



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We Protect Hoosiers and Our Environment.

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Eric J. Holcomb
Governor

Brian C. Rockensuess
Commissioner

January 25, 2022

Edmaa Enterprises Inc
Attn: David Neathery, Registered Agent
4065 Sagewood Ct
Greenwood, IN 46143

Neathery's Enterprises Inc
Attn: David Neathery, Registered Agent
4065 Sagewood Ct
Greenwood, IN 46143

Re: Violation Letter
Neatherys BP
9614 SR 144
Martinsville, Johnson County
UST Facility ID # **25539**

Dear Mr. Neathery:

An inspector from the Indiana Department of Environmental Management (IDEM), Underground Storage Tank (UST) Section, conducted an inspection of the site referenced above on January 18, 2022.

The inspection was conducted pursuant to Indiana Code (IC) 13-14-2-2 to determine compliance with the provisions of IC 13-23 and 329 IAC 9. In accordance with IC 13-14-5, a summary of the inspection is provided below:

Type of Inspection: Initial

Results of Inspection: Violations were discovered and require a submittal.

Within thirty (30) days of receipt of this letter, documentation demonstrating compliance with each of the requirements listed in the attached Inspection Report and Description of Violations (DOV) must be submitted to IDEM. Failure to submit this documentation may lead to this facility being referred for enforcement.

An enforcement action may include civil penalties of up to \$10,000 per UST. Enforcement actions may also affect the owner's and/or operator's eligibility for reimbursement from the Excess Liability Trust Fund (ELTF). Additionally, IDEM may deem the UST's at this facility ineligible for delivery, deposit or acceptance of regulated substances pursuant to IC 13-23-1-4. Finally, federal and criminal penalties may apply for failure to provide required notification; or submitting false information pursuant to IC 13-23-14-2 and liable under IC 13-30-10.

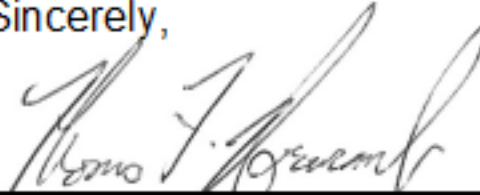
Thank you for your attention to this matter. Please submit the required documents to the UST Section via email at USTCompliance@idem.in.gov. Include in the subject line of the response the UST Facility ID # **25539**.

Inspector: Tristan Voge
Phone: (317) 719-2574

Direct any questions regarding the inspection to:

Compliance Manager: Loic Maniet
Phone: (317) 232-3592

Sincerely,



Thomas F. Newcomb, Chief
UST Compliance Section
Office of Land Quality

cc: Loic Maniet
Tristan Voge
UST Facility ID File # 25539
Neathery's BP
Attn: David Neathery
Via email: dneathery63@gmail.com

DESCRIPTION OF VIOLATIONS

This inspection or records review revealed that the owner and/or operator of this facility is in violation of Indiana UST Rule 329 IAC 9. 329 Indiana Administrative Code ("IAC") 9 incorporates certain federal underground storage tank requirements found in 40 Code of Federal Regulations ("CFR") Part 280, including those identified below. The Description of Violations (DOV) and corrective measures are as follows:

FACILITY NAME: Neatherys BP	UST FACILITY ID: 25539
ADDRESS: 9610 SR 144, Martinsville, Morgan County	INSPECTION DATE: 01/18/2022

VIOLATIONS NOTED IN THIS INSPECTION

§ 280.41(b)(1)(i)(A) – Failure to equip piping with or test automatic leak detectors
Citation:
Pursuant to 40 CFR 280.41(b)(1)(i)(A), pressurized underground piping installed on or before April 11, 2016 (previously cited as September 2, 2009 under 329 IAC 9-2-1(2)(D)) that routinely contains regulated substances must be equipped with an automatic line leak detector conducted in accordance with § 280.44(a).
Violation Details:
<i>The owner and/or operator of the UST system(s) at this site are in violation of this rule because an annual leak detector test report is needed.</i>
Corrective Action:
The owner and/or operator of the UST systems at this site shall have any piping that contains a regulated amount of product and found to not have had its automatic leak detector tested within the 12 months prior to inspection tightness tested within thirty (30) days of receipt of this notice and submit the results within forty five (45) days of receipt of this notice.

§ 280.41(b)(1)(i)(B) – Failure to perform annual piping LTT or monthly monitoring
Citation:
Pursuant to 40 CFR 280.41(b)(1)(i)(B), pressurized underground piping installed on or before April 11, 2016 (previously cited as September 2, 2009 under 329 IAC 9-2-1(2)(D)) that routinely contains regulated substances must have an annual line tightness test conducted in accordance with § 280.44(b) or have monthly monitoring conducted in accordance with § 280.44(c).
Violation Details:
<i>The owner and/or operator of the UST system(s) at this site are in violation of this rule because twelve (12) months of release detection records for the piping or an annual line tightness test report is needed.</i>

Corrective Action:

The owner and/or operator of the UST systems at this site shall have any piping that contains a regulated amount of product and found to not have had appropriate monthly monitoring or an annual line tightness test within the 12 months prior to inspection tightness tested within thirty (30) days of receipt of this notice and submit the results within forty five (45) days of receipt of this notice.

§ 280.20(c)(1)(ii) – Failure to have overfill prevention equipment installed or installed properly

Citation:

Pursuant to 40 CFR 280.20(c)(1)(ii), to prevent spilling and overfilling associated with product transfer to the UST system, owners and operators must use the following spill and overfill prevention equipment:

(ii) Overfill prevention equipment that will:

(A) Automatically shut off flow into the tank when the tank is no more than 95 percent full; or

(B) Alert the transfer operator when the tank is no more than 90 percent full by restricting the flow into the tank or triggering a high-level alarm; or

(C) Restrict flow 30 minutes prior to overfilling, alert the transfer operator with a high level alarm one minute before overfilling, or automatically shut off flow into the tank so that none of the fittings located on top of the tank are exposed to product due to overfilling.

Violation Details:

The owner and/or operator of the UST system(s) at this site are in violation of this rule because Auto Shutoff devices were observed during the inspection but prior documents indicated the presence of ball floats. Those two (2) forms of overfill devices can interfere with each others.

Corrective Action:

The owner and/or operator of the UST systems at this site shall, within thirty (30) days of receipt of this notice, contract with a certified contractor to install or replace absent or substandard overfill prevention equipment that will operate as required. The UST owner and/or operator must submit proof that the overfill prevention equipment has been installed properly to the 90% or 95% fill level as required by the type of equipment within forty five (45) days of receipt of this notice. In the case where an owner has changed the overfill prevention equipment from a flow restrictor (ball float) to an auto-shutoff device, the owner must document the entire flow restrictor has been removed or that the automatic shut off device is installed at 90% or lower.

§ 280.35(a)(1) – Failure to perform periodic testing of spill prevention equipment and containment sumps used for IM

Citation:

Pursuant to 40 CFR 280.35(a)(1), owners and operators of UST systems with spill and overflow prevention equipment and containment sumps used for interstitial monitoring of piping must meet these requirements to ensure the equipment is operating properly and will prevent releases to the environment:

(1) Spill prevention equipment (such as a catchment basin, spill bucket, or other spill containment device) and containment sumps used for interstitial monitoring of piping must prevent releases to the environment.

Violation Details:

The owner and/or operator of the UST system(s) at this site are in violation of this rule because a periodic spill prevention equipment test report is needed.

Corrective Action:

The owner and/or operator of the UST systems at this site shall, within thirty (30) days of receipt of this notice, contract with a certified contractor to inspect, repair and test all spill prevention equipment and containment sumps. Documentation, to include photographs, inspection, repair and testing results, showing the spill prevention equipment and containment sumps are liquid tight must be submitted within forty five (45) days of the receipt of this notice.

§ 280.35(a)(2) – Failure to perform periodic testing of overflow prevention equipment

Citation:

Pursuant to 40 CFR 280.35(a)(2), overflow prevention equipment must be inspected at least once every three years. At a minimum, the inspection must ensure that overflow prevention equipment is set to activate at the correct level specified in § 280.20(c) and will activate when regulated substance reaches that level. Inspections must be conducted in accordance with one of the criteria in paragraph (a)(1)(ii)(A) through (C) of this section.

Violation Details:

The owner and/or operator of the UST system(s) at this site are in violation of this rule because a periodic overflow prevention equipment test report is needed.

Corrective Action:

The owner and/or operator of the UST systems at this site shall, within thirty (30) days of receipt of this notice, contract with a certified contractor to inspect, repair and test all overflow prevention equipment. Documentation, to include photographs, inspection, repair, measurements and testing results, showing the overflow prevention equipment is fully functional and set at the correct level must be submitted within forty five (45) days of the receipt of this notice.

§ 280.40(a)(3)(i) – Failure to perform annual tests of ATG
Citation:
Pursuant to 40 CFR 280.40(a)(3)(i), owners and operators of UST systems must provide a method, or combination of methods, of release detection that beginning on October 13, 2018, is operated and maintained, and electronic and mechanical components are tested for proper operation, in accordance with one of the following: manufacturer's instructions; a code of practice developed by a nationally recognized association or independent testing laboratory; or requirements determined by the implementing agency to be no less protective of human health and the environment than the two options listed in paragraphs (a)(1) and (2) of this section. A test of the proper operation must be performed at least annually and, at a minimum, as applicable to the facility, cover the following components and criteria: (i) Automatic tank gauge and other controllers: test alarm; verify system configuration; test battery backup.
Violation Details:
<i>The owner and/or operator of the UST system(s) at this site are in violation of this rule because an annual ATG functionality test report is needed.</i>
Corrective Action:
The owner and/or operator of the UST systems at this site shall have all components of the automatic tank gauge or other controllers tested for proper operation within thirty (30) days of receipt of this notice and submit the results within forty five (45) days of receipt of this notice.

§ 280.40(a)(3)(ii) – Failure to perform annual tests of probes & sensors
Citation:
Pursuant to 40 CFR 280.40(a)(3)(ii), owners and operators of UST systems must provide a method, or combination of methods, of release detection that beginning on October 13, 2018, is operated and maintained, and electronic and mechanical components are tested for proper operation, in accordance with one of the following: manufacturer's instructions; a code of practice developed by a nationally recognized association or independent testing laboratory; or requirements determined by the implementing agency to be no less protective of human health and the environment than the two options listed in paragraphs (a)(1) and (2) of this section. A test of the proper operation must be performed at least annually and, at a minimum, as applicable to the facility, cover the following components and criteria: (ii) Probes and sensors: inspect for residual buildup; ensure floats move freely; ensure shaft is not damaged; ensure cables are free of kinks and breaks; test alarm operability and communication with controller.
Violation Details:
<i>The owner and/or operator of the UST system(s) at this site are in violation of this rule because an annual probes test report is needed.</i>
Corrective Action:
The owner and/or operator of the UST systems at this site shall have all components of the automatic tank gauging probes and sensors tested for proper operation within thirty (30) days of receipt of this notice and submit the results within forty five (45) days of receipt of this notice.



**UNDERGROUND STORAGE
TANK INSPECTION REPORT**

INDIANA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

UST FAC ID: **25539**

Inspector's Name:	Tristan Voge
Date:	January 18, 2022
Time In:	10:00
Time Out:	10:55
Inspection Type:	Initial

FACILITY NAME / LOCATION

FACILITY NAME Neatherys BP		FACILITY ADDRESS (number and street) 9610 SR 144			
ADDRESS (line 2)	CITY Martinsville	STATE IN	ZIP CODE 46151	COUNTY Morgan	

UST OWNER

UST Owner Name (if in Individual Capacity) Edmaa Enterprises, Inc				BUSINESS ID (From the Secretary of State) 1997100690	
PREFIX Mr	FIRST NAME David	MI S	LAST NAME Neathery		SUFFIX
TELEPHONE NUMBER (317) 371-3519		EMAIL ADDRESS dneathery63@gmail.com			

UST OPERATOR

UST Operator Name (if in Individual Capacity) Neathery's Enterprises Inc				BUSINESS ID (From the Secretary of State) 1990011046	
PREFIX Mr	FIRST NAME David	MI S	LAST NAME Neathery		SUFFIX
TELEPHONE NUMBER (317) 371-3519		EMAIL ADDRESS dneathery63@gmail.com			

PROPERTY OWNER

UST Property Owner Name (if in Individual Capacity) Edmaa Enterprises, Inc				BUSINESS ID (From the Secretary of State) 1997100690	
PREFIX Mr	FIRST NAME David	MI S	LAST NAME Neathery		SUFFIX
TELEPHONE NUMBER (317) 371-3519		EMAIL ADDRESS dneathery63@gmail.com			

COMPLIANCE ELEMENTS

All USTs properly registered and up-to-date notification form on file	<input checked="" type="checkbox"/>	YES	<input type="checkbox"/>	NO	<input type="checkbox"/>	UNK		
O/O is in compliance with reporting & record keeping requirements	<input checked="" type="checkbox"/>	YES	<input type="checkbox"/>	NO	<input type="checkbox"/>	UNK		
O/O is in compliance with release reporting or investigation	<input type="checkbox"/>	YES	<input type="checkbox"/>	NO	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>	UNK
O/O is in compliance with all UST closure requirements	<input type="checkbox"/>	YES	<input type="checkbox"/>	NO	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>	UNK
O/O has met all financial responsibility requirements	<input checked="" type="checkbox"/>	YES	<input type="checkbox"/>	NO	<input type="checkbox"/>	N/A	<input type="checkbox"/>	UNK
40 CFR 280, Subpart A installation requirements (partially excluded) met	<input type="checkbox"/>	YES	<input type="checkbox"/>	NO	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>	UNK
40 CFR 280, Subpart B installation and upgrade requirements met	<input checked="" type="checkbox"/>	YES	<input type="checkbox"/>	NO	<input type="checkbox"/>		<input type="checkbox"/>	UNK
40 CFR 280, Subpart C spill/overfill control requirements met	<input type="checkbox"/>	YES	<input checked="" type="checkbox"/>	NO	<input type="checkbox"/>	N/A	<input type="checkbox"/>	UNK
Ball Float / Auto Shutoff devices								
40 CFR 280, Subpart C compatibility requirements met	<input checked="" type="checkbox"/>	YES	<input type="checkbox"/>	NO	<input type="checkbox"/>	N/A	<input type="checkbox"/>	UNK
40 CFR 280, Subpart C O&M and testing requirements met	<input type="checkbox"/>	YES	<input checked="" type="checkbox"/>	NO	<input type="checkbox"/>		<input type="checkbox"/>	UNK
Periodic spill/overfill prevention equipment test reports and 01/2022 walkthrough is needed.								
40 CFR 280, Subpart D release detection requirements met	<input type="checkbox"/>	YES	<input checked="" type="checkbox"/>	NO	<input type="checkbox"/>		<input type="checkbox"/>	UNK
Annual ATG/probes/sensors, leak detector and line tightness test reports are needed.								
40 CFR 280, Subpart J operator training requirements met	<input checked="" type="checkbox"/>	YES	<input type="checkbox"/>	NO	<input type="checkbox"/>		<input type="checkbox"/>	UNK

The information contained on this page is based upon a review of files related to this site and/or observations from an underground storage tank inspector. This page may contain information not specifically related to possible violations found during the review or inspection and is meant to give the owners and/or operator specific information to assist them.

Site Maintains:

- Three (3) FG SW USTs
- One (1) 15K REG GSL installed in May 1998
- One (1) 10K PREM GSL installed in May 1998
- One (1) 8K DSL installed in June 2002
- Piping is white Enviroflex SW and pressurized

RD UST = ATG

RD Piping = LLD, LTT, ATG

Overfill/Spill = Spill Buckets + Ball Float (original) + Auto (original + current/confirmed)

ATG Certification = N

Overfill Protection Test = N

Spill bucket Test = N

Containment Sumps Test (not required) = N

Flapper confirmed, will need BF removal or adjustment

Volumes programmed correctly based on docs in last inspection

Site History:

Site is an active service station. Based on an affidavit from 1998, prior USTs were removed before installed the USTs in 1998. However, there is no documentation or registration of those tanks.

Contact Information

David Neathery dneathery63@gmail.com

Documentation provided at the time of the file review:

- (NF 8/31/2020, Approval 11/10/2020 - tank data ok)
- Certificate of Financial Responsibility (insurance 11/2021 to 11/2022)
- Operator Certificates A, B, C
- Release Detection Records CSLD (REG, PREM, DSL) 2/2021 to 1/2022
- Walkthrough inspection 7/2021 to 12/2021

Inspection Notes

- Enviroflex piping was observed at each STP containment sump and UDC. The piping in dispenser 7/8 UDC showed some signs of degradation/discoloring. The piping should be inspected by a certified contractor to ensure function and integrity.

- The UNL STP containment sump associated Enviroflex piping are in direct contact with water and shows some signs of molding. The liquid should be removed and the piping should be inspected by a certified contractor to ensure function and integrity.

The information contained on this page is based upon a review of files related to this site and/or observations from an underground storage tank inspector. This page may contain information not specifically related to possible violations found during the review or inspection and is meant to give the owners and/or operator specific information to assist them.

The following are AREAS OF CONCERN found during the inspection that will need to be addressed by the owner and/or operator:

- The PREM vapor recovery valve did not appear to seal properly and could potentially become a point of water intrusion into the UST. The valve should be repaired or replaced as needed.
- PREM and UNL STP containment sumps contained fluid and old product that should be cleaned out and monitored as needed. The source of the product should be determined and remediated as needed.
- Dispenser 1/2, 3/4 and 7/8 UDCs contained fluid and product that should be cleaned out and monitored as needed. The source of the product should be determined and remediated as needed.

The following are VIOLATIONS discovered during the inspection that will need to be corrected within 30 days of receipt of this inspection report to avoid further action and achieve compliance with the state underground storage tank program:

1. A periodic spill prevention equipment test report is needed.
2. A periodic overfill prevention equipment test report is needed.
3. An annual ATG functionality test report is needed.
4. An annual probes and sensors test report is needed.
5. An annual leak detector test report is needed.
6. Twelve (12) months of release detection records for the piping or an annual line tightness test report is needed.
7. Auto Shutoff devices were observed but prior documents indicated the presence of ball floats. Those two forms of overfill can interfere with each others.

The following are RECORDS to be submitted to the inspector within 30 days of receipt of this inspection report to avoid further action and achieve compliance with the state underground storage tank program (update accordingly):

- A periodic spill prevention equipment test report
- A periodic overfill prevention equipment test report
- An annual ATG functionality test report
- An annual probes test report
- An annual leak detector test report
- Twelve (12) months of release detection records for the piping or an annual line tightness test report
- Documentation of ball float removal or Auto Shutoff adjustment to 90% if ball floats cannot be removed/accessed.