

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2003-0692-PST-E TCEQ ID: RN101735496 CASE NO.: 26749

**RESPONDENT NAME: SPEEDYS MART INCORPORATED DBA SPEEDY MART C-STORES,
FORMERLY KNOWN AS NATIONAL MART CONVENIENCE STORE**

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: 6643 Cullen Boulevard, Houston, Harris County

TYPE OF OPERATION: Underground storage tanks at a retail service station

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The Texas Register comment period expired on June 25, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Mr. Shawn A. Slack, Litigation Division, MC 175, (512) 239-0063;
Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873

TCEQ Enforcement Coordinator: Mr. Craig Fleming, Enforcement Division, Section II, MC 219, (512) 239-5806

TCEQ Regional Contact: Ms. Nicole Bealle, Houston Regional Office, MC R-12, (713) 767-3623

Respondent: Mr. Martin Adelakun, Registered Agent, Speedys Mart Incorporated dba Speedy Mart C-Stores, formerly known as National Mart Convenience Store, 6643 Cullen Boulevard, Houston, Texas, 77021

Respondent's Attorney: Not represented by counsel on this enforcement matter.

**RESPONDENT'S NAME: SPEEDYS MART INCORPORATED DBA SPEEDY MART C-STORES, Page 2 of 3
FORMERLY KNOWN AS NATIONAL MART CONVENIENCE STORE
DOCKET NO.: 2003-0692-PST-E**

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: November 10, 2000, June 22, 2001, November 8, 2001, and December 12, 2001</p> <p>Date of NOV/NOE Relating to this Case: March 24, 2006 (EDPRP).</p> <p>Background Facts: Between September 10, 2003, and May 11, 2004, multiple attempts were made to serve the Respondent with pleadings associated with this case and provide the Respondent with proper notice; however, the ED was unable to properly serve the Respondent. On March 24, 2006, the ED successfully hand-served the respondent with a copy of the ED's Fifth Amended Report and Petition, which was filed on March 15, 2006. The Respondent has not filed an answer or requested a hearing.</p> <p>The Respondent does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>PST:</p> <ol style="list-style-type: none"> Failed to submit an accurate UST registration and self-certification form to the TCEQ [30 TEX. ADMIN. CODE § 334.8(c)(4)(B) and TEX. WATER CODE § 26.346(a)]. Failed to make available to a common carrier a valid, current delivery certificate prior to delivery of a regulated substance into the UST system [30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a)]. Failed to demonstrate the required 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 USTs [30 TEX. ADMIN. CODE § 37.815(a) and (b)]. Failed to put the automatic tank gauge ("ATG") system into test mode at least once per month and failed to equip the regular unleaded pressurized line on the UST system with a functioning automatic line leak detector [30 TEX. ADMIN. CODE § 334.50(b)(1)(A), (b)(2)(A)(i), and (d)(4)(A)(ii)(II); and TEX. WATER CODE § 26.3475(a) and (c)(1)]. 	<p>Total Assessed: \$20,000</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Settlement</p> <p><input type="checkbox"/> Financial Inability to Pay</p> <p>Total Due to General Revenue: \$20,000</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.</p> <p>Site Compliance History Classification: N/A.</p> <p>Person Compliance History Classifications: N/A.</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: January 1999</p>	<p>Corrective Actions Taken</p> <p>The Executive Director Recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <ol style="list-style-type: none"> Obtained a valid, current delivery certificate, as documented by a TCEQ Houston Regional Office investigator during an investigation on or about February 24, 2006. Obtained the required 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 USTs, as documented by a TCEQ Houston Regional Office investigator during an investigation on or about February 24, 2006. Put the automatic tank gauge ("ATG") system into test mode, although the absence of a valid ATG piping leak test has been alleged in a separate enforcement action, as documented by a TCEQ Houston Regional Office investigator during an investigation on or about February 24, 2006. Equipped the regular unleaded pressurized line on the UST system with a functioning automatic line leak detector, as documented by a TCEQ Houston Regional Office investigator during an investigation on or about February 24, 2006. Spill protection and overflow prevention equipment for the UST system has been installed, as documented by a TCEQ Houston Regional Office investigator during an investigation on or about February 24, 2006. Line tightness and line leak detector tests were completed March 7, 2006. <p>Technical Requirements:</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> The Respondent's UST delivery certificate is revoked immediately upon the effective date of this Order. The Respondent may submit an application for a new delivery certificate only after it has complied with all of the requirements of this Order.

RESPONDENT'S NAME: SPEEDYS MART INCORPORATED DBA SPEEDY MART C-STORES, Page 3 of 3
FORMERLY KNOWN AS NATIONAL MART CONVENIENCE STORE

DOCKET NO.: 2003-0692-PST-E

<p>5. Failed to have overfill prevention for the UST system [30 TEX. ADMIN. CODE § 334.51(b)(2)(C) and TEX. WATER CODE § 26.3475(c)(2)].</p> <p>6. Failed to conduct inventory control at the Facility, regardless of which method of release detection was used [30 TEX. ADMIN. CODE § 334.48(c)].</p> <p>7. Failed to ensure that an automatic line leak detector was capable of detecting a release such that the probability of detection was at least ninety-five percent (95%) and the probability of false alarms was no greater than five percent (5%) [30 TEX. ADMIN. CODE § 334.50(a)(1)(C)(ii) and TEX. WATER CODE § 26.3475(a)].</p>		<p>2. Within 10 days, send its UST delivery certificate.</p> <p>3. Immediately, begin conducting inventory control.</p> <p>4. Within 45 days, submit written certification and include detailed supporting documentation including photographs, receipts and/or other records to demonstrate compliance.</p>
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Case Information

Screening Date	15-Oct-2001	Case Priority Due Date	12-Feb-2002
PCW Date	24-Jun-2002	EPA SNC/SV Due Date	
Respondent	Speedys Mart Incorporated dba Speedy Mart C-Stores, formerly known as National Mart Convenience Store.		
ID Number(s)	Petroleum Storage Tank Facility ID No. 0074264; Enforcement ID No. 16967		
Docket Number	2003-0692-PST-E	Plant/Site Region	12
Enf. Coordinator	A. Sunday Udoetok	EC's Unit or Region	Team 3
Type of Order	1660	No. of Violations in PCW	7
Case Priority	3	Enter x for Major Source (as defined in PP)	

Media-Program

x	Program Name(s)	Admin. Penalty Dollar Limit	
		Min	Max
x	Petroleum Storage Tanks	\$0	\$10,000
	Water Rights	\$0	\$5,000
		\$0	\$2,500
	Public Water Supply	\$50	\$1,000
	Levees	\$0	\$1,000
	Public Water Utilities	\$0	\$500

Adjustments to Subtotal 1 Total Base Penalty forward (subtotal 1) \$20,000

Culpability (enhancement)

Does the respondent meet any of the culpability criteria? Yes No

Notes No NOVs have been issued for same or similar violations at this facility in the past five years.

Adjustment amount (subtotal 2) \$0

Economic Benefit (enhancement)

Total of EB Amounts \$3,213
 EB Enhancement (percent) 0%
 Adjustment amount (subtotal 5) \$0

Approx. Cost of Compliance \$3,373

Good Faith Effort to Comply (reduction)

Timing of Action

Quality of Action	Before NOV	NOV to EDPRP or Order	Percent
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>	0%
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>	
None of the above	<input checked="" type="checkbox"/>	(mark only one; use small x)	

Notes The respondent is not yet in compliance.

Adjustment amount (subtotal 3) \$0

Compliance History (enhancement)

Enter Percent 0 (enter number only; e.g., 30 for 30%)

Notes There is no record of previous findings orders, judicial actions, or criminal convictions.

Adjustment amount (subtotal 4) \$0

Final Subtotal \$20,000

Other Factors as justice may require

Enter Adjustment Percentage (+/-) 0% (enter number only; e.g., -30 for -30%)

Amount \$0

Notes (if more space is needed, increase row height)

Final Penalty Amount \$20,000

Final Assessed Penalty (including any statutory limit adj.) \$20,000

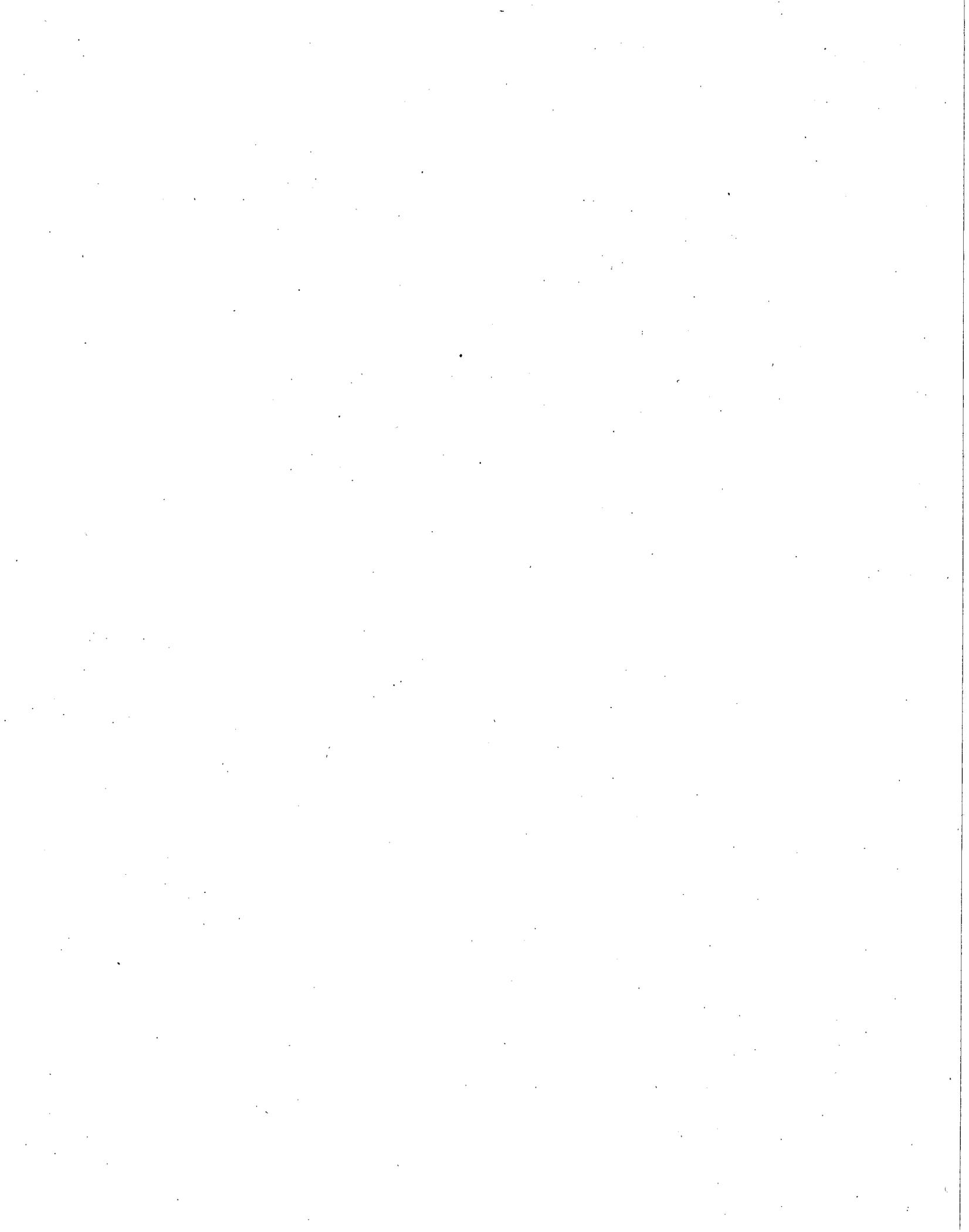
Payable Penalty

Enter Deferral Percentage 0% (enter number only; e.g., 20 for 20%)

Deferral \$0

Notes This is not an expedited case.

Payable Penalty \$20,000



Screening Date 15-Oct-01 **Docket Number** 2003-0692-PST-E **PCW**
Respondent Speedys Mart Incorporated dba Speedy Mart C-Stores, formerly known as Nation rev. 1 (01/99)
ID Number(s) Petroleum Storage Tank Facility ID No. 0074264; Enforcement ID No. 16967 rev. 12/06/2001
Media [Statute] Petroleum Storage Tanks
Enf. Coordinator A. Sunday Udoetok
Violation Number 1
Primary Rule Cite 30 Tex. Admin. Code § 334.8(c)(4)(B)
Secondary Cite(s) Tex. Water Code § 26.346(a)
Violation Description Failure to submit an accurate underground storage tank (UST) registration and self-certification form to the TCEQ.

Base Penalty \$10,000

Environmental, Property and Human Health Matrix

		Harm			
		Major	Moderate	Minor	
OR	Release				
	Actual				
	Potential				Percent

Programmatic Matrix

		Major	Moderate	Minor	
Matrix Notes	Falsification	x			Percent
					10%

Failure to submit a UST registration and self-certification form means that 100% of the rule requirement was not met.

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 1

mark only one; use small x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$1,000

Events Notes One single event is recommended based on the record review date of November 8, 2001.

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

Estimated EB Amount (\$) \$11 **Violation Final Penalty total** \$1,000

This Violation Final Assessed Penalty (adjusted for limits) \$1,000

Economic Benefit Worksheet

Respondent: Speedys Mart Incorporated dba Speedy Mart C-Stores, formerly known as National Mart Convenience Store.

ID Number(s): Petroleum Storage Tank Facility ID No. 0074264; Enforcement ID No. 16967

Media (Statute): Petroleum Storage Tanks

Violation Number: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)	\$100	1-May-2001	1-Aug-2003	.23	\$11	n/a	\$11

Notes for DELAYED costs

Estimated cost to prepare and submit the registration and self-certification form. Date required based on the date the form was required to be submitted. Final date based on the projected compliance date.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx Cost of Compliance \$100

TOTAL \$11

Screening Date 15-Oct-01 **Docket Number** 2003-0692-PST-E **PCW**
Respondent Speedys Mart Incorporated dba Speedy Mart C-Stores, formerly known as Nation rev. 1 (01/99)
ID Number(s) Petroleum Storage Tank Facility ID No. 0074264; Enforcement ID No. 16967 rev. 12/06/2001
Media [Statute] Petroleum Storage Tanks
Enf. Coordinator A. Sunday Udoetok
Violation Number 2
Primary Rule Cite 30 Tex. Admin. Code § 334.8(c)(5)(A)(i)
Secondary Cite(s) Tex. Water. Code § 26.3467(a)
Violation Description Failure to make available to a common carrier a valid, current delivery certificate prior to delivery of a regulated substance into the underground storage tank (UST) system.

Base Penalty \$10,000

Environmental, Property and Human Health Matrix

		Harm			
Release		Major	Moderate	Minor	
OR	Actual				Percent 5%
	Potential			x	

Programmatic Matrix

		Falsification	Major	Moderate	Minor	
Matrix Notes						Percent
	Failure to make available to a common carrier a valid and current delivery certificate prior to delivery of fuel can result in the exposure of an insignificant amount of contaminants which may not exceed levels that are protective of human health and the environment.					

Adjustment -\$9,500

Base Penalty Subtotal \$500

Violation Events

Number of Violation Events 4

mark only one; use small x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$2,000

Events Notes Four single events are recommended for the deliveries of fuel received on May 3, 2001, May 19, 2001, June 14, 2001, and June 23, 2001.

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

Estimated EB Amount (\$) \$0

Violation Final Penalty total \$2,000

This Violation Final Assessed Penalty (adjusted for limits) \$2,000

Economic Benefit Worksheet

Respondent Speedys Mart Incorporated dba Speedy Mart C-Stores, formerly known as National Mart Convenience Store.
ID Number(s) Petroleum Storage Tank Facility ID No. 0074264; Enforcement ID No. 16967
Media [Statute] Petroleum Storage Tanks
Violation Number 2

Percent Interest	Years of Depreciation
15.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Economic Benefit for this violation is included in Violation #1.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx Cost of Compliance \$0

TOTAL \$0

Screening Date 15-Oct-01 Docket Number 2003-0692-PST-E

PCW

Respondent Speedys Mart Incorporated dba Speedy Mart C-Stores, formerly known as Nation rev. 1 (01/99)

ID Number(s) Petroleum Storage Tank Facility ID No. 0074264; Enforcement ID No. 16967 rev. 12/06/2001

Media [Statute] Petroleum Storage Tanks

Enf. Coordinator A. Sunday Udoetok

Violation Number 3

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

Secondary Cite(s)

Violation Description Failure to demonstrate the required 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 USTs.

Base Penalty \$10,000

Environmental, Property, and Human Health Matrix

Harm

Release	Major	Moderate	Minor
Actual			
Potential			

Percent

Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

Failure to demonstrate financial assurance for corrective action and third party liability means that 100% of the rule requirements were not met.

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 1

mark only one; use small x

daily	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty \$1,000

Events Notes

One annual event is recommended for the twelve month period preceding the initial investigation date of November 10, 2000.

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount (\$) \$656

Violation Final Penalty total \$1,000

This Violation Final Assessed Penalty (adjusted for limits) \$1,000

Economic Benefit Worksheet

Respondent: Speedys Mart Incorporated dba Speedy Mart C-Stores, formerly known as National Mart Convenience Store.

ID Number(s): Petroleum Storage Tank Facility ID No. 0074264; Enforcement ID No. 16967

Media [Statute]: Petroleum Storage Tanks

Violation Number: 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>(No commas or \$)</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]	\$625	10-Nov-1999	10-Nov-2000	1.0	\$31	\$625	\$656
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated expense for financial assurance for one year for one tank. Date required is twelve months prior to the investigation date. Final date is one year later as this is an annual requirement. Compliance was achieved on November 3, 2001.

Approx Cost of Compliance \$625

TOTAL \$656

Screening Date 15-Oct-01 **Docket Number** 2003-0692-PST-E **PCW**
Respondent Speedys Mart Incorporated dba Speedy Mart C-Stores, formerly known as National rev. 1 (01/99)
ID Number(s) Petroleum Storage Tank Facility ID No. 0074264; Enforcement ID No. 16967 rev. 12/06/2001
Media [Statute] Petroleum Storage Tanks
Enf. Coordinator A. Sunday Udoetok
Violation Number 4
Primary Rule Cite 30 Tex. Admin. Code § 334.50(b)(1)(A)
Secondary Cite(s) 30 Tex. Admin. Code §§ 334.50(b)(2)(A)(i), 334.50(d)(4)(A)(ii)(II), Tex. Water Code §§ 26.3475(a) and 26.3475(c)(1)
Violation Description Failure to provide proper release detection for the UST system. Specifically, failure to put the automatic tank gauge (ATG) into test mode at least once per month and failure to equip the regular unleaded pressurized line with a functioning automatic line leak detector.

Base Penalty \$10,000

Environmental, Property and Human Health Matrix

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

Programmatic Matrix

		Falsification	Major	Moderate	Minor	Percent
Matrix Notes						
	Failure to provide proper release detection for the UST system. Specifically, failure to put the automatic tank gauge (ATG) into test mode at least once per month and failure to equip the regular unleaded pressurized line with a functioning automatic line leak detector can result in the exposure of a significant amount of contaminants which may exceed levels that are protective of human health and the environment.					

Adjustment -\$7,500

Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events

mark only one; use small x

daily	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty \$5,000

Events Notes Two annual events are recommended based on the November 10, 2000 investigation date to the settlement deadline of May 8, 2002.

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

Estimated EB Amount (\$)

Violation Final Penalty total \$5,000

This Violation Final Assessed Penalty (adjusted for limits) \$5,000

Economic Benefit Worksheet

Respondent Speedys Mart Incorporated dba Speedy Mart C-Stores, formerly known as National Mart Convenience Store.
ID Number(s) Petroleum Storage Tank Facility ID No. 0074264; Enforcement ID No. 16967
Media (Statute) Petroleum Storage Tanks
Violation Number 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment	\$370	22-Jun-2001	1-Aug-2003	2.1	\$3	\$52	\$55
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to install and test a line leak detector on the regular unleaded line. Date required based on the second investigation date. Final date based on the compliance date.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel	\$36	10-Nov-2000	13-Feb-2002	1.3	\$2	\$45	\$48
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated annualized expense to pay an employee \$6.00 per hour, .5 hours/month, 12 months/year to put the ATG system into test mode at least once per month. Date required based on the initial investigation date. Final date based on the compliance date.

Approx Cost of Compliance \$406

TOTAL \$102

Screening Date 15-Oct-01 **Docket Number** 2003-0692-PST-E **PCW**
Respondent Speedys Mart Incorporated dba Speedy Mart C-Stores, formerly known as National rev. 1 (01/99)
ID Number(s) Petroleum Storage Tank Facility ID No. 0074264; Enforcement ID No. 16967 rev. 12/06/2001
Media [Statute] Petroleum Storage Tanks
Enf. Coordinator A. Sunday Udoetok
Violation Number 5
Primary Rule Cite 30 Tex. Admin. Code § 334.51(b)(2)(C)
Secondary Cite(s) Tex. Water Code § 26.3475(c)(2)
Violation Description Failure to have overfill prevention.

Base Penalty \$10,000

> **Environmental Property and Human Health Matrix**

		Harm			
		Major	Moderate	Minor	
OR	Release Actual				Percent 25%
	Potential	x			

> **Programmatic Matrix**

		Major	Moderate	Minor	
Matrix Notes	Falsification				Percent
	Failure to have overfill prevention can result in the exposure of a significant amount of contaminants which may exceed levels that are protective to human health and the environment.				
					Adjustment -\$7,500
					Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events 2

mark only one; use small x	daily		Violation Base Penalty \$5,000
	monthly		
	quarterly		
	semiannual		
	annual	x	
	single event		

Events Notes Two annual events are recommended based on the initial investigation date of November 10, 2000 to the settlement deadline of May 8, 2002.

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

Estimated EB Amount (\$) \$191 **Violation Final Penalty total** \$5,000

This Violation Final Assessed Penalty (adjusted for limits) \$5,000

Economic Benefit Worksheet

Respondent: Speedys Mart Incorporated dba Speedy Mart C-Stores, formerly known as National Mart Convenience Store.

ID Number(s): Petroleum Storage Tank Facility ID No. 0074264; Enforcement ID No. 16967

Media [Statute]: Petroleum Storage Tanks

Violation Number: 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment	\$1,000	10-Nov-2000	1-Aug-2003	2.7	\$9	\$182	\$191
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated expense for two overfill prevention devices. Date required based on the initial investigation date. Final date based on the projected compliance date.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx Cost of Compliance

TOTAL

Screening Date 15-Oct-01 **Docket Number** 2003-0692-PST-E **PCW**
Respondent Speedys Mart Incorporated dba Speedy Mart C-Stores, formerly known as National rev. 1 (01/99)
ID Number(s) Petroleum Storage Tank Facility ID No. 0074264; Enforcement ID No. 16967 rev. 12/06/2001
Media (Statute) Petroleum Storage Tanks
Enf. Coordinator A. Sunday Udoetok
Violation Number 6
Primary Rule Cite 30 Tex. Admin. Code § 334.48(c)
Secondary Cite(s)
Violation Description Failure to conduct inventory control at a retail facility regardless of which method of release detection is used.

Base Penalty \$10,000

Environmental, Property and Human Health Matrix:

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	x			

Programmatic Matrix:

Falsification	Harm			Percent
	Major	Moderate	Minor	

Matrix Notes Failure to conduct inventory control at a retail plant can result in the exposure of a significant amount of contaminants which may exceed levels that are protective of human health and the environment.
Adjustment -\$7,500
Base Penalty Subtotal \$2,500

Violation Events
Number of Violation Events 2
mark only one; use small x

daily	
monthly	
quarterly	
semiannual	x
annual	
single event	

Violation Base Penalty \$5,000
Events Notes Two semi-annual events are recommended based on the second investigation date of June 22, 2001 to the settlement deadline of May 8, 2002.

Economic Benefit (EB) for this violation **Statutory Limit Test**
Estimated EB Amount (\$) \$2,230 **Violation Final Penalty total** \$5,000
This Violation Final Assessed Penalty (adjusted for limits) \$5,000

Economic Benefit Worksheet

Respondent Speedys Mart Incorporated dba Speedy Mart C-Stores, formerly known as National Mart Convenience Store.
ID Number(s) Petroleum Storage Tank Facility ID No. 0074264; Enforcement ID No. 16967
Media/Statute Petroleum Storage Tanks
Violation Number 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0
Notes for DELAYED costs							

Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel	\$1,092	22-Jun-2001	2-Jun-2003	1.9	\$106	\$2,124	\$2,230
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Notes for AVOIDED costs							
Estimated personnel expense to conduct inventory control based on an employee paid \$6.00/hour, .5 hours/day, 7 days/week, 52 weeks/year. Date required based on the second investigation date. Final date based on the projected compliance date.							

Approx Cost of Compliance \$1,092

TOTAL \$2,230

Economic Benefit Worksheet

Respondent Speedys Mart Incorporated dba Speedy Mart C-Stores, formerly known as National Mart Convenience Store.
ID Number(s) Petroleum Storage Tank Facility ID No. 0074264; Enforcement ID No. 16967
Media/Statute/ Violation Number Petroleum Storage Tanks

Percent Interest: 5.0
Years of Depreciation: 15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment	\$150	21-Jun-2004	1-Aug-2003	2.1	\$1	\$21	\$22
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to repair and test the automatic line leak detector on the super unleaded, pressurized line. Date required based on the date of the falling test. Final date based on the projected compliance date.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx Cost of Compliance

TOTAL

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF
AN ENFORCEMENT ACTION
AGAINST SPEEDYS MART
INCORPORATED
DBA SPEEDY MART C-STORES,
FORMERLY KNOWN AS
NATIONAL MART
CONVENIENCE STORE;
RN101735496**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER DOCKET NO. 2003-0692-PST-E

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Fifth Amended 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 revocation of the respondent's delivery certificate, the imposition of an administrative penalty, and corrective action of the respondent. The respondent made the subject of this Order is Speedys Mart Incorporated dba Speedy Mart C-Stores, formerly known as National Mart Convenience Store ("Speedys").

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

FINDINGS OF FACT

1. Speedys owns and operates 2 underground storage tanks ("USTs") at a retail service station located at 6643 Cullen Boulevard, Houston, Harris County, Texas (the "Facility").
2. Speedys's USTs are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. Speedys's USTs contain a regulated petroleum substance as defined in the rules of the Commission.
3. During a record review conducted on November 8, 2001, a TCEQ Houston Regional Office investigator documented that Speedys failed to submit an accurate UST registration and self-certification form to the TCEQ.

4. During an investigation conducted on June 22, 2001¹, a TCEQ Houston Regional Office investigator documented that Speedys failed to make available to a common carrier a valid, current delivery certificate prior to delivery of a regulated substance into the UST system. Specifically, deliveries of fuel were received on May 3 and 19, 2001, and June 14 and 23, 2001.
5. During an investigation conducted on November 10, 2000, a TCEQ Houston Regional Office investigator documented that Speedys:
 - (a) failed to demonstrate the required 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 USTs.
 - (b) failed to put the automatic tank gauge ("ATG") system into test mode at least once per month and by failing to equip the regular unleaded pressurized line on the UST system with a functioning automatic line leak detector.
6. During investigations conducted on November 10, 2000, and June 22, 2001, a TCEQ Houston Regional Office investigator documented that Speedys failed to have overfill prevention for the UST system.
7. During an investigation conducted on June 22, 2001, a TCEQ Houston Regional Office investigator documented that Speedys failed to conduct inventory control at the Facility, regardless of which method of release detection was used.
8. During a record review conducted on December 12, 2001, a TCEQ Houston Regional Office investigator documented that Speedys failed to ensure that an automatic line leak detector was capable of detecting a release such that the probability of detection was at least ninety-five percent (95%) and the probability of false alarms was no greater than five percent (5%).
9. Speedys received notice of the violations on or about March 24, 2006.
10. The Executive Director Recognizes that Speedys has implemented the following corrective measures at the Facility:

1

Speedys accepted a delivery of a regulated substance into the UST system on June 23, 2001 according to fuel delivery receipts provided to the TCEQ by AFISCO Industries, Inc. This delivery was added to the enforcement action as an additional violation event.

- a. Obtained a valid, current delivery certificate, as documented by a TCEQ Houston Regional Office investigator during an investigation on or about February 24, 2006.
 - b. Obtained the required 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 USTs, as documented by a TCEQ Houston Regional Office investigator during an investigation on or about February 24, 2006.
 - c. Put the automatic tank gauge (“ATG”) system into test mode, although the absence of a valid ATG piping leak test has been alleged in a separate enforcement action, as documented by a TCEQ Houston Regional Office investigator during an investigation on or about February 24, 2006.
 - d. Equipped the regular unleaded pressurized line on the UST system with a functioning automatic line leak detector, as documented by a TCEQ Houston Regional Office investigator during an investigation on or about February 24, 2006.
 - e. Spill protection and overfill prevention equipment for the UST system has been installed, as documented by a TCEQ Houston Regional Office investigator during an investigation on or about February 24, 2006.
 - f. Line tightness and line leak detector tests were completed March 7, 2006.
11. Between September 10, 2003, and May 11, 2004, the Executive Director filed the Executive Director’s Preliminary, First Amended, Third Amended [sic], and Fourth Amended 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 Speedys Mart Incorporated dba Speedy Mart C-Stores, formerly known as National Mart Convenience Store; however, the Executive Director was unable to properly serve Speedys with these documents.
 12. The Executive Director filed the “Executive Director’s Fifth Amended 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 Speedys Mart Incorporated dba Speedy Mart C-Stores, formerly known as National Mart Convenience Store” (the “EDFIARP”) in the TCEQ Chief Clerk’s office on March 15, 2006.
 13. On March 24, 2006, TCEQ Houston Regional Office investigator Naomi Hall served Speedys’ Registered Agent, Martin Adelakun, with notice of the EDFIARP via hand-delivery.

14. More than 20 days have elapsed since Speedys received notice of the EDFIARP, provided by the Executive Director. Speedys failed to file an answer at any time, including to the EDFIARP, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Speedys is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE § 7.054 and ch. 26 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, Speedys failed to submit an accurate UST registration and self-certification form to the TCEQ, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(4)(B) and TEX. WATER CODE § 26.346(a).
3. As evidenced by Finding of Fact No. 4, Speedys failed to make available to a common carrier a valid, current delivery certificate prior to delivery of a regulated substance into the UST system, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a).
4. As evidenced by Finding of Fact No. 5.a., Speedys failed to demonstrate the required 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 USTs, in violation of 30 TEX. ADMIN. CODE § 37.815(a) and (b).
5. As evidenced by Finding of Fact No. 5.b., Speedys failed to put the automatic tank gauge (“ATG”) system into test mode at least once per month and failed to equip the regular unleaded pressurized line on the UST system with a functioning automatic line leak detector, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(A), (b)(2)(A)(i), and (d)(4)(A)(ii)(II); and TEX. WATER CODE § 26.3475(a) and (c)(1).
6. As evidenced by Finding of Fact No. 6, Speedys failed to have overfill prevention for the UST system, in violation of 30 TEX. ADMIN. CODE § 334.51(b)(2)(C) and TEX. WATER CODE § 26.3475(c)(2).
7. As evidenced by Finding of Fact No. 7, Speedys failed to conduct inventory control at the Facility, regardless of which method of release detection was used, in violation of 30 TEX. ADMIN. CODE § 334.48(c).
8. As evidenced by Finding of Fact No. 8, Speedys failed to ensure that an automatic line leak detector was capable of detecting a release such that the probability of detection was at least ninety-five percent (95%) and the probability of false alarms was no greater than five percent

(5%), in violation of 30 TEX. ADMIN. CODE § 334.50(a)(1)(C)(ii) and TEX. WATER CODE § 26.3475(a).

9. As evidenced by Finding of Fact Nos. 12 and 13, the Executive Director has timely served Speedys with proper notice of the EDFIARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
10. As evidenced by Finding of Fact No. 14, Speedys has failed to file a timely answer at any time, including to the EDFIARP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Speedys and assess the penalty recommended by the Executive Director.
11. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Speedys for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
12. An administrative penalty in the amount of twenty thousand dollars (\$20,000.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
13. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.
14. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke Speedys' UST delivery certificate if the Commission finds that good cause exists.
15. Good cause for revocation of Speedys' UST delivery certificate exists as justified by Findings of Fact Nos. 3 through 8, 11, 12, and 13 and Conclusions of Law Nos. 2 through 10, and 11.

ORDERING PROVISIONS

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

1. Speedys is assessed an administrative penalty in the amount of twenty thousand dollars (\$20,000.00) for violations of TEX. WATER CODE §§ 26.346(a), 26.3467(a), and 26.3475(a), (c)(1), and (c)(2) and rules of the TCEQ. The payment of this administrative penalty and Speedys' 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. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Speedys Mart Incorporated dba Speedy Mart C-Stores, formerly known as National Mart Convenience Store; Docket No. 2003-0692-PST-E" to:

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

2. Speedys shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Order Speedys shall begin conducting inventory control in accordance with 30 TEX. ADMIN. CODE § 334.48(c).
 - b. Within 45 days after the effective date of this Order, Speedys shall submit written certification as described below, and include detailed supporting documentation including photographs, receipts and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b.

The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

and

Nicole Bealle, Waste Section Manager
Texas Commission On Environmental Quality
Houston Regional Office
5425 Polk Street, Suite H
Houston, Texas 77023-1486

3. Speedys UST delivery certificate is revoked immediately upon the effective date of this Order. Speedys may submit an application for a new delivery certificate only after Speedys has complied with all of the requirements of this Order.
4. Within 10 days after the effective date of this Order, Speedys shall send its UST delivery certificate to:

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

5. All relief not expressly granted in this Order is denied.
6. The provisions of this Order shall apply to and be binding upon Speedys. Speedys is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
7. If Speedys 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, Speedys' failure to comply is not a violation of this Order. Speedys shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Speedys shall notify the Executive Director within seven days after Speedys becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

8. 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 Speedys shall be made in writing to the Executive Director. Extensions are not effective until Speedys receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
9. 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 Speedys if the Executive Director determines that Speedys has not complied with one or more of the terms or conditions in this Order.
10. 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.
11. 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 the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF SHAWN A. SLACK

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

“My name is Shawn A. Slack. 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.

Between September 10, 2003, and May 11, 2004, the Executive Director filed the Executive Director’s Preliminary, First Amended, Third Amended [sic], and Fourth Amended 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 Speedys Mart Incorporated dba Speedy Mart C-Stores, formerly known as National Mart Convenience Store; however, the Executive Director was unable to properly serve Speedys with these documents.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I filed the “Executive Director’s Fifth Amended 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 Speedys Mart Incorporated dba Speedy Mart C-Stores, formerly known as National Mart Convenience Store ” (the “EDFIARP”) with the Office of the Chief Clerk on March 15, 2006.

On March 24, 2006, TCEQ Houston Regional Office investigator Naomi Hall served Speedys’ Registered Agent, Martin Adelakun, with notice of the EDFIARP via hand-delivery.

More than 20 days have elapsed since Speedys received notice of the EDFIARP. Speedys failed to file an answer at any time, including to the EDFIARP, failed to request a hearing, and failed to schedule a settlement conference.”



Shawn A. Slack
Attorney
Texas Commission on Environmental Quality

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

Given under my hand and seal of office this 26th day of March, A.D., 2007.



Donna Mae Delgado
Notary Stamp