



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We Protect Hoosiers and Our Environment.

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Eric J. Holcomb
Governor

Brian C. Rockensuess
Commissioner

August 8, 2022

Virk-Mart Inc
c/o John Espar, Beckman & Espar P.C.
501 Pine St
Michigan City, IN 46360

RJ Food & Gas Inc
Attn: Navdeep Kaur, Registered Agent
3714 W Western Ave
South Bend, IN 46619

Re: Violation Letter
Mini Mart
3417 Western Ave
South Bend, St. Joseph County
UST Facility ID # **2827**

Dear Mr. Espar and Ms. Kaur:

An inspector from the Indiana Department of Environmental Management (IDEM), Underground Storage Tank (UST) Section, conducted an inspection of the site referenced above on July 13, 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 USTs 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.

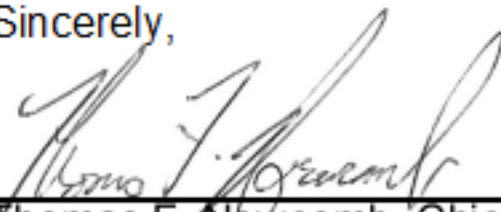
Thank you for your attention to this matter. Please submit the required documents to the UST Section via email at USTCompliance@idem.in.gov. Include in the subject line of the response the UST Facility ID # **2827**.

Inspector: Adam James
Phone: (317) 408-7187

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
Adam James
UST Facility ID File # 2827

Attn: John Espar, johnespar@sbcglobal.net

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: Mini Mart

UST FACILITY ID: 2827

ADDRESS: 3417 W Western Ave, South Bend, St. Joseph County

INSPECTION DATE: 07/13/2022

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 with the correct installed date and delivery method for KERO UST and the correct overfill prevention method is required.

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.

§ 280.20(c)(1)(i) – Failure to have spill prevention equipment that will prevent release

Citation:

Pursuant to 40 CFR 280.20(c)(1)(i), 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:

- (i) Spill prevention equipment that will prevent release of product to the environment when the transfer hose is detached from the fill pipe (for example, a spill catchment basin).

Violation Details:

The owner and/or operator of the UST system(s) at this site are in violation of this rule because excess liquids were observed in the REG, DSL and KERO spill buckets which may prevent the equipment from performing as designed in the event of a spill or overfill.

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 spill prevention equipment that will prevent the release of product to the environment. The UST owner and/or operator must submit proof that the spill prevention equipment has been installed within forty five (45) days of receipt of this notice.

§ 280.20(d) – Failure to properly install UST system in accordance with a nationally recognized code of practice

Citation:

Pursuant to 40 CFR 280.20(d), the UST system must be properly installed in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory and in accordance with the manufacturer's instructions.

Violation Details:

The owner and/or operator of the UST system(s) at this site are in violation of this rule because the piping in the REG STP sump does not appear to be installed to industry standards.

Corrective Action:

The owner and/or operator of the UST systems at this site shall, within thirty (30) days of receipt of this notice, submit documentation proving the UST systems were installed in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory and in accordance with the manufacturer's instructions or notify IDEM of their intent to permanently close all affected UST systems.

§ 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 documentation of periodic test results for the overflow prevention shows a fail on all ball float devices.

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 overfill prevention equipment. Documentation, to include photographs, inspection, repair, measurements and testing results, showing the overfill 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.

§ 280.43(d) – Failure to perform Automatic Tank Gauging to standard

Citation:

Pursuant to 40 CFR 280.43(d), equipment for automatic tank gauging that tests for the loss of product and conducts inventory control must meet the following requirements:

- (1) The automatic product level monitor test can detect a 0.2 gallon per hour leak rate from any portion of the tank that routinely contains product;
- (2) The automatic tank gauging equipment must meet the inventory control (or other test of equivalent performance) requirements of § 280.43(a); and
- (3) The test must be performed with the system operating in one of the following modes:
 - (i) In-tank static testing conducted at least once every 30 days; or
 - (ii) Continuous in-tank leak detection operating on an uninterrupted basis or operating within a process that allows the system to gather incremental measurements to determine the leak status of the tank at least once every 30 days.

Violation Details:

The owner and/or operator of the UST system(s) at this site are in violation of this rule because the inventory report for PREM UST shows 7,896 which does not appear correct for a Steel UST. Volumes must be programmed in accordance with the tank charts.

Corrective Action:

The owner and/or operator of the UST systems at this site shall have any UST system found to have had automatic tank gauging not performed to the standard 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. The owner and/or operator of the UST systems at this site shall have a contractor certified by the Indiana Office of the State Fire Marshall inspect, reprogram, repair or otherwise correct the deficiencies of the automatic tank gauging system 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 documentation the validity of the ATG test could not be confirmed. The annual test result of the probes shows the REG UST as 18K when ATG print print out and notification forms shows the UST as 12K.</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 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.

§ 280.36(a)(1)(ii) – Failure to perform annual walkthrough inspections
Citation: Pursuant to 40 CFR 280.36(a)(1)(ii), to properly operate and maintain UST systems, not later than June 28, 2021 owners and operators must conduct a walkthrough inspection annually that, at a minimum, checks containment sumps and hand held release detection equipment.
Violation Details: <i>The owner and/or operator of the UST system(s) at this site are in violation of this rule because annual walkthrough inspection for 2022 was not provided.</i>
Corrective Action: The owner and/or operator of the UST systems at this site shall, within seven (7) days of receipt of this notice, perform the annual 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.



**UNDERGROUND STORAGE
TANK INSPECTION REPORT**

INDIANA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

UST FAC ID: **2827**

Inspector's Name:	Adam James
Date:	July 13, 2022
Time In:	10:10
Time Out:	11:10
Inspection Type:	Initial

FACILITY NAME / LOCATION					
FACILITY NAME Mini Mart			FACILITY ADDRESS (number and street) 3417 W Western Ave		
ADDRESS (line 2)		CITY	STATE	ZIP CODE	COUNTY
		South Bend	IN	46619	St. Joseph
UST OWNER					
UST Owner Name (if in Individual Capacity) Virk Mart Inc				BUSINESS ID (From the Secretary of State) 1996040203	
PREFIX	FIRST NAME	MI	LAST NAME	SUFFIX	
Mr	John		Espar		
TELEPHONE NUMBER (219) 874-5483		EMAIL ADDRESS johnespar@sbcglobal.net			
UST OPERATOR					
UST Operator Name (if in Individual Capacity) RJ Food & Gas Inc				BUSINESS ID (From the Secretary of State) 201604251138337	
PREFIX	FIRST NAME	MI	LAST NAME	SUFFIX	
Ms	Navdeep		Kaur		
TELEPHONE NUMBER (574) 287-7965		EMAIL ADDRESS			
PROPERTY OWNER					
UST Property Owner Name (if in Individual Capacity) Virk Mart Inc				BUSINESS ID (From the Secretary of State) 1996040203	
PREFIX	FIRST NAME	MI	LAST NAME	SUFFIX	
Mr	John		Espar		
TELEPHONE NUMBER (219) 874-5483		EMAIL ADDRESS johnespar@sbcglobal.net			
COMPLIANCE ELEMENTS					
All USTs properly registered and up-to-date notification form on file			YES	<input checked="" type="checkbox"/> NO	UNK
An updated notification form with the correct installed date and delivery method for KERO UST and the correct overfill prevention method is required.					
O/O is in compliance with reporting & record keeping requirements			<input checked="" type="checkbox"/> YES	NO	UNK
O/O is in compliance with release reporting or investigation			YES	NO	<input checked="" type="checkbox"/> N/A UNK
O/O is in compliance with all UST closure requirements			YES	NO	<input checked="" type="checkbox"/> N/A UNK
O/O has met all financial responsibility requirements			<input checked="" type="checkbox"/> YES	NO	N/A UNK
40 CFR 280, Subpart A installation requirements (partially excluded) met			<input checked="" type="checkbox"/> YES	NO	N/A UNK
40 CFR 280, Subpart B installation and upgrade requirements met			YES	<input checked="" type="checkbox"/> NO	UNK
Spill buckets full of fluids would not be able to perform as design in the event of a spill/overfill.					
40 CFR 280, Subpart C spill/overfill control requirements met			<input checked="" type="checkbox"/> YES	NO	N/A UNK
40 CFR 280, Subpart C compatibility requirements met			<input checked="" type="checkbox"/> YES	NO	N/A UNK
40 CFR 280, Subpart C O&M and testing requirements met			YES	<input checked="" type="checkbox"/> NO	UNK
Overfill prevention test failed on all (Repair and retest required), Annual walkthrough inspection					
40 CFR 280, Subpart D release detection requirements met			YES	<input checked="" type="checkbox"/> NO	UNK
ATG/probe test (Submitted documentation shows REG 12K as 18K.), ATG to standard					
40 CFR 280, Subpart J operator training requirements met			<input checked="" type="checkbox"/> YES	NO	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:

- Four (4) steel STIP3 USTs.
- One (1) 12K REG GSL installed in January 1989
- One (1) 8K PREM GSL installed in January 1989
- One (1) 6K DSL installed in January 1989.
- One (1) 5K KER installed in August 1988

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 33 and 34 years old, likely out of warranty and the owner should start planning on removing or replacing them soon.

- Product piping is APT Flex DW and pressurized (except KER is EU Suction) - piping would have been upgraded in 2007

RD UST = ATG

RD Piping = LLD, LTT, ATG

Overfill/Spill = Spill Buckets + Auto Shutoff (current, not present) + Ball Float (earlier)

ATG Certification = Y (7/7/2022) - REG volume listed is 18,155 but should be 12K

Overfill Protection Test = Y (7/7/2022) - Fail all, could not confirm if ball float present

Spill bucket Test = Y (7/7/2022)

Containment Sumps Test (not required) = N

Last known CP (7/17/2018)

Site History:

Site is an active service station. Three (3) regulated USTs and one Fuel Oil UST were removed from the site in 1998 (Closure Report in VFC). The new USTs were installed in 1988/1989.

Contact Information

John Espar johnespar@sbcglobal.net

Documentation provided at the time of the file review:

- Updated NF (NF 5/26/2017, Approval 6/22/2017 - incorrect install date, incorrect delivery method KER)
- Certificate of Financial Responsibility (Line of Credit 11/2021 to 9/2023)
- Operator Certificates A, B, C
- Release Detection Records (REG, PREM, DSL, KER) 10/2021, 4/2022, and 5/2022
- Line and leak detector test (REG, PREM, DSL) 7/7/2022
- ATG/Probes Certification (7/7/2022) - REG UST is showing 18,155 gallons but should be 12K
- Spill bucket test (REG, PREM, DSL, KER) 7/7/2022
- Overfill test (REG, PREM, DSL, KER) 7/7/2022 - All fail (unsure if ball float present since could not be removed)
- Monthly walkthrough inspections 6/2021 to 7/2022

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.

Inspector Notes: Observation of the fuel port drop tubes confirms that the overfill prevention method Auto shut-off (flapper) is not installed.

- It appears that the piping in the REG STP sump is not installed to industry standards. The piping appears to have an excessive bend in order to make the curvature in the piping run.

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

1. Fluids were observed in PREM spill bucket, PREM sump and dispenser 1/2 UDC. Used fuel filter was observed at the base of dispenser 1/2 UDC. Fluids and used fuel filters should be removed and spill buckets, sumps and UDCs periodically monitored.

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:

2. An updated notification form with the correct installed date and delivery method for KERO UST and the correct overfill prevention method is required.

3. Excess liquids were observed in the REG, DSL and KERO spill buckets preventing the equipment from performing as designed in the event of a spill during product delivery.

4. Piping in the REG STP sump appears not to be installed to industry standards. The piping is bent in order to make the curve in the piping run.

5. Documentation of periodic test results for the overfill prevention shows a fail on all ball float devices.

6. Documentation of annual test result of the ATG unit and probes shows the REG UST as 18K when ATG print print out and notification forms shows the UST as 12K.

7. Annual walkthrough inspection for 2022 was not provided

8. Volume of PREM UST is showing 7,896 which does not appear correct for a Steel UST

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):

- Updated NF (NF 5/26/2017, Approval 6/22/2017 - incorrect install date, incorrect delivery method KER, correct overfill prevention method)

- ATG/Probes Certification - REG UST showing at 18,155 but should be 12K

- Overfill test - Fail all (Repair/retest scheduled)

- Annual walkthrough for 2022

- Documentation showing REG piping in STP has been re-installed correctly

- ATG programming for PREM UST. Need tank chart to confirm correct volume