

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 44110
SUNSHINE STORES, INC. d/b/a Sunshine Truck Stop
RN102358488
Docket No. 2012-0955-PST-E

Order Type:

Default Shutdown Order (SOAH preliminary hearing)

Media:

PST

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

4010 South Street, Nacogdoches, Nacogdoches County

Type of Operation:

convenience store with retail sales of gasoline

Other Significant Matters:

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

Texas Register Publication Date: March 15, 2013

Comments Received: None

Penalty Information

Total Penalty Assessed: \$20,334

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$20,334

Compliance History Classifications:

Person/CN – Average
Site/RN – Average by Default

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: September 2002 (PCW 1); September 2011 (PCW 2)

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: April 9, 2012

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

Date(s) of NOE(s): April 19, 2012

Violation Information

1. Failed to provide proper corrosion protection for the UST system [TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE § 334.49(a)].
2. Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel [30 TEX. ADMIN. CODE § 334.10(b)].
3. Failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring); failed to test the line leak detectors at least once per year for performance and operational reliability; failed to conduct reconciliation of inventory control records at least once a month, in a manner sufficiently accurate to detect a release which equals or exceeds the sum of 1.0% of the total substance flow-through for the month plus 130 gallons; and failed to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day [TEX. WATER CODE § 26.3475(a) and (c)(1); and 30 TEX. ADMIN. CODE § 334.50(b)(1)(A), (b)(2)(A)(i), (d)(1)(B)(ii) and (d)(1)(B)(iii)(I)].
4. Failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as motor fuel [30 TEX. ADMIN. CODE § 334.48(c)].
5. Failed to ensure that a legible tag, label or marking with the UST identification number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube according to the UST registration and self-certification form [30 TEX. ADMIN. CODE § 334.8(c)(5)(C)].
6. Failed to inspect all sumps, manways, overspill containers or catchment basins associated with the UST system at least once every 60 days to assure that their sides, bottoms and any penetration points are maintained liquid tight and free of any liquid or debris [30 TEX. ADMIN. CODE § 334.42(i)].
7. Failed to keep the UST system vent lines open and functioning; and failed to maintain all piping, pumps, manways and ancillary equipment in a capped, plugged, locked, and/or otherwise secured manner to prevent access, tampering or vandalism by unauthorized persons [30 TEX. ADMIN. CODE § 334.54(b)(1) and (b)(2)].
8. Failed to report a release to the TCEQ within 24 hours after discovery [30 TEX. ADMIN. CODE § 334.72].
9. Failed to ensure that the UST system is operated, maintained and managed in accordance with industry practices to prevent a release of a regulated substance, and failed to conduct release investigation and corrective actions [30 TEX. ADMIN. CODE §§ 334.48(a), 334.74, 334.75, 334.76, 334.77 and 334.78].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent conducted a passing cathodic protection test on May 9, 2012 (violation no. 1).

Technical Requirements:

1. Immediately shut down operations of all USTs at the Facility:
 - a. Cease dispensing fuel from the USTs;
 - b. Cease receiving deliveries of regulated substances into the USTs;
 - c. Padlock the dispensers;
 - d. Empty the USTs of all regulated substances; and
 - e. Temporarily remove the USTs from service.

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 44110
SUNSHINE STORES, INC. d/b/a Sunshine Truck Stop
RN102358488
Docket No. 2012-0955-PST-E

2. The USTs shall remain out of service until such time as Respondent demonstrates to the satisfaction of the Executive Director that the release detection violations have been corrected.
3. The Facility's UST fuel delivery certificate is revoked immediately. Respondent may submit an application for a new fuel delivery certificate only after Respondent has complied with all of the requirements.
4. Immediately upon the effective date of this Order, Respondent shall cease accepting fuel until such time as a valid delivery certificate is obtained from the TCEQ.
5. Within 10 days, Respondent shall surrender the Facility's UST fuel delivery certificate.
6. Within 15 days, submit a detailed written report documenting the steps taken to comply with Technical Requirements Nos. 1, 4 and 5.
7. Prior to receiving deliveries of gasoline and resuming sales of gasoline:
 - a. Conduct an investigation of the release and implement appropriate corrective measures at the Facility;
 - b. Begin maintaining all UST records and ensure they are made immediately available for inspection upon request by agency personnel;
 - c. Begin conducting effective manual or automatic inventory control procedures for all USTs at the Facility;
 - d. Implement a process for reporting suspected releases;
 - e. Implement a release detection method for the USTs at the Facility;
 - f. Conduct the required annual testing of the line leak detectors for performance and operational reliability;
 - g. Begin conducting volume measurement and reconciliation of inventory control records;
 - h. Implement procedures to ensure that the UST system is operated, maintained and managed in accordance with industry practices to prevent a release of regulated substances;
 - i. Begin conducting bimonthly inspections of the sumps, manways and overspill containers at the Facility;
 - j. Begin maintaining all piping, pumps, manways, tank access points and ancillary equipment on tank nos. 6 and 7 in a capped, plugged, locked and/or otherwise secured manner to prevent access, tampering or vandalism by unauthorized persons, and ensure that the UST system vent lines are kept open and functioning;
 - k. Permanently apply or affix tags, labels or markings to the UST fill tubes at the Facility with an identification number that matches the number listed on the UST registration and self-certification form; and
 - l. Obtain a new fuel delivery certificate.
8. Upon obtaining a new fuel delivery certificate, post the fuel delivery certificate in a location at the Facility where the delivery certificate is clearly visible at all times.
9. Within 10 days of resuming sales of gasoline, submit written certification to demonstrate compliance with Technical Requirements Nos. 7 and 8.

Litigation Information

Date Petition(s) Filed: September 21, 2012;
Date Green Card(s) Signed: September 24, 2012
Date Answer(s) Filed: October 8, 2012
SOAH Referral Date: November 13, 2012
Hearing Date(s): January 3, 2013 (preliminary hearing-defaulted)

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 44110
SUNSHINE STORES, INC. d/b/a Sunshine Truck Stop
RN102358488
Docket No. 2012-0955-PST-E

Contact Information

TCEQ Attorneys: Kari L. Gilbreth, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Eli Martinez, Public Interest Counsel, (512) 239-6363

TCEQ Enforcement Coordinator: Andrea Park, Enforcement Division, (713) 422-8970

TCEQ Regional Contact: Sarah Kirksey, Beaumont Regional Office, (409) 898-3838

Respondent: Karam Ali, Director, SUNSHINE STORES, INC., P.O. Box 95, Newton, Texas 75966-0095, P.O. Box 963, Newton, Texas 75966-0963, and P.O. Box 472, Newton, Texas 75966-0472

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	23-Apr-2012			
	PCW	8-Aug-2012	Screening	4-May-2012	EPA Due

RESPONDENT/FACILITY INFORMATION	
Respondent	SUNSHINE STORES, INC. dba Sunshine Truck Stop
Reg. Ent. Ref. No.	RN102358488
Facility/Site Region	10-Beaumont
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	44110	No. of Violations	1
Docket No.	2012-0955-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Andrea Park
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$2,500
---	-------------------	---------

ADJUSTMENTS (+/-) TO SUBTOTAL 1	Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.	
Compliance History	0.0% Enhancement	Subtotals 2, 3, & 7
Notes	No adjustment for compliance history.	

Culpability	No	0.0% Enhancement	Subtotal 4
Notes	The Respondent does not meet the culpability criteria.		

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
--	-------------------	-----

Economic Benefit	0.0% Enhancement*	Subtotal 6
Total EB Amounts	\$182	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$1,500	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$2,500
-----------------------------	-----------------------	---------

OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment
Reduces or enhances the Final Subtotal by the indicated percentage.		
Notes		
	Final Penalty Amount	\$2,500

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$2,500
-----------------------------------	-------------------------------	---------

DEFERRAL	0.0%	Reduction	Adjustment
Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)			
Notes	Deferral not offered for non-expedited settlement.		

PAYABLE PENALTY	\$2,500
------------------------	---------

Screening Date	4-May-2012	Docket No.	2012-0955-PST-E	PCW
Respondent	SUNSHINE STORES, INC. dba Sunshine Truck Stop	<i>Policy Revision 2 (September 2002)</i>		
Case ID No.	44110	<i>PCW Revision October 30, 2008</i>		
Reg. Ent. Reference No.	RN102358488			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Andrea Park			

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	<i>Enter Number Here</i>	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> **Repeat Violator (Subtotal 3)**

No

Adjustment Percentage (Subtotal 3) 0%

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

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

No adjustment for compliance history.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date	4-May-2012	Docket No.	2012-0955-PST-E	PCW
Respondent	SUNSHINE STORES, INC. dba Sunshine Truck Stop			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	44110			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN102358488			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Andrea Park			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="25%"/>
	Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

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

Violation Base Penalty

Good Faith Efforts to Comply Reduction

	Before NOV	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"/>	(mark with x)

Notes

Violation Subtotal

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

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent SUNSHINE STORES, INC. dba Sunshine Truck Stop
Case ID No. 44110
Reg. Ent. Reference No. RN102358488
Media Violation No. 1
Media Petroleum Storage Tank

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

Delayed Costs

Equipment	\$1,500	14-Mar-2011	4-Dec-2012	1.73	\$9	\$173	\$182
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs Estimated cost to repair or replace the corrosion protection system and test the system. The date required is the test failure date and the final date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance	\$1,500	TOTAL	\$182
-----------------------------------	---------	--------------	-------



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

DATES	Assigned	23-Apr-2012		
	PCW	8-Aug-2012	Screening	4-May-2012
			EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	SUNSHINE STORES, INC. dba Sunshine Truck Stop		
Reg. Ent. Ref. No.	RN102358488		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	44110	No. of Violations	8
Docket No.	2012-0955-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Andrea Park
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$17,500

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	0.0%	Enhancement	Subtotals 2, 3, & 7	\$0
Notes	No adjustment for compliance history.			
Culpability	No	0.0%	Enhancement	Subtotal 4
Notes	The Respondent does not meet the culpability criteria.			
Good Faith Effort to Comply Total Adjustments			Subtotal 5	\$0
Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
Total EB Amounts	\$566	*Capped at the Total EB \$ Amount		
Approx. Cost of Compliance	\$8,418			

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$17,500

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment** \$334

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Recommended enhancement to capture the avoided cost of compliance associated with violation nos. 2, 5, and 7.	Final Penalty Amount	\$17,834
-------	---	-----------------------------	----------

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$17,834

DEFERRAL **Adjustment** \$0

Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Deferral not offered for non-expedited settlement.
-------	--

PAYABLE PENALTY **\$17,834**

Screening Date	4-May-2012	Docket No.	2012-0955-PST-E	PCW
Respondent	SUNSHINE STORES, INC. dba Sunshine Truck Sto			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	44110			<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No.	RN102358488			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Andrea Park			

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2)

>> **Repeat Violator (Subtotal 3)**

Adjustment Percentage (Subtotal 3)

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

Adjustment Percentage (Subtotal 7)

>> **Compliance History Summary**

Compliance History Notes

No adjustment for compliance history.

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

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100%

Screening Date	4-May-2012	Docket No.	2012-0955-PST-E	PCW
Respondent	SUNSHINE STORES, INC. dba Sunshine Truck Stop			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	44110			<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No.	RN102358488			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Andrea Park			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

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

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
		<input type="text"/>	<input type="text" value="x"/>	<input type="text"/>	
<input type="text" value="100% of the rule requirement was not met."/>					

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

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

Violation Base Penalty

Good Faith Efforts to Comply Reduction

	Before NOV	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"/>	(mark with x)

Notes

Violation Subtotal

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

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent SUNSHINE STORES, INC. dba Sunshine Truck Stop
Case ID No. 44110
Reg. Ent. Reference No. RN102358488
Media Violation No. 1
Media Petroleum Storage Tank

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	9-Apr-2012	4-Nov-2012	0.57	\$14	n/a	\$14
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to maintain UST records. The date required is the investigation date and the final date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$500

TOTAL \$14

Screening Date 4-May-2012 **Docket No.** 2012-0955-PST-E **PCW**

Respondent SUNSHINE STORES, INC. dba Sunshine Truck Stop *Policy Revision 3 (September 2011)*

Case ID No. 44110 *PCW Revision August 3, 2011*

Reg. Ent. Reference No. RN102358488

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Andrea Park

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.50(b)(1)(A), 334.50(b)(2)(A)(i), (d)(1)(B)(ii), and (d)(1)(B)(iii)(I) and Tex. Water Code § 26.3475(a) and (c)(1)

Violation Description
Failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring). Failed to test the line leak detectors at least once per year for performance and operational reliability. Failed to conduct reconciliation of inventory control records at least once a month, in a manner sufficiently accurate to detect a release which equals or exceeds the sum of 1.0% of the total substance flow-through for the month plus 130 gallons. Also, failed to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
		Actual			
Potential	x				

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events: 1 25 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One monthly event is recommended based on documentation of the violation during the April 9, 2012 investigation to the May 4, 2012 screening date.

Good Faith Efforts to Comply 0.0% Reduction \$0

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

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

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount \$178 **Violation Final Penalty Total** \$3,822

This violation Final Assessed Penalty (adjusted for limits) \$3,822

Economic Benefit Worksheet

Respondent SUNSHINE STORES, INC. dba Sunshine Truck Stop
Case ID No. 44110
Reg. Ent. Reference No. RN102358488
Media Violation No. Petroleum Storage Tank
 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	9-Apr-2012	4-Dec-2012	0.65	\$49	n/a	\$49

Notes for DELAYED costs
 Estimated cost to provide release detection for the UST system including proper volume measurement and reconciliation of inventory control records. The date required is the investigation date and the final date is the estimated date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$118	9-Apr-2011	9-Apr-2012	1.92	\$11	\$118	\$129
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs
 Estimated avoided cost for testing the line leak detectors. The date required is one year prior to the investigation date and the final date is the investigation date.

Approx. Cost of Compliance	\$1,618	TOTAL	\$178
-----------------------------------	---------	--------------	-------

Screening Date 4-May-2012 **Docket No.** 2012-0955-PST-E **PCW**
Respondent SUNSHINE STORES, INC. dba Sunshine Truck Stop *Policy Revision 3 (September 2011)*
Case ID No. 44110 *PCW Revision August 3, 2011*
Reg. Ent. Reference No. RN102358488
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Andrea Park

Violation Number

Rule Cite(s)

Violation Description Failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as motor fuel.

Base Penalty

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

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

>> **Programmatic Matrix**

Matrix Notes	Falsification	Major	Moderate	Minor	Percent

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

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

Violation Base Penalty

One monthly event is recommended based on documentation of the violation during the April 9, 2012 investigation to the May 4, 2012 screening date.

Good Faith Efforts to Comply

Reduction

	Before NOV	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"/>	(mark with x)

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

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent SUNSHINE STORES, INC. dba Sunshine Truck Stop
Case ID No. 44110
Reg. Ent. Reference No. RN102358488
Media Violation No. 3
Media Petroleum Storage Tank

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	9-Apr-2012	4-Dec-2012	0.65	\$16	n/a	\$16
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost to conduct proper inventory control procedures. The date required is the investigation date and the final date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs:

Approx. Cost of Compliance	\$500	TOTAL	\$16
----------------------------	-------	--------------	------

Screening Date	4-May-2012	Docket No.	2012-0955-PST-E	PCW
Respondent	SUNSHINE STORES, INC. dba Sunshine Truck Stop			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	44110			<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No.	RN102358488			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Andrea Park			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="5.0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

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

Violation Base Penalty

Good Faith Efforts to Comply

Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	(mark with x)

Notes

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent SUNSHINE STORES, INC. dba Sunshine Truck Stop
Case ID No. 44110
Reg. Ent. Reference No. RN102358488
Media Violation No. 4
 Petroleum Storage Tank

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	9-Apr-2012	4-Dec-2012	0.65	\$3	n/a	\$3

Notes for DELAYED costs

Estimated cost to label the tank fill ports. The date required is the investigation date and the final date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$100

TOTAL \$3

Screening Date	4-May-2012	Docket No.	2012-0955-PST-E	PCW
Respondent	SUNSHINE STORES, INC. dba Sunshine Truck Stop			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	44110			<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No.	RN102358488			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Andrea Park			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="5.0%"/>
	Potential	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	

>> **Programmatic Matrix**

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

Matrix Notes

Adjustment

Violation Events

Number of violation days

mark only one with an x

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

Violation Base Penalty

Good Faith Efforts to Comply

Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	(mark with x)

Notes

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent SUNSHINE STORES, INC. dba Sunshine Truck Stop
Case ID No. 44110
Reg. Ent. Reference No. RN102358488
Media Petroleum Storage Tank
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0
Notes for DELAYED costs							

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$100	9-Feb-2012	9-Apr-2012	1.08	\$5	\$100	\$105
Other (as needed)				0.00	\$0	\$0	\$0
Notes for AVOIDED costs Estimated avoided cost to clean the spill buckets and conduct bimonthly inspections of the sumps, manways, overspill containers or catchment basins. The date required is 60 days before the investigation date and final date is the investigation date.							

Approx. Cost of Compliance \$100

TOTAL \$105

Screening Date	4-May-2012	Docket No.	2012-0955-PST-E	PCW
Respondent	SUNSHINE STORES, INC. dba Sunshine Truck Stop			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	44110			<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No.	RN102358488			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Andrea Park			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Matrix Notes

Adjustment

Violation Events

Number of violation days

mark only one with an x

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

Violation Base Penalty

Good Faith Efforts to Comply

Reduction

	Before NOV	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"/>	(mark with x)

Notes

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent SUNSHINE STORES, INC. dba Sunshine Truck Stop
Case ID No. 44110
Reg. Ent. Reference No. RN102358488
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	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	9-Apr-2012	4-Dec-2012	0.65	\$16	n/a	\$16

Notes for DELAYED costs

Estimated cost to secure tank nos. 6 and 7 and keep all vent lines open and functioning. The date required is the investigation date and the final date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$500

TOTAL \$16

Screening Date	4-May-2012	Docket No.	2012-0955-PST-E	PCW
Respondent	SUNSHINE STORES, INC. dba Sunshine Truck Stop			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	44110			<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No.	RN102358488			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Andrea Park			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

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

OR	Harm			Percent <input type="text" value="0.0%"/>
	Major	Moderate	Minor	
	Release	<input type="text"/>	<input type="text"/>	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

>> **Programmatic Matrix**

	Major	Moderate	Minor	Percent <input type="text" value="5.0%"/>
Falsification	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

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

Violation Base Penalty

Good Faith Efforts to Comply

Reduction

	Before NOV	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"/>	(mark with x)

Notes

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent SUNSHINE STORES, INC. dba Sunshine Truck Stop
Case ID No. 44110
Reg. Ent. Reference No. RN102358488
Media Violation No. Petroleum Storage Tank
 7

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)	\$100	25-Apr-2012	26-Apr-2012	0.00	\$0	\$100	\$100

Notes for AVOIDED costs

Estimated avoided cost to report a release. The date required is the date the release was discovered and the final date is the date the report was due.

Approx. Cost of Compliance \$100

TOTAL \$100

Screening Date	4-May-2012	Docket No.	2012-0955-PST-E	PCW
Respondent	SUNSHINE STORES, INC. dba Sunshine Truck Stop			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	44110			<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No.	RN102358488			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Andrea Park			
Violation Number	8			
Rule Cite(s)	30 Tex. Admin. Code §§ 334.48(a) and 334.74, 334.75, 334.76, 334.77, and 334.78			
Violation Description	Failed to ensure that the UST system is operated, maintained, and managed in accordance with industry practices to prevent a release of a regulated substance. Also, failed to conduct release investigation and corrective actions. Specifically, diesel product was on the ground and a defective swing joint caused a leak under dispenser nos. 1 and 2.			
		Base Penalty	\$25,000	

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent 0.0%

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

Adjustment \$23,750
\$1,250

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	x
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty \$1,250

One quarterly event is recommended based on documentation of the violation during the April 25, 2012 record review to the May 4, 2012 screening date.

Good Faith Efforts to Comply Reduction \$0

		Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>
N/A	x	(mark with x)	

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

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$132"/>	Violation Final Penalty Total <input type="text" value="\$1,274"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$1,274"/>	

Economic Benefit Worksheet

Respondent SUNSHINE STORES, INC. dba Sunshine Truck Stop
Case ID No. 44110
Reg. Ent. Reference No. RN102358488
Media Violation No. Petroleum Storage Tank
 8

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$5,000	25-May-2012	4-Dec-2012	0.53	\$132	n/a	\$132

Notes for DELAYED costs: Estimated cost to conduct a release investigation and take appropriate corrective measures. The date required is 30 days after the discovery of the release and the final date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$5,000

TOTAL \$132

Compliance History Report

Customer/Respondent/Owner-Operator:	CN601583958	SUNSHINE STORES, INC.	Classification: AVERAGE	Rating: 17.07
Regulated Entity:	RN102358488	SUNSHINE TRUCK STOP	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION		18565
Location:	4010 SOUTH ST, NACOGDOCHES, TX, 75964			
TCEQ Region:	REGION 10 - BEAUMONT			
Date Compliance History Prepared:	May 02, 2012			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	May 02, 2007 to May 02, 2012			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Andrea Park Phone: (512) 239-4575

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? YES
2. Has there been a (known) change in ownership/operator of the site during the compliance period? YES
3. If **YES**, who is the current owner/operator?
Sunshine Stores, Inc.
Campbell Oil Co.
4. If **YES**, who was/were the prior owner(s)/operator(s)?
Campbell Oil Co.
Sunshine Stores, Inc.
5. If **YES**, when did the change(s) in owner or operator occur? 3/1/2010
6. Rating Date: 9/1/2011 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
N/A
 - B. Any criminal convictions of the state of Texas and the federal government.
N/A
 - C. Chronic excessive emissions events.
N/A
 - D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 09/16/2011 (91957)
2 04/19/2012 (997447)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
 - F. Environmental audits.
N/A
 - G. Type of environmental management systems (EMSs).
N/A
 - H. Voluntary on-site compliance assessment dates.
N/A
 - I. Participation in a voluntary pollution reduction program.
N/A
 - J. Early compliance.
N/A
- Sites Outside of Texas
N/A

THIS PAGE INTENTIONALLY LEFT BLANK

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
SUNSHINE STORES, INC. D/B/A
SUNSHINE TRUCK STOP;
RN102358488**

§
§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT AND SHUTDOWN ORDER

DOCKET NO. 2012-0955-PST-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition, filed pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty, corrective action of the respondent, and revocation of the facility's fuel delivery certificate. The Commission also considered the Executive Director's Motion requesting the entry of an Order requiring the respondent to shutdown and remove from service the underground storage tanks ("USTs") located at 4010 South Street in Nacogdoches, Nacogdoches County, Texas. The respondent made the subject of this Order is SUNSHINE STORES, INC. d/b/a Sunshine Truck Stop ("Respondent").

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

FINDINGS OF FACT

1. Respondent operates, as defined in 30 TEX. ADMIN. CODE § 334.2(70), a UST system and a convenience store with retail sales of gasoline located at 4010 South Street in Nacogdoches, Nacogdoches County, Texas (Facility ID No.18565) (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 a regulated petroleum substance as defined in the rules of the TCEQ.
2. During an investigation conducted on April 9, 2012, a TCEQ Beaumont Regional Office investigator documented that Respondent:
 - a. Failed to provide proper corrosion protection for the UST system. Specifically, the March 14, 2011, cathodic protection test failed and the system was not repaired or re-tested;
 - b. Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel;
 - c. Failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring); failed to test the line leak detectors at least once per year for performance and operational reliability; failed to conduct reconciliation of inventory control records at least once a month, in a manner sufficiently accurate to detect a release which equals or exceeds the sum of 1.0% of the total substance flow-through for the month plus 130 gallons; and failed to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day;

- d. Failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as motor fuel;
 - e. Failed to ensure that a legible tag, label or marking with the UST identification number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube according to the UST registration and self-certification form;
 - f. Failed to inspect all sumps, manways, overspill containers or catchment basins associated with the UST system at least once every 60 days to assure that their sides, bottoms and any penetration points are maintained liquid tight and free of any liquid or debris. Specifically, the spill buckets contained liquid and debris;
 - g. Failed to keep the UST system vent lines open and functioning; and failed to maintain all piping, pumps, manways and ancillary equipment in a capped, plugged, locked, and/or otherwise secured manner to prevent access, tampering or vandalism by unauthorized persons. Specifically, temporarily out of service tanks nos. 6 and 7 were not properly secured;
 - h. Failed to report a release to the TCEQ within 24 hours after discovery. Specifically, diesel product was on the ground and a defective swing joint caused a leak under dispenser nos. 1 and 2; and
 - i. Failed to ensure that the UST system is operated, maintained and managed in accordance with industry practices to prevent a release of a regulated substance, and failed to conduct release investigation and corrective actions. Specifically, diesel product was on the ground and a defective swing joint caused a leak under dispenser nos. 1 and 2.
3. The Executive Director recognizes that Respondent conducted a passing cathodic protection test on May 9, 2012 (Finding of Fact No. 2.a./Conclusion of Law No. 2)
 4. By letter dated April 19, 2012, the TCEQ Beaumont Regional Office provided Respondent with notice of the violations and of TCEQ's authority to shut down and remove from service USTs not in compliance with release detection, spill and/or overfill prevention, corrosion protection, and/or financial assurance requirements if the violations were not corrected.
 5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of SUNSHINE STORES, INC. d/b/a Sunshine Truck Stop" (the "EDPRP") in the TCEQ Chief Clerk's office on September 21, 2012.
 6. Respondent filed an answer requesting a hearing on October 8, 2012, and the matter was referred to the State Office of Administrative Hearings ("SOAH") on November 13, 2012.
 7. On December 3, 2012, the TCEQ Chief Clerk mailed notice of the January 3, 2013, preliminary hearing via certified mail, return receipt requested, and via first class mail, postage prepaid to Respondent.
 8. On January 3, 2013, the Administrative Law Judge ("ALJ") convened the preliminary hearing. Respondent failed to appear, and the Executive Director requested that the matter be dismissed from the SOAH Docket and remanded to the Executive Director so that a Default Order may be entered by the Commission.

9. On January 10, 2013, the ALJ entered a finding that Respondent was served with proper notice of the hearing and remanded the matter to the Executive Director by SOAH Order No. 1, Announcing Default and Remanding to Agency, so that TCEQ may dispose of this case on a default basis.
10. By letter dated February 12, 2013, the Executive Director provided Respondent with notice of TCEQ's intent to order the USTs at the Facility to be shut down and removed from service if Respondent failed to correct the release detection violation within 30 days after Respondent's receipt of the notice.
11. As of the date of entry of this Order, Respondent has not provided the Executive Director with documentation demonstrating that the release detection violations alleged in Finding of Fact No. 2.c. have been corrected.
12. The USTs at the Facility do not have release detection as required by TEX. WATER CODE §§ 26.3475(a) and (c)(1); and 30 TEX. ADMIN. CODE §§ 334.50(b)(1)(A), (b)(2)(A)(i), (d)(1)(B)(ii) and (d)(1)(B)(iii)(I), and may be releasing petroleum products to the environment. Therefore, conditions at the Facility constitute an imminent peril to public health, safety, and welfare.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to provide proper corrosion protection for the UST system, in violation of TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE § 334.49(a).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to maintain UST records and make them immediately available for inspection upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 334.10(b).
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring); failed to test the line leak detectors at least once per year for performance and operational reliability; failed to conduct reconciliation of inventory control records at least once a month, in a manner sufficiently accurate to detect a release which equals or exceeds the sum of 1.0% of the total substance flow-through for the month plus 130 gallons; and failed to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day, in violation of TEX. WATER CODE § 26.3475(a) and (c)(1); and 30 TEX. ADMIN. CODE § 334.50(b)(1)(A), (b)(2)(A)(i), (d)(1)(B)(ii) and (d)(1)(B)(iii)(I).
5. As evidenced by Finding of Fact No. 2.d., Respondent failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as motor fuel, in violation of 30 TEX. ADMIN. CODE § 334.48(c).
6. As evidenced by Finding of Fact No. 2.e., Respondent failed to ensure that a legible tag, label or marking with the UST identification number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube according to the UST registration and self-certification form, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(C).

7. As evidenced by Finding of Fact No. 2.f., Respondent failed to inspect all sumps, manways, overspill containers or catchment basins associated with the UST system at least once every 60 days to assure that their sides, bottoms and any penetration points are maintained liquid tight and free of any liquid or debris, in violation of 30 TEX. ADMIN. CODE § 334.42(i).
8. As evidenced by Finding of Fact No. 2.g., Respondent failed to keep the UST system vent lines open and functioning; and failed to maintain all piping, pumps, manways and ancillary equipment in a capped, plugged, locked, and/or otherwise secured manner to prevent access, tampering or vandalism by unauthorized persons, in violation of 30 TEX. ADMIN. CODE § 334.54(b)(1) and (b)(2).
9. As evidenced by Finding of Fact No. 2.h., Respondent failed to report a release to the TCEQ within 24 hours after discovery, in violation of 30 TEX. ADMIN. CODE § 334.72.
10. As evidenced by Finding of Fact No. 2.i., Respondent failed to ensure that the UST system is operated, maintained and managed in accordance with industry practices to prevent a release of a regulated substance, and failed to conduct release investigation and corrective actions, in violation of 30 TEX. ADMIN. CODE §§ 334.48(a), 334.74, 334.75, 334.76, 334.77 and 334.78.
11. As evidenced by Finding of Fact No. 6, Respondent filed an answer requesting a hearing as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105, and the matter was referred to SOAH pursuant to 1 TEX. ADMIN. CODE §§ 155.53(b) and 155.101(b) and 30 TEX. ADMIN. CODE § 70.109.
12. As evidenced by Finding of Fact No. 7, Respondent was provided proper notice of the preliminary hearing in accordance with TEX. GOV'T CODE §§ 2001.051(1) and 2001.052, TEX. WATER CODE § 7.058, 1 TEX. ADMIN. CODE §§ 155.103(a) and (c)(3), 155.401 and 155.501, and 30 TEX. ADMIN. CODE §§ 1.11, 1.12, 39.23, 39.25, 39.405, 39.413, 39.423, 39.425 and 80.6.
13. As evidenced by Findings of Fact Nos. 8 and 9, Respondent failed to appear for the preliminary hearing, and pursuant to TEX. GOV'T CODE § 2001.056(4), TEX. WATER CODE § 7.057, and 1 TEX. ADMIN. CODE § 155.501(d), the ALJ dismissed the case from the SOAH docket so that the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director pursuant to 30 TEX. ADMIN. CODE § 70.106(b).
14. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
15. An administrative penalty in the amount of twenty thousand three hundred thirty-four dollars (\$20,334.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
16. As evidenced by Findings of Fact Nos. 2.c., 4, 10, and 11, Respondent failed to correct documented violations of Commission release detection requirements within 30 days after Respondent received notice of the violations and notice of the Executive Director's intent to shut down the USTs at the Facility.
17. TEX. WATER CODE §§ 26.3475(e) and 26.352(i) authorize the Commission to order a UST owner or operator to shut down a UST system if, within 30 days after receiving notice of the violations, the owner or operator fails to correct violations of Commission regulatory requirements relating to release detection for tanks and/or

18. piping, spill and/or overfill protection for tanks, corrosion protection for tanks and/or piping, and/or acceptable financial assurance.
19. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.
20. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke the Facility's UST fuel delivery certificate if the Commission finds that good cause exists.
21. Good cause for revocation of the Facility's UST fuel delivery certificate exists as justified by Findings of Fact Nos. 2. and 5 through 9, and Conclusions of Law Nos. 2 through 13.
22. As evidenced by Findings of Fact Nos. 11 and 12, current conditions at the Facility constitute an imminent peril to public health, safety, and welfare. Therefore, pursuant to the Administrative Procedure Act, TEX. GOV'T CODE § 2001.144(a)(3), this Order is final and effective on the date rendered.

ORDERING PROVISIONS

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

1. Immediately upon the effective date of this Order, Respondent shall take the following steps to shut down operations of all USTs at the Facility:
 - a. Cease dispensing fuel from the USTs;
 - b. Cease receiving deliveries of regulated substances into the USTs;
 - c. Padlock the dispensers;
 - d. Empty the USTs of all regulated substances in accordance with 30 TEX. ADMIN. CODE § 334.54(d); and
 - e. Temporarily remove the USTs from service in accordance with 30 TEX. ADMIN. CODE § 334.54.
2. The USTs at the Facility shall remain out of service, pursuant to TEX. WATER CODE § 26.3475(e) and as directed by Ordering Provisions Nos. 1.a. through 1.e., until such time as Respondent demonstrates to the satisfaction of the Executive Director that the release detection violations noted in Conclusion of Law No. 4 have been corrected.
3. If Respondent elects to permanently remove from service any portion of the UST system at the Facility, Respondent shall, immediately upon the effective date of this Order, permanently remove the UST system from service in accordance with 30 TEX. ADMIN. CODE § 334.55, and within 15 days after the effective date of this Order, shall submit a written report documenting compliance with 30 TEX. ADMIN. CODE § 334.55 to:

Petroleum Storage Tank Registration Team, MC 138
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
4. The Facility's UST fuel delivery certificate is revoked immediately upon the effective date of this Order. Respondent may submit an application for a new fuel delivery certificate only after Respondent has complied with all of the requirements set forth in this Order.

5. Immediately upon the effective date of this Order, Respondent shall cease accepting fuel until such time as a valid delivery certificate is obtained from the TCEQ in accordance with 30 TEX. ADMIN. CODE §§ 334.7 and 334.8.
6. Within 10 days after the effective date of this Order, Respondent shall send the Facility's UST fuel delivery certificate to:

Petroleum Storage Tank Registration Team, MC 138
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
7. Within 15 days after the effective date of this Order, Respondent shall submit a detailed written report, in accordance with Ordering Provision No. 13, below, documenting the steps taken to comply with Ordering Provisions Nos. 1.a. through 1.e., 5 and 6.
8. Respondent is assessed an administrative penalty in the amount of twenty thousand three hundred thirty-four dollars (\$20,334.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here.
9. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: SUNSHINE STORES, INC. d/b/a Sunshine Truck Stop; Docket No. 2012-0955-PST-E" to:

Financial Administration Division, Revenues Section
Texas Commission on Environmental Quality
Attention: Cashier's Office, MC 214
P.O. Box 13088
Austin, Texas 78711-3088
10. Prior to receiving deliveries of gasoline and resuming retail sales of gasoline, Respondent shall undertake the following technical requirements:
 - a. Conduct an investigation of the release and implement appropriate corrective measures at the Facility, in accordance with 30 TEX. ADMIN. CODE ch. 334, subchapters D and G (Conclusion of Law No. 10);
 - b. Begin maintaining all UST records and ensure they are made immediately available for inspection upon request by agency personnel, in accordance with 30 TEX. ADMIN. CODE § 334.10 (Conclusion of Law No. 3);
 - c. Begin conducting effective manual or automatic inventory control procedures for all USTs at the Facility, in accordance with 30 TEX. ADMIN. CODE § 334.48 (Conclusion of Law No. 5);
 - d. Implement a process for reporting a suspected release, in accordance with 30 TEX. ADMIN. CODE § 334.72 (Conclusion of Law No. 9);
 - e. Implement a release detection method for the USTs at the Facility, in accordance with 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) (Conclusion of Law No. 4);

- f. Conduct the required annual testing of the line leak detectors for performance and operational reliability, in accordance with 30 TEX. ADMIN CODE § 334.50(b)(2) (Conclusion of Law No. 4);
 - g. Begin conducting volume measurement and reconciliation of inventory control records, in accordance with 30 TEX. ADMIN. CODE § 334.50(d)(1)(B) (Conclusion of Law No. 4);
 - h. Implement procedures to ensure that the UST system is operated, maintained and managed in accordance with industry practices to prevent a release of regulated substances, in accordance with 30 TEX. ADMIN. CODE § 334.48 (Conclusion of Law No. 10);
 - i. Begin conducting bimonthly inspections of the sumps, manways and overspill containers at the Facility, in accordance with 30 TEX. ADMIN. CODE § 334.42(i) (Conclusion of Law No. 7);
 - j. Begin maintaining all piping, pumps, manways, tank access points and ancillary equipment on tank nos. 6 and 7 in a capped, plugged, locked and/or otherwise secured manner to prevent access, tampering or vandalism by unauthorized persons, and ensure that the UST system vent lines are kept open and functioning, in accordance with 30 TEX. ADMIN. CODE § 334.54 (Conclusion of Law No. 8);
 - k. Permanently apply or affix tags, labels or markings to the UST fill tubes at the Facility with an identification number that matches the number listed on the UST registration and self-certification form, in accordance with 30 TEX. ADMIN. CODE § 334.8 (Conclusion of Law No. 6); and
 - l. Obtain a new fuel delivery certificate from the TCEQ.
11. Upon obtaining a new fuel delivery certificate, Respondent shall post the fuel delivery certificate in a location at the Facility where the delivery certificate is clearly visible at all times, in accordance with 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(iii).
12. Within 10 days of resuming retail sales of gasoline, Respondent shall submit written certification, in accordance with Ordering Provision No. 13, below, to demonstrate compliance with Ordering Provisions Nos. 10 and 11.
13. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Respondent shall submit the written certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

Sarah Kirksey, Waste Section Manager
Texas Commission on Environmental Quality
Beaumont Regional Office
3870 Eastex Freeway
Beaumont, Texas 77703-1892

14. All relief not expressly granted in this Order is denied.
15. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
16. 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.
17. 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.
18. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
19. 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.
20. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date this Order was rendered, pursuant to TEX. GOV'T CODE § 2001.144(a)(3).

S I G N A T U R E P A G E

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF KARI L. GILBRETH

STATE OF TEXAS

§
§
§

COUNTY OF TRAVIS

"My name is Kari L. Gilbreth. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of SUNSHINE STORES, INC. d/b/a Sunshine Truck Stop" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on September 21, 2012.

Respondent filed an answer requesting a hearing on October 8, 2012, and the matter was referred to the State Office of Administrative Hearings ("SOAH") on November 13, 2012. On December 3, 2012, the TCEQ Chief Clerk mailed notice of the January 3, 2013, preliminary hearing via certified mail, return receipt requested, and via first class mail, postage prepaid to Respondent.

Respondent failed to appear at the hearing on January 3, 2013. At that hearing, I requested that the ALJ enter a finding that Respondent was served with proper notice of the hearing and the matter be remanded to the Executive Director pursuant to 1 TEX. ADMIN. CODE § 155.501(d), which gives an ALJ the authority to remand the case back to the agency for informal disposition on a default basis in accordance with TEX. GOV'T CODE § 2001.056.

The ALJ remanded the matter to the Executive Director by SOAH Order No. 1, Announcing Default and Remanding to Agency, issued on January 10, 2013, so that TCEQ may dispose of this case on a default basis."

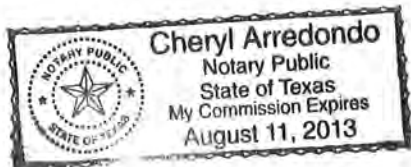
By letter dated February 12, 2013, sent via first class mail and certified mail, return receipt requested article nos. 7004 1350 0002 7549 8292, 7004 1350 0002 7549 8308, and 7004 1350 0002 7549 8315 , I provided Respondent with notice of the TCEQ's intent to order the USTs at the Facility be shut down and removed from service if the violations pertaining to release detection were not corrected within 30 days of Respondent's receipt of the letter. According to the return receipt "green cards," Respondent received the notice on February 14, 2013.

As of the date of this affidavit, I am not aware of any evidence that indicates that Respondent has corrected the release detection violations noted during the April 9, 2012, investigation."


Kari L. Gilbreth, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Kari L. Gilbreth, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 21st day of March, A.D. 2013.




Notary Signature