



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We Protect Hoosiers and Our Environment.

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Eric J. Holcomb
Governor

Brian C. Rockensuess
Commissioner

January 17, 2023

Lemler Real Estate LLC
Attn: Jason Lemler, Registered Agent
118 E Center St
Bourbon, IN 46504

Lemler Oil Inc
Attn: Jason Lemler, Registered Agent
1202 N Washington St
Bourbon, IN 46504

Re: Violation Letter
Lemler Oil
118 E Center St
Bourbon, Marshall County
UST Facility ID # **14676**

Dear Mr. Lemler:

An inspector from the Indiana Department of Environmental Management (IDEM), Underground Storage Tank (UST) Section, conducted an inspection of the site referenced above on December 19, 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 # 14676.

Inspector: Matt Rozycki
Phone: (317) 296-1853

Direct any questions regarding the inspection to:

Compliance Manager: Carrie Maniet
Phone: (317) 233-3533

Sincerely,



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

cc: Carrie Maniet
Matt Rozycki
UST Facility ID File # 14676
Lemler Oil
Attn: lisalemler@lemleroil.com
dlemler@lemleroil.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: Lemler Oil	UST FACILITY ID: 14676
ADDRESS: 118 E Center St, Bourbon, Marshall County	INSPECTION DATE: 12/19/2022

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 is needed reflecting the proper overfill information.

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.

329 IAC 9-8-11(b) – Failure to demonstrate the ability to pay the deductible amount

Citation:

Pursuant to 329 IAC 9-8-11(b), an owner or operator of:

- (1) twelve (12) or fewer USTs shall demonstrate the ability to pay the applicable deductible amount under IC 13-23-9-1.3; or
- (2) more than twelve (12) USTs shall demonstrate the ability to pay two (2) times the applicable deductible amount under IC 13-23-9-1.3.

Violation Details:

The owner and/or operator of the UST system(s) at this site are in violation of this rule because no financial responsibility mechanism was provided.

Corrective Action:

The owner and/or operator of the UST systems at this site shall submit a copy of the instrument proving they have the coverage required by this rule within thirty (30) days of receipt of this notice.

§ 280.20(b) – Failure to install, design, construct or protect piping from corrosion
Citation:
Pursuant to 40 CFR 280.20(b), the piping that routinely contains regulated substances and is in contact with the ground must be properly designed, constructed, and protected from corrosion in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory.
Violation Details:
<i>The owner and/or operator of the UST system(s) at this site are in violation of this rule because the metal components of the piping appear to be continuous with backfill under the dispensers</i>
Corrective Action:
The owner and/or operator of the UST systems at this site shall, within fifteen (15) days of receipt of this notice, contract with a certified contractor to determine if the piping or metal components in contact with the ground are substandard and what steps will be taken to provide corrosion protection. The UST owner and/or operator must inform IDEM of the proposed work within thirty (30) days of receipt of this notice and receive approval before completing the work. The work must be completed within forty five (45) days of receipt of this notice. If the piping or metal components are determined to be substandard, the UST owner and/or operator shall immediately notify IDEM of their intent to remove or replace the affected components.

§ 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:
<i>The owner and/or operator of the UST system(s) at this site are in violation of this rule because the white spill bucket appears to be corroded past the point of containing a spill if needed.</i>
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.

§ 280.35(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 overfill 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 periodic testing of the spill prevention equipment was not provided.

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 overfill prevention equipment

Citation:

Pursuant to 40 CFR 280.35(a)(2), overfill prevention equipment must be inspected at least once every three years. At a minimum, the inspection must ensure that overfill 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 periodic testing of the overfill prevention equipment was not provided.

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.

§ 280.36(a)(1)(i) – Failure to perform 30 day walkthrough inspections
Citation: 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).
Violation Details: <i>The owner and/or operator of the UST system(s) at this site are in violation of this rule because monthly walkthroughs were 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 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.
§ 280.36(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 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.

§ 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 ATG functionality test was not provided.</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 a functionality test of the probes was not provided.</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: **14676**

Inspector's Name:	Matt Rozycki
Date:	December 19, 2022
Time In:	10:30
Time Out:	10:45
Inspection Type:	Initial

FACILITY NAME / LOCATION

FACILITY NAME Lemler Oil		FACILITY ADDRESS (number and street) 118 E Center St			
ADDRESS (line 2)	CITY Bourbon	STATE IN	ZIP CODE 46504	COUNTY Marshall	

UST OWNER

UST Owner Name (If in Individual Capacity) Lemler Oil Inc					BUSINESS ID (From the Secretary of State) 198612-964
PREFIX	FIRST NAME Jason	MI	LAST NAME Lemler	SUFFIX	
TEL PHONE NUMBER		EMAIL ADDRESS			

UST OPERATOR

UST Operator Name (If in Individual Capacity) Lemler Oil Inc					BUSINESS ID (From the Secretary of State) 198612-964
PREFIX	FIRST NAME Lisa	MI	LAST NAME Lemler	SUFFIX	
TEL PHONE NUMBER (574) 342-6165		EMAIL ADDRESS lisalemler@lemleroil.com			

PROPERTY OWNER

UST Property Owner Name (If in Individual Capacity) Lemler Real Estate LLC					BUSINESS ID (From the Secretary of State) 2007011700554
PREFIX	FIRST NAME Jason	MI	LAST NAME Lemler	SUFFIX	
TEL PHONE NUMBER		EMAIL ADDRESS			

COMPLIANCE ELEMENTS

All USTs properly registered and up-to-date notification form on file	<input type="checkbox"/>	YES	<input checked="" type="checkbox"/>	NO	<input type="checkbox"/>	UNK
Updated notification form reflecting the appropriate overfill information						
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
O/O is in compliance with all UST closure requirements	<input checked="" type="checkbox"/>	YES	<input type="checkbox"/>	NO	<input type="checkbox"/>	N/A
O/O has met all financial responsibility requirements	<input type="checkbox"/>	YES	<input checked="" type="checkbox"/>	NO	<input type="checkbox"/>	N/A
No financial responsibility mechanism was provided						
40 CFR 280, Subpart A installation requirements (partially excluded) met	<input checked="" type="checkbox"/>	YES	<input type="checkbox"/>	NO	<input type="checkbox"/>	N/A
40 CFR 280, Subpart B installation and upgrade requirements met	<input type="checkbox"/>	YES	<input checked="" type="checkbox"/>	NO	<input type="checkbox"/>	UNK
Metal components of piping continuous with backfill, middle spill bucket appears to be corroded						
40 CFR 280, Subpart C spill/overfill control requirements met	<input checked="" type="checkbox"/>	YES	<input type="checkbox"/>	NO	<input type="checkbox"/>	N/A
40 CFR 280, Subpart C compatibility requirements met	<input checked="" type="checkbox"/>	YES	<input type="checkbox"/>	NO	<input type="checkbox"/>	N/A
40 CFR 280, Subpart C O&M and testing requirements met	<input type="checkbox"/>	YES	<input checked="" type="checkbox"/>	NO	<input type="checkbox"/>	UNK
Spill bucket testing, overfill functionality, monthly / annual walkthroughs were not provided						
40 CFR 280, Subpart D release detection requirements met	<input type="checkbox"/>	YES	<input checked="" type="checkbox"/>	NO	<input type="checkbox"/>	UNK
ATG/probes functionality test was not provided						
40 CFR 280, Subpart J operator training requirements met	<input checked="" type="checkbox"/>	YES	<input type="checkbox"/>	NO	<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) USTs - SW FG - Installed 9/1/1991

Two (2) 3K GSL (Compartment 1 & 3)

One (1) 4K GSL (Compartment 2)

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 32 years old, likely out of warranty and the owner should already be planning on removing or replacing them soon.

Piping - FG - European

RD UST - ATG

Spill protection/Overfill - Spill bucket - Ball float

ATG Certification = N

Overfill Protection Test = N

Spill bucket Test = N

Containment Sumps Test Required N

Site is an active gas station

Any Site history or concerns

Three USTs closed 1988

Documentation received -

Notification form - 1/5/2016 (Approved)

RD UST monthly results 12/2021-12/2022

Operator certificate - A-B-C

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

- 1. The red spill bucket shows some signs of corrosion, it should be monitored and replaced if needed**
- 2. The east drop tube has a gasket that is broken, it should be replaced to prevent excessive fuel from getting into the spill bucket**
- 3. The vapor recovery ports do not appear to be used**

*****AST on site photographed**

*****No flappers observed on site**

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 **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. An updated notification form is needed reflecting the proper overfill information
2. No financial responsibility mechanism was provided
3. Metal components of the piping appear to be continuous with backfill under the dispensers
4. The white spill bucket appears to be corroded past the point of being able to contain a spill if needed
5. Spill bucket testing was not provided
6. Overfill functionality testing was not provided
7. Monthly walkthrough inspections were not provided
8. An annual walkthrough inspection was not provided
9. ATG functionality testing was not provided
10. Functionality testing of the probes was not provided

The following are **RECORDS** to be submitted to USTCompliance@idem.IN.gov with FID in 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:

- Notification form
- Financial responsibility mechanism
- Documentation piping protected from corrosion
- Spill bucket repair and test
- Overfill test
- Walkthroughs
- ATG/probes test