

## TCEQ Interoffice Memorandum

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**To:** Mary Smith, General Counsel  
Greg Merrell, Assistant General Counsel

**Thru:** Anna Treadwell, Senior Attorney  
*AMT* Litigation Division

**From:** Marilyn Norrod, Staff Attorney  
*MN* Litigation Division

**Date:** October 5, 2023

**Subject:** **Backup Revision**  
**October 11, 2023 Commission Agenda**  
Item No. 17 - Samad Brothers LLC  
Docket No. 2021-1182-PST-E

Enclosed please find the following:

**Page 1 of the Agreed Order:**

Revisions were made to the first paragraph of the Default Order to accurately reflect the type of relief sought in this Order.

Respondent Contact:

Wais Samad, Director  
Samad Brothers, LLC  
2518 Kingsley Road, Suite 101  
Garland, Texas 75041

A replacement original and redline copy are enclosed. Please do not hesitate to call me at (512) 239-5916 if you have any questions regarding this matter.

cc: Ken Moller, Enforcement Division  
Erin Gorman, Dallas/Fort Worth Regional Office  
Gill Valls, Office of the General Counsel  
Michael Parrish, Enforcement Division  
Leslie Gann, Enforcement Division  
Stuart Beckley, Enforcement Division

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
SAMAD BROTHERS LLC DBA  
KINGSLEY ONE STOP FOODMART;  
RN100525195

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BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

## DEFAULT ORDER

DOCKET NO. 2021-1182-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 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty, ~~and corrective action of the respondent.~~ ~~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 2518 West Kingsley Road in Garland, Dallas County, Texas.~~ The respondent made the subject of this Order is Samad Brothers LLC dba Kingsley One Stop Foodmart ("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(78) and (75), a UST system and a convenience store with retail sales of gasoline located at 2518 West Kingsley Road in Garland, Dallas County, Texas (Facility ID No. 44873) (the "Facility"). The USTs at the Facility are not exempt or excluded from regulation under the Texas Water Code or the rules of the TCEQ and contain a regulated petroleum substance as defined in the rules of the TCEQ.
2. During an investigation conducted on March 31, 2021, an investigator documented that Respondent:
  - a. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting deliveries of regulated substances into the USTs, Specifically, approximately twenty-four fuel deliveries were accepted without a current delivery certificate for UST Nos. 1, 2, and 3 between January 19, 2020, and February 12, 2021;
  - b. Failed to monitor the USTs for releases in a manner which will detect a release at a frequency of at least once every 30 days;
  - c. Failed to assure that all spill and overfill prevention devices are maintained in good operating condition. Specifically, the spill bucket for the diesel fuel UST failed its triennial inspection on January 13, 2021; and
  - d. Failed to retrain Class A and Class B operators by January 1, 2020, with a course submitted to and approved by TCEQ after April 1, 2018, regardless of the three-year re-training requirement. Specifically, Respondent was last retrained as a Class A and Class B operator on June 14, 2017.
3. The Executive Director recognizes that Respondent sold the Facility as of June 21, 2023.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
SAMAD BROTHERS LLC DBA  
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BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

DEFAULT ORDER

DOCKET NO. 2021-1182-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 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty. The respondent made the subject of this Order is Samad Brothers LLC dba Kingsley One Stop Foodmart (“Respondent”).

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

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1. Respondent owns and operates, as defined in 30 TEX. ADMIN. CODE § 334.2(78) and (75), a UST system and a convenience store with retail sales of gasoline located at 2518 West Kingsley Road in Garland, Dallas County, Texas (Facility ID No. 44873) (the “Facility”). The USTs at the Facility are not exempt or excluded from regulation under the Texas Water Code or the rules of the TCEQ and contain a regulated petroleum substance as defined in the rules of the TCEQ.
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  - c. Failed to assure that all spill and overfill prevention devices are maintained in good operating condition. Specifically, the spill bucket for the diesel fuel UST failed its triennial inspection on January 13, 2021; and
  - d. Failed to retrain Class A and Class B operators by January 1, 2020, with a course submitted to and approved by TCEQ after April 1, 2018, regardless of the three-year re-training requirement. Specifically, Respondent was last retrained as a Class A and Class B operator on June 14, 2017.
3. The Executive Director recognizes that Respondent sold the Facility as of June 21, 2023.

## TCEQ Interoffice Memorandum

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**To:** Mary Smith, General Counsel  
Greg Merrell, Assistant General Counsel

**Thru:** Anna Treadwell Senior  
*AWT* Attorney Litigation Division

**From:** Marilyn Norrod, Staff  
*MN* Attorney Litigation Division

**Date:** September 21, 2023

**Subject:** **Backup Revision**  
**October 11, 2023 Commission Agenda**  
Draft Item No. TBD  
Samad Brothers LLC.; Docket No. 2021-1182-PST-E

Enclosed please find the following:

**A Default Order to replace the Shutdown Order:**

On September 14, 2023, OCE's Dallas/Fort Worth Regional Office conducted a compliance investigation and documented that Respondent no longer owns or operates the Facility. A Shutdown Order is therefore no longer necessary.

**An Updated Executive Summary:**

Updates were made to reflect the change a Shutdown Order to a Default Order.

**Respondent Contact:**

Wais Samad, Director  
Samad Brothers, LLC  
2518 Kingsley Road, Suite 101  
Garland, Texas 75041

Replacement originals are enclosed. Please do not hesitate to call me at (512) 239-5916 if you have any questions regarding this matter.

cc: Ken Moller, Enforcement Division  
Erin Gorman, Dallas/FortOffice  
Sheldon Wayne, Public Interest Counsel  
Gill Valls, Office of the General Counsel  
Michael Parrish, Enforcement Division  
Leslie Gann, Enforcement Division  
Stuart Beckley, Enforcement Division  
Wais Samad, Respondent

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EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 60981  
Samad Brothers LLC dba Kingsley One Stop Foodmart  
RN100525195  
Docket No. 2021-1182-PST-E

**Order Type:**  
Default Order

**Media:**  
PST

**Small Business:**  
Yes

**Location Where Violations Occurred:**  
2518 West Kingsley Road, Garland, Dallas County

**Type of Operation:**  
an underground storage tank (“UST”) system and convenience store with retail sales of gasoline

**Other Significant Matters:**  
Additional Pending Enforcement Actions: None  
Past-Due Penalties: \$7,800  
Past-Due Fees: None  
Other: None  
Interested Third Parties: None

**Texas Register Publication Date:** August 25, 2023

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$57,414

**Total Paid to General Revenue:** \$0

**Total Due to General Revenue:** \$57,414

**Compliance History Classifications:**  
Person/CN - Satisfactory  
Site/RN - Satisfactory

**Major Source:** No

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** January 28, 2021

**Investigation Information**

**Complaint Date:** N/A

**Date of Investigation:** March 31, 2021

**Date of NOV:** N/A

**Date of NOE:** May 10, 2021

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 60981  
Samad Brothers LLC dba Kingsley One Stop Foodmart  
RN100525195  
Docket No. 2021-1182-PST-E

Violation Information

1. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting deliveries of regulated substances into the USTs [TEX. WATER CODE § 26.3467(a) and 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i)].
2. Failed to monitor the USTs for releases in a manner which will detect a release at a frequency of at least once every 30 days [TEX. WATER CODE § 26.3475(c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(A)].
3. Failed to assure that all spill and overflow prevention devices are maintained in good operating condition [30 TEX. ADMIN. CODE § 334.51(a)(6)].
4. Failed to retrain Class A and Class B operators by January 1, 2020, with a course submitted to and approved by TCEQ after April 1, 2018, regardless of the three-year re-training requirement [30 TEX. ADMIN. CODE § 334.605(d)].

Corrective Actions/Technical Requirements

**Corrective Action Completed:**

1. Procured a valid TCEQ approved delivery certificate and presented it to common carriers before taking delivery of regulated substances into its USTs as of April 20, 2021.
2. Obtained Class A and Class B Operator training as of April 8, 2023.

**Technical Requirements:**

Respondent sold the Facility as of June 21, 2023.

Litigation Information

**Date Petition Filed:** July 14, 2022

**Date of Service:** July 18, 2022

Contact Information

**TCEQ Attorneys:** Marilyn Norrod, Litigation Division, (512) 239-3400  
Sheldon Wayne, Public Interest Counsel, (512) 239-6363

**TCEQ Litigation Agenda Coordinator:** Katherine McKenzie, Litigation Division, (512) 239-2575

**TCEQ Enforcement Coordinator:** Ken Moller, Enforcement Division, (512) 239-6111

**TCEQ Regional Contact:** Erin Gorman, Dallas/Fortworth Regional Office, (817) 588-5800

**Respondent Contact:** Wais Samad, Director, Samad Brothers LLC; 2518 Kingsley Road, Suite 101,  
Garland, Texas 75041

**Respondent's Attorney:** N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN ENFORCEMENT ACTION CONCERNING SAMAD BROTHERS LLC DBA KINGSLEY ONE STOP FOODMART; RN100525195

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BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

DEFAULT ORDER

DOCKET NO. 2021-1182-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 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty, and corrective action of the respondent. 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 2518 West Kingsley Road in Garland, Dallas County, Texas. The respondent made the subject of this Order is Samad Brothers LLC dba Kingsley One Stop Foodmart ("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(78) and (75), a UST system and a convenience store with retail sales of gasoline located at 2518 West Kingsley Road in Garland, Dallas County, Texas (Facility ID No. 44873) (the "Facility"). The USTs at the Facility are not exempt or excluded from regulation under the Texas Water Code or the rules of the TCEQ and contain a regulated petroleum substance as defined in the rules of the TCEQ.
2. During an investigation conducted on March 31, 2021, an investigator documented that Respondent:
a. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting deliveries of regulated substances into the USTs, Specifically, approximately twenty-four fuel deliveries were accepted without a current delivery certificate for UST Nos. 1, 2, and 3 between January 19, 2020, and February 12, 2021;
b. Failed to monitor the USTs for releases in a manner which will detect a release at a frequency of at least once every 30 days;
c. Failed to assure that all spill and overfill prevention devices are maintained in good operating condition. Specifically, the spill bucket for the diesel fuel UST failed its triennial inspection on January 13, 2021; and
d. Failed to retrain Class A and Class B operators by January 1, 2020, with a course submitted to and approved by TCEQ after April 1, 2018, regardless of the three-year re-training requirement. Specifically, Respondent was last retrained as a Class A and Class B operator on June 14, 2017.
3. The Executive Director recognizes that Respondent sold the Facility as of June 21, 2023.

4. By letter dated May 10, 2021, 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 overflow prevention, corrosion protection, and/or financial assurance requirements if the violations were not corrected.
5. 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 Samad Brothers LLC dba Kingsley One Stop Foodmart" (the "EDPRP") in the TCEQ Chief Clerk's office on July 14, 2022.
6. By letter dated July 14, 2022, sent to Respondent's last known address via certified mail, return receipt requested, 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 July 18, 2022, as evidenced by the signature on the card.
7. 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.

#### 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 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting deliveries of regulated substances into the USTs, in violation of TEX. WATER CODE § 26.3467(a) and 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to monitor the USTs for releases in a manner which will detect a release at a frequency of at least once every 30 days, in violation of TEX. WATER CODE § 26.3475(c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(A).
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to assure that all spill and overflow prevention devices are maintained in good operating condition, in violation of 30 TEX. ADMIN. CODE § 334.51(a)(6).
5. As evidenced by Finding of Fact No. 2.d., Respondent failed to retrain Class A and Class B operators by January 1, 2020, with a course submitted to and approved by TCEQ after April 1, 2018, regardless of the three-year re-training requirement, in violation of 30 TEX. ADMIN. CODE § 334.605(d).
6. As evidenced by Findings of Fact Nos. 5 and 6, 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(b)(1).
7. As evidenced by Finding of Fact No. 7, Respondent failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.
8. 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.
9. An administrative penalty in the amount of fifty-seven thousand four hundred fourteen dollars (\$57,414.00) is justified by the facts recited in this Order and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
10. 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.



### ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty in the amount of fifty-seven thousand four hundred fourteen dollars (\$57,414.00) 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.
2. 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: Samad Brothers LLC dba Kingsley One Stop Foodmart; Docket No. 2021-1182-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
3. All relief not expressly granted in this Order is denied.
4. 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 operations referenced in this Order.
5. 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 Enforcement Division at the address listed above.
6. 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.
7. 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.
8. 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.
9. 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.
10. 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 § 2001.1.

S I G N A T U R E   P A G E

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

\_\_\_\_\_  
Date

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



UNSWORN DECLARATION OF MARILYN NORROD

"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 Samad Brothers LLC dba Kingsley One Stop Foodmart' (the "EDPRP") was filed in the TCEQ Chief Clerk's office on July 14, 2022.

The EDPRP was mailed to Respondent's last known address on July 14, 2022, via certified mail, return receipt requested, postage prepaid. According to USPS.com "Track & Confirm" delivery confirmation records, Respondent received notice of the EDPRP on August 18, 2022.

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."

"My name is Marilyn A. Norrod, and I am an employee of the following governmental agency: Texas Commission on Environmental Quality. I am executing this declaration as part of my assigned duties and responsibilities. I declare under penalty of perjury that the foregoing is true and correct."

Executed in Travis County,  
State of Texas,  
on the 21<sup>st</sup> day of September, 2023

A handwritten signature in black ink that reads "Marilyn A. Norrod".

Declarant

**Order Type:**  
Default Shutdown Order

**Media:**  
PST

**Small Business:**  
Yes

**Location Where Violations Occurred:**  
2518 West Kingsley Road, Garland, Dallas County

**Type of Operation:**  
an underground storage tank (“UST”) system and convenience store with retail sales of gasoline

**Other Significant Matters:**  
Additional Pending Enforcement Actions: None  
Past-Due Penalties: \$7,800  
Past-Due Fees: None  
Other: None  
Interested Third Parties: None

**Texas Register Publication Date:** August 25, 2023

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$57,414

**Total Paid to General Revenue:** \$0

**Total Due to General Revenue:** \$57,414

**Compliance History Classifications:**  
Person/CN – Satisfactory  
Site/RN – Satisfactory

**Major Source:** No

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** January 28, 2021

**Investigation Information**

**Complaint Date:** N/A

**Date of Investigation:** March 31, 2021

**Date of NOV:** N/A

**Date of NOE:** May 10, 2021

**Violation Information**

1. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting deliveries of regulated substances into the USTs [TEX. WATER CODE § 26.3467(a) and 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i)].
2. Failed to monitor the USTs for releases in a manner which will detect a release at a frequency of at least once every 30 days [TEX. WATER CODE § 26.3475(c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(A)].
3. Failed to assure that all spill and overflow prevention devices are maintained in good operating condition [30 TEX. ADMIN. CODE § 334.51(a)(6)].
4. Failed to retrain Class A and Class B operators by January 1, 2020, with a course submitted to and approved by TCEQ after April 1, 2018, regardless of the three-year re-training requirement [30 TEX. ADMIN. CODE § 334.605(d)].

**Corrective Actions/Technical Requirements**

**Corrective Action Completed:**

1. Procured a valid TCEQ approved delivery certificate and presented it to common carriers before taking delivery of regulated substances into its USTs as of April 20, 2021.
2. Obtained Class A and Class B Operator training as of April 8, 2023.

**Technical Requirements:**

1. Immediately shut down operations of all USTs at the Facility:
  - 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; and
  - e. Temporarily remove the USTs from service.
2. The Facility'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 this Order, including payment of the administrative penalty in full.
3. The USTs at the Facility shall remain out of service until such time as Respondent demonstrates to the satisfaction of the Executive Director that the release detection and spill and overflow prevention violations have been corrected and Respondent obtains a new fuel delivery certificate for the Facility.
4. Immediately cease accepting fuel at the Facility until such time as a valid delivery certificate is obtained from the TCEQ.
5. Within 10 days Respondent shall surrender the Facility'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 Requirement 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 Facility, Respondent shall, immediately, permanently remove the UST system from service and within 15 days submit a written report documenting compliance.

8. Prior to receiving deliveries of gasoline and resuming retail sales of gasoline:
  - a. Implement a method of release detection for the USTs at the Facility;
  - b. Replace the spill bucket for the diesel fuel UST; and
  - c. Obtain a new fuel delivery certificate from the TCEQ.
9. Upon obtaining a new fuel delivery certificate, Respondent shall post the fuel delivery certificate in a location at the Facility where the delivery certificate is clearly visible at all times.
10. Within 10 days of resuming sales of gasoline, Respondent shall submit written certification to demonstrate compliance with Technical Requirement Nos. 8. and 9.

**Litigation Information**

**Date Petition Filed:** July 14, 2022

**Date of Service:** July 18, 2022

**Contact Information**

**TCEQ Attorneys:** Marilyn Norrod, Litigation Division, (512) 239-3400  
Sheldon Wayne, Public Interest Counsel, (512) 239-6363

**TCEQ Litigation Agenda Coordinator:** Katherine McKenzie, Litigation Division, (512) 239-2575

**TCEQ Enforcement Coordinator:** Ken Moller, Enforcement Division, (512) 239-6111

**TCEQ Regional Contact:** Erin Gorman, Dallas/Fortworth Regional Office, (817) 588-5800

**Respondent Contact:** Wais Samad, Director, Samad Brothers LLC; 2518 Kingsley Road, Suite 101,  
Garland, Texas 75041

**Respondent's Attorney:** N/A

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# Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

<b>DATES</b>	<b>Assigned</b>	17-May-2021	<b>Screening</b>	18-Jun-2021	<b>EPA Due</b>	
	<b>PCW</b>	8-Sep-2021				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Samad Brothers LLC dba Kingsley One Stop Foodmart
<b>Reg. Ent. Ref. No.</b>	RN100525195
<b>Facility/Site Region</b>	4-Dallas/Fort Worth
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	60981	<b>No. of Violations</b>	4
<b>Docket No.</b>	2021-1182-PST-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Petroleum Storage Tank	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Ken Moller
		<b>EC's Team</b>	Enforcement Team 7
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$39,500
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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.

<b>Compliance History</b>	20.0% Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	\$7,900
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<b>Notes</b>	Enhancement for one prior Order containing a denial of liability.
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<b>Culpability</b>	Yes	25.0% Enhancement	<b>Subtotal 4</b>	\$9,875
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<b>Notes</b>	The Respondent ignored repeated directives from TCEQ agency staff to cease accepting fuel deliveries after their fuel delivery certificate expired on January 31, 2018 and was later revoked.
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<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$297	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$2,719	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$57,275
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.2% Adjustment	\$139
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	Enhancement to capture the avoided cost of compliance associated with Violation No. 1.
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<b>Final Penalty Amount</b>	\$57,414
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$57,414
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<b>DEFERRAL</b>	0.0% Reduction Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

<b>Notes</b>	No deferral due to culpability.
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<b>PAYABLE PENALTY</b>	\$57,414
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**Screening Date** 18-Jun-2021

**Docket No.** 2021-1182-PST-E

**PCW**

**Respondent** Samad Brothers LLC dba Kingsley One Stop Foodmart

*Policy Revision 5 (January 28, 2021)*

**Case ID No.** 60981

*PCW Revision February 11, 2021*

**Reg. Ent. Reference No.** RN100525195

**Media** Petroleum Storage Tank

**Enf. Coordinator** Ken Moller

### 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 for one prior Order containing a denial of liability.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 20%

**>> Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** 20%

**Screening Date** 18-Jun-2021 **Docket No.** 2021-1182-PST-E **PCW**  
**Respondent** Samad Brothers LLC dba Kingsley One Stop Foodmart *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 60981 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN100525195  
**Media** Petroleum Storage Tank  
**Enf. Coordinator** Ken Moller

**Violation Number** 1

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

**Violation Description** Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting deliveries of regulated substances into the underground storage tanks ("USTs"). Specifically, approximately twenty-four fuel deliveries were accepted without a current delivery certificate for UST Nos. 1, 2, and 3 between January 19, 2020 and February 21, 2021.

**Base Penalty** \$25,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
		x			10.0%

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

**Adjustment** \$22,500

\$2,500

**Violation Events**

Number of Violation Events 13 24 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

**Violation Base Penalty** \$32,500

Thirteen single events are recommended, one for each month that had an invalid delivery.

**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 came into compliance on April 20, 2021, before the May 10, 2021 Notice of Enforcement ("NOE") date.

**Violation Subtotal** \$32,500

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$139

**Violation Final Penalty Total** \$47,239

**This violation Final Assessed Penalty (adjusted for limits)** \$47,239

## Economic Benefit Worksheet

**Respondent** Samad Brothers LLC dba Kingsley One Stop Foodmart  
**Case ID No.** 60981  
**Reg. Ent. Reference No.** RN100525195  
**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	Costs Saved	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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Delivery Certificate	\$40	31-Jan-2018	20-Apr-2021	3.22	\$10	\$129	\$139
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to obtain a valid, current TCEQ delivery certificate. The Date Required is the expiration date of the previous delivery certificate, and the Final Date is the date of compliance.

Approx. Cost of Compliance \$129

**TOTAL** \$139

<b>Screening Date</b>	18-Jun-2021	<b>Docket No.</b>	2021-1182-PST-E	<b>PCW</b>
<b>Respondent</b>	Samad Brothers LLC dba Kingsley One Stop Foodmart			<i>Policy Revision 5 (January 28, 2021)</i>
<b>Case ID No.</b>	60981			<i>PCW Revision February 11, 2021</i>
<b>Reg. Ent. Reference No.</b>	RN100525195			
<b>Media</b>	Petroleum Storage Tank			
<b>Enf. Coordinator</b>	Ken Moller			
<b>Violation Number</b>	2			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 334.50(b)(1)(A) and Tex. Water Code § 26.3475(c)(1)			
<b>Violation Description</b>	Failed to monitor the USTs for releases in a manner which will detect a release at a frequency of at least once every 30 days.			
		<b>Base Penalty</b>	\$25,000	

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

<b>OR</b>		<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor	
	Actual				<b>Percent</b> 15.0%
Potential	x				

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
					<b>Percent</b> 0.0%

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** \$21,250

\$3,750

**Violation Events**

Number of Violation Events: 1      79 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

**Violation Base Penalty** \$3,750

One quarterly event is recommended from the March 31, 2021 investigation date to the June 18, 2021 screening date.

**Good Faith Efforts to Comply**      **0.0%**      Reduction \$0

	Before NOE/NOV	NOE/NOV to EDRP/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** \$71      **Violation Final Penalty Total** \$5,451

**This violation Final Assessed Penalty (adjusted for limits)** \$5,451

## Economic Benefit Worksheet

**Respondent** Samad Brothers LLC dba Kingsley One Stop Foodmart  
**Case ID No.** 60981  
**Reg. Ent. Reference No.** RN100525195  
**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	Costs Saved	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	\$1,500	31-Mar-2021	13-Mar-2022	0.95	\$71	n/a	\$71
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 delayed cost to implement a method of release detection for the USTs at the Facility. The Date Required is the investigation date, and the Final Date is the estimated date of compliance.

### Avoided Costs

#### ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

**TOTAL**

\$71

**Screening Date** 18-Jun-2021 **Docket No.** 2021-1182-PST-E **PCW**  
**Respondent** Samad Brothers LLC dba Kingsley One Stop Foodmart *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 60981 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN100525195  
**Media** Petroleum Storage Tank  
**Enf. Coordinator** Ken Moller

**Violation Number** 3  
**Rule Cite(s)** 30 Tex. Admin. Code § 334.51(a)(6)  
**Violation Description** Failed to assure that all spill and overfill prevention devices are maintained in good operating condition. Specifically, the spill bucket for the diesel fuel UST failed its triennial inspection on January 13, 2021.

**Base Penalty** \$25,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
		Actual			
Potential		x			

**>> Programmatic Matrix**

Matrix Notes	Falsification	Major	Moderate	Minor	Percent

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** \$23,750

\$1,250

**Violation Events**

Number of Violation Events 2 156 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

**Violation Base Penalty** \$2,500

Two quarterly events are recommended, calculated from the January 13, 2021 failed triennial inspection to the June 18, 2021 screening date.

**Good Faith Efforts to Comply** 0.0% Reduction \$0

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

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

**Violation Subtotal** \$2,500

**Economic Benefit (EB) for this violation** **Statutory Limit Test**

**Estimated EB Amount** \$81 **Violation Final Penalty Total** \$3,634

**This violation Final Assessed Penalty (adjusted for limits)** \$3,634

## Economic Benefit Worksheet

**Respondent** Samad Brothers LLC dba Kingsley One Stop Foodmart  
**Case ID No.** 60981  
**Reg. Ent. Reference No.** RN100525195  
**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	Costs Saved	EB Amount
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

### Delayed Costs

Equipment	\$1,000	13-Jan-2021	13-Mar-2022	1.16	\$4	\$77	\$81
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0
Notes for DELAYED costs: Estimated cost to replace the spill bucket for the diesel fuel UST. The Date Required is the date that the diesel fuel UST's spill bucket failed its triennial inspection, and the Final Date is the estimated date of compliance.							

### Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Notes for AVOIDED costs:							

Approx. Cost of Compliance	\$1,000	<b>TOTAL</b>	\$81
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**Screening Date** 18-Jun-2021 **Docket No.** 2021-1182-PST-E **PCW**  
**Respondent** Samad Brothers LLC dba Kingsley One Stop Foodmart *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 60981 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN100525195  
**Media** Petroleum Storage Tank  
**Enf. Coordinator** Ken Moller

**Violation Number**

**Rule Cite(s)**

**Violation Description**

**Base Penalty**

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

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="3.0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text" value="x"/>	

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>

**Matrix Notes**

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

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

**Violation Base Penalty**

**Good Faith Efforts to Comply**  Reduction

	Before NOE/NOV	NOE/NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="x"/>	<input type="text"/>

**Notes**

**Violation Subtotal**

**Economic Benefit (EB) for this violation** **Statutory Limit Test**

**Estimated EB Amount**  **Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**



## Economic Benefit Worksheet

**Respondent** Samad Brothers LLC dba Kingsley One Stop Foodmart  
**Case ID No.** 60981  
**Reg. Ent. Reference No.** RN100525195  
**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	Costs Saved	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	\$90	1-Jan-2020	8-Apr-2021	1.27	\$6	n/a	\$6
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 delayed cost to retrain a Class A and Class B operator for the Facility in a training course approved by the TCEQ on or after April 1, 2018. The Date required is the rule implementation date, and the Final Date is the date of compliance.

### Avoided Costs

#### ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

#### Notes for AVOIDED costs

Approx. Cost of Compliance

\$90

**TOTAL**

\$6

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.



# Compliance History Report

Compliance History Report for CN605406370, RN100525195, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

**Customer, Respondent, or Owner/Operator:** CN605406370, Samad Brothers LLC **Classification:** SATISFACTORY **Rating:** 13.50  
**Regulated Entity:** RN100525195, Kingsley One Stop Foodmart **Classification:** SATISFACTORY **Rating:** 13.50  
**Complexity Points:** 4 **Repeat Violator:** NO  
**CH Group:** 14 - Other  
**Location:** 2518 West Kingsley Road, Garland, Dallas County, Texas  
**TCEQ Region:** REGION 04 - DFW METROPLEX

## ID Number(s):

**PETROLEUM STORAGE TANK REGISTRATION**  
REGISTRATION 44873

**Compliance History Period:** September 01, 2016 to August 31, 2021 **Rating Year:** 2021 **Rating Date:** 09/01/2021

**Date Compliance History Report Prepared:** February 09, 2022

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** February 09, 2017 to February 09, 2022

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

**Name:** Ken Moller

**Phone:** (512) 239-6111

## 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? YES
- 3) Who is the current owner/operator? SAMAD BROTHERS LLC OWNER OPERATOR since 3/1/2017
- 4) Who was/were the prior owner(s)/operator(s)? REZAKHANI, JAMES, OPERATOR, 9/21/2004 to 2/28/2017  
TIM RYAN ENTERPRISES, INC., OWNER, 11/1/2004 to 2/28/2017

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

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

- 1 Effective Date: 05/13/2019 ADMINORDER 2018-0396-PST-E (1660 Order-Agreed Order With Denial)  
Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.3475(d)  
30 TAC Chapter 334, SubChapter C 334.49(a)(4)  
Description: Failed to provide corrosion protection to all underground metal components of the UST system which are designed or used to convey, contain, or store regulated substances  
Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.3475(c)(1)  
30 TAC Chapter 334, SubChapter C 334.50(b)(1)(A)  
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)

### B. Criminal convictions:

N/A

### C. Chronic excessive emissions events:

N/A

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

Item 1	August 31, 2020	(1672082)
Item 2	September 15, 2020	(1672651)

**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  
SAMAD BROTHERS LLC DBA  
KINGSLEY ONE STOP FOODMART;  
RN100525195

§  
§  
§  
§  
§  
§

BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

## DEFAULT AND SHUTDOWN ORDER

DOCKET NO. 2021-1182-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 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 facility'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 2518 West Kingsley Road in Garland, Dallas County, Texas. The respondent made the subject of this Order is Samad Brothers LLC dba Kingsley One Stop Foodmart ("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(78) and (75), a UST system and a convenience store with retail sales of gasoline located at 2518 West Kingsley Road in Garland, Dallas County, Texas (Facility ID No. 44873) (the "Facility"). The USTs at the Facility are not exempt or excluded from regulation under the Texas Water Code or the rules of the TCEQ and contain a regulated petroleum substance as defined in the rules of the TCEQ.
2. During an investigation conducted on March 31, 2021, an investigator documented that Respondent:
  - a. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting deliveries of regulated substances into the USTs, Specifically, approximately twenty-four fuel deliveries were accepted without a current delivery certificate for UST Nos. 1, 2, and 3 between January 19, 2020, and February 12, 2021;
  - b. Failed to monitor the USTs for releases in a manner which will detect a release at a frequency of at least once every 30 days;
  - c. Failed to assure that all spill and overfill prevention devices are maintained in good operating condition. Specifically, the spill bucket for the diesel fuel UST failed its triennial inspection on January 13, 2021; and
  - d. Failed to retrain Class A and Class B operators by January 1, 2020, with a course submitted to and approved by TCEQ after April 1, 2018, regardless of the three-year re-training requirement. Specifically, Respondent was last retrained as a Class A and Class B operator on June 14, 2017.
3. The Executive Director recognizes that Respondent implemented the following corrective measures at the Facility:
  - a. Procured a valid TCEQ approved delivery certificate and presented it to common carriers before taking delivery of regulated substances into its USTs as of April 20, 2021, (Finding of Fact No. 2.a.); and

- b. Obtained Class A and Class B Operator training as of April 8, 2023, (Finding of Fact No. 2.d.).
4. By letter dated May 10, 2021, 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.
5. 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 Samad Brothers LLC dba Kingsley One Stop Foodmart" (the "EDPRP") in the TCEQ Chief Clerk's office on July 14, 2022.
6. By letter dated July 14, 2022, sent to Respondent's last known address via certified mail, return receipt requested, 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 July 18, 2022, as evidenced by the signature on the card.
7. 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.
8. By letter dated June 12, 2023, the Executive Director provided Respondent with notice of TCEQ's intent to order the USTs at the Facility to be shut down and removed from service if Respondent failed to correct the violations within 30 days after Respondent's receipt of the notice.
9. 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.b., or that the spill and overfill violation alleged in Finding of Fact No. 2.c. has been corrected.
10. The USTs at the Facility 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 Facility 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 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting deliveries of regulated substances into the USTs, in violation of TEX. WATER CODE § 26.3467(a) and 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to monitor the USTs for releases in a manner which will detect a release at a frequency of at least once every 30 days, in violation of TEX. WATER CODE § 26.3475(c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(A).
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to assure that all spill and overfill prevention devices are maintained in good operating condition, in violation of 30 TEX. ADMIN. CODE § 334.51(a)(6).
5. As evidenced by Finding of Fact No. 2.d., Respondent failed to retrain Class A and Class B operators by January 1, 2020, with a course submitted to and approved by TCEQ after April 1, 2018, regardless of the three-year re-training requirement, in violation of 30 TEX. ADMIN. CODE § 334.605(d).
6. As evidenced by Findings of Fact Nos. 5 and 6, 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(b)(1).

7. As evidenced by Finding of Fact No. 7, Respondent failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.
8. 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.
9. An administrative penalty in the amount of fifty-seven thousand four hundred fourteen dollars (\$57,414.00) is justified by the facts recited in this Order and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
10. As evidenced by Findings of Fact Nos. 2.b., 2.c., 4, 8, and 9, Respondent failed to correct documented violations of TCEQ release detection and spill and overfill 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 Facility.
11. 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 spill and overfill prevention.
12. 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.
13. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke the UST fuel delivery certificate if the Commission finds that good cause exists.
14. Good cause for revocation of the UST fuel delivery certificate exists as justified by Findings of Fact Nos. 2 and Findings of Fact Nos. 4 through 7 and Conclusions of Law Nos. 2 through 8.
15. As evidenced by Findings of Fact Nos. 9 and 10, current conditions at the Facility 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 Facility:
  - 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 Facility'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 Facility 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 Conclusion of Law No. 3 and the spill and overflow violation noted in Conclusion of Law No. 4 have been corrected and Respondent obtains a new fuel delivery certificate for the Facility.
4. Immediately upon the effective date of this Order, Respondent shall cease accepting fuel at the Facility 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 Facility'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 Facility, 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 fifty-seven thousand four hundred fourteen dollars (\$57,414.00) 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: Samad Brothers LLC dba Kingsley One Stop Foodmart; Docket No. 2021-1182-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. Implement a method of release detection for the USTs at the Facility, in accordance with 30 TEX. ADMIN. CODE § 334.50;
  - b. Replace the spill bucket for the diesel fuel UST; and
  - c. 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 Facility 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 certifications 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 certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

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

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 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 Enforcement Division 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 \_\_\_\_\_

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



## UNSWORN DECLARATION OF Marilyn Norrod

"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 Samad Brothers LLC dba Kingsley One Stop Foodmart' (the "EDPRP") was filed in the TCEQ Chief Clerk's office on July 14, 2022.

The EDPRP was mailed to Respondent's last known address on July 14, 2022, via certified mail, return receipt requested, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on July 18, 2022, 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 June 12, 2023, sent via first class mail and certified mail, return receipt requested article no 7018 0360 0000 6993 8832, I provided Respondent with notice of the TCEQ's intent to order the UST's to be shut down and removed from service if the violations pertaining to were not corrected within 30 days of Respondent's receipt of the letter. According to the return receipt "green card," Respondent did not claim the certified mail, which was returned to me on July 19, 2023. The first-class mail was not returned by the United States Post Office.

As of the date of this declaration, I am not aware of any evidence that indicates that Respondent has corrected the release detection violations and the spill and overfill violations noted during the investigation."

"My name is Marilyn A. Norrod, and I am an employee of the following governmental agency: Texas Commission on Environmental Quality. I am executing this declaration as part of my assigned duties and responsibilities. I declare under penalty of perjury that the foregoing is true and correct."

Executed in Travis County,

State of Texas,

on the 3rd day of August, 2023

A handwritten signature in cursive script, appearing to read "Marilyn A. Norrod".

\_\_\_\_\_  
Declarant