



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We Protect Hoosiers and Our Environment.

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(800) 451-6027 • (317) 232-8603 • www.idem.IN.gov

Eric J. Holcomb
Governor

Bruno L. Pigott
Commissioner

January 5, 2022

RI CS3 LLC
c/o Corporation Service Company
135 N Pennsylvania St., Suite 1610
Indianapolis, IN 46204

Village Pantry LLC
c/o Corporation Service Company
135 N Pennsylvania St., Suite 1610
Indianapolis, IN 46204

Re: Violation Letter
Village Pantry 5446
1800 US Hwy 52 W
West Lafayette, Tippecanoe County
UST Facility ID # **22823**

Dear Messrs. Fluck, Burkholder, and Lann:

An inspector from the Indiana Department of Environmental Management (IDEM), Underground Storage Tank (UST) Section, conducted an inspection of the site referenced above on November 29, 2021.

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.

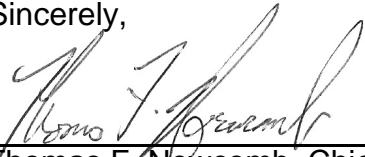
Thank you for your attention to this matter. Please submit the required documents to the UST Section via email at USTCompliance@idem.in.gov. Include in the subject line of the response the UST Facility ID # **22823**.

Inspector: John Metz
Phone: (317) 296-0383

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
John Metz
UST Facility ID File # 22823

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: Village Pantry 5446	UST FACILITY ID: 22823
ADDRESS: 1800 US Hwy 52 W, West Lafayette, Tippecanoe County	INSPECTION DATE: 11/29/2021

VIOLATIONS NOTED IN THIS INSPECTION

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 they did not submit documentation of their financial responsibility mechanism.

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(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 the tanks have ball float valves (flow restrictors) and automatic shut-off devices (flapper valves).

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

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 spill bucket test 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 their overfill prevention equipment test was performed by a technician who was not licensed by the State of Indiana.

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.

§ 280.40(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:

The owner and/or operator of the UST system(s) at this site are in violation of this rule because their ATG functionality test was performed by a technician not licensed by the State of Indiana.

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:

The owner and/or operator of the UST system(s) at this site are in violation of this rule because their tests of probes was performed by a technician not licensed by the State of Indiana.

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.

§ 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:

The owner and/or operator of the UST system(s) at this site are in violation of this rule because their leak detector test was performed by a technician not licensed by the State of Indiana.

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:

The owner and/or operator of the UST system(s) at this site are in violation of this rule because their line tightness test was performed by a technician not licensed by the State of Indiana.

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.

§ 280.241(a) – Failure to designate Class A, or Class B operators at each facility

Citation:

Pursuant to 40 CFR 280.241(a), UST system owners and operators must designate at least one Class A and one Class B operator for each UST or group of USTs at a facility.

Violation Details:

The owner and/or operator of the UST system(s) at this site are in violation of this rule because they did not submit A or B operator Certificates.

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: **22823**

Inspector's Name:	John Metz
Date:	November 29, 2021
Time In:	9:05 am
Time Out:	10:40 am
Inspection Type:	Initial

FACILITY NAME / LOCATION					
FACILITY NAME		FACILITY ADDRESS (number and street)			
Village Pantry 5446		1800 US Hwy 52 W			
ADDRESS (line 2)	CITY	STATE	ZIP CODE	COUNTY	
	West Lafayette	IN	47906	Tippecanoe	
UST OWNER					
UST Owner Name (Business Name as registered with the Secretary of State)			BUSINESS ID (From the Secretary of State)		
RI CS3 LLC			2007042300657		
PREFIX	FIRST NAME	MI	LAST NAME		SUFFIX
TELEPHONE NUMBER		EMAIL ADDRESS			
UST OPERATOR					
UST Operator Name (Business Name as registered with the Secretary of State)			BUSINESS ID (From the Secretary of State)		
Village Pantry LLC			1997021310		
PREFIX	FIRST NAME	MI	LAST NAME		SUFFIX
	Chad		Fluck		
TELEPHONE NUMBER		EMAIL ADDRESS			
		cfluck@gpminvestments.com			
PROPERTY OWNER					
UST Property Owner Name (Business Name as registered with the Secretary of State)			BUSINESS ID (From the Secretary of State)		
RI CS3 LLC			2007042300657		
PREFIX	FIRST NAME	MI	LAST NAME		SUFFIX
TELEPHONE NUMBER		EMAIL ADDRESS			
COMPLIANCE ELEMENTS					
All USTs properly registered, on file and fees paid			<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 checked="" type="checkbox"/>	YES	<input type="checkbox"/> NO <input type="checkbox"/> N/A <input type="checkbox"/> UNK
O/O has met all financial responsibility requirements			<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> N/A <input type="checkbox"/> UNK
FR was not submitted					
40 CFR 280, Subpart A installation requirements (partially excluded) met			<input checked="" type="checkbox"/>	YES	<input type="checkbox"/> NO <input type="checkbox"/> N/A <input type="checkbox"/> UNK
40 CFR 280, Subpart B installation and upgrade requirements met			<input type="checkbox"/> YES	<input type="checkbox"/> NO	<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
Notification Forms say the tanks have ball float valves (flow restrictors) and automatic shut-off devices (flappers)					
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"/> UNK
Overfill prevention equipment test was incomplete and was performed by a tester not certified in Indiana					
40 CFR 280, Subpart D release detection requirements met			<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> UNK
ATG functionality test, line tightness, and leak detector test were performed by a tester not certified in Indiana					
40 CFR 280, Subpart J operator training requirements met			<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> UNK
Need A and B Operator Certificates					

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) USTs - FG - Installed 10/26/1999

One (1) 12K GSL

One (1) 10K GSL

One(1) 8K DSL

One (1) 2K KER

Piping - DW Flex - Pressurized (KER EU) (white Enviroflex)

RD UST - ATG

RD Piping - ATG - LTT - LD

Spill protection/Overfill - Spill bucket - Flapper & Ball floats & Alarm

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 Notification forms submitted select all for overfill.

Three USTs closed 12/21/1998 (Closure report on file)

Documentation received -

Notification form - 12/29/2016 (Approved)

No additional documents received at time of review

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

1. The Regular Gas, Premium Gas, and Kerosene spill buckets all contained fluid.
2. The Regular Gas STP sump contained fuel.
3. In the Premium Gas STP sump the white Enviroflex piping appears to have expanded and/or been bent sharply enough to kink the piping. The Enviroflex piping throughout the site was being corroded by black mold, this should be inspected by a UST certified contractor to verify integrity of the piping.
4. The Diesel STP sump and the Kerosene piping sump both contained water.
5. UDCs #1/2 and 13 both contained water and sludge.
6. UDCs #3/4 and 5/6 had a layer of dried sludge on the bottom.
7. UDC #7/8 contained water and sludge, and had seepage on piping.
8. UDCs #9/10 and 11/12 had a layer of dried sludge on the bottom, and had seepage on piping.

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:

9. According to this site's Notification Forms, the tanks have ball float valves (flow restrictors) and automatic shut-off devices (flapper valves). Documentation must be provided to show the tanks meet the requirements of the April 2020 fact sheet on coincident use of overfill prevention equipment.

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:

10. Financial responsibility mechanism
11. Spill bucket test was not provided
12. Overfill prevention equipment test performed by an Indiana-certified technician
13. ATG functionality test performed by an Indiana-certified technician
14. Leak detector test performed by an Indiana-certified technician
15. Line tightness test performed by an Indiana-certified technician
16. Operator Certificates A and B