EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 50136
CIPERCEN LLC d/b/a Meineke 4156
RN100532290
Docket No. 2015-0293-PST-E

Order Type:
Agreed Order

Media:
PST

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
2712 West William Cannon Drive, Austin, Travis County

Type of Operation:
oil change and lube facility

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:	February 26, 2016
Comments Received:	None

Penalty Information

Total Penalty Assessed:	$10,634
Total Paid to General Revenue:	$10,634
Total Due to General Revenue:	$0

Compliance History Classifications:
Person/CN – High
Site/RN – High

Major Source:	No
Statutory Limit Adjustment:	None
Applicable Penalty Policy:	April 2014

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: December 18, 2014

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

Date(s) of NOE(s): February 6, 2015

Violation Information

1. Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of an underground storage tank ("UST") [30 TEX. ADMIN. CODE § 37.815(a) and (b)].
2. Failed to provide corrosion protection for the UST system [TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE § 334.49(a)(1)].
3. Failed to monitor the UST for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) and failed to provide release detection for the gravity piping associated with the UST system [TEX. WATER CODE § 26.3475(b) and (c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and (b)(2)].
4. Failed to identify and designate for the UST facility at least one named individual for each class of operator - Class A, Class B, and Class C [30 TEX. ADMIN. CODE § 334.602(a)].
5. Failed to notify the agency of any change or additional information regarding the UST system within 30 days of the date of the occurrence of the change or addition [30 TEX. ADMIN. CODE § 334.7(d)(3)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Submitted an updated registration reflecting the current owner and operator as of February 6, 2015.

Technical Requirements:

1. Within 180 days after the effective date of this Order, permanently remove the UST system from service, which includes the following actions:
   a. Providing a Construction Notification to the TCEQ at least 30 days prior to any removal activities; and
   b. Employing a Licensed Underground Storage Tank Contractor to perform all removal activities, including:
      i. Removing the UST from the ground, abandoning the UST in-place, or conducting a permanent change-in-service;
      ii. Emptying the UST of all regulated substances and accumulated sludges or residues and purging the UST of all residual vapors;
      iii. Handling, transporting, and properly disposing of the empty UST, of the regulated substances removed from the UST system, and of any contaminated soils, backfill material, groundwater, wash water or other similar materials removed from the UST system or Facility; and
      iv. Determining whether or not there has been a release of regulated substance from the UST system, performance of a comprehensive site assessment, reporting confirmed or suspected releases to the TCEQ, and preparing a detailed written record of the release determination.

2. Within 195 days, submit an amended registration to reflect the operational status of the UST system.

3. Within 210 days, submit written certification to demonstrate compliance.

Litigation Information

Date Petition(s) Filed: July 10, 2015

Date Answer Filed: July 27, 2015

SOAH Referral Date: August 28, 2015

Hearing Date(s):
Preliminary hearing: October 1, 2015 (waived)
Evidentiary hearing: March 8, 2016 (scheduled)

Settlement Date: October 29, 2015

Contact Information

TCEQ Attorneys: David Terry, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Rudy Calderon, Public Interest Counsel, (512) 239-6363

TCEQ Enforcement Coordinator: Rebecca Boyett, Enforcement Division, (512) 239-2503

TCEQ Regional Contact: David Mann, Austin Regional Office, (512) 339-2929

Respondent Contact: Jorge Cereijo, Director, CIPERCEN LLC, 6567 Duck Creek Boulevard, Garland, Texas 75043

Respondent's Attorney: Jeff Reed, Lloyd Gosselink Rochelle & Townsend, P.C., 816 Congress Avenue, Suite 1900, Austin, Texas 78701

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Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014) *PCW Revision March 26, 2014*

TCEQ

DATES					
Assigned	9-Feb-2015				
PCW	29-May-2015	Screening	12-Feb-2015	EPA Due	

RESPONDENT/FACILITY INFORMATION			
Respondent	CIPERCEN LLC dba Meineke 4156		
Reg. Ent. Ref. No.	RN100532290		
Facility/Site Region	11-Austin	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	50136	No. of Violations	5
Docket No.	2015-0293-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Rebecca Boyett
		EC's Team	Enforcement Team 7
Admin. Penalty $ Limit Minimum	$0	Maximum	$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)		*Subtotal 1*	$11,250
ADJUSTMENTS (+/-) TO SUBTOTAL 1			
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.			
Compliance History	-10.0% Reduction	*Subtotals 2, 3, & 7*	-$1,125
Notes	Reduction for High Performer classification.		
Culpability	No; 0.0% Enhancement	*Subtotal 4*	$0
Notes	The Respondent does not meet the culpability criteria.		
Good Faith Effort to Comply Total Adjustments		*Subtotal 5*	-$312
Economic Benefit	0.0% Enhancement*	*Subtotal 6*	$0
Total EB Amounts	$1,290	**Capped at the Total EB $ Amount*	
Estimated Cost of Compliance	$8,878		
SUM OF SUBTOTALS 1-7		*Final Subtotal*	$9,813
OTHER FACTORS AS JUSTICE MAY REQUIRE	8.4%	*Adjustment*	$821
Reduces or enhances the Final Subtotal by the indicated percentage.			
Notes	Recommended enhancement to capture the avoided cost of compliance associated with violation nos. 1 and 3.		
		Final Penalty Amount	$10,634
STATUTORY LIMIT ADJUSTMENT		*Final Assessed Penalty*	$10,634
DEFERRAL	0.0% Reduction	*Adjustment*	$0
Reduces the Final Assessed Penalty by the indicated percentage. *(Enter number only; e.g. 20 for 20% reduction.)*			
Notes	Deferral not offered for non-expedited settlement.		
PAYABLE PENALTY			$10,634

Screening Date	12-Feb-2015	**Docket No.** 2015-0293-PST-E	**PCW**
Respondent	CIPERCEN LLC dba Meineke 4156		*Policy Revision 4 (April 2014)*
Case ID No.	50136		*PCW Revision March 26, 2014*
Reg. Ent. Reference No.	RN100532290		
Media [Statute]	Petroleum Storage Tank		
Enf. Coordinator	Rebecca Boyett		

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 (*number of NOVs meeting criteria*)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	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 (*number of judgments or consent decrees meeting criteria*)	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 (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	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 *(number of audits for which notices were submitted)*	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	0	0%
		Please Enter Yes or No	
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance History Notes

Reduction for High Performer classification.

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

>> Final Compliance History Adjustment

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

Screening Date	12-Feb-2015	**Docket No.**	2015-0293-PST-E	**PCW**
Respondent	CIPERCEN LLC dba Meineke 4156			*Policy Revision 4 (April 2014)*
Case ID No.	50136			*PCW Revision March 26, 2014*
Reg. Ent. Reference No.	RN100532290			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Rebecca Boyett			

Violation Number 1

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

Violation Description Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of a petroleum underground storage tank ("UST").

Base Penalty $25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 5.0%

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

Adjustment $23,750

$1,250

Violation Events

Number of Violation Events: 1 — 56 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $1,250

One single event is recommened for the one UST.

Good Faith Efforts to Comply

0.0% — Reduction $0

	Before NOE/NOV	NOE/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 $1,250

Economic Benefit (EB) for this violation

Estimated EB Amount $693

Statutory Limit Test

Violation Final Penalty Total $1,219

This violation Final Assessed Penalty (adjusted for limits) $1,219

Economic Benefit Worksheet

Respondent CIPERCEN LLC dba Meineke 4156
Case ID No. 50136
Reg. Ent. Reference No. RN100532290
Media Petroleum Storage Tank
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	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]	$660	28-Feb-2014	18-Dec-2014	1.00	$33	$660	$693
ONE-TIME avoided costs [3]				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Notes for AVOIDED costs	Estimated avoided cost to provide financial assurance for the UST. The Date Required is the date of ownership. The Final Date is the investigation date.						

Approx. Cost of Compliance $660

TOTAL $693

Screening Date	12-Feb-2015	**Docket No.**	2015-0293-PST-E	**PCW**
Respondent	CIPERCEN LLC dba Meineke 4156			*Policy Revision 4 (April 2014)*
Case ID No.	50136			*PCW Revision March 26, 2014*
Reg. Ent. Reference No.	RN100532290			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Rebecca Boyett			

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.49(a)(1) and Tex. Water Code § 26.3475(d)

Violation Description Failed to provide corrosion protection for the UST system.

Base Penalty $25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

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

Adjustment $21,250

$3,750

Violation Events

Number of Violation Events: 1 | 56 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $3,750

One quarterly event is recommended from the December 18, 2014 investigation date to the February 12, 2015 screening date.

Good Faith Efforts to Comply

0.0% Reduction $0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark w th x)

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

Violation Subtotal $3,750

Economic Benefit (EB) for this violation

Estimated EB Amount $375

Statutory Limit Test

Violation Final Penalty Total $3,657

This violation Final Assessed Penalty (adjusted for limits) $3,657

Economic Benefit Worksheet

Respondent CIPERCEN LLC dba Meineke 4156
Case ID No. 50136
Reg. Ent. Reference No. RN100532290
Media Petroleum Storage Tank
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
	No commas or $						
Delayed Costs							
Equipment	$6,000	18-Dec-2014	9-Nov-2015	0.89	$18	$357	$375
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 install and test a corrosion protection system. The Date Required is the investigation date. 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	$6,000	TOTAL	$375

Screening Date	12-Feb-2015	**Docket No.**	2015-0293-PST-E	**PCW**
Respondent	CIPERCEN LLC dba Meineke 4156			*Policy Revision 4 (April 2014)*
Case ID No.	50136			*PCW Revision March 26, 2014*
Reg. Ent. Reference No.	RN100532290			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Rebecca Boyett			

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 334.50(b)(1)(A) and (b)(2) and Tex. Water Code § 26.3475(b) and (c)(1)

Violation Description Failed to monitor the UST for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring). Also, failed to provide release detection for the gravity piping associated with the UST system. Specifically, the Respondent had not conducted the triennial piping tightness testing.

Base Penalty $25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm: Major	Moderate	Minor
	Actual			
	Potential	x		

Percent 15.0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

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

Adjustment $21,250

$3,750

Violation Events

Number of Violation Events: 1 | 56 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $3,750

One quarterly event is recommended from the December 18, 2014 investigation date to the February 12, 2015 screening date.

Good Faith Efforts to Comply

0.0% Reduction $0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark w th x)

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

Violation Subtotal $3,750

Economic Benefit (EB) for this violation

Estimated EB Amount $195

Statutory Limit Test

Violation Final Penalty Total $3,657

This violation Final Assessed Penalty (adjusted for limits) $3,657

Economic Benefit Worksheet

Respondent CIPERCEN LLC dba Meineke 4156
Case ID No. 50136
Reg. Ent. Reference No. RN100532290
Media Petroleum Storage Tank
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	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)	$1,500	18-Dec-2014	9-Nov-2015	0.89	$67	n/a	$67
Notes for DELAYED costs	Estimated cost to implement a method of release detection for the UST at the Facility. The Date Required is the investigation date. 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	28-Feb-2014	18-Dec-2014	1.72	$10	$118	$128
Other (as needed)				0.00	$0	$0	$0
Notes for AVOIDED costs	Estimated cost to conduct the triennial piping tightness testing. The Date Required is the date of ownership. The Final Date is the investigation date.						

Approx. Cost of Compliance $1,618

TOTAL $195

Screening Date	12-Feb-2015	**Docket No.**	2015-0293-PST-E	**PCW**
Respondent	CIPERCEN LLC dba Meineke 4156			*Policy Revision 4 (April 2014)*
Case ID No.	50136			*PCW Revision March 26, 2014*
Reg. Ent. Reference No.	RN100532290			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Rebecca Boyett			

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 334.602(a)

Violation Description Failed to identify and designate for the UST facility at least one named individual for each class of operator - Class A, Class B, and Class C.

Base Penalty $25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential		x	

Percent 5.0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes: Human health or the environment will or could be exposed to significant amounts of pollutants that would 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: 1 — 56 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $1,250

One quarterly event is recommended from the December 18, 2014 investigation date to the February 28, 2015 screening date.

Good Faith Efforts to Comply

0.0% Reduction $0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark w th x)

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

Violation Subtotal $1,250

Economic Benefit (EB) for this violation

Estimated EB Amount $22

Statutory Limit Test

Violation Final Penalty Total $1,219

This violation Final Assessed Penalty (adjusted for limits) $1,219

Economic Benefit Worksheet

Respondent CIPERCEN LLC dba Meineke 4156
Case ID No. 50136
Reg. Ent. Reference No. RN100532290
Media Petroleum Storage Tank
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	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	$500	18-Dec-2014	9-Nov-2015	0.89	$22	n/a	$22
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 obtain the required operator training and designate a Class A, Class B, and Class C operator. The Date Required is the investigation date. 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 $22

Screening Date	12-Feb-2015	**Docket No.**	2015-0293-PST-E	**PCW**
Respondent	CIPERCEN LLC dba Meineke 4156			*Policy Revision 4 (April 2014)*
Case ID No.	50136			*PCW Revision March 26, 2014*
Reg. Ent. Reference No.	RN100532290			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Rebecca Boyett			

Violation Number 5

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

Violation Description Failed to notify the agency of any change or additional information regarding the UST system within 30 days of the date of the occurrence of the change or addition. Specifically the registration had not been updated to reflect the current owner and operator.

Base Penalty $25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 5.0%

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

Adjustment $23,750

$1,250

Violation Events

Number of Violation Events: 1 | 56 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $1,250

One single event is recommended.

Good Faith Efforts to Comply

25.0% Reduction $312

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark w th x)

Notes: Respondent achieved compliance on January 28, 2015 prior to the Notice of Enforcement dated February 6, 2015.

Violation Subtotal $938

Economic Benefit (EB) for this violation

Estimated EB Amount $4

Statutory Limit Test

Violation Final Penalty Total $881

This violation Final Assessed Penalty (adjusted for limits) $881

Economic Benefit Worksheet

Respondent CIPERCEN LLC dba Meineke 4156
Case ID No. 50136
Reg. Ent. Reference No. RN100532290
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
	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	30-Mar-2014	28-Jan-2015	0.83	$4	n/a	$4
Notes for DELAYED costs	Estimated delayed cost to submit a properly completed UST registration and self-certification form. The Date Required is the date the UST registration and self-certification form was due. The Final Date is the 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 $4

The TCEQ is committed to accessibility.
To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.

Compliance History Report

PUBLISHED Compliance History Report for CN604733170, RN100532290, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator:	CN604733170, CIPERCEN LLC	**Classification:** HIGH	**Rating:** 0.00
Regulated Entity:	RN100532290, Meineke 4156	**Classification:** HIGH	**Rating:** 0.00
Complexity Points:	2	**Repeat Violator:** NO	
CH Group:	14 - Other		
Location:	2712 W WILLIAM CANNON DR AUSTIN, TX 78745-5120, TRAVIS COUNTY		
TCEQ Region:	REGION 11 - AUSTIN		
ID Number(s):	**PETROLEUM STORAGE TANK REGISTRATION** REGISTRATION 49223 **PETROLEUM STORAGE TANK NON REGISTERED** ID NUMBER R11100532290		

Compliance History Period: September 01, 2009 to August 31, 2014 **Rating Year:** 2014 **Rating Date:** 09/01/2014

Date Compliance History Report Prepared: March 12, 2015

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: February 12, 2010 to February 12, 2015

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.
Name: Rebecca Boyett **Phone:** (512) 239-2503

Site and Owner/Operator History:

1) Has the site been in existence and/or operation for the full five year compliance period? YES
2) Has there been a (known) change in ownership/operator of the site during the compliance period? YES
3) If **YES** for #2, who is the current owner/operator? CIPERCEN LLC, owner/operator since 02/28/2014
4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? ECONO LUBE N TUNE INC, owner/operator, 3/15/2010-02/27/2014
JMAC DEVELOPMENT INC, operator, 3/15/2010-02/27/2014
5) If **YES**, when did the change(s) in owner or operator occur? 02/28/2014

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

A. Final Orders, court judgments, and consent decrees:
N/A

B. Criminal convictions:
N/A

C. Chronic excessive emissions events:
N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):
N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):
A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.
N/A

F. Environmental audits:
N/A

G. Type of environmental management systems (EMSs):
N/A

H. Voluntary on-site compliance assessment dates:
N/A

I. Participation in a voluntary pollution reduction program:
N/A

J. Early compliance:
N/A

Sites Outside of Texas:
N/A

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN ENFORCEMENT ACTION CONCERNING CIPERCEN LLC DBA MEINEKE 4156; RN100532290	**§ § § § § §**	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2015-0293-PST-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding CIPERCEN LLC d/b/a Meineke 4156 ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, represented by Jeff Reed of the law firm Lloyd Gosselink Rochelle & Townsend, P.C., together stipulate that:

1. Respondent owns and operates, as defined in 30 TEX. ADMIN. CODE § 334.2(73) and (70), an underground storage tank ("UST") system and an oil change and lube facility located at 2712 West William Cannon Drive in Austin, Travis County, Texas (Facility ID No. 49223) (the "Facility"). The USTs at the Facility are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission, and contain or contained a regulated petroleum substance as defined in the rules of the TCEQ.

2. The Executive Director and Respondent agree that TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and the rules of the TCEQ.

3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

4. An administrative penalty in the amount of ten thousand six hundred thirty-four dollars ($10,634.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid ten thousand six hundred thirty-four dollars ($10,634.00) of the penalty.

5. The Executive Director and Respondent agree on a settlement of the matters addressed in this Order, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.

6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions contained in this Order.

7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.

8. This Order shall terminate five years from its effective date or upon full compliance with all the terms and conditions set forth in this Order, whichever is later.

9. The Executive Director recognizes that Respondent submitted an updated registration reflecting the current owner and operator as of January 28, 2015.

II. ALLEGATIONS

1. During an investigation conducted on December 18, 2014, an investigator documented that Respondent:

   a. Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of a UST, in violation of 30 TEX. ADMIN. CODE § 37.815(a) and (b);

   b. Failed to provide corrosion protection for the UST system, in violation of TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE § 334.49(a)(1);

   c. Failed to monitor the UST for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) and failed to provide release detection for the gravity piping associated with the UST system, in violation of TEX. WATER CODE § 26.3475(b) and (c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and (b)(2);

   d. Failed to identify and designate for the UST facility at least one named individual for each class of operator - Class A, Class B, and Class C, in violation of 30 TEX. ADMIN. CODE § 334.602(a); and

   e. Failed to notify the agency of any change or additional information regarding the UST system within 30 days of the date of the occurrence of the change or addition, in violation of 30 TEX. ADMIN. CODE § 334.7(d)(3). Specifically, the registration had not been updated to reflect the current owner and operator.

III. DENIALS

Respondent generally denies each Allegation in Section II.

IV. ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty as set forth in Section I, Paragraph 4. The payment of this penalty and Respondent's compliance with all of the requirements set forth in this Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations which are not raised here.

2. Respondent shall undertake the following technical requirements:

   a. Within 180 days after the effective date of this Order, permanently remove the UST system from service in accordance with 30 TEX. ADMIN. CODE § 334.55, which includes the following actions:

      i. Providing a Construction Notification to the TCEQ at least 30 days prior to

any removal activities; and

ii. Employing a Licensed Underground Storage Tank Contractor to perform all removal activities, including:

A. Removing the UST from the ground, abandoning the UST in-place, or conducting a permanent change-in-service;

B. Emptying the UST of all regulated substances and accumulated sludges or residues and purging the USTs of all residual vapors;

C. Handling, transporting, and properly disposing of the empty UST, of the regulated substances removed from the UST system, and of any contaminated soils, backfill material, groundwater, wash water or other similar materials removed from the UST system or Facility; and

D. Determining whether or not there has been a release of regulated substance from the UST system, performance of a comprehensive site assessment, reporting confirmed or suspected releases to the TCEQ, and preparing a detailed written record of the release determination.

b. Within 195 days after the effective date of this Order, submit an amended registration to reflect the operational status of the UST system, in accordance with 30 TEX. ADMIN. CODE § 334.7 to:

Registration and Reporting Section
Permitting & Registration Support Division, MC 129
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

c. Within 210 days after the effective date of this Order, submit written certification to demonstrate compliance with Ordering Provisions Nos. 2.a. through 2.b. The certification shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by Respondent, and shall include the following certification language:

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

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

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

and:

Waste Section Manager
Austin Regional Office
Texas Commission on Environmental Quality
MC R11
PO Box 13087
Austin, Texas 78711-3087

3. All relief not expressly granted in this Order is denied.

4. The duties and provisions imposed by this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.

5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Order Compliance Team at the address listed above.

6. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

7. This Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order, or (2) pursue violations of a statute within TCEQ's jurisdiction or of a rule adopted or an order or permit issued by the TCEQ under such a statute.

8. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

9. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission | Date

For the Executive Director | March 25, 2016
Date

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

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

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

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

Signature - Jorge Cereijo, Director | 10/29/2015
Date

CIPERCEN LLC
6567 Duck Creek Boulevard
Garland, Texas 75043

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

_____