



## INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

*We Protect Hoosiers and Our Environment.*

100 N. Senate Avenue • Indianapolis, IN 46204

(800) 451-6027 • (317) 232-8603 • [www.idem.IN.gov](http://www.idem.IN.gov)

Eric J. Holcomb  
Governor

Bruno L. Pigott  
Commissioner

April 1, 2022

Mac's Convenience Stores LLC  
c/o Corporation Service Company  
135 N Pennsylvania St., Suite 1610  
Indianapolis, IN 46204

Mac's Convenience Stores LLC  
Attn: Liz Ward and Deb Carl  
Via email: [mward@circlek.com](mailto:mward@circlek.com),  
[ck-env@circlek.com](mailto:ck-env@circlek.com), [dcarl@circlek.com](mailto:dcarl@circlek.com)

Re: Violation Letter  
Johnson Oil Bigfoot 035  
380 N 3rd St  
Terre Haute, Vigo County  
UST Facility ID # **167**

Dear Mses. Ward and Carl:

An inspector from the Indiana Department of Environmental Management (IDEM), Underground Storage Tank (UST) Section, conducted an inspection of the site referenced above on February 17, 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.

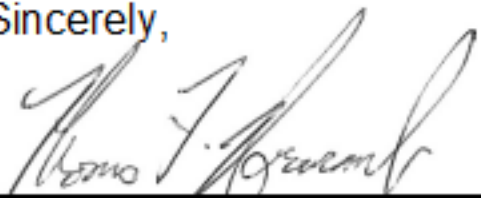
Thank you for your attention to this matter. Please submit the required documents to the UST Section via email at [USTCompliance@idem.in.gov](mailto:USTCompliance@idem.in.gov). Include in the subject line of the response the UST Facility ID # **167**.

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

Direct any questions regarding the inspection to:

Compliance Manager: Chuck Phipps  
Phone: (317) 234-2808

Sincerely,



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

cc: Chuck Phipps  
Tristan Voge  
UST Facility ID File # 167

**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:

|   |                                    |
|---|------------------------------------|
| <b>FACILITY NAME: Circle K 035</b>                          | <b>UST FACILITY ID: 167</b>        |
| <b>ADDRESS: 380 N. 3rd Street, Terre Haute, Vigo County</b> | <b>INSPECTION DATE: 02/17/2022</b> |

**VIOLATIONS NOTED IN THIS INSPECTION**

**329 IAC 9-2-2(c) – Failure to register/notify with complete information**

**Citation:**

Pursuant to 329 IAC 9-2-2(c), an owner required to submit a notification under this section shall provide:

- (1) a notification for each UST owned;
- (2) complete information required on the form for each UST owned; and
- (3) if applicable, a separate notification form for each separate place of operation at which the USTs are located.

**Violation Details:**

*The owner and/or operator of the UST system(s) at this site are in violation of this rule because an updated notification form is needed with the correct owner and operator information including correct information regarding the UST system in use at the facility.*

**Corrective Action:**

The owner and/or operator of the UST systems at this site shall fill out and submit to IDEM a correct and complete copy of the appropriate state form with required attachments, within fifteen (15) days of receipt of this notice.

**§ 280.34(b)(4)** – Failure to maintain documentation of UST system repairs (§ 280.33(g))

Citation:

Pursuant to 40 CFR 280.34(b)(4), owners and operators must maintain the documentation of UST system repairs (§ 280.33(g)).

Violation Details:

*The owner and/or operator of the UST system(s) at this site are in violation of this rule because according to the spill bucket test report all spill buckets had failing results, and the overfill test report the premium flapper valve failed. No documentation of repairs to the equipment was provided.*

Corrective Action:

The owner and/or operator of the UST systems at this site shall submit to IDEM complete documents detailing the repairs to UST system components as identified within fifteen (15) 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.

|   |
|---|
| <b>Violation Details:</b>   |
| <i>The owner and/or operator of the UST system(s) at this site are in violation of this rule because previously submitted Notification Forms indicated that each UST was equipped with a flow restrictor (ball float valve) but at the time of inspection an auto shut-off device was observed inside the fill pipe of each UST.</i>  |
| <b>Corrective Action:</b>   |
| The owner and/or operator of the UST systems at this site shall, in the case(s) where the type of overfill prevention equipment in use has been changed from a flow restrictor (ball float valve) to an auto shut-off device, provide documentation within thirty (30) days of receipt of this notice that verifies the entire flow restrictor has been removed from the UST or the new overfill prevention equipment meets the requirements of the April 2020 fact sheet on the coincident use of overfill prevention devices. |

|   |
|---|
| <b>§ 280.36(a)(1)(i) – Failure to perform 30 day walkthrough inspections</b>  |
| <b>Citation:</b>  |
| Pursuant to 40 CFR 280.36(a)(1)(i), to properly operate and maintain UST systems, not later than June 28, 2021, owners and operators must conduct a walkthrough inspection every 30 days that, at a minimum, checks spill prevention equipment and release detection equipment (Exception: spill prevention equipment at UST systems receiving deliveries at intervals greater than every 30 days may be checked prior to each delivery).   |
| <b>Violation Details:</b>   |
| <i>The owner and/or operator of the UST system(s) at this site are in violation of this rule because 01/2022-02/2022 monthly walkthrough inspection report is needed.</i>   |
| <b>Corrective Action:</b>   |
| The owner and/or operator of the UST systems at this site shall, within seven (7) days of receipt of this notice, perform the 30 day walkthrough inspection for all UST systems at the site in accordance with a standard of practice referenced in the rule. Documentation, to include photographs, inspection forms, repair documents, and waste disposal records, showing the walkthrough inspection has been completed must be submitted within forty five (45) days of the receipt of this notice. |

**§ 280.245 – Failure to maintain list of designated operators and/or training records**

Citation:

Pursuant to 40 CFR 280.245, owners and operators of underground storage tank systems must maintain a list of designated Class A, Class B, and Class C operators and maintain records verifying that training and retraining, as applicable, have been completed, in accordance with § 280.34.

Violation Details:

*The owner and/or operator of the UST system(s) at this site are in violation of this rule because C operator certificate was not provided.*

Corrective Action:

The owner or operator of the UST systems at this site shall submit a list of those employees designated to be Class C operators. Those so designated must be trained and certification of that training submitted within thirty (30) days of receipt of this notice.



**UNDERGROUND STORAGE  
TANK INSPECTION REPORT**

INDIANA DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT

UST FAC ID: **167**

|                   |                   |
|-------------------|-------------------|
| Inspector's Name: | Tristan Voge      |
| Date:             | February 17, 2022 |
| Time In:          | 11:00             |
| Time Out:         | 11:45             |
| Inspection Type:  | Initial           |

**FACILITY NAME / LOCATION**

|                               |                     |   |                   |                |  |
|-------------------------------|---------------------|---|-------------------|----------------|--|
| FACILITY NAME<br>Circle K 035 |                     | FACILITY ADDRESS (number and street)<br>380 N. 3rd Street |                   |                |  |
| ADDRESS (line 2)              | CITY<br>Terre Haute | STATE<br>IN   | ZIP CODE<br>47807 | COUNTY<br>Vigo |  |

**UST OWNER**

|  |                   |                                    |                   |  |  |
|--|-------------------|------------------------------------|-------------------|--|--|
| UST Owner Name (Business Name as registered with the Secretary of State)<br>Mac's Convenience Stores LLC |                   |                                    |                   | BUSINESS ID (From the Secretary of State)<br>2001053100456 |  |
| PREFIX<br>Ms.  | FIRST NAME<br>Liz | MI                                 | LAST NAME<br>Ward | SUFFIX   |  |
| TELEPHONE NUMBER   |                   | EMAIL ADDRESS<br>mward@circlek.com |                   |  |  |

**UST OPERATOR**

|   |                   |                                     |                   |  |  |
|---|-------------------|-------------------------------------|-------------------|--|--|
| UST Operator Name (Business Name as registered with the Secretary of State)<br>Mac's Convenience Stores LLC |                   |                                     |                   | BUSINESS ID (From the Secretary of State)<br>2001053100456 |  |
| PREFIX<br>Ms.   | FIRST NAME<br>Liz | MI                                  | LAST NAME<br>Ward | SUFFIX   |  |
| TELEPHONE NUMBER  |                   | EMAIL ADDRESS<br>ck-env@circlek.com |                   |  |  |

**PROPERTY OWNER**

|   |                   |                                    |                   |  |  |
|---|-------------------|------------------------------------|-------------------|--|--|
| UST Property Owner Name (Business Name as registered with the Secretary of State)<br>Mac's Convenience Stores LLC |                   |                                    |                   | BUSINESS ID (From the Secretary of State)<br>2001053100456 |  |
| PREFIX<br>Ms.   | FIRST NAME<br>Deb | MI                                 | LAST NAME<br>Carl | SUFFIX   |  |
| TELEPHONE NUMBER  |                   | EMAIL ADDRESS<br>dcarl@circlek.com |                   |  |  |

**COMPLIANCE ELEMENTS**

|   |     |                                     |    |                                     |     |                          |
|---|-----|-------------------------------------|----|-------------------------------------|-----|--------------------------|
| All USTs properly registered and up-to-date notification form on file                   | YES | <input checked="" type="checkbox"/> | NO | <input type="checkbox"/>            | UNK | <input type="checkbox"/> |
| An updated notification form is needed with the correct owner and operator information. |     |                                     |    |                                     |     |                          |
| O/O is in compliance with reporting & record keeping requirements                       | YES | <input checked="" type="checkbox"/> | NO | <input type="checkbox"/>            | UNK | <input type="checkbox"/> |
| Documentation spill and overfill repairs is needed.                                     |     |                                     |    |                                     |     |                          |
| O/O is in compliance with release reporting or investigation                            | YES | <input type="checkbox"/>            | NO | <input checked="" type="checkbox"/> | N/A | UNK                      |
| O/O is in compliance with all UST closure requirements                                  |     |                                     |    |                                     |     |                          |
| O/O has met all financial responsibility requirements                                   | YES | <input checked="" type="checkbox"/> | NO | <input type="checkbox"/>            | N/A | UNK                      |
| 40 CFR 280, Subpart A installation requirements (partially excluded) met                |     |                                     |    |                                     |     |                          |
| 40 CFR 280, Subpart B installation and upgrade requirements met                         | YES | <input checked="" type="checkbox"/> | NO | <input type="checkbox"/>            | UNK | <input type="checkbox"/> |
| Auto shutoff/ball float overfill coincidence was observed on site.                      |     |                                     |    |                                     |     |                          |
| 40 CFR 280, Subpart C spill/overfill control requirements met                           | YES | <input checked="" type="checkbox"/> | NO | <input type="checkbox"/>            | N/A | UNK                      |
| 40 CFR 280, Subpart C compatibility requirements met                                    |     |                                     |    |                                     |     |                          |
| 40 CFR 280, Subpart C O&M and testing requirements met                                  | YES | <input checked="" type="checkbox"/> | NO | <input type="checkbox"/>            | UNK | <input type="checkbox"/> |
| 01/2022-02/2022 monthly walkthrough inspections are needed.                             |     |                                     |    |                                     |     |                          |
| 40 CFR 280, Subpart D release detection requirements met                                | YES | <input checked="" type="checkbox"/> | NO | <input type="checkbox"/>            | UNK | <input type="checkbox"/> |
| 40 CFR 280, Subpart J operator training requirements met                                |     |                                     |    |                                     |     |                          |
| C operator certificates are needed.   | YES | <input checked="" type="checkbox"/> | NO | <input type="checkbox"/>            | UNK | <input type="checkbox"/> |

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: (3) Underground Storage Tank systems:

- 8k - FG UST - Gasoline - Installed [3/13/1971]
- 10k - FG UST - Gasoline - Installed [4/14/1993]
- 6k - FG UST - Gasoline - Installed [1/14/1993]

Section Chief Note: The normal operational lifespan of a UST before failing is 25 to 30 years old. The USTs at this site are now 29 and 51 years old and the owner should start planning on removing or replacing them soon.

Piping: Fiberglass - Pressurized - Steel Flex Connectors

RD UST = ATG

RD Piping = ATG, LLD, LT

Overfill/Spill = Catchment Basins, Flapper Valves\*

ATG Certification = Yes [3/22/2021]

Overfill Protection Test = Yes [3/25/2020 - Premium FAIL]

Spill bucket Test = Yes [3/25/2020 - All buckets FAIL]

Containment Sumps Test = Not Required

Site History: Site is an active service station with fueling capabilities. IDEM has not received a Notification Form from this facility since 7/30/2001 and the current owner is not listed on that form. The owner will need to provide an up to date Notification Form detailing all UST attributes and correct ownership. Original forms and previous inspections detail Ball Float Valves installed on each system. According to the recent test results, flapper valves are installed and are set to 95%. Clarification is needed about possible coincident use of overfill equipment. The flapper valve for the Premium UST failed testing on 3/25/2020 and no repair documentation was provided. All (3) spill buckets were also tested on 3/25/2020 and they all failed testing as well. No repair documentation or updated test results were provided. Inspector should get multiple views of the visible equipment at the facility to verify what is installed onsite.

Closure documentation of previous closures are on VFC.

No current or previous LUST Incidents at this facility.

Documentation provided at the time of the file review:

- A and B Operator certificates
- Financial Responsibility
- Line Tightness results [3/22/2021; 3/25/2020; 4/2/2019]
- Line Leak Detector results [3/22/2021; 3/25/2020; 4/2/2019]
- Impact Valve results [3/22/2021; 3/25/2020; 4/2/2019]
- ATG Functionality results [3/22/2021; 3/25/2020; 4/2/2019]
- Flex Connector CP results [2/2/2021; 2/9/2018]
- Release Detection results [12/2020 - 11/2021]
- Walkthrough Inspections [12/6/2020 - 12/14/2021]

Inspection Notes

- The dispensers were locked and the inspector did not have a key.

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:

- Both UNL spill buckets contained fluid that should be cleaned out and monitored as needed.

The following are VIOLATIONS discovered during the inspection that will need to be corrected to avoid further action and achieve compliance with the state underground storage tank program. Submit all Compliance Documents to [USTCompliance@idem.IN.gov](mailto:USTCompliance@idem.IN.gov) with FID in subject line.

1. An updated notification form is needed with the correct owner and operator information including detailed information regarding the UST system in use at the facility.
2. According to the spill bucket test report all spill buckets had failing results, and the overfill test report the premium flapper valve failed. No documentation of repairs to the equipment was provided.
3. Previously submitted Notification Forms indicated that each UST was equipped with a flow restrictor (ball float valve) but at the time of inspection an auto shut-off device was observed inside the fill pipe of each UST.
4. 01/2022-02/2022 monthly walkthrough inspection report is needed.
5. C operator certificate was not provided.

The following are RECORDS to be submitted to [USTCompliance@idem.IN.gov](mailto:USTCompliance@idem.IN.gov) with FID in the subject line 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):

- An updated notification form
- Documentation of overfill prevention equipment repairs
- Documentation of spill prevention equipment repairs.
- Documentation of proper overfill prevention equipment installation
- 01/2022-02/2022 monthly walkthrough inspection report
- C operator certificate

\*Reminder: Updates to the rule defining underground storage tank regulations are here. Updates affect regulations regarding: sump and spill bucket testing, operator training, monthly walkthrough inspections and more. Be sure to check [www.in.gov/idem/tanks](http://www.in.gov/idem/tanks) for the latest information regarding compliance of your underground storage tank system.



# Coincident Use of Overfill Prevention Devices in Underground Storage Tanks

Office of Land Quality

(317) 234-4112 • (800) 451-6027

[www.idem.IN.gov](http://www.idem.IN.gov)

100 N. Senate Ave., Indianapolis, IN 46204

## **Introduction:**

Every owner or operator of regulated petroleum underground storage tanks (USTs) in Indiana must comply with state and federal requirements for overfill prevention equipment as required by the Indiana Code (*IC 13-23-1*), and the Code of Federal Regulations (*40 CFR, Part 280, Subparts B and C*). Owners and operators must follow these requirements:

- Use overfill prevention equipment that will do one of the following:
  - Automatically shut off flow into the tank when the tank is no more than 95% full; or
  - Alert the transfer operator when the tank is no more than 90% full by restricting the flow into the tank or triggering a high-level alarm; or
  - 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.
- Ensure that releases due to spilling or overfilling do not occur. The owner and operator must ensure that the volume available in the tank is greater than the volume of product to be transferred to the tank before the transfer is made and that the transfer operation is monitored constantly to prevent overfilling and spilling.

Some UST owners and operators have flow restrictor devices, commonly known as ball float vent valves, installed on UST systems as overfill prevention equipment. Some UST owners and operators have or will opt to use automatic shut off devices, commonly known as flapper valves, in place of ball float vent valves.

Ball float vent valves and flapper valves cannot be allowed to coexist on the same UST if they are installed according to industry practice. Ball float vent valves are required to be installed so they activate when the UST is 90% full or less. Flapper valves must be installed so they activate at 95% or less. Under certain conditions, the use of both devices could lead to a release of fuel from the top of the vent pipe, which can be more than ten feet above ground level and pose an extreme fire or explosion risk, as well as harm to the environment. This dual use can also cause fuel to flow into the vapor recovery line which can then cause the fuel to be spilled on the surface when the hose is removed from the vapor recovery port.

Ball float vent valves used as flow restrictors may need to be accessed or removed for required testing in accordance with 40 CFR 280.35. In order to alleviate difficult circumstances that would be imposed on UST owners and operators, and possible damage to existing UST systems in situations where a ball float vent valve cannot be accessed and/or removed, alternatives are allowed as long as the alternative complies with the requirements of the applicable rules.

## **Alternatives Allowed:**

While some form of overfill prevention equipment must be utilized, owners and operators will only be required to operate and maintain the overfill prevention equipment identified as the "primary" form in use on a specific tank if:

- The primary form of overfill prevention equipment has been identified by submitting a new UST Notification Form; and
- The owners and operators verify through adequate documentation that the multiple forms of overfill prevention equipment cannot interfere with each other; and
- The owners and operators verify through adequate documentation that the primary form of overfill prevention equipment is installed in accordance with the rules and the manufacturer's specifications.

UST owners and operators may install a flapper valve on the fill pipe of a UST while a ball float vent valve is also in use if:

- The owners and operators verify through adequate documentation that a ball float vent valve cannot be accessed and/or removed; and
- The owners and operators install a flapper valve set to activate at or below the level of the ball float vent valve installed on the same UST; normally at or below 90% full; and

- \* The owners and operators submit adequate documentation to IDEM, detailing at what level the flapper valve was installed, the diameter and length measurements of the UST, and that the flapper valve was installed in accordance with applicable national industry standards.

Any alternative utilized by an owner and/or operator, including installation and use of multiple overfill prevention mechanisms, must be installed, operated, and maintained in a manner that will prevent releases. The alternatives listed will be approved and permitted by the agency only as long as they continue to provide for adequate overfill prevention. Owners and operators must ensure an alternative applied at their site(s) functions as required to prevent releases due to overfilling of a UST.

### **Environmental Impacts:**

- \* Indiana has over 4,100 operating UST sites that have over 12,000 USTs. If not managed properly, these sites can have negative impacts on human health and the environment from releases such as underground leaks and above ground spills.
- \* Refined petroleum products such as gasoline and diesel are a mixture of numerous compounds that have a detrimental effect on human health or the environment. These compounds are often toxic or carcinogenic.
- \* Contamination from leaking UST sites can migrate to streams or lakes, contaminate drinking water, or cause dangerous vapors in buildings and underground sewers.
- \* By ensuring that UST owners and operators operate and maintain appropriate overfill prevention equipment, releases can be prevented.

### **IDEM's Role:**

IDEM is responsible for protecting human health and the environment while providing for safe industrial, agricultural, commercial, and governmental operations vital to a prosperous economy. IDEM's UST Compliance Section is responsible for inspecting all regulated UST systems in Indiana for compliance with applicable rules and regulations.

### **UST Owner or Operator's Role:**

Owners and operators of petroleum USTs must ensure that a release, spill or overfill does not occur due to improper installation, operation or maintenance of overfill prevention equipment.

Owners and operators must be able to properly document all aspects of the physical characteristics of their UST systems and provide the documentation in accordance with 329 IAC 9 and 40 CFR, Part 280.

### **Additional Information:**

- \* For questions regarding UST compliance, call the UST Program at (317) 234-4112 or (800) 451-6027, ext. 4-4112.
- \* Applicable laws are found at:
  - o UST Rule- [www.IN.gov/legislative/iac/T03290/A00090.PDF](http://www.IN.gov/legislative/iac/T03290/A00090.PDF)