danielle Porras

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 \$25,000

>> Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential			x

Percent 7.0%

>> Programmatic Matrix

	Major	Moderate	Minor
Falsification			

Percent 0.0%

Matrix Notes

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

Adjustment \$23,250

\$1,750

Violation Events

Number of Violation Events 1

76 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,750

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	

Notes

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

Violation Subtotal \$1,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$209

Violation Final Penalty Total \$2,117

This violation Final Assessed Penalty (adjusted for limits) \$2,117

Economic Benefit Worksheet

Respondent M.A.A.A. ENTERPRISES, INC. dba Clinton Food Market
Case ID No. 54555
Reg. Ent. Reference No. RN100647593
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
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				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)	\$200	16-Mar-2017	16-Feb-2018	0.92	\$9	n/a	\$9

Notes for DELAYED costs

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

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$200	16-Feb-2017	16-Mar-2017	0.00	\$0	\$200	\$200
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 and the Final Date is the investigation date.

Approx. Cost of Compliance \$400

TOTAL \$209

Screening Date	31-May-2017	Docket No.	2017-0804-PST-E	PCW
Respondent	M.A.A.A. ENTERPRISES, INC. dba Clinton Food Market	Policy Revision 4 (April 2014)		
Case ID No.	54555	PCW Revision March 26, 2014		
Reg. Ent. Reference No.	RN100647593			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Danielle Porras			
Violation Number	2			
Rule Cite(s)	30 Tex. Admin. Code § 115.246(a)(1), (3) and (4) and Tex. Health & Safety Code § 382.085(b)			
Violation Description	<div style="border: 1px solid black; padding: 5px;"> <p>Failed to maintain 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 Executive Order for the Stage II vapor recovery system, a copy of the maintenance records for the Stage II vapor recovery system, and employee training records were not available for review.</p> </div>			
Base Penalty			\$25,000	

>> Environmental, Property and Human Health Matrix

OR		Harm	Major	Moderate	Minor		
	Release						
	Actual						
	Potential					Percent	0.0%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor		
		x				
					Percent	15.0%

Matrix Notes	100% of the rule requirement was not met.
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Adjustment	\$21,250
Base Penalty	\$3,750

Violation Events

Number of Violation Events	1	Number of violation days	76
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	daily				
	weekly				
	monthly				
	quarterly				
	semiannual				
	annual				
	single event	x			

Violation Base Penalty	\$3,750
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One single event is recommended.

Good Faith Efforts to Comply

	0.0%			
	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer	Reduction	\$0
Extraordinary				
Ordinary				
N/A	x			
Notes	The Respondent does not meet the good faith criteria for this violation.			

Violation Subtotal	\$3,750
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Economic Benefit (EB) for this violation

Estimated EB Amount	\$23	Statutory Limit Test	
		Violation Final Penalty Total	\$4,537
		This violation Final Assessed Penalty (adjusted for limits)	\$4,537

Economic Benefit Worksheet

Respondent M.A.A.A. ENTERPRISES, INC. dba Clinton Food Market
Case ID No. 54555
Reg. Ent. Reference No. RN100647593
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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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	16-Mar-2017	16-Feb-2018	0.92	\$23	n/a	\$23
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 \$23

Screening Date	31-May-2017	Docket No.	2017-0804-PST-E	PCW
Respondent	M.A.A.A. ENTERPRISES, INC. dba Clinton Food Market			
Case ID No.	54555	<i>Policy Revision 4 (April 2014)</i>		
Reg. Ent. Reference No.	RN100647593	<i>PCW Revision March 26, 2014</i>		
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Danielle Porras			
Violation Number	3			
Rule Cite(s)	30 Tex. Admin. Code §§ 334.10(b)(1)(B), 37.815(a), 334.49(e)(2), 334.51(c)(1), 334.603(b)(1) and (2), and 334.606			
Violation Description	<p>Failed to maintain underground storage tank ("UST") records and make them immediately available for inspection upon request by agency personnel.</p> <p>Specifically, the financial assurance, corrosion protection, overspill prevention verification, and Class A, B, and C Operator training certificate records were not maintained at the Station.</p>			
Base Penalty				\$25,000

>> Environmental, Property and Human Health Matrix

OR		Harm				
	Release	Major	Moderate	Minor		
	Actual					
	Potential				Percent	0.0%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor		
		x				
					Percent	15.0%

Matrix Notes	100% of the rule requirement was not met.
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Adjustment	\$21,250
\$3,750	

Violation Events

Number of Violation Events	1		76	Number of violation days
----------------------------	---	--	----	--------------------------

daily		
weekly		
monthly		
quarterly		
semiannual		
annual		
single event	x	

Violation Base Penalty	\$3,750
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One single event is recommended.	
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Good Faith Efforts to Comply

	0.0%		Reduction	\$0
	<small>Before NOE/NOV</small>	<small>NOE/NOV to EDPRP/Settlement Offer</small>		
Extraordinary				
Ordinary				
N/A	x			
Notes	The Respondent does not meet the good faith criteria for this violation.			

Violation Subtotal	\$3,750
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Economic Benefit (EB) for this violation

Estimated EB Amount	\$23	Statutory Limit Test
		Violation Final Penalty Total
		\$4,537
This violation Final Assessed Penalty (adjusted for limits)		\$4,537

Economic Benefit Worksheet

Respondent M.A.A.A. ENTERPRISES, INC. dba Clinton Food Market
Case ID No. 54555
Reg. Ent. Reference No. RN100647593
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
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

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	16-Mar-2017	16-Feb-2018	0.92	\$23	n/a	\$23
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 UST records. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$500

TOTAL \$23

Screening Date 31-May-2017 Respondent M.A.A.A. ENTERPRISES, INC. dba Clinton Food Market Case ID No. 54555 Reg. Ent. Reference No. RN100647593 Media [Statute] Petroleum Storage Tank Enf. Coordinator Danielle Porras	Docket No. 2017-0804-PST-E <div style="border: 1px solid black; padding: 5px; min-height: 100px;"> Violation Description Failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring). </div>	PCW <i>Policy Revision 4 (April 2014)</i> <i>PCW Revision March 26, 2014</i>														
Violation Number 4 Rule Cite(s) 30 Tex. Admin. Code § 334.50(b)(1)(A) and Tex. Water Code § 26.3475(c)(1)																
Base Penalty		\$25,000														
>> Environmental, Property and Human Health Matrix																
OR	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 20%;">Release</th> <th style="width: 20%;">Major</th> <th style="width: 20%;">Harm Moderate</th> <th style="width: 20%;">Minor</th> </tr> <tr> <td>Actual</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Potential</td> <td style="text-align: center;">x</td> <td></td> <td></td> </tr> </table>	Release	Major	Harm Moderate	Minor	Actual				Potential	x			Percent 30.0%		
	Release	Major	Harm Moderate	Minor												
Actual																
Potential	x															
>> Programmatic Matrix																
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 20%;">Falsification</th> <th style="width: 20%;">Major</th> <th style="width: 20%;">Moderate</th> <th style="width: 20%;">Minor</th> </tr> <tr> <td></td> <td></td> <td></td> <td></td> </tr> </table>	Falsification	Major	Moderate	Minor					Percent 0.0%						
Falsification	Major	Moderate	Minor													
Matrix Notes	Human health or the environment will or could be exposed to pollutants that would exceed levels that are protective of human health or environmental receptors as a result of the violation.															
Adjustment		\$17,500														
		\$7,500														
Violation Events																
Number of Violation Events 1		76 Number of violation days														
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td>daily</td><td></td></tr> <tr><td>weekly</td><td></td></tr> <tr><td>monthly</td><td></td></tr> <tr><td>quarterly</td><td style="text-align: center;">x</td></tr> <tr><td>semiannual</td><td></td></tr> <tr><td>annual</td><td></td></tr> <tr><td>single event</td><td></td></tr> </table>	daily		weekly		monthly		quarterly	x	semiannual		annual		single event		Violation Base Penalty \$7,500
daily																
weekly																
monthly																
quarterly	x															
semiannual																
annual																
single event																
One quarterly event is recommended from the March 16, 2016 investigation to the May 31, 2017 screening date.																
Good Faith Efforts to Comply		0.0% Reduction \$0														
Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer																
Extraordinary <table border="1" style="width: 100%; border-collapse: collapse;"><tr><td></td><td></td></tr></table>																
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x																
Notes	The Respondent does not meet the good faith criteria for this violation.															
Violation Subtotal		\$7,500														
Economic Benefit (EB) for this violation Statutory Limit Test																
Estimated EB Amount \$69		Violation Final Penalty Total \$9,073														
This violation Final Assessed Penalty (adjusted for limits)		\$9,073														

Economic Benefit Worksheet

Respondent M.A.A.A. ENTERPRISES, INC. dba Clinton Food Market
Case ID No. 54555
Reg. Ent. Reference No. RN100647593
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
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	16-Mar-2017	16-Feb-2018	0.92	\$69	n/a	\$69

Notes for DELAYED costs

Estimated cost to monitor the USTs for releases. 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

\$1,500

TOTAL

\$69

Screening Date	31-May-2017	Docket No.	2017-0804-PST-E	PCW																			
Respondent	M.A.A.A. ENTERPRISES, INC. dba Clinton Food Market																						
Case ID No.	54555	<i>Policy Revision 4 (April 2014)</i>																					
Reg. Ent. Reference No.	RN100647593	<i>PCW Revision March 26, 2014</i>																					
Media [Statute]	Petroleum Storage Tank																						
Enf. Coordinator	Danielle Porras																						
Violation Number	5																						
Rule Cite(s)	30 Tex. Admin. Code § 334.42(i) and Tex. Water Code § 26.3475(c)(2)																						
Violation Description	Failed to remove and properly dispose of any liquid or debris found in any sumps, manways, overspill containers or catchment basins associated with a UST system within 96 hours of discovery. Specifically, liquid and debris were present in the super unleaded and regular unleaded spill buckets.																						
Base Penalty				\$25,000																			
>> Environmental, Property and Human Health Matrix																							
OR	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <th colspan="3">Harm</th> <td></td> </tr> <tr> <td style="text-align: center;">Release</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td></td> </tr> <tr> <td style="text-align: center;">Actual</td> <td></td> <td></td> <td></td> <td rowspan="2" style="text-align: right; vertical-align: middle;">Percent 15.0%</td> </tr> <tr> <td style="text-align: center;">Potential</td> <td></td> <td style="text-align: center;">x</td> <td></td> </tr> </table>					Harm				Release	Major	Moderate	Minor		Actual				Percent 15.0%	Potential		x	
		Harm																					
	Release	Major	Moderate	Minor																			
Actual				Percent 15.0%																			
Potential		x																					
>> Programmatic Matrix																							
Matrix Notes	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;">Falsification</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td></td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> <td rowspan="2" style="text-align: right; vertical-align: middle;">Percent 0.0%</td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </table>					Falsification	Major	Moderate	Minor							Percent 0.0%							
		Falsification	Major	Moderate	Minor																		
						Percent 0.0%																	
Human health or the environment will or could be exposed to significant amounts of pollutants that would not 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	20	Number of violation days																			
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td>daily</td><td></td></tr> <tr><td>weekly</td><td></td></tr> <tr><td>monthly</td><td></td></tr> <tr><td>quarterly</td><td style="text-align: center;">x</td></tr> <tr><td>semiannual</td><td></td></tr> <tr><td>annual</td><td></td></tr> <tr><td>single event</td><td></td></tr> </table>	daily		weekly		monthly		quarterly	x	semiannual		annual		single event		Violation Base Penalty \$3,750							
daily																							
weekly																							
monthly																							
quarterly	x																						
semiannual																							
annual																							
single event																							
One quarterly event is recommended from the March 16, 2016 investigation to the April 5, 2017 compliance date.																							
Good Faith Efforts to Comply		0.0%	Reduction \$0																				
		Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer																					
	Extraordinary																						
	Ordinary																						
	N/A	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		\$0	Violation Final Penalty Total \$4,537																				
This violation Final Assessed Penalty (adjusted for limits)				\$4,537																			

Economic Benefit Worksheet

Respondent M.A.A.A. ENTERPRISES, INC. dba Clinton Food Market
Case ID No. 54555
Reg. Ent. Reference No. RN100647593
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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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	16-Mar-2017	5-Apr-2017	0.05	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to remove all liquid from the spill buckets. 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 \$100

TOTAL \$0

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



TCEQ Compliance History Report

Compliance History Report for CN604072751, RN100647593, Rating Year 2016 which includes Compliance History (CH) components from September 1, 2011, through August 31, 2016.

Customer, Respondent, or Owner/Operator: CN604072751, M.A.A.A. ENTERPRISES, INC. **Classification:** SATISFACTORY **Rating:** 7.50

Regulated Entity: RN100647593, Clinton Food Market **Classification:** SATISFACTORY **Rating:** 7.50

Complexity Points: 3 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 9919 CLINTON DR HOUSTON, TX 77029-4320, HARRIS COUNTY

TCEQ Region: REGION 12 - HOUSTON

ID Number(s):
PETROLEUM STORAGE TANK REGISTRATION
REGISTRATION 67589

Compliance History Period: September 01, 2011 to August 31, 2016 **Rating Year:** 2016 **Rating Date:** 09/01/2016

Date Compliance History Report Prepared: May 31, 2017

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: May 31, 2012 to May 31, 2017

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Danielle Porras **Phone:** (713) 767-3682

Site and Owner/Operator History:

- 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

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

- 1 Effective Date: 02/03/2013 ADMINORDER 2012-1216-PST-E (1660 Order-Agreed Order With Denial)
- Classification: Moderate
- Citation: 30 TAC Chapter 115, SubChapter C 115.245(2)
- 5C THSC Chapter 382 382.085(b)
- Description: 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 May 1, 2012. Specifically, the Stage II annual compliance test had not been conducted by the due date of September 15, 2011.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
M.A.A.A. ENTERPRISES, INC.
DBA CLINTON FOOD MARKET;
RN100647593**

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§**

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT AND SHUTDOWN ORDER

DOCKET NO. 2017-0804-PST-E

On _____, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary 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 station's fuel delivery certificate. The Commission also considered the Executive Director's Motion requesting the entry of an Order requiring the respondent to shut down and remove from service the underground storage tanks ("USTs") located at 9919 Clinton Drive in Houston, Harris County, Texas. The respondent made the subject of this Order is M.A.A.A. ENTERPRISES, INC. dba Clinton Food Market ("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), a UST system and a convenience store with retail sales of gasoline located at 9919 Clinton Drive in Houston, Harris County, Texas (Facility ID No. 67589) (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 or contained 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 16, 2017, an investigator documented that Respondent:
 - a. Failed to conduct daily and monthly inspections of the Stage II vapor recovery system;
 - b. Failed to maintain 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 Executive Order for the Stage II vapor recovery system, a copy of the maintenance records for the Stage II vapor recovery system, and employee training records were not available for review;

- c. Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel. Specifically, the financial assurance, corrosion protection, overspill prevention verification, and Class A, B, and C Operator training certificate records were not maintained at the Station;
 - d. Failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring); and
 - e. Failed to remove and properly dispose of any liquid or debris found in any sumps, manways, overspill containers or catchment basins associated with a UST system within 96 hours of discovery. Specifically, liquid and debris were present in the super unleaded and regular unleaded spill buckets.
3. By letter dated May 15, 2017, Respondent was provided with written notice of the violations and of TCEQ's authority to shut down and remove from service USTs not in compliance with release detection, spill and/or overfill prevention, corrosion protection, and/or financial assurance requirements if the violations were not corrected.
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 M.A.A.A. ENTERPRISES, INC. dba Clinton Food Market" (the "EDPRP") in the TCEQ Chief Clerk's office on January 30, 2018.
5. The EDPRP was mailed to Respondent's last known address on January 30, 2018, via certified mail, return receipt requested, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed."
6. The Executive Director re-filed the EDPRP in the TCEQ Chief Clerk's office on March 15, 2018.
7. By letter dated March 15, 2018, 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 EDPRP. According to the return receipt "green card," Respondent received notice of the EDPRP on March 23, 2018, as evidenced by the signature on the card.
8. More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing.
9. By letter dated May 8th, 2018, the Executive Director provided Respondent with notice of TCEQ's intent to order the USTs at the Station to be shut down and removed from service if Respondent failed to correct the release detection violation within 30 days after Respondent's receipt of the notice.
10. As of the date of entry of this Order, Respondent has not provided the Executive Director with documentation demonstrating that the release detection violation alleged in Finding of Fact No. 2.d. has been corrected.
11. The USTs at the Station do not have release detection as required by TEX. WATER CODE § 26.3475(c)(1) and 30 TEX. ADMIN.

CODE § 334.50(b)(1)(A), and may be releasing petroleum products to the environment. Therefore, conditions at the Station constitute an imminent peril to public health, safety, and welfare.

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 TCEQ.
2. As evidenced by Finding of Fact No.2.a., Respondent failed to conduct daily and monthly inspections of the Stage II vapor recovery system, in violation of TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.244(1) and (3).
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 TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.246(a)(1), (a)(3), and (a)(4).
4. As evidenced by Finding of Fact No.2.c., Respondent failed to maintain UST records and make them immediately available for inspection upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE §§ 37.815(a), 334.10(b)(1)(B), 334.49(e)(2), 334.51(c)(1), 334.603(b)(1) and (b)(2), and 334.606.
5. As evidenced by Finding of Fact No.2.d., Respondent failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), in violation of TEX. WATER CODE § 26.3475(c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(A).
6. As evidenced by Finding of Fact No.2.e., Respondent failed to remove and properly dispose of any liquid or debris found in any sumps, manways, overspill containers or catchment basins associated with a UST system within 96 hours of discovery, in violation of TEX. WATER CODE § 26.3475(c)(2) and 30 TEX. ADMIN. CODE § 334.42(i).
7. As evidenced by Findings of Fact Nos. 4 through 7, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
8. As evidenced by Finding of Fact No. 8, 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 TCEQ'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 twenty-four thousand eight hundred dollars (\$24,800.00) 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. As evidenced by Findings of Fact Nos. 2.d., 3, 9, and 10, Respondent failed to correct documented violations of TCEQ release detection requirements within 30 days after Respondent received notice of the violations and notice of the Executive Director's intent to shut down the USTs at the Station.
12. TEX. WATER CODE §§ 26.3475(e) and 26.352(i) authorize the Commission to order a UST owner or operator to shut down a UST system if, within 30 days after receiving notice of the violations, the owner or operator fails to correct violations of TCEQ regulatory requirements relating to release detection for tanks and/or piping, spill and/or overfill prevention for tanks, corrosion protection for tanks and/or piping, and/or acceptable financial assurance.
13. 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.
14. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke the Station's UST fuel delivery certificate if the Commission finds that good cause exists.
15. Good cause for revocation of the Station's UST fuel delivery certificate exists as justified by Findings of Fact Nos. 2 and 4 through 8, and Conclusions of Law Nos. 2 through 8.
16. As evidenced by Findings of Fact Nos. 10 and 11, current conditions at the Station constitute an imminent peril to public health, safety, and welfare. Therefore, pursuant to the Administrative Procedure Act, TEX. GOV'T CODE § 2001.144(a)(3), this Order is final and effective on the date it is signed by the Commission.

ORDERING PROVISIONS

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

1. Immediately upon the effective date of this Order, Respondent shall take the following steps to shut down operations of all USTs at the Station:
 - a. Cease dispensing fuel from the USTs;
 - b. Cease receiving deliveries of regulated substances into the USTs;
 - c. Secure the dispensers to prevent access;
 - d. Empty the USTs of all regulated substances in accordance with 30 TEX. ADMIN. CODE § 334.54(d); and
 - e. Temporarily remove the USTs from service in accordance with 30 TEX. ADMIN. CODE § 334.54.

2. The Station's UST fuel delivery certificate is revoked immediately upon the effective date of this Order. Respondent may submit an application for a new fuel delivery certificate only after Respondent has complied with all of the requirements set forth in this Order, including payment of the administrative penalty in full.
3. The USTs at the Station shall remain out of service, pursuant to TEX. WATER CODE § 26.3475(e) and as directed by Ordering Provisions Nos. 1.a. through 1.e. until such time as Respondent demonstrates to the satisfaction of the Executive Director that the release detection violation noted in Conclusions of Law No. 5 has been corrected and Respondent obtains a new fuel delivery certificate for the Station.
4. Immediately upon the effective date of this Order, Respondent shall cease accepting fuel at the Station 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.
5. Within 10 days after the effective date of this Order, Respondent shall send the Station's 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
6. Within 15 days after the effective date of this Order, Respondent shall submit a detailed written report, in accordance with Ordering Provision No. 13, below, documenting the steps taken to comply with Ordering Provisions Nos. 1.a. through 1.e., 4 and 5.
7. If Respondent elects to permanently remove from service any portion of the UST system at the Station, Respondent shall, immediately upon the effective date of this Order, permanently remove the UST system from service in accordance with 30 TEX. ADMIN. CODE § 334.55, and within 15 days after the effective date of this Order, shall submit a written report documenting compliance with 30 TEX. ADMIN. CODE § 334.55 to:

Petroleum Storage Tank Registration Team, MC 138
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
8. Respondent is assessed an administrative penalty in the amount of twenty-four thousand eight hundred dollars (\$24,800.00) for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondent's compliance with all the requirements set forth in this Order resolve only 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 violations which are not raised here.

9. The 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 TCEQ and shall be sent with the notation "Re: M.A.A.A. ENTERPRISES, INC. dba Clinton Food Market; Docket No. 2017-0804-PST-E" to:

Financial Administration Division, Revenue Operations Section
Texas Commission on Environmental Quality
Attention: Cashier's Office, MC 214
P.O. Box 13088
Austin, Texas 78711-3088
10. Prior to receiving deliveries of gasoline and resuming retail sales of gasoline, Respondent shall undertake the following technical requirements:
 - a. Begin maintaining all Stage II and UST records at the Station, including a copy of the California Air Resources Board Executive Order for the Stage II vapor recovery system, a copy of the maintenance records for the Stage II vapor recovery system, employee training records, proof of financial assurance, proof of corrosion protection, overspill prevention verification, and Class A, B, and C Operator training certificates, in accordance with 30 TEX. ADMIN. CODE §§ 115.246 and 334.10;
 - b. Implement a release detection method for the UST system at the Station, in accordance with 30 TEX. ADMIN. CODE § 334.50;
 - c. Begin conducting the required daily and monthly inspections of the components of the Stage II vapor recovery system, in accordance with 30 TEX. ADMIN. CODE § 115.244, or decommission the Stage II vapor recovery system at the Station, in accordance with 30 TEX. ADMIN. CODE § 115.241; and
 - d. Obtain a new fuel delivery certificate from the TCEQ.
11. 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).
12. Within 10 days of resuming retail sales of gasoline, Respondent shall submit written certification, in accordance with Ordering Provision No. 13, below, to demonstrate compliance with Ordering Provisions Nos. 10 and 11.
13. The certification required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by Respondent, 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:

Waste Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Street, Suite H
Houston, Texas 77023-1452

14. All relief not expressly granted in this Order is denied.
15. 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.
16. 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. Extension requests shall be sent to the Order Compliance Team at the address listed above.
17. 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.

18. 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.
19. The provisions of this Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
20. 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.
21. The Chief Clerk shall provide a copy of this fully executed 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

Date

AFFIDAVIT OF ISAAC TA

STATE OF TEXAS

§

§

COUNTY OF TRAVIS

§

"My name is Isaac Ta. 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 M.A.A.A. ENTERPRISES, INC. dba Clinton Food Market" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on January 30, 2018.

The EDPRP was mailed to Respondent's last known address on January 30, 2018, via certified mail, return receipt requested, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed."

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the EDPRP was re-filed in the TCEQ Chief Clerk's office on March 15, 2018.

The EDPRP was mailed to Respondent's last known address on March 15, 2018, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on March 23, 2018, as evidenced by the signature on the card.

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

By letter dated May 8th, 2018, sent via first class mail and certified mail, return receipt requested article no. 7013 3020 0000 9449 9351, I provided Respondent with notice of the TCEQ's intent to order the USTs at the Station be shut down and removed from service if the violation pertaining to release detection was not corrected within 30 days of Respondent's receipt of the letter.

The United States Postal Service returned the Notice sent by certified mail as "unclaimed." The first class mail has not been returned.

As of the date of this affidavit, I am not aware of any evidence that indicates that Respondent has corrected the release detection violation noted during the March 16, 2017 investigation."

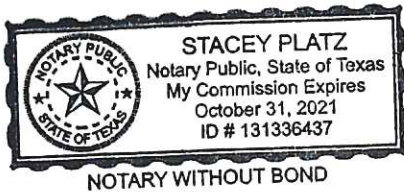


Isaac Ta, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Affidavit of Isaac Ta
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Before me, the undersigned authority, on this day personally appeared Isaac Ta, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration herein expressed.

Subscribed and sworn to before me on this 23rd day of May, A.D. 2018.





Notary Public, State of Texas