



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We Protect Hoosiers and Our Environment.

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Eric J. Holcomb
Governor

Brian C. Rockensuess
Commissioner

IC Penn Mark LLC
Attn: Amy Pollock, Registered Agent
11595 N Meridian Street, Suite 810
Carmel, IN 46032

IC Penn Mark LLC
Attn: Amy Pollock, Registered Agent
Via email: amy.pollock@cushwake.com

Re: Violation Letter
One Penn Mark Plaza
11595 N Meridian Street
Carmel, Hamilton County
UST Facility ID # **22550**

Dear Owner/Operator:

An inspector from the Indiana Department of Environmental Management (IDEM), Underground Storage Tank (UST) Section, conducted an inspection of the site referenced above on June 24, 2024.

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.

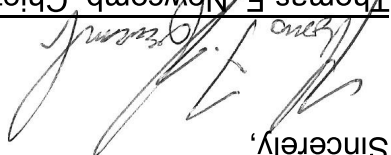
Thank you for your attention to this matter. Please submit the required documents to the UST Section via email at USTCompliance@idem.in.gov. Include in the subject line of the response the UST Facility ID # **22550**.

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

Direct any questions regarding the inspection to:

Compliance Manager: Mark Shaffer
Phone: (317) 234-3543

Sincerely,



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

cc:

Mark Shaffer
Matt Rozycski
UST Facility ID File # 22550

Cushman & Wakefield

Attn: Cindy Cruz

Via email: cindy.cruzpineda@cushwake.com

Cushman & Wakefield

Attn: David Moore and Bennett Williams

Via email: david.moore@cushwake.com

Via email: bennett.williams@cushwake.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: One Penn Mark Plaza	UST FACILITY ID: 22550
ADDRESS: 11595 N Meridian Street, Carmel, Hamilton County	INSPECTION DATE: 06/24/2024

VIOLATIONS NOTED IN THIS INSPECTION

IC 13-23-12-1 Failure to Pay UST Fees

Citation:

Pursuant to IC 13-23-12-1, each year, if an underground storage tank has not been closed before January 1 of the year under rules adopted under IC 13-23-1-2; or a requirement imposed by the commissioner before the adoption of rules under IC 13-23-1-2; the owner of the underground storage tank shall pay to the department an annual registration fee.

The annual registration fee required by this section is ninety dollars (\$90) for each underground petroleum storage tank or two hundred forty-five dollars (\$245) for each underground storage tank containing regulated substances other than petroleum.

If an underground storage tank consists of a single tank in which there are separate compartments, a separate fee shall be paid under subsection (b) for each compartment within the single tank. If an underground storage tank consists of a combination of tanks, a separate fee shall be paid under subsection (b) for each compartment within each tank in the combination of tanks.

For tanks that contain separate compartments and that were in use before July 1, 2014, the payment of a single annual fee of ninety dollars (\$90) for a tank containing separate compartments shall be deemed to satisfy the requirements of subsection.

Violation Details:

The owner and/or operator of the UST system(s) at this site are in violation of this rule because tank fees are past due for the years 2016, 2019-2024.

Corrective Action:

The owner and/or operator of the UST systems at this site shall pay the required fees to the Indiana Department of Environmental Management within fifteen (15) days of receipt of this notice.

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:
<i>The owner and/or operator of the UST system(s) at this site are in violation of this rule because an updated notification form (45223) is needed reflecting the current owner/operator as well as the current tank information.</i>
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.

§ 280.31(b) – Failure to inspect CP system, frequency and criteria
Citation:
Pursuant to 40 CFR 280.31(b), as incorporated, all UST systems equipped with cathodic protection systems must be inspected for proper operation by a qualified cathodic protection tester in accordance with the following requirements: (1) Frequency. All cathodic protection systems must be tested within 6 months of installation and at least every 3 years thereafter or according to another reasonable time frame established by the implementing agency; and (2) Inspection criteria. The criteria that are used to determine that cathodic protection is adequate as required by this section must be in accordance with a code of practice developed by a nationally recognized association.
Violation Details:
<i>The owner and/or operator of the UST system(s) at this site are in violation of this rule because corrosion protection testing for the UST was not provided, however, CP testing is still required while the UST is in temporary closure.</i>
Corrective Action:
The owner and/or operator of the UST systems at this site shall submit to IDEM the required documents within fifteen (15) days of receipt of this notice or have their UST systems fully inspected by a qualified cathodic protection tester within fifteen (15) days and submit the results within thirty (30) days of receipt of this notice.

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

Citation:

Pursuant to 40 CFR 280.245, as incorporated, 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 operator Class A & Class B certificates were not provided, however, they are still required to be maintained while the tank is in temporary closure.

Corrective Action:

The owner or operator of the UST systems at this site shall submit a list of those employees designated to be Class A and Class B 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: **22550**

Inspector's Name:	Matt Rozycki
Date:	June 24, 2024
Time In:	08:45
Time Out:	09:00
Inspection Type:	Initial

FACILITY NAME / LOCATION

FACILITY NAME One Penn Mark Plaza		FACILITY ADDRESS (number and street) 11595 N Meridian Street		
ADDRESS (line 2)	CITY Carmel	STATE IN	ZIP CODE 46032	COUNTY Hamilton

UST OWNER

UST Owner Name (Business Name as registered with the Secretary of State) IC Penn Mark LLC				BUSINESS ID (From the Secretary of State) 202202071563550	
PREFIX	FIRST NAME Amy	MI	LAST NAME Pollock	SUFFIX	
TELEPHONE NUMBER (317) 853-7012		EMAIL ADDRESS amy.pollock@cushwake.com			

UST OPERATOR

UST Operator Name (Business Name as registered with the Secretary of State) IC Penn Mark LLC				BUSINESS ID (From the Secretary of State) 202202071563550	
PREFIX	FIRST NAME Amy	MI	LAST NAME Pollock	SUFFIX	
TELEPHONE NUMBER (317) 853-7012		EMAIL ADDRESS amy.pollock@cushwake.com			

PROPERTY OWNER

UST Property Owner Name (Business Name as registered with the Secretary of State) IC Penn Mark LLC				BUSINESS ID (From the Secretary of State) 202202071563550	
PREFIX	FIRST NAME Amy	MI	LAST NAME Pollock	SUFFIX	
TELEPHONE NUMBER (317) 853-7012		EMAIL ADDRESS amy.pollock@cushwake.com			

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
Tank fees are owed for 2016, 2019-2024, updated notification form with current UST owner/site 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 checked="" type="checkbox"/>	YES	<input type="checkbox"/>	NO	N/A	UNK
O/O is in compliance with all UST closure requirements	<input checked="" type="checkbox"/>	YES	<input type="checkbox"/>	NO	N/A	UNK
O/O has met all financial responsibility requirements	<input checked="" type="checkbox"/>	YES	<input type="checkbox"/>	NO	N/A	UNK
40 CFR 280, Subpart A installation requirements (partially excluded) met	<input checked="" type="checkbox"/>	YES	<input type="checkbox"/>	NO	N/A	UNK
40 CFR 280, Subpart B installation and upgrade requirements met	<input checked="" type="checkbox"/>	YES	<input type="checkbox"/>	NO	<input type="checkbox"/>	UNK
40 CFR 280, Subpart C spill/overfill control requirements met	<input checked="" type="checkbox"/>	YES	<input type="checkbox"/>	NO	N/A	UNK
40 CFR 280, Subpart C compatibility requirements met	<input checked="" type="checkbox"/>	YES	<input type="checkbox"/>	NO	N/A	UNK
40 CFR 280, Subpart C O&M and testing requirements met	<input type="checkbox"/>	YES	<input checked="" type="checkbox"/>	NO	<input type="checkbox"/>	UNK
Corrosion protection testing was not provided for the tank, required while tank is in temp closure						
40 CFR 280, Subpart D release detection requirements met	<input checked="" type="checkbox"/>	YES	<input type="checkbox"/>	NO	<input type="checkbox"/>	UNK
40 CFR 280, Subpart J operator training requirements met	<input type="checkbox"/>	YES	<input checked="" type="checkbox"/>	NO	<input type="checkbox"/>	UNK
Operator A & B certificates not provided, required while tank is in temporary closure						

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:

- One (1) 550 DSL - STIP3 - Installed 3/24/1999 (supplies backup generator)
- (Appears to be in Temp Closure)
- Piping is Copper/ Flex DW and EU Suction

RD UST = Manual Tank Gauging - Tank Tightness Testing

RD Piping = N/A

Overfill/Spill = Spill Buckets + Auto Shutoff (consistent)

Overfill Protection Test = N/A (because of Temp Closure)

Spill bucket Test = N/A (because of Temp Closure)

Containment Sumps Test (Not Required)

Last known CP (Galvanic) - 5/21/2020

Site History:

- Site is an office building.
- UST supplies an emergency generator.
- Per 2009 inspection the site has copper piping inside building and flex double wall on exterior of building to UST.
- Site had (1) 500 UST that was removed (Closure received 6/17/2002).
- UST appears to be in temp closure.
- There is a new generator on-site with its own internal AST.

Contact Information:

Amy Pollock - amy.pollock@cushwake.com (registered agent)

David Moore - david.moore@cushwake.com

Bennett Williams - bennett.williams@cushwake.com

Cindy Cruz - cindy.cruzpineda@cushwake.com (responded to INL with a Phase II assessment)

Documentation provided at the time of the file review:

- A Phase II Assessment Report

Inspector Notes:

- Engineer on site did not have a key for the fill port.

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:

1. The fill port could not be opened to verify there is less than 1 inch of product.

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 detailing the current tank data as well as the current owner/operator information.
2. Tank fees are past due for 2016, 2019-2024.
3. Corrosion protection testing for the UST was not provided, however, CP testing is still required while the UST is in temporary closure.
4. Operator A & B certificates were not provided, however, they are still required to be maintained while the tank is in temporary closure.

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 Notification form
- Past due tank fees
- Corrosion protection testing for the UST
- Operator A & B certificates