

**Executive Summary – Enforcement Matter – Case No. 64166**  
**Lithia CM, Inc. dba All American Chevrolet of Midland**  
**RN102281342**  
**Docket No. 2023-0771-PST-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

PST

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

All American Chevrolet of Midland, 4100 West Wall Street, Midland, Midland County

**Type of Operation:**

Car dealership with underground storage tanks ("USTs") to refuel vehicles

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** November 22, 2024

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$16,418

**Amount Deferred for Expedited Settlement:** \$3,283

**Total Paid to General Revenue:** \$395

**Total Due to General Revenue:** \$12,740

Payment Plan: 35 payments of \$364 each

**Compliance History Classifications:**

Person/CN - High

Site/RN - High

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** January 2021

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** April 24, 2023

**Date(s) of NOE(s):** June 9, 2023

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***Violation Information***

1. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs. Specifically, the Respondent accepted one fuel deposit on April 6, 2023 without a valid, current TCEQ delivery certificate [30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a)].
2. 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. Specifically, the last financial assurance policy expired on September 30, 2022 [30 TEX. ADMIN. CODE § 37.815(a) and (b)].
3. Failed to inspect the impressed corrosion protection system at least once every 60 days to ensure the rectifier and other system components are operating properly. Specifically, the Respondent was not performing the 60-day inspections of the impressed current corrosion protection system [30 TEX. ADMIN. CODE § 334.49(c)(2)(C) and TEX. WATER CODE § 26.3475(d)].
4. Failed to test the corrosion protection system for operability and adequacy of protection at a frequency of at least once every three years. Specifically, the Respondent had not conducted the triennial testing of the corrosion protection system [30 TEX. ADMIN. CODE § 334.49(c)(4)(C) and TEX. WATER CODE § 26.3475(d)].
5. Failed to renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, the delivery certificate expired on September 30, 2022 [30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)].
6. Failed to monitor the USTs in a manner which will detect a release at a frequency of at least once every 30 days [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].
7. Failed to provide release detection for the suction piping associated with the UST system. Specifically, the Respondent had not conducted the triennial testing of the suction piping associated with the UST system [30 TEX. ADMIN. CODE § 334.50(b)(2)(B)(i)(I) and TEX. WATER CODE § 26.3475(b)].
8. Failed to conduct a walkthrough inspection for the spill prevention equipment every 30 days [30 TEX. ADMIN. CODE § 334.48(h)(1)(A)(i) and TEX. WATER CODE § 26.3475(c)(2)].
9. Failed to conduct annual walkthrough inspections of the submersible turbine pump and under dispenser areas that do not have containment sumps. Specifically, the Respondent had not conducted the annual walkthrough inspection of the under

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**RN102281342**  
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dispenser areas [30 TEX. ADMIN. CODE § 334.48(h)(1)(B)(iii) and TEX. WATER CODE § 26.3475(c)(2)].

10. Failed to test the spill prevention equipment at least once every three years [30 TEX. ADMIN. CODE § 334.48(g)(1)(A)(ii) and TEX. WATER CODE § 26.3475(c)(2)].

11. Failed to inspect the overfill prevention equipment at least once every three years to ensure it is set to activate at the correct level and will activate when a regulated substance reaches that level [30 TEX. ADMIN. CODE § 334.48(g)(1)(B) and TEX. WATER CODE § 26.3475(c)(2)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

The Order will require the Respondent to:

a. Within 30 days:

i. Submit a properly completed UST registration and self-certification form to obtain a valid, current TCEQ delivery certificate;

ii. Provide financial assurance for the two petroleum USTs at the Facility;

iii. Begin conducting 60-day inspections of the rectifier and other components of the corrosion protection system;

iv. Conduct the triennial testing of the corrosion protection system;

v. Conduct the triennial testing of the suction piping associated with the UST system;

vi. Implement a method of release detection for the USTs at the Facility;

vii. Conduct the annual walkthrough inspection of the under dispenser areas;

viii. Conduct the triennial testing of the spill prevention equipment;

ix. Conduct the triennial inspections of the overfill prevention equipment; and

x. Conduct the walkthrough inspections of spill buckets every 30 days.

b. Within 45 days, submit written certification to demonstrate compliance with a.

**Executive Summary – Enforcement Matter – Case No. 64166**  
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**RN102281342**  
**Docket No. 2023-0771-PST-E**

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Celicia A. Garza, Enforcement Division, Enforcement Team 3, MC R-13, (210) 657-8422; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

**Respondent:** Bryan B. Deboer, President, Lithia CM, Inc. dba All American Chevrolet of Midland, 150 North Bartlett Street, Medford, Oregon 97501

Edward Impert, Assistant Secretary, Lithia CM, Inc. dba All American Chevrolet of Midland, 150 North Bartlett Street, Medford, Oregon 97501

**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>	12-Jun-2023	<b>Screening</b>	14-Jun-2023	<b>EPA Due</b>	
	<b>PCW</b>	19-Jun-2023				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Lithia CM, Inc. dba All American Chevrolet of Midland				
<b>Reg. Ent. Ref. No.</b>	RN102281342				
<b>Facility/Site Region</b>	7-Midland	<b>Major/Minor Source</b>	Minor		

## CASE INFORMATION

<b>Enf./Case ID No.</b>	64166	<b>No. of Violations</b>	6
<b>Docket No.</b>	2023-0771-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>	Celicia A. Garza
		<b>EC's Team</b>	Enforcement Team 3
<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>	\$16,250
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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>	-10.0%	<b>Adjustment</b>	<b>Subtotals 2, 3, &amp; 7</b>	-\$1,625
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Notes Reduction for High Performer classification.

<b>Culpability</b>	No	0.0%	<b>Enhancement</b>	<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%	<b>Enhancement*</b>	<b>Subtotal 6</b>	\$0
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Total EB Amounts \$2,265  
Estimated Cost of Compliance \$6,175  
\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$14,625
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	12.3%	<b>Adjustment</b>	\$1,793
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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 Nos. 2, 3, 5, and 6.

<b>Final Penalty Amount</b>	\$16,418
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$16,418
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<b>DEFERRAL</b>	20.0%	<b>Reduction</b>	<b>Adjustment</b>	-\$3,283
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$13,135
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<b>Screening Date</b>	14-Jun-2023	<b>Docket No.</b>	2023-0771-PST-E	<b>PCW</b>
<b>Respondent</b>	Lithia CM, Inc. dba All American Chevrolet of Midland			Policy Revision 5 (January 28, 2021)
<b>Case ID No.</b>	64166			PCW Revision February 11, 2021
<b>Reg. Ent. Reference No.</b>	RN102281342			
<b>Media</b>	Petroleum Storage Tank			
<b>Enf. Coordinator</b>	Celicia A. Garza			

## 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> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of 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)** 0%

### >> Repeat Violator (Subtotal 3)

No

**Adjustment Percentage (Subtotal 3)** 0%

### >> Compliance History Person Classification (Subtotal 7)

High Performer

**Adjustment Percentage (Subtotal 7)** -10%

### >> Compliance History Summary

**Compliance History Notes**

Reduction for High Performer classification.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** -10%

### >> Final Compliance History Adjustment

**Final Adjustment Percentage \*capped at 100%** -10%

<b>Screening Date</b> 14-Jun-2023 <b>Respondent</b> Lithia CM, Inc. dba All American Chevrolet of Midland <b>Case ID No.</b> 64166 <b>Reg. Ent. Reference No.</b> RN102281342 <b>Media</b> Petroleum Storage Tank <b>Enf. Coordinator</b> Celicia A. Garza	<b>Docket No.</b> 2023-0771-PST-E  <div style="border: 1px solid black; padding: 5px;"> <b>Violation Number</b> 1       </div> <div style="border: 1px solid black; padding: 5px;"> <b>Rule Cite(s)</b> 30 Tex. Admin. Code § 334.8(c)(5)(A)(i) and Tex. Water Code § 26.3467(a)       </div> <div style="border: 1px solid black; padding: 5px;"> <b>Violation Description</b> Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the underground storage tanks ("USTs"). Specifically, the Respondent accepted one fuel deposit on April 6, 2023 without a valid, current TCEQ delivery certificate.       </div>	<b>PCW</b> <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>																		
<b>Base Penalty</b> \$25,000																				
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>																				
OR	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <th style="width:15%;"></th> <th style="width:25%;">Major</th> <th style="width:25%;">Moderate</th> <th style="width:25%;">Minor</th> </tr> <tr> <td><b>Release</b></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Actual</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Potential</td> <td></td> <td></td> <td></td> </tr> </table>				Major	Moderate	Minor	<b>Release</b>				Actual				Potential				<b>Percent</b> 0.0%
		Major	Moderate	Minor																
<b>Release</b>																				
Actual																				
Potential																				
<b>&gt;&gt; Programmatic Matrix</b>																				
	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <th style="width:15%;">Falsification</th> <th style="width:25%;">Major</th> <th style="width:25%;">Moderate</th> <th style="width:25%;">Minor</th> </tr> <tr> <td></td> <td style="text-align: center;">x</td> <td></td> <td></td> </tr> </table>			Falsification	Major	Moderate	Minor		x			<b>Percent</b> 10.0%								
Falsification	Major	Moderate	Minor																	
	x																			
Matrix Notes	100% of the rule requirement was not met.																			
<b>Adjustment</b>		\$22,500																		
		\$2,500																		
<b>Violation Events</b>																				
Number of Violation Events		1	1 Number of violation days																	
	<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td>daily</td><td></td></tr> <tr><td>weekly</td><td></td></tr> <tr><td>monthly</td><td></td></tr> <tr><td>quarterly</td><td></td></tr> <tr><td>semiannual</td><td></td></tr> <tr><td>annual</td><td></td></tr> <tr><td>single event</td><td style="text-align: center;">x</td></tr> </table>	daily		weekly		monthly		quarterly		semiannual		annual		single event	x	<b>Violation Base Penalty</b> \$2,500				
daily																				
weekly																				
monthly																				
quarterly																				
semiannual																				
annual																				
single event	x																			
One single event is recommended.																				
<b>Good Faith Efforts to Comply</b>		0.0%	Reduction \$0																	
	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <th></th> <th>Before NOE/NOV</th> <th>NOE/NOV to EDPRP/Settlement Offer</th> </tr> <tr> <td>Extraordinary</td> <td></td> <td></td> </tr> <tr> <td>Ordinary</td> <td></td> <td></td> </tr> <tr> <td>N/A</td> <td style="text-align: center;">x</td> <td></td> </tr> </table>				Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer	Extraordinary			Ordinary			N/A	x						
	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer																		
Extraordinary																				
Ordinary																				
N/A	x																			
Notes	The Respondent does not meet the good faith criteria for this violation.																			
<b>Violation Subtotal</b>		\$2,500																		
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>																		
<b>Estimated EB Amount</b>		\$5	<b>Violation Final Penalty Total</b> \$2,526																	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>		\$2,526																		

# Economic Benefit Worksheet

**Respondent** Lithia CM, Inc. dba All American Chevrolet of Midland  
**Case ID No.** 64166  
**Reg. Ent. Reference No.** RN102281342  
**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)	\$40	30-Sep-2022	7-Apr-2025	2.52	\$5	n/a	\$5

Notes for DELAYED costs

Estimated delayed cost to renew a delivery certificate by submitting a properly completed UST registration and self-certification form to obtain a valid, current TCEQ delivery certificate. The Date Required is the expiration date of the previously issued delivery certificate 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

\$40

TOTAL

\$5



<b>Screening Date</b> 14-Jun-2023 <b>Respondent</b> Lithia CM, Inc. dba All American Chevrolet of Midland <b>Case ID No.</b> 64166 <b>Reg. Ent. Reference No.</b> RN102281342 <b>Media</b> Petroleum Storage Tank <b>Enf. Coordinator</b> Celia A. Garza	<b>Docket No.</b> 2023-0771-PST-E  <b>PCW</b> <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>
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<b>Violation Number</b>	2	
<b>Rule Cite(s)</b>		30 Tex. Admin. Code § 37.815(a) and (b)
<b>Violation Description</b>	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. Specifically, the last financial assurance policy expired on September 30, 2022.	

  

<b>Base Penalty</b>	\$25,000
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**>> Environmental, Property and Human Health Matrix**

<b>OR</b>		<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input style="width: 50px;" type="text" value="0.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

  

**>> Programmatic Matrix**

<b>Matrix Notes</b>		<b>Falsification</b>			
		Major	Moderate	Minor	
	<input type="text"/>	x	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input style="width: 50px;" type="text" value="10.0%"/>
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

  

<b>Adjustment</b>	\$22,500
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	\$2,500
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**Violation Events**

Number of Violation Events	1	257	Number of violation days
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	daily	<input type="text"/>	<b>Violation Base Penalty</b> <input style="width: 100px;" type="text" value="\$2,500"/>
	weekly	<input type="text"/>	
	monthly	<input type="text"/>	
	quarterly	<input type="text"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	x	

  

One single event is recommended.
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**Good Faith Efforts to Comply**

<b>0.0%</b>	<b>Reduction</b>
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	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>	<b>Violation Subtotal</b> <input style="width: 100px;" type="text" value="\$2,500"/>
Ordinary	<input type="text"/>	<input type="text"/>	
N/A	x	<input type="text"/>	

  

Notes	The Respondent does not meet the good faith criteria for this violation.
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**Economic Benefit (EB) for this violation**

<b>Estimated EB Amount</b>	\$1,135
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**Statutory Limit Test**

<b>Violation Final Penalty Total</b>	\$2,526
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<b>This violation Final Assessed Penalty (adjusted for limits)</b>	\$2,526
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# Economic Benefit Worksheet

**Respondent** Lithia CM, Inc. dba All American Chevrolet of Midland  
**Case ID No.** 64166  
**Reg. Ent. Reference No.** RN102281342  
**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				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)	\$1,320	30-Sep-2022	7-Apr-2025	2.52	\$166	n/a	\$166

### Notes for DELAYED costs

Estimated delayed cost to provide financial assurance for two petroleum USTs (\$660 per UST). The Date Required is the expiration date of the previously issued financial assurance 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	\$1,320	30-Sep-2022	14-Jun-2023	0.70	\$40	\$929	\$969
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 provide financial assurance for two petroleum USTs (\$660 per UST). The Date Required is the expiration date of the previously issued financial assurance and the Final Date is the screening date.

### Approx. Cost of Compliance

\$2,249

### TOTAL

\$1,135

<b>Screening Date</b> 14-Jun-2023 <b>Respondent</b> Lithia CM, Inc. dba All American Chevrolet of Midland <b>Case ID No.</b> 64166 <b>Reg. Ent. Reference No.</b> RN102281342 <b>Media</b> Petroleum Storage Tank <b>Enf. Coordinator</b> Celia A. Garza	<b>Docket No.</b> 2023-0771-PST-E  <b>Base Penalty</b> \$25,000	<b>PCW</b> <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>
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<b>Violation Number</b>	3	<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 334.49(c)(2)(C) and (c)(4)(C) and Tex. Water Code § 26.3475(d)
<b>Violation Description</b>	Failed to inspect the impressed corrosion protection system at least once every 60 days to ensure the rectifier and other system components are operating properly. Specifically, the Respondent was not performing the 60-day inspections of the impressed current corrosion protection system. Also, failed to test the corrosion protection system for operability and adequacy of protection at a frequency of at least once every three years. Specifically, the Respondent had not conducted the triennial testing of the corrosion protection system.		

  

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

<b>OR</b>	<b>Release</b>	<b>Harm</b>			
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="15.0%"/>

**>> Programmatic Matrix**

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

<b>Matrix Notes</b>	Human health or the environment will or could be exposed to pollutants that would exceed levels that are protective of human health or the environmental receptors as a result of the violation.
---------------------	--

**Adjustment**

  

**Violation Events**

Number of Violation Events	<input type="text" value="1"/>	<input type="text" value="51"/>	Number of violation days
----------------------------	--------------------------------	---------------------------------	--------------------------

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

**Violation Base Penalty**

One quarterly event is recommended from the April 24, 2023 investigation date to the June 14, 2023 screening date.

  

**Good Faith Efforts to Comply**

	<b>0.0%</b>		
	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>	
Ordinary	<input type="text"/>	<input type="text"/>	
N/A	<input type="text" value="x"/>	<input type="text"/>	

<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.
--------------	--

**Reduction**

  

**Violation Subtotal**

  

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

<b>Estimated EB Amount</b>	<input type="text" value="\$663"/>
----------------------------	------------------------------------

**Statutory Limit Test**

<b>Violation Final Penalty Total</b>	<input type="text" value="\$3,789"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b>	<input type="text" value="\$3,789"/>

# Economic Benefit Worksheet

**Respondent** Lithia CM, Inc. dba All American Chevrolet of Midland  
**Case ID No.** 64166  
**Reg. Ent. Reference No.** RN102281342  
**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				0.00	\$0	n/a	\$0
Training/Sampling	\$500	24-Apr-2023	7-Apr-2025	1.96	\$49	n/a	\$49
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	24-Apr-2023	7-Apr-2025	1.96	\$10	n/a	\$10

### Notes for DELAYED costs

Estimated delayed cost to begin conducting 60-day inspections of the rectifier and other components of the corrosion protection system (\$100) and to conduct the triennial testing of the corrosion protection system (\$500). 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	\$100	24-Apr-2023	14-Jun-2023	0.14	\$1	\$100	\$101
Other (as needed)	\$500	24-Apr-2023	14-Jun-2023	0.14	\$3	\$500	\$503

### Notes for AVOIDED costs

Estimated avoided cost to conduct 60-day inspections of the rectifier and other components of the corrosion protection system (\$100). The Date Required is the investigation date and the Final Date is the screening date.

Estimated avoided cost to conduct the triennial testing of the corrosion protection system (\$500). The Date Required is the investigation date and the Final Date is the screening date.

Approx. Cost of Compliance

\$1,200

**TOTAL**

\$663

<b>Screening Date</b> 14-Jun-2023 <b>Respondent</b> Lithia CM, Inc. dba All American Chevrolet of Midland <b>Case ID No.</b> 64166 <b>Reg. Ent. Reference No.</b> RN102281342 <b>Media</b> Petroleum Storage Tank <b>Enf. Coordinator</b> Celicia A. Garza	<b>Docket No.</b> 2023-0771-PST-E  <b>PCW</b> <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>																			
<b>Violation Number</b> <span style="border: 1px solid black; padding: 2px;">4</span>																				
<b>Rule Cite(s)</b> <span style="border: 1px solid black; padding: 2px;">30 Tex. Admin. Code § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)</span>																				
<b>Violation Description</b> <span style="border: 1px solid black; padding: 5px;">         Failed to renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, the delivery certificate expired on September 30, 2022.       </span>																				
<b>Base Penalty</b> <span style="border: 1px solid black; padding: 2px;">\$25,000</span>																				
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>																				
OR	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 15%;"></th> <th style="width: 25%;">Major</th> <th style="width: 25%;">Moderate</th> <th style="width: 25%;">Minor</th> <th style="width: 10%;"></th> </tr> </thead> <tbody> <tr> <td><b>Release</b></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Actual</td> <td><span style="border: 1px solid black; padding: 2px;"></span></td> <td><span style="border: 1px solid black; padding: 2px;"></span></td> <td><span style="border: 1px solid black; padding: 2px;"></span></td> <td rowspan="2" style="vertical-align: middle;"> <b>Percent</b> <span style="border: 1px solid black; padding: 2px;">0.0%</span> </td> </tr> <tr> <td>Potential</td> <td><span style="border: 1px solid black; padding: 2px;"></span></td> <td><span style="border: 1px solid black; padding: 2px;"></span></td> <td><span style="border: 1px solid black; padding: 2px;"></span></td> </tr> </tbody> </table>		Major	Moderate	Minor		<b>Release</b>					Actual	<span style="border: 1px solid black; padding: 2px;"></span>	<span style="border: 1px solid black; padding: 2px;"></span>	<span style="border: 1px solid black; padding: 2px;"></span>	<b>Percent</b> <span style="border: 1px solid black; padding: 2px;">0.0%</span>	Potential	<span style="border: 1px solid black; padding: 2px;"></span>	<span style="border: 1px solid black; padding: 2px;"></span>	<span style="border: 1px solid black; padding: 2px;"></span>
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<b>&gt;&gt; Programmatic Matrix</b>																				
Matrix Notes	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 15%;">Falsification</th> <th style="width: 25%;">Major</th> <th style="width: 25%;">Moderate</th> <th style="width: 25%;">Minor</th> <th style="width: 10%;"></th> </tr> </thead> <tbody> <tr> <td><span style="border: 1px solid black; padding: 2px;"></span></td> <td><span style="border: 1px solid black; padding: 2px;">x</span></td> <td><span style="border: 1px solid black; padding: 2px;"></span></td> <td><span style="border: 1px solid black; padding: 2px;"></span></td> <td rowspan="2" style="vertical-align: middle;"> <b>Percent</b> <span style="border: 1px solid black; padding: 2px;">10.0%</span> </td> </tr> </tbody> </table>	Falsification	Major	Moderate	Minor		<span style="border: 1px solid black; padding: 2px;"></span>	<span style="border: 1px solid black; padding: 2px;">x</span>	<span style="border: 1px solid black; padding: 2px;"></span>	<span style="border: 1px solid black; padding: 2px;"></span>	<b>Percent</b> <span style="border: 1px solid black; padding: 2px;">10.0%</span>									
	Falsification	Major	Moderate	Minor																
	<span style="border: 1px solid black; padding: 2px;"></span>	<span style="border: 1px solid black; padding: 2px;">x</span>	<span style="border: 1px solid black; padding: 2px;"></span>	<span style="border: 1px solid black; padding: 2px;"></span>	<b>Percent</b> <span style="border: 1px solid black; padding: 2px;">10.0%</span>															
100% of the rule requirement was not met.																				
<b>Adjustment</b> <span style="border: 1px solid black; padding: 2px;">\$22,500</span>																				
<span style="border: 1px solid black; padding: 2px;">\$2,500</span>																				
<b>Violation Events</b>																				
Number of Violation Events <span style="border: 1px solid black; padding: 2px;">1</span> <span style="margin-left: 50px;"><span style="border: 1px solid black; padding: 2px;">257</span> Number of violation days</span>																				
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single event	<span style="border: 1px solid black; padding: 2px;"></span>																			
<b>Violation Base Penalty</b> <span style="border: 1px solid black; padding: 2px;">\$2,500</span>																				
One annual event is recommended from the September 30, 2022 expiration date of the previous delivery certificate to the June 14, 2023 screening date.																				
<b>Good Faith Efforts to Comply</b>																				
<b>0.0%</b> <span style="margin-left: 100px;">Reduction</span> <span style="border: 1px solid black; padding: 2px;">\$0</span>																				
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	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer																		
Extraordinary	<span style="border: 1px solid black; padding: 2px;"></span>	<span style="border: 1px solid black; padding: 2px;"></span>																		
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N/A	<span style="border: 1px solid black; padding: 2px;">x</span>	<span style="border: 1px solid black; padding: 2px;"></span>																		
Notes	The Respondent does not meet the good faith criteria for this violation.																			
<b>Violation Subtotal</b> <span style="border: 1px solid black; padding: 2px;">\$2,500</span>																				
<b>Economic Benefit (EB) for this violation</b>																				
<b>Statutory Limit Test</b>																				
<table style="width: 100%;"> <tr> <td style="width: 50%; text-align: right;"> <b>Estimated EB Amount</b> <span style="border: 1px solid black; padding: 2px;">\$0</span> </td> <td style="width: 50%; text-align: right;"> <b>Violation Final Penalty Total</b> <span style="border: 1px solid black; padding: 2px;">\$2,526</span> </td> </tr> <tr> <td colspan="2" style="text-align: right;"> <b>This violation Final Assessed Penalty (adjusted for limits)</b> <span style="border: 1px solid black; padding: 2px;">\$2,526</span> </td> </tr> </table>		<b>Estimated EB Amount</b> <span style="border: 1px solid black; padding: 2px;">\$0</span>	<b>Violation Final Penalty Total</b> <span style="border: 1px solid black; padding: 2px;">\$2,526</span>	<b>This violation Final Assessed Penalty (adjusted for limits)</b> <span style="border: 1px solid black; padding: 2px;">\$2,526</span>																
<b>Estimated EB Amount</b> <span style="border: 1px solid black; padding: 2px;">\$0</span>	<b>Violation Final Penalty Total</b> <span style="border: 1px solid black; padding: 2px;">\$2,526</span>																			
<b>This violation Final Assessed Penalty (adjusted for limits)</b> <span style="border: 1px solid black; padding: 2px;">\$2,526</span>																				

# Economic Benefit Worksheet

**Respondent** Lithia CM, Inc. dba All American Chevrolet of Midland  
**Case ID No.** 64166  
**Reg. Ent. Reference No.** RN102281342  
**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				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Economic Benefit included in Violation No. 1.

## Avoided Costs

### ANNUALIZE 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

\$0

**TOTAL**

\$0

<b>Screening Date</b>	14-Jun-2023	<b>Docket No.</b>	2023-0771-PST-E	<b>PCW</b>
<b>Respondent</b>	Lithia CM, Inc. dba All American Chevrolet of Midland	Policy Revision 5 (January 28, 2021) PCW Revision February 11, 2021		
<b>Case ID No.</b>	64166			
<b>Reg. Ent. Reference No.</b>	RN102281342			
<b>Media</b>	Petroleum Storage Tank			
<b>Enf. Coordinator</b>	Celicia A. Garza			
<b>Violation Number</b>	5			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 334.50(b)(1)(A) and (b)(2)(B)(i)(I) and Tex. Water Code § 26.3475(b) and (c)(1)			
<b>Violation Description</b>	Failed to monitor the USTs in a manner which will detect a release at a frequency of at least once every 30 days. Also, failed to provide release detection for the suction piping associated with the UST system. Specifically, the Respondent had not conducted the triennial testing of the suction piping associated with the UST system.			
		<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**

<b>OR</b>		<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor	
	Actual				<b>Percent</b> 0.0%
	Potential				

  

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.
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<b>Adjustment</b>	\$21,250
<b>Subtotal</b> \$3,750	

  

**Violation Events**

Number of Violation Events	1	Number of violation days	51														
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td>daily</td><td></td></tr> <tr><td>weekly</td><td></td></tr> <tr><td>monthly</td><td></td></tr> <tr><td>quarterly</td><td style="text-align: center;">x</td></tr> <tr><td>semiannual</td><td></td></tr> <tr><td>annual</td><td></td></tr> <tr><td>single event</td><td></td></tr> </table>	daily		weekly		monthly		quarterly	x	semiannual		annual		single event			
daily																	
weekly																	
monthly																	
quarterly	x																
semiannual																	
annual																	
single event																	
		<b>Violation Base Penalty</b>	\$3,750														

  

One quarterly event is recommended from the April 24, 2023 investigation date to the June 14, 2023 screening date.
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**Good Faith Efforts to Comply**

	<b>0.0%</b>		<b>Reduction</b> \$0
	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer	
Extraordinary			
Ordinary			
N/A	x		
Notes	The Respondent does not meet the good faith criteria for this violation.		
		<b>Violation Subtotal</b>	\$3,750

  

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

	<b>Statutory Limit Test</b>
<b>Estimated EB Amount</b>	\$278
<b>Violation Final Penalty Total</b>	\$3,789
<b>This violation Final Assessed Penalty (adjusted for limits)</b> \$3,789	

# Economic Benefit Worksheet

**Respondent** Lithia CM, Inc. dba All American Chevrolet of Midland  
**Case ID No.** 64166  
**Reg. Ent. Reference No.** RN102281342  
**Media** Petroleum Storage Tank  
**Violation No.** 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	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	\$118	24-Apr-2023	7-Apr-2025	1.96	\$12	n/a	\$12
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	24-Apr-2023	7-Apr-2025	1.96	\$147	n/a	\$147

### Notes for DELAYED costs

Estimated delayed cost to conduct the triennial testing (\$118) of the suction piping associated with the UST system and to implement a method of release detection (\$1,500) for the USTs at the Facility. The Dates Required are the investigation date and the Final Dates are 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	\$118	24-Apr-2023	14-Jun-2023	0.14	\$1	\$118	\$119
Other (as needed)				0.00	\$0	\$0	\$0

### Notes for AVOIDED costs

Estimated avoided cost to conduct the triennial testing (\$118) of the suction piping associated with the UST system. The Date Required is the investigation date and the Final Date is the screening date.

Approx. Cost of Compliance

\$1,736

**TOTAL**

\$278



<b>Screening Date</b> 14-Jun-2023 <b>Respondent</b> Lithia CM, Inc. dba All American Chevrolet of Midland <b>Case ID No.</b> 64166 <b>Reg. Ent. Reference No.</b> RN102281342 <b>Media</b> Petroleum Storage Tank <b>Enf. Coordinator</b> Celicia A. Garza	<b>Docket No.</b> 2023-0771-PST-E	<b>PCW</b> <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>
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<b>Violation Number</b>	6	<b>Rule Cite(s)</b>	
		30 Tex. Admin. Code § 334.48(h)(1)(A)(i), (h)(1)(B)(iii), (g)(1)(A)(ii), and (g)(1)(B) and Tex. Water Code § 26.3475(c)(2)	
<b>Violation Description</b>		Failed to conduct a walkthrough inspection for the spill prevention equipment every 30 days. Also, failed to conduct annual walkthrough inspections of the submersible turbine pump and under dispenser areas that do not have containment sumps. Specifically, the Respondent had not conducted the annual walkthrough inspection of the under dispenser areas. Also, failed to test the spill prevention equipment at least once every three years. In addition, failed to inspect the overfill prevention equipment at least once every three years to ensure it is set to activate at the correct level and will activate when a regulated substance reaches that level.	

  

<b>Base Penalty</b>	\$25,000
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**>> Environmental, Property and Human Health Matrix**

<b>OR</b>	<b>Release</b>	<b>Harm</b>			<b>Percent</b>
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text"/>	x	<input type="text"/>	
Percent <input style="width: 50px;" type="text" value="5.0%"/>					

  

**>> Programmatic Matrix**

<b>Matrix Notes</b>	Falsification	Major	Moderate	Minor	<b>Percent</b>
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Percent <input style="width: 50px;" type="text" value="0.0%"/>					
<b>Adjustment</b> <input style="width: 100px;" type="text" value="\$23,750"/>					

  

	\$1,250
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**Violation Events**

Number of Violation Events	1	51	Number of violation days
	<div style="display: flex; flex-direction: column; align-items: flex-start;"> <div style="border: 1px solid black; padding: 2px; margin-bottom: 2px;">daily</div> <div style="border: 1px solid black; padding: 2px; margin-bottom: 2px;">weekly</div> <div style="border: 1px solid black; padding: 2px; margin-bottom: 2px;">monthly</div> <div style="border: 1px solid black; padding: 2px; margin-bottom: 2px;">quarterly</div> <div style="border: 1px solid black; padding: 2px; margin-bottom: 2px;">semiannual</div> <div style="border: 1px solid black; padding: 2px; margin-bottom: 2px;">annual</div> <div style="border: 1px solid black; padding: 2px;">single event</div> </div>	<div style="display: flex; flex-direction: column; align-items: flex-start;"> <div style="border: 1px solid black; width: 50px; height: 20px; margin-bottom: 2px;"></div> <div style="border: 1px solid black; width: 50px; height: 20px; margin-bottom: 2px;"></div> <div style="border: 1px solid black; width: 50px; height: 20px; margin-bottom: 2px;"></div> <div style="border: 1px solid black; width: 50px; height: 20px; margin-bottom: 2px; text-align: center;">x</div> <div style="border: 1px solid black; width: 50px; height: 20px; margin-bottom: 2px;"></div> <div style="border: 1px solid black; width: 50px; height: 20px; margin-bottom: 2px;"></div> <div style="border: 1px solid black; width: 50px; height: 20px;"></div> </div>	
<b>Violation Base Penalty</b>			\$1,250

  

One quarterly event is recommended from the April 24, 2023 investigation date to the June 14, 2023 screening date.

  

**Good Faith Efforts to Comply**

	0.0%	<b>Reduction</b>	\$0						
	<div style="display: flex; justify-content: space-between; font-size: small;"> <span>Before NOE/NOV</span> <span>NOE/NOV to EDPRP/Settlement Offer</span> </div> <div style="display: flex; align-items: center;"> <div style="width: 20%;">           Extraordinary            Ordinary            N/A         </div> <div style="width: 80%;"> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; height: 20px;"></td> <td style="width: 50%; height: 20px;"></td> </tr> <tr> <td style="height: 20px;"></td> <td style="height: 20px;"></td> </tr> <tr> <td style="text-align: center;">x</td> <td style="height: 20px;"></td> </tr> </table> </div> </div>					x			
x									
<b>Notes</b>	<div style="border: 1px solid black; padding: 5px;">           The Respondent does not meet the good faith criteria for this violation.         </div>								
<b>Violation Subtotal</b>			\$1,250						

  

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

<b>Estimated EB Amount</b>	<b>Statutory Limit Test</b>
<input style="width: 100px;" type="text" value="\$184"/>	<b>Violation Final Penalty Total</b>
	<input style="width: 100px;" type="text" value="\$1,263"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b>	
<input style="width: 100px;" type="text" value="\$1,263"/>	

## Economic Benefit Worksheet

**Respondent** Lithia CM, Inc. dba All American Chevrolet of Midland  
**Case ID No.** 64166  
**Reg. Ent. Reference No.** RN102281342  
**Media** Petroleum Storage Tank  
**Violation No.** 6

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	\$600	24-Apr-2023	7-Apr-2025	1.96	\$59	n/a	\$59
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$250	24-Apr-2023	7-Apr-2025	1.96	\$24	n/a	\$24

#### Notes for DELAYED costs

Estimated delayed cost to conduct the annual walkthrough inspection of under dispenser areas (\$300 per dispenser area), to conduct the triennial testing of the spill prevention equipment (\$25 per spill bucket), to conduct the triennial inspection of the overfill prevention equipment (\$100), and to conduct the walkthrough inspections of spill buckets every 30 days (\$100). The Dates Required are the investigation date and the Final Dates are 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)	\$100	24-Apr-2023	14-Jun-2023	0.14	\$1	\$100	\$101

#### Notes for AVOIDED costs

Estimated avoided cost to conduct the walkthrough inspections of spill buckets every 30 days. The Date Required is the investigation date and the Final Date is the screening date.

Approx. Cost of Compliance

\$950

**TOTAL**

\$184



# Compliance History Report

Compliance History Report for CN602526089, RN102281342, Rating Year 2023 which includes Compliance History (CH) components from September 1, 2018, through August 31, 2023.

**Customer, Respondent, or Owner/Operator:** CN602526089, Lithia CM, Inc.

**Classification:** HIGH

**Rating:** 0.00

**Regulated Entity:** RN102281342, All American Chevrolet Of Midland

**Classification:** HIGH

**Rating:** 0.00

**Complexity Points:** 3

**Repeat Violator:** NO

**CH Group:** 14 - Other

**Location:** 4100 West Wall Street in Midland, Midland County, Texas

**TCEQ Region:** REGION 07 - MIDLAND

**ID Number(s):**

**PETROLEUM STORAGE TANK REGISTRATION** REGISTRATION 16019

**AIR NEW SOURCE PERMITS** ACCOUNT NUMBER ML0257Q

**AIR NEW SOURCE PERMITS** REGISTRATION 27829

**Compliance History Period:** September 01, 2018 to August 31, 2023

**Rating Year:** 2023

**Rating Date:** 09/01/2023

**Date Compliance History Report Prepared:** June 10, 2024

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** June 10, 2019 to June 10, 2024

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

**Name:** Celicia A. Garza

**Phone:** (210) 657-8422

## Site and Owner/Operator History:

- |  |     |
|--|-----|
| 1) Has the site been in existence and/or operation for the full five year compliance period?       | YES |
| 2) Has there been a (known) change in ownership/operator of the site during the compliance period? | NO  |

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

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

N/A

### **B. Criminal convictions:**

N/A

### **C. Chronic excessive emissions events:**

N/A

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

Item 1	July 30, 2021	(1745431)
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### **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

LITHIA CM, INC. DBA ALL AMERICAN  
CHEVROLET OF MIDLAND  
RN102281342

§  
§  
§  
§  
§  
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2023-0771-PST-E

### I. JURISDICTION AND STIPULATIONS

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Lithia CM, Inc. dba All American Chevrolet of Midland (the "Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent operates, as defined in 30 TEX. ADMIN. CODE § 334.2(75), an underground storage tank ("UST") system and a car dealership with USTs to refuel vehicles located at 4100 West Wall Street in Midland, Midland County, Texas (the "Facility"). The UST system at the Facility is not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission, and contains or contained a regulated petroleum substance as defined in the rules of the TCEQ.
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the 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 the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$16,418 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$395 of the penalty and \$3,283 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order and shall be waived only upon full compliance with all the terms and conditions of this Order.

The remaining amount of \$12,740 of the undeferred penalty shall be paid in 35 monthly payments of \$364 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 the Respondent fails to comply with the payment requirements of this Order, including the payment schedule, the Executive Director may accelerate the maturity of

the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. The Respondent's failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms and conditions of this Order and the Executive Director may demand payment of all or part of the deferred penalty amount.

5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, 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 the Respondent has not complied with one or more of the terms or conditions 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.
8. 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.

## II. ALLEGATIONS

During an investigation at the Facility conducted on April 24, 2023, an investigator documented that the Respondent:

1. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a). Specifically, the Respondent accepted one fuel deposit on April 6, 2023 without a valid, current TCEQ delivery certificate.
2. 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 last financial assurance policy expired on September 30, 2022.
3. Failed to inspect the impressed corrosion protection system at least once every 60 days to ensure the rectifier and other system components are operating properly, in violation of 30 TEX. ADMIN. CODE § 334.49(c)(2)(C) and TEX. WATER CODE § 26.3475(d). Specifically, the Respondent was not performing the 60-day inspections of the impressed current corrosion protection system.
4. Failed to test the corrosion protection system for operability and adequacy of protection at a frequency of at least once every three years, in violation of 30 TEX. ADMIN. CODE

- § 334.49(c)(4)(C) and TEX. WATER CODE § 26.3475(d). Specifically, the Respondent had not conducted the triennial testing of the corrosion protection system.
5. Failed to renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii). Specifically, the delivery certificate expired on September 30, 2022.
  6. Failed to monitor the USTs in a manner which will detect a release at a frequency of at least once every 30 days, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1).
  7. Failed to provide release detection for the suction piping associated with the UST system, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2)(B)(i)(I) and TEX. WATER CODE § 26.3475(b). Specifically, the Respondent had not conducted the triennial testing of the suction piping associated with the UST system.
  8. Failed to conduct a walkthrough inspection for the spill prevention equipment every 30 days, in violation of 30 TEX. ADMIN. CODE § 334.48(h)(1)(A)(i) and TEX. WATER CODE § 26.3475(c)(2).
  9. Failed to conduct annual walkthrough inspections of the submersible turbine pump and under dispenser areas that do not have containment sumps, in violation of 30 TEX. ADMIN. CODE § 334.48(h)(1)(B)(iii) and TEX. WATER CODE § 26.3475(c)(2). Specifically, the Respondent had not conducted the annual walkthrough inspection of the under dispenser areas.
  10. Failed to test the spill prevention equipment at least once every three years, in violation of 30 TEX. ADMIN. CODE § 334.48(g)(1)(A)(ii) and TEX. WATER CODE § 26.3475(c)(2).
  11. Failed to inspect the overfill prevention equipment at least once every three years to ensure it is set to activate at the correct level and will activate when a regulated substance reaches that level, in violation of 30 TEX. ADMIN. CODE § 334.48(g)(1)(B) and TEX. WATER CODE § 26.3475(c)(2).

### **III. DENIALS**

The Respondent generally denies each allegation in Section II ("Allegations").

### **IV. ORDERING PROVISIONS**

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

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the 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 action 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: Lithia CM, Inc. dba All American Chevrolet of Midland, Docket No. 2023-0771-PST-E" to:

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

2. The Respondent shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Order:
  - i. Submit a properly completed UST registration and self-certification form to obtain a valid, current TCEQ delivery certificate, in accordance with 30 TEX. ADMIN. CODE § 334.8;
  - ii. Provide financial assurance for the two petroleum USTs at the Facility, in accordance with 30 TEX. ADMIN. CODE § 37.815;
  - iii. Begin conducting 60-day inspections of the rectifier and other components of the corrosion protection system, in accordance with 30 TEX. ADMIN. CODE § 334.49;
  - iv. Conduct the triennial testing of the corrosion protection system, in accordance with 30 TEX. ADMIN. CODE § 334.49;
  - v. Conduct the triennial testing of the suction piping associated with the UST system, in accordance with 30 TEX. ADMIN. CODE § 334.50;
  - vi. Implement a method of release detection for the USTs at the Facility, in accordance with 30 TEX. ADMIN. CODE § 334.50;
  - vii. Conduct the annual walkthrough inspection of the under dispenser areas, in accordance with 30 TEX. ADMIN. CODE § 334.48;
  - viii. Conduct the triennial testing of the spill prevention equipment, in accordance with 30 TEX. ADMIN. CODE § 334.48;
  - ix. Conduct the triennial inspections of the overfill prevention equipment, in accordance with 30 TEX. ADMIN. CODE § 334.48; and
  - x. Conduct the walkthrough inspections of spill buckets every 30 days, in accordance with 30 TEX. ADMIN. CODE § 334.48.
- b. Within 45 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be signed by the 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 fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Waste Section Manager  
Midland Regional Office  
Texas Commission on Environmental Quality  
10 Desta Drive, Suite 350E  
Midland, Texas 79705

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 the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility 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 the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the 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. This Order, issued by the Commission, shall not be admissible against the 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 the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. 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.

8. 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

-----  
For the Executive Director

-----  
1/21/2025

-----  
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, if any, 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 submitted;
- Referral of this case to the OAG 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 OAG of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

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

-----  
Signature

-----  
Date

-----  
Edward Impact

-----  
1/18/2025

-----  
Name (Printed or typed)

-----  
Title

-----  
Authorized Representative of

-----  
Lithia CM, Inc. dba All American Chevrolet of Midland

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

**Instructions:** Send the original, signed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Ordering Provision 1 of this Order.