

Lucy G. Garza  
 RN102280013  
 Docket No. 2021-1449-PST-E

**Order Type:**  
 Agreed Order

**Media:**  
 PST

**Small Business:**  
 N/A

**Location(s) Where Violation(s) Occurred:**  
 2609 North Downing Road, Angleton, Brazoria County

**Type of Operation:**  
 temporarily out-of-service underground storage tank ("UST") system

**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:** September 30, 2022

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$9,528

**Total Paid to General Revenue:** \$288

**Total Due to General Revenue:** \$9,240

Payment Plan: 35 payments of \$264 each

**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(s):** N/A

**Date(s) of Investigation:** April 27, 2021

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

**Date(s) of NOE(s):** September 16, 2021

Lucy G. Garza  
RN102280013  
Docket No. 2021-1449-PST-E

**Violation Information**

1. Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs [30 TEX. ADMIN. CODE § 37.815(a) and (b)].
2. Failed to assure that all UST recordkeeping requirements are met [30 TEX. ADMIN. CODE § 334.10(b)(2)].
3. Failed to maintain required UST operator training certification documentation on site and make them available for inspection upon request by agency personnel [30 TEX. ADMIN. CODE § 334.606].

**Corrective Actions/Technical Requirements**

**Corrective Action(s) Completed:**

None

**Technical Requirements:**

1. Immediately:
  - a. Begin maintaining all UST records, including overfill prevention records, and make them available for inspection upon request by agency personnel; and
  - b. Begin maintaining required operator training certification documentation and make them available for inspection upon request by agency personnel.
2. Within 30 days:
  - a. Obtain financial assurance for all USTs at the Facility; or
  - b. In lieu of Corrective Action Technical Requirement No. 2.a., perform a site check and any necessary corrective actions.
3. Within 45 days, submit written certification to demonstrate compliance with Technical Requirement Nos. 1 and either 2.a. or 2.b.

**Litigation Information**

**Date Petition(s) Filed:** July 25, 2022  
**Date Green Card(s) Signed:** August 6, 2022  
**Settlement Date:** August 18, 2022

**Contact Information**

**TCEQ Attorneys:** Megan L. Grace, 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:** John Fennell, Enforcement Division, (512) 239-2616  
**TCEQ Regional Contact:** Alma Jefferson, Regional Office, (713) 767-3500  
**Respondent Contact:** Lucy G. Garza, 39 Alexander Court, Angleton, Texas 77515-3773  
**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

<b>DATES</b>	<b>Assigned</b>	20-Sep-2021	<b>Screening</b>	14-Oct-2021	<b>EPA Due</b>	
	<b>PCW</b>	18-May-2022				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Lucy G. Garza
<b>Reg. Ent. Ref. No.</b>	RN102280013
<b>Facility/Site Region</b>	12-Houston
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	61490	<b>No. of Violations</b>	3
<b>Docket No.</b>	2021-1449-PST-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Petroleum Storage Tank	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	John Fennell
		<b>EC's Team</b>	Enforcement Team 6
<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>	\$5,250
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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>	40.0%	Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	\$2,100
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Notes: Enhancement for two agreed orders containing a denial of liability.

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

<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: \$2,305  
 Estimated Cost of Compliance: \$4,142  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$7,350
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	29.6%	Adjustment	\$2,178
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement to capture the avoided cost of compliance associated with Violation No. 1.

<b>Final Penalty Amount</b>	\$9,528
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$9,528
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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.

Notes: Deferral not offered for non-expedited settlement.

<b>PAYABLE PENALTY</b>	\$9,528
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**Screening Date** 14-Oct-2021

**Docket No.** 2021-1449-PST-E

**PCW**

**Respondent** Lucy G. Garza

*Policy Revision 5 (January 28, 2021)*

**Case ID No.** 61490

*PCW Revision February 11, 2021*

**Reg. Ent. Reference No.** RN102280013

**Media** Petroleum Storage Tank

**Enf. Coordinator** John Fennell

### 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> )	2	40%
	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)** 40%

**>> 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 two agreed orders containing a denial of liability.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 40%

**>> Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** 40%

Screening Date 14-Oct-2021

Docket No. 2021-1449-PST-E

PCW

Respondent Lucy G. Garza

Policy Revision 5 (January 28, 2021)

Case ID No. 61490

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN102280013

Media Petroleum Storage Tank

Enf. Coordinator John Fennell

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 37.815(a) and (b)

Violation Description Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks ("USTs"). Specifically, the financial assurance expired on September 27, 2020.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (0.0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (10.0%).

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

Adjustment \$22,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 382

Table with frequency options: daily, weekly, monthly, quarterly, semiannual, annual, single event (marked with x).

Violation Base Penalty \$2,500

One single event is recommended.

Good Faith Efforts to Comply 0.0% Reduction \$0

Table for Good Faith Efforts: Extraordinary, Ordinary, N/A (marked with x).

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

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount \$2,299 Violation Final Penalty Total \$4,537

This violation Final Assessed Penalty (adjusted for limits) \$4,537

## Economic Benefit Worksheet

**Respondent** Lucy G. Garza  
**Case ID No.** 61490  
**Reg. Ent. Reference No.** RN102280013  
**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)	\$1,980	27-Apr-2021	17-Jul-2022	1.22	\$121	n/a	\$121

**Notes for DELAYED costs**

Estimated delayed cost to obtain financial assurance for three USTS at the Facility. The Date Required is the investigation date, and the Final Date is the estimated compliance date.

### 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	\$1,980	27-Sep-2020	14-Oct-2021	1.05	\$106	\$2,072	\$2,178
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 financial assurance for three USTS (\$660 per UST) at the Facility. The Date Required is the financial assurance expiration date, and the Final Date is the screening date.

**Approx. Cost of Compliance**

\$4,052

**TOTAL**

\$2,299

**Screening Date** 14-Oct-2021 **Docket No.** 2021-1449-PST-E **PCW**  
**Respondent** Lucy G. Garza *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 61490 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN102280013  
**Media** Petroleum Storage Tank  
**Enf. Coordinator** John Fennell

**Violation Number** 2  
**Rule Cite(s)** 30 Tex. Admin. Code § 334.10(b)(2)  
**Violation Description** Failed to assure that all UST recordkeeping requirements are met. Specifically, overfill prevention records were not available for review at the time of the investigation.

**Base Penalty** \$25,000

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

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

**>> Programmatic Matrix**

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
				x	

Less than 30% of the rule requirement was not met.

**Adjustment** \$24,750

\$250

**Violation Events**

Number of Violation Events 1 170 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

**Violation Base Penalty** \$250

One single event is recommended.

**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** \$250

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

**Estimated EB Amount** \$3 **Violation Final Penalty Total** \$454

**This violation Final Assessed Penalty (adjusted for limits)** \$454

## Economic Benefit Worksheet

**Respondent** Lucy G. Garza  
**Case ID No.** 61490  
**Reg. Ent. Reference No.** RN102280013  
**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	\$45	27-Apr-2021	17-Jul-2022	1.22	\$3	n/a	\$3
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 delayed cost to maintain overfill prevention records and make them available for inspection upon request by agency personnel. The Date Required is the investigation date, and the Final Date is the estimated compliance date.

### 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 \$45

**TOTAL** \$3



**Screening Date** 14-Oct-2021 **Docket No.** 2021-1449-PST-E **PCW**  
**Respondent** Lucy G. Garza *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 61490 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN102280013  
**Media** Petroleum Storage Tank  
**Enf. Coordinator** John Fennell

**Violation Number** 3  
**Rule Cite(s)** 30 Tex. Admin. Code § 334.606  
**Violation Description** Failed to maintain required UST operator training certification documentation on-site and make them available for inspection upon request by agency personnel.

**Base Penalty** \$25,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

**>> Programmatic Matrix**

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			10.0%

100% of the rule requirement was not met.

**Adjustment** \$22,500

\$2,500

**Violation Events**

Number of Violation Events 1 170 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

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

One single event is recommended.

**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** \$3 **Violation Final Penalty Total** \$4,537

**This violation Final Assessed Penalty (adjusted for limits)** \$4,537

## Economic Benefit Worksheet

**Respondent** Lucy G. Garza  
**Case ID No.** 61490  
**Reg. Ent. Reference No.** RN102280013  
**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				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	\$45	27-Apr-2021	17-Jul-2022	1.22	\$3	n/a	\$3
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
<b>Notes for DELAYED costs</b>	Estimated cost to maintain required operator training certification documentation and make them available for inspection upon request by agency personnel. The Date Required is the investigation date, and the Final Date is the estimated compliance date.						

### 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
<b>ONE-TIME avoided costs</b>				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
<b>Notes for AVOIDED costs</b>							

Approx. Cost of Compliance \$45

**TOTAL** \$3



# Compliance History Report

Compliance History Report for CN604801985, RN102280013, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

<b>Customer, Respondent, or Owner/Operator:</b>	CN604801985, Lucy G. Garza	<b>Classification:</b>	SATISFACTORY	<b>Rating:</b>	23.25
<b>Regulated Entity:</b>	RN102280013, G & G Mini Mart	<b>Classification:</b>	SATISFACTORY	<b>Rating:</b>	23.25
<b>Complexity Points:</b>	4	<b>Repeat Violator:</b>	NO		
<b>CH Group:</b>	14 - Other				
<b>Location:</b>	2609 NORTH DOWNING ROAD ANGLETON, BRAZORIA COUNTY, TEXAS 77515-3654				
<b>TCEQ Region:</b>	REGION 12 - HOUSTON				
<b>ID Number(s):</b>	PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 54635				

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

**Date Compliance History Report Prepared:** October 21, 2021

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** October 21, 2016 to October 21, 2021

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

**Name:** John Fennell

**Phone:** (512) 239-2616

## 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?  
Lucy G. Garza OWNER since 4/3/2019  
Sara Inez Macias OPERATOR since 7/31/2019
- 4) Who was/were the prior owner(s)/operator(s)?  
MACIAS, ROEL ROLANDO, OPERATOR, 4/1/2015 to 7/30/2019  
GARZA, LAWRENCE M, OWNER OPERATOR, 3/30/2015 to 4/2/2019

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

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

- 1 Effective Date: 05/11/2017      ADMINORDER 2016-0593-PST-E (1660 Order-Agreed Order With Denial)  
Classification: Minor  
Citation: 30 TAC Chapter 334, SubChapter A 334.10(b)(1)(B)  
Description: Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel.  
Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.3475(c)(1)  
30 TAC Chapter 334, SubChapter C 334.50(d)(1)(B)(iii)(I)  
Description: Failed to record inventory volume measurements for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day.  
Classification: Moderate  
Citation: 30 TAC Chapter 334, SubChapter N 334.602(a)  
Description: Failed to identify and designate for the UST Facility at least one named individual for each class of operator – Class A, Class B, and Class C.  
Classification: Moderate  
Citation: 30 TAC Chapter 334, SubChapter C 334.48(b)  
Description: Failed to ensure that the UST system is operated, maintained, and managed in accordance with accepted industry practices.  
Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter A 334.8(c)(5)(C)

Description: Failed to ensure that a legible tag, label or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a non-removable point in the immediate area of the fill tube for each regulated UST according to the UST registration and self-certification form.

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter D 334.72

Description: Failure to report to the Commission a suspected release from a UST within 24 hours of its discovery.

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: Failure to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring).

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter D 334.74

Description: Failed to investigate a suspected release of a regulated substance within 30 days of discovery.

2 Effective Date: 02/12/2019 ADMINORDER 2018-0749-PST-E (1660 Order-Agreed Order With Denial)

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 April 16, 2019 (1554224)

**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  
LUCY G. GARZA;  
RN102280013

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

## AGREED ORDER

DOCKET NO. 2021-1449-PST-E

### I. JURISDICTION AND STIPULATIONS

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Lucy G. Garza ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent together stipulate that:

1. Respondent owns, as defined in 30 TEX. ADMIN. CODE § 334.2(78), a temporarily out-of-service underground storage tank ("UST") system located at 2609 North Downing Road in Angleton, Brazoria County, Texas (Facility ID No. 54635) (the "Facility"). The USTs at the Facility 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.
2. The Executive Director and Respondent agree that TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of nine thousand five hundred twenty-eight dollars (\$9,528.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid two hundred eighty-eight dollars (\$288.00) of the penalty. The remaining amount of nine thousand two hundred forty dollars (\$9,240.00) shall be paid in 35 monthly payments of two hundred sixty-four dollars (\$264.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until the penalty is paid in full. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Respondent's failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance constitutes the failure by Respondent to timely and satisfactorily comply with all the terms of this Order.
5. The Executive Director and Respondent agree on a settlement of the matters addressed in this Order, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.

6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas (“OAG”) for further enforcement proceedings if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions contained in this Order.
7. This Order represents the complete and fully-integrated agreement of the parties. 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.

## II. ALLEGATIONS

1. During an investigation conducted on April 27, 2021, an investigator documented that Respondent:
  - a. Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs, in violation of 30 TEX. ADMIN. CODE § 37.815(a) and (b). Specifically, the financial assurance expired on September 27, 2020;
  - b. Failed to assure that all UST recordkeeping requirements are met, in violation of 30 TEX. ADMIN. CODE § 334.10(b)(2). Specifically, overfill prevention records were not available for review at the time of the investigation; and
  - c. Failed to maintain required UST operator training certification documentation on-site and make them available for inspection upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 334.606.

## III. DENIALS

Respondent generally denies each Allegation in Section II.

## IV. ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty as set forth in Section I, Paragraph 4. The payment of this penalty and Respondent’s compliance with all of the requirements set forth in this Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations which are not raised here. Penalty payments shall be made payable to TCEQ and shall be sent with the notation “Re: Lucy G. Garza, Docket No. 2021-1449-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
2. Respondent shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Order:
    - i. Begin maintaining all UST records, including overfill prevention records, and make them available for inspection upon request by agency personnel, in accordance with 30 TEX. ADMIN. CODE § 334.10; and
    - ii. Begin maintaining required operator training certification documentation and make them available for inspection upon request by agency personnel, in accordance with 30 TEX. ADMIN. CODE § 334.606.

- b. Within 30 days after the effective date of this Order:
  - i. Obtain financial assurance for all USTs at the Facility, in accordance with 30 TEX. ADMIN. CODE § 37.815; or
  - ii. In lieu of Corrective Action Ordering Provision No. 2.b.i., perform a site check and any necessary corrective actions, in accordance with 30 TEX. ADMIN. CODE §§ 334.54 and 334.74.
- c. Within 45 days after the effective date of this Order, submit written certification to demonstrate compliance with Ordering Provisions Nos. 2.a. and either 2.b.i. or 2.b.ii. The certification 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.”

The written certification and supporting documentation necessary to demonstrate compliance with these Ordering Provisions shall be sent to:

Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
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

3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon Respondent.
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. This Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order, or (2) pursue violations of a statute within TCEQ's jurisdiction or of a rule adopted or an order or permit issued by the TCEQ under such a statute.
8. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.



SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

\_\_\_\_\_  
Date

Frank E. Chanallop  
\_\_\_\_\_  
For the Executive Director

10/17/22  
\_\_\_\_\_  
Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions in this Order and/or failure to timely pay the penalty amount may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, I understand that any falsification of any compliance documents may result in criminal prosecution.

Lucy G. Garza  
\_\_\_\_\_  
Signature, Lucy G. Garza  
39 Alexander Court  
Angleton, Texas 77515-3773

08-18-2022  
\_\_\_\_\_  
Date

*If mailing address has changed, please check this box and provide the new address below:*

\_\_\_\_\_