

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 3  
**DOCKET NO.: 2005-1909-PST-E TCEQ ID: RN102041910 CASE NO.: 27350**  
**RESPONDENT NAME: ECONO LUBE N' TUNE, INC.**

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input 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	
<b>CASE TYPE:</b>		
<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
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> 9003 Huebner Road, San Antonio, Bexar County</p> <p><b>TYPE OF OPERATION:</b> Automotive repair, maintenance, and oil change facility</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There has been one complaint filed.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter. A complaint has been received, but the complainant has not indicated that he wishes to protest this action or speak at agenda.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on October 22, 2007. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney:</b> Mr. Barham Richard, Litigation Division, MC 175, (512) 239-0107  Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873  <b>TCEQ Enforcement Coordinator:</b> Mr. Kent Heath, Enforcement Division, MC 219, (512) 239-4575  <b>TCEQ Regional Contact:</b> Mr. Tom Haberle, San Antonio Regional Office, MC R-13, (210) 403-4050  <b>Respondent:</b> Mr. Paul Baratta, Director of Property Management, Econo Lube N' Tune, Inc., 128 South Tryon, Suite 900, Charlotte, NC 28202  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter.</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input checked="" type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date of Complaints Relating to this Case:</b>                      September 27, 2005</p> <p><b>Dates of Investigation Relating to this Case:</b>                      September 30, 2005</p> <p><b>Date of NOE Relating to this Case:</b>                      October 7, 2005</p> <p><b>Background Facts:</b></p> <p>The EDPRP was filed on March 22, 2007. The Respondent signed an Agreed Order on August 3, 2007.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p><b>PST</b></p> <p>1. Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury property damage caused by accidental releases arising from the operation of petroleum USTs [30 TEX. ADMIN. CODE §37.815(a) and (b)].</p> <p>2. Failed to provide a method of release detection which is capable of detecting a release from any portion of the UST system which contained regulated substances including the tanks, piping, and other underground ancillary equipment [30 TEX. ADMIN. CODE §334.50(a)(1)(A) and TEX. WATER CODE §26.3475(c)(1)].</p> <p>3. Failed to make records readily accessible and available upon request by agency personnel [30 TEX. ADMIN. CODE §334.10(b)].</p> <p>4. Failed to amend the registration within 30 days of any change or additional information concerning the UST system [30 TEX. ADMIN. CODE §334.7(d)(3)].</p>	<p><b>Total Assessed:</b> \$6,825</p> <p><b>Total Deferred:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$6,825</p> <p>The Respondent has paid the full amount of the administrative penalty.</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b>                      September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>1. Immediately, the Respondent shall begin maintaining all records pertaining to the UST system, in accordance with 30 TEX. ADMIN. CODE §334.10.</p> <p>2. Within 30 days, the Respondent shall:</p> <ul style="list-style-type: none"> <li>a. Submit documentation that demonstrates acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs;</li> <li>b. Install or implement a release detection method for the UST system;</li> <li>c. Submit an amended UST registration to indicate the current ownership status of the UST system; and</li> <li>d. Mark the top of each fill tube or non-removable point in the immediate area of the fill tube of each UST.</li> </ul> <p>3. Within 45 days, the Respondent shall submit written certification and detailed documentation to demonstrate compliance.</p>

<p>5. Failed to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a non-removable point in the immediate area of the fill tube according to the UST registration and Self-Certification Form [30 TEX. ADMIN. CODE §334.8(c)(5)(C)].</p>		
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# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision May 19, 2005

DATES	Assigned	07-Nov-2005	Screening	15-Nov-2005	EPA Due	
	PCW	21-Jun-2006				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	Econo Lube N'Tune, Inc.
Reg. Ent. Ref. No.	RN102041910
Facility/Site Region	13-San Antonio
Major/Minor Source	Minor Source

<b>CASE INFORMATION</b>			
Enf./Case ID No.	27350	No. of Violations	5
Docket No.	2005-1909-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Thomas Greimel
Multi-Media		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	Subtotal 1	\$6,500
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	5% Enhancement	Subtotals 2, 3, & 7	\$325
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Notes: Enhancement due to one NOV with same or similar violations.

Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes: The respondent does not meet the culpability criteria.

Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
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	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with a small x)

Notes: The respondent is not yet in compliance.

Economic Benefit	0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$737	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$2,100	

<b>SUM OF SUBTOTALS 1-7</b>	Final Subtotal	\$6,825
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

Final Penalty Amount	\$6,825
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<b>STATUTORY LIMIT ADJUSTMENT</b>	Final Assessed Penalty	\$6,825
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<b>DEFERRAL</b>	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: This is not an expedited case.

<b>PAYABLE PENALTY</b>	\$6,825
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**Screening Date** 15-Nov-2005 **Docket No.** 2005-1909-PST-E **PCW**  
**Respondent** Econo Lube N'Tune, Inc. *Policy Revision 2 (September 2002)*  
**Case ID No.** 27350 *PCW Revision May 19, 2005*  
**Reg. Ent. Reference No.** RN102041910  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** Thomas Greimel

**Compliance History Worksheet**

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i>	1	5%
	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%
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)</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)** 5%

>> 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

Enhancement due to one NOV with same or similar violations.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 5%

<b>Screening Date</b>	15-Nov-2005	<b>Docket No.</b>	2005-1909-PST-E	<b>PCW</b>
<b>Respondent</b>	Econo Lube N'Tune, Inc.		Policy Revision 2 (September 2002)	
<b>Case ID No.</b>	27350		PCW Revision May 19, 2005	
<b>Reg. Ent. Reference No.</b>	RN102041910			
<b>Media [Statute]</b>	Petroleum Storage Tank			
<b>Enf. Coordinator</b>	Thomas Greimel			
<b>Violation Number</b>	1			
<b>Primary Rule Cite(s)</b>	30 Tex. Admin. Code § 37.815(a) and (b)			
<b>Secondary Rule Cite(s)</b>				
<b>Violation Description</b>	Failure to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs.			
<b>Base Penalty</b>	\$10,000			

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

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

>> **Programmatic Matrix**

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

**Adjustment**

**Base Penalty Subtotal**

**Violation Events**

**Number of Violation Events**

<i>mark only one use a small x</i>	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input checked="" type="checkbox"/>

**Violation Base Penalty**

One single event (one event per tank) is recommended based upon the September 30, 2005 investigation.

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
<b>Estimated EB Amount</b> <input type="text" value="\$683"/>	<b>Violation Final Penalty Total</b> <input type="text" value="\$1,050"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$1,050"/>	

### Economic Benefit Worksheet

Respondent Econo Lube N'Tune, Inc.  
 Case ID No. 27350  
 Reg. Ent. Reference No. RN102041910  
 Media [Statute] Petroleum Storage Tank  
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
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/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]	\$650	30-Sep-2004	30-Sep-2005	1.0	\$33	\$650	\$683
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to provide financial assurance for one petroleum UST (\$650 per tank). Date Required is one year prior to the investigation date. Final Date is the date of investigation.

Approx. Cost of Compliance

TOTAL

Screening Date 15-Nov-2005

Docket No. 2005-1909-PST-E

PCW

Respondent Econo Lube N'Tune, Inc.

Policy Revision 2 (September 2002)

Case ID No. 27350

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102041910

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Thomas Greimel

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Failed to provide a method of release detection which is capable of detecting a release from any portion of the UST system which contained regulated substances including the tanks, piping and other underground ancillary equipment. Specifically, at the time of the investigation, the interstitial monitor was not functioning properly.

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Matrix Notes

Human health or the environment could be exposed to a significant amount of pollutants which would exceed levels that are protective of human health or environmental receptors.

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one use a small x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input checked="" type="checkbox"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

One quarterly event is recommended from the September 30, 2005 investigation date to the November 15, 2005 screening date.

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 Econo Lube N'Tune, Inc.  
 Case ID No. 27350  
 Reg. Ent. Reference No. RN102041910  
 Media [Statute] Petroleum Storage Tank  
 Violation No. 2

Percent Interest 5.0  
 Years of Depreciation 15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
<b>Delayed Costs</b>							
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)	\$250	30-Sep-2005	30-Jun-2006	0.7	\$9	n/a	\$9

Notes for DELAYED costs: Estimated cost to provide a method of release detection for the UST. Date Required is the investigation date and the Final Date is the estimated date of compliance.

Item Description	Yrs	Interest Saved	Overtime Costs	EB Amount
<b>Avoided Costs ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)</b>				
Disposal	0.0	\$0	\$0	\$0
Personnel	0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling	0.0	\$0	\$0	\$0
Supplies/equipment	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-Nov-2005

Docket No. 2005-1909-PST-E

PCW

Respondent Econo Lube N'Tune, Inc.

Policy Revision 2 (September 2002)

Case ID No. 27350

PCW Revision May, 19, 2005

Reg. Ent. Reference No. RN102041910

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Thomas Greimel

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

		Major	Moderate	Minor	
	Falsification	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Percent <input type="text" value="10%"/>

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one use a small x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input checked="" type="checkbox"/>

Violation Base Penalty

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 Econo Lube N'Tune, Inc.  
 Case ID No. 27350  
 Reg. Ent. Reference No. RN102041910  
 Media [Statute] Petroleum Storage Tank  
 Violation No. 3

Percent Interest 5.0  
 Years of Depreciation 15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
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	\$1,000	30-Sep-2005	30-Jun-2006	0.7	\$37	n/a	\$37
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 establish and maintain recordkeeping system at the Facility. The Date Required is the date of the investigation 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				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				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-Nov-2005

Docket No. 2005-1909-PST-E

PCW

Respondent Econo Lube N'Tune, Inc.

Policy Revision 2 (September 2002)

Case ID No. 27350

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102041910

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Thomas Greimel

Violation Number 4

Primary Rule Cite(s) 30 Tex. Admin. Code § 334.7(d)(3)

Secondary Rule Cite(s)

Violation Description

The respondent failed to amend the registration within 30 days of any change or additional information concerning the UST system. Specifically, the respondent did not update the registration to reflect the current ownership status of the UST system.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

		Harm			
Release		Major	Moderate	Minor	
OR	Actual				Percent
	Potential				

>> Programmatic Matrix

		Falsification			
		Major	Moderate	Minor	
		X			Percent 10%

Matrix Notes

The respondent failed to meet 100% of the rule requirement.

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 1

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

Violation Base Penalty \$1,000

One single event is recommended based on the September 30, 2005 investigation.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4

Violation Final Penalty Total \$1,050

This violation Final Assessed Penalty (adjusted for limits) \$1,050

### Economic Benefit Worksheet

Respondent Econo Lube N'Tune, Inc.  
 Case ID No. 27350  
 Reg. Ent. Reference No. RN102041910  
 Media [Statute] Petroleum Storage Tank  
 Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
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	30-Sep-2005	30-Jun-2006	0.7	\$4	n/a	\$4

Notes for DELAYED costs: Estimated cost to provide an amended and corrected registration form. Date Required is the date of investigation and the Final Date is the estimated date of compliance.

<b>Avoided Costs</b>							
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/equipment				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-Nov-2005

Docket No. 2005-1909-PST-E

PCW

Respondent Econo Lube N'Tune, Inc.

Policy Revision 2 (September 2002)

Case ID No. 27350

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102041910

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Thomas Greimel

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

The respondent failed to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube according to the UST registration and self-certification form.

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

		Falsification	Major	Moderate	Minor	
		<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="10%"/>
Matrix Notes	<input type="text" value="The respondent failed to meet 100% of the rule requirement."/>					

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one use a small x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
single event	<input checked="" type="checkbox"/>	

Violation Base Penalty

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 Econo Lube N'Tune, Inc.  
 Case ID No. 27350  
 Reg. Ent. Reference No. RN102041910  
 Media [Statute] 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
<b>Delayed Costs</b>							
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	30-Sep-2005	30-Jun-2006	0.7	\$4	n/a	\$4

Notes for DELAYED costs: Estimated cost to label the tank fill ports. Date Required is the date of investigation 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				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				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 **\$4**

## Compliance History

Customer/Respondent/Owner-Operator:	CN600249965 Econo Lube N'Tune, Inc.	Classification: AVERAGE	Rating: 3.43
Regulated Entity:	RN102041910 ECONO LUBE N TUNE 145	Classification: AVERAGE	Site Rating: 2.00
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	53387
Location:	9003 HUEBNER RD, SAN ANTONIO, TX, 78240	Rating Date: September 01 05	Repeat Violator: NO
TCEQ Region:	REGION 13 - SAN ANTONIO		
Date Compliance History Prepared:	November 08, 2005		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	November 08, 2000 to November 08, 2005		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Melissa Keller	Phone:	512-239-1768

### 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 of the site during the compliance period?    | No  |
| 3. If Yes, who is the current owner?   | N/A |
| 4. If Yes, who was/were the prior owner(s)?  | N/A |
| 5. When did the change(s) in ownership occur?  | N/A |

### Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, 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 09/06/2005 (401663)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 08/18/2005 (401663)

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 334, SubChapter A 334.10(b)[G]

Description: Records not available.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 334; SubChapter A 334.7(d)(3)

Description: Registration not updated.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas



N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
ECONO LUBE N' TUNE, INC.  
RN102041910

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2005-1909-PST-E

I. JURISDICTION AND STIPULATIONS

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Econo Lube N' Tune, Inc. ("Econo Lube") under the authority of TEX. WATER CODE ch. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Econo Lube appear before the Commission and together stipulate that:

1. Econo Lube owns an automotive repair, maintenance and oil change facility located at 9003 Huebner Rd., San Antonio, Bexar County, Texas (the "Facility").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch.26 and TCEQ rules.
3. The Commission and Econo Lube agree that the Commission has jurisdiction to enter this Agreed Order, and that Econo Lube is subject to the Commission's jurisdiction.
4. Econo Lube received notice of the violations alleged in Section II ("Allegations") on or about August 18, 2005.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Econo Lube of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of six thousand eight hundred twenty-five dollars (\$6,825.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Econo Lube has paid six thousand eight hundred twenty-five dollars (\$6,825.00) of the administrative penalty.

7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Econo Lube have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Econo Lube has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

Econo Lube is alleged to have violated:

1. 30 TEX. ADMIN. CODE §37.815(a) and (b) by failing to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury property damage caused by accidental releases arising from the operation of petroleum USTs;
2. 30 TEX. ADMIN. CODE §334.50(a)(1)(A) and TEX. WATER CODE §26.3475(c)(1) by failing to provide a method of release detection which is capable of detecting a release from any portion of the UST system which contained regulated substances including the tanks, piping, and other underground ancillary equipment;
3. 30 TEX. ADMIN. CODE §334.10(b) by failing to make records readily accessible and available upon request by agency personnel;
4. 30 TEX. ADMIN. CODE §334.7(d)(3) by failing to amend the registration within 30 days of any change or additional information concerning the UST system;
5. 30 TEX. ADMIN. CODE §334.8(c)(5)(C) by failing to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a non-removable point in the immediate area of the fill tube according to the UST registration and self-certification form.

### III. DENIALS

Econo Lube generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Econo Lube pay an administrative penalty as set forth in Section I, Paragraph 6, above. The payment of this administrative penalty and Econo Lube's compliance with all the terms and conditions set forth in this Agreed Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Econo Lube N' Tune, Inc., Docket No. 2005-1909-PST" 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. Econo Lube shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Agreed Order, Econo Lube shall begin maintaining all records pertaining to the UST system, in accordance with 30 TEX. ADMIN. CODE §334.10.
  - b. Within 30 days after the effective date of this Agreed Order, Econo Lube shall:
    - i. Submit documentation that demonstrates acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs, in accordance with 30 TEX. ADMIN. CODE §37.815;
    - ii. Install or implement a release detection method for the UST system, in accordance with 30 TEX. ADMIN. CODE §334.50;
    - iii. Submit an amended UST registration to indicate the current ownership status of the UST system in accordance with 30 TEX. ADMIN. CODE §334.7 to:

Petroleum Storage Tank Registration Team, MC 138

Texas Commission on Environmental Quality  
P.O. Box 13807  
Austin, TX 78711-3087

- iv. Mark the top of each fill tube or non-removable point in the immediate area of the fill tube of each UST, in accordance with 30 TEX. ADMIN. CODE §334.8.
- c. Within 45 days after the effective date of this Order, Econo Lube shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with ordering provision Nos. 2.a. through 2.b.iv. 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 sent to:

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

and

Tom Haberle, Waste Section Manager  
Texas Commission on Environmental Quality  
14250 Judson Rd.  
San Antonio, Texas 78233-4480

- 3. The provisions of this Agreed Order shall apply to and be binding upon Econo Lube. Econo Lube is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

4. If Econo Lube fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Econo Lube's failure to comply is not a violation of this Agreed Order. Econo Lube shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Econo Lube shall notify the Executive Director within seven days after Econo Lube becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Econo Lube shall be made in writing to the Executive Director. Extensions are not effective until Econo Lube receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Econo Lube in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T. CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Econo Lube, or three days after the date on which the Commission mails notice of the Order to Econo Lube, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

*Bengeon Perdue*  
For the Executive Director

10/9/07  
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or Econo Lube N' Tune, Inc.'s failure to timely pay the penalty amount, may result in:

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

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

*Paul Baratta*  
Signature

8/13/07  
Date

Paul Baratta  
Name (Printed or typed)  
Authorized representative of  
Econo Lube N' Tune, Inc.

Director Property Mgmt  
Title