UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS

IN THE MATTER OF:	) Administrative Complaint, Compliance Order, and Notice of Opportunity for Hearing
RAM, Inc. 106 S. 6th Street P.O. Box 1850 McAlester, OK 74502	) Docket No.SWDA-06-2005-5301
RESPONDENT	)

COMPLAINT, COMPLIANCE ORDER AND NOTICE OF OPPORTUNITY FOR HEARING

Complainant, Director of the Multimedia Planning and Permitting Division, U.S. Environmental Protection Agency (EPA), Region VI, issues this Complaint, Compliance Order and Notice of Opportunity for Hearing to RAM, Inc., 106 6th Street, Mc Alester, OK 74502("Respondent").

STATEMENT OF AUTHORITY

This Administrative Complaint, Compliance Order and Notice of Opportunity for Hearing (Complaint) is issued pursuant to the authority vested in the Administrator of the United States Environmental Protection Agency under 42 U.S.C. § 6961(b)(1) by Section 9006 of the Solid Waste Disposal Act, 42 U.S.C. § 6991e, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits (Consolidated Rules of Practice), 40 CFR

Part 22. The authority to issue such Complaints has been delegated to the Regional Administrator, EPA Region VI, and has been further delegated by the Regional Administrator to the Multimedia Planning and Permitting Division Director, EPA Region VI, the Complainant in this action.

The underground storage tank (UST) program for Oklahoma was authorized pursuant to 40 CFR Part 281 by EPA on August 12, 1992 (57 Fed. Reg. 41874) and became effective on October 14, 1992. The approved State regulations were identified in the Federal Register on January 18, 1996 (61 Fed. Reg. 1221) and are listed at 40 CFR § 282.86.

In this action, EPA is enforcing the authorized State UST regulations which are found under Title 165, Oklahoma Corporation Commission (OCC) Chapter 25, Underground Storage Tank regulations; which is known as the OCC's General Rules and Regulations Governing USTs, cited as OAC 165:25 (for ease of reference, the corresponding federal regulation is also cited).

NOTICE TO STATE

Notice of this action was given to the State prior to the issuance of this Complaint pursuant to Section 9006(a)(2) of the Solid Waste Disposal Act, 42 U.S.C. § 6991e(a)(2).

I. PRELIMINARY STATEMENT

1. RAM, Inc., (hereinafter Respondent) is the Respondent in this case.

2. The Respondent is a corporation and therefore, is a "person" as defined at OAC 165:25-1-11 (40 CFR § 280.12).

3. The Respondent was incorporated in the State of Oklahoma on March 6, 1987, and is listed in good standing in the State of Oklahoma. The incorporation has lapsed three times (July 10, 1998 to August 3, 1998; May 21, 1999 to December 13, 2000; June 25, 2004 to July 29, 2004).

4. According to the registration forms submitted to the OCC, RAM, Inc., was the owner and/or operator of the USTs at the following facilities at the time of the EPA inspections on February 16 and 17, 2005:

NAME	STATE ID #	ADDRESS	CITY
Citgo Quik Mart	6112639	1400 E. Carl Albert	Mc Alester
Citgo Thrifty Mart	6113782	650 S. Main	Mc Alester
Goodwin's One Stop	6112635	1000 Penn Ave.	Hartshorne
Monroe's Service Station	4604346	320 N. Main	Eufaula
Longtown Citgo	6104478	HWY 9A	Eufaula

5. According to the information provided by the Respondent on February 17, 2005, at the office of Ram, Inc., Ronald Allford is President and Registered Agent of RAM, Inc., and Janis Allford, is the Secretary/Treasure of RAM, Inc.

6. Respondent is "owner" and/or "operator" of USTs and UST systems located at the facility listed in Paragraph 4 above

as those terms are defined at OCC Title 165 Chapter 25 (Section 9001 of the Solid Waste Disposal Act, 42 U.S.C. § 6991, 40 CFR § 280.12).

7. Respondent is a fuels and convenience store marketer that provides wholesale and retail petroleum products to the public.

8. Pursuant to regulations established at OAC 165:25-1-41, [40 CFR § 280.22], Respondent submitted documentation to the OCC, to register USTs at the facility.

9. On February 16, 2005, a duly authorized EPA representative (the inspector or inspectors) conducted an inspection of USTs located at the above named facilities (Paragraph 4) and reviewed additional records concerning the USTs on February 17, 2005 at the office of RAM, Inc., 106 6th Street, Mc Alester, Oklahoma.

10. The USTs which are the subject of this Complaint routinely contain "regulated substances" as defined in OAC 165:25-1-11, [40 CFR § 280.12].

II. VIOLATIONS

Citgo Quik Mart

NO SPILL ON TANKS

COUNT 1: Failure to provide spill prevention for new tanks

11. Paragraphs 1-10 are realleged and incorporated herein by reference.

12. According to OAC 165:25-2-39(a) [40 CFR 280.20(c)], USTs

must have spill and overfill protection on tanks to prevent releases of product to the environment when the transfer hose is detached from the fill pipe (for example a spill bucket or drain system).

13. Based on the February 16, 2005 inspection, it was observed that the three USTs located on the north side of the building, (12,000 gallon unleaded, 12,000 gallon premium and 12,000 gallon diesel) had two sets of fill ports each; however, only the south fill ports were installed with spill prevention devices. The north fill ports did not have spill prevention devices.

14. Further, based upon the February 16, 2005 inspection and records review, there was no evidence that a spill prevention device had ever been installed at the north fill ports.

15. Failure to install spill prevention devices at the three fill ports on three tanks is a violation of OAC 165:25-2-39(a) [40 CFR 280.20(c)]. Denied

16. The period of violation was from October 1, 1990, date of installation of three 12,000 gallon UST system) and February 16, 2005 (the earliest date compliance could have been achieved). Due to the Statute of Limitations of five years, the start date used for penalty calculations is September 30, 2000. (See penalty calculations for Count 1,

Attachment A).

(12,000 gallon unleaded, 12,000 gallon prem, 12,000 gallon diesel)

full of debris

Count 2: Failure to provide adequate spill prevention capacity

17. Paragraphs 1-16 above are realleged and incorporated herein by reference.

18. According to OAC 165:25-2-39(f)(1) [(40 CFR 280.20 (c)(i)], USTs must have spill prevention devises installed on each fill port to adequately hold the excess product from the transfer hose, to prevent releases into the environment upon detachment of the transfer hose.

19. Based on the February 16, 2005 inspection, it was observed that all six of Respondent's USTs, West, Northwest and South of the building, contained spill containment buckets (spill prevention devices) that were full of debris and/or product, such that the capacity of the spill bucket was reduced and was not capable of containing product from the transfer hose should product be released after the transfer hose was detached.

20. Failure to have sufficient capacity in the spill containment device to prevent a release from the transfer hose during filling operations is a violation of OAC 165:25-2-39(f)(1) [40 CFR 280.20 (c)(i)].

21. The period of violation is from February 16, 2005 (day of

inspection) to February 16, 2005 (the earliest the violation could have been completed). (See penalty calculations for Count 2, Attachment A).

(12,000 gallon unleaded, 12,000 gallon prem, 12,000 gallon diesel, 2,000 gallon dyed diesel, 4,000 gallon kerosene, 12,000 temp. closed diesel)

Count 3: Failure to conduct monthly release detection monitoring of tank during temporary closure

22. Paragraphs 1-21 above are realleged and incorporated herein by reference.

23. According to OAC 165:25-3-62(a)(1) [40 CFR 280.70(a)],

(a) When an underground storage tank system is taken temporarily out of service, the owner or operator must:

(1) Continue the operation and maintenance of corrosion protection as required by this Chapter;

(2) Continue release detection as required by this Chapter;

(3) Comply with the requirements of this Chapter concerning release reporting and corrective action; and

(4) Notify the Commission of a change in service on the prescribed form.

(b) Release detection is not required as long as the underground storage tank system is empty. For the purposes of this Subchapter, the underground storage

tank system is empty when all materials have been removed using commonly employed practices so that no more than 1 inch (1") of residue remains in the tank.

23. During the February 16, 2005 inspection, Respondent's representative stated that the 12,000 diesel tank located on the west side of the building was not being used.

24. Based on the inspection and files review conducted on February 16 and 17th respectively, it was determined by the inspector that the 12,000 diesel tank located on the west side of the building contained approximately 8 inches of diesel in the tank at the time of the inspection.

25. Since the diesel tank was not empty, the Respondent is required to conduct release detection in accordance with OAC 165:25-3-5 [40 CFR 280.41(a)].

26. Failure to conduct release detection on temporary closed tanks with more than an inch of product is a violation of OAC 165:25-3-62(a)(1) [40 CFR 280.70(a)].

27. The period of violation is from February 16, 2004 (one year prior to the inspection of February 16, 2005) to the date of inspection February 16, 2005 (earliest compliance could be achieved). See penalty calculation for Count 3, Attachment A)

(12,000 temporary closed diesel)

Count 4: Failure to conduct monthly release detection monitoring for tanks

28. Paragraphs 1-27 above are realleged and incorporated herein by reference.

29. According to OAC 165:25-3-5 [40 CFR 280.41(a)(1)], General monitoring requirements, tanks must be monitored at least every 30 days for releases using one of the methods or combinations of methods listed in this Chapter, except that:

    1. Underground storage tanks that meet the performance standards and monthly inventory requirements of this Chapter may use tank tightness testing, performed by a certified tester, at least every 5 years and only until 10 years after the tank is installed or upgraded in accordance with this Chapter, whichever is later.

30. Based on the OCC registration forms and the records review conducted on February 17, 2005, all of the UST systems were installed on October 1, 1990 (the Federal EPA UST regulations became effective on December 22, 1988).

31. Because the UST systems were installed on October 1, 1990, UST systems were required to be equipped with corrosion protection and spill and overfill prevention equipment upon installation, as required under OAC 165:25-2-31 through 165:25-2-42 [40 CFR 280.20].

32. The method the Respondent was using at the time of the

inspection was the inventory control and tank tightness method as described in OAC 165:25-3-5.2.

33. In accordance with OAC 165:25-3-5 [40 CFR 280.41(a)(1)], the inventory control method can only be used for ten years after installation or ten years after upgrading the tanks are upgraded, which ever is later.

34. Since the tanks were required to meet all requirements upon installation (October 1, 1990), upgrading requirements were not applicable, therefore, the Respondent cannot use the inventory control and tank tightness testing method beyond ten years after installation, or October 1, 2000.

35. Since the Respondent was utilizing a method not allowed under the regulations, and should have been using monthly monitoring since October 1, 2000, the Respondent is in violation of OAC 165:25-3-5, (40 CFR 280.41(a)(1)).

36. The period of violation for the five tanks is from February 16, 2004 (Respondent is required to maintain at least 12 months of release detection records in accordance with OAC 165:25-1-56 [40 CFR 280.45(b)], to February 16, 2005 (date of inspection)(see calculation for Count 4, Attachment A).

(12,000 gallon unleaded, 12,000 gallon prem, 12,000 gallon diesel, 2,000 gallon dyed diesel, 4,000 gallon kerosene)

Count 5: Failure to document that a corrosion expert designed a field-installed cathodic protection system

37. Paragraphs 1-37 above are realleged and incorporated herein by reference.

38. According to OAC 165:25-2-33(3)(A)&(B) [40 CFR 280.20(a)(2)(ii)], tanks must be properly designed and constructed, and any portion underground that routinely contains product must be protected from corrosion as specified below:

    1. Tanks constructed of steel and cathodically protected must conform to the standards in UL 1746 and NACE RP-0285 and must be protected in the following manner:

        1. The tank must be coated with a suitable dielectric material.

        2. Field-installed cathodic protection systems must be designed by a corrosion expert.

39. According to OAC 165:25-1-11 [40 CFR 280.12], Definitions "Corrosion expert" means a person who has knowledge of the physical sciences and principles of engineering and mathematics, acquired by education and/or experience, and is qualified to engage in the practice of corrosion control on buried or submerged metal tanks and metal piping systems. The person must be NACE-certified (National Association of Corrosion Engineers) or be a Registered Professional Engineer who has education and experience in corrosion

control of buried or submerged metal tanks and metal piping systems.

40. Since the corrosion protection system was field-installed and the Respondent could not verify that the design of the cathodic protection system was designed by a "corrosion expert", this is a violation of OAC 165:25-1-11 [40 CFR 280.12].

41. The period of violation is from December 22, 1998 (date corrosion protection was required) to February 16, 2005 (earliest date compliance could be achieved); however, due to the five-year statute of limitations, the start date of the violation, is September 30, 2000 (see penalty calculations for Count 5, Attachment A).

(12,000 gallon unleaded, 12,000 gallon prem, 12,000 gallon diesel, 2,000 gallon dyed diesel, 4,000 gallon kerosene, 12,000 temp. closed diesel)

Citgo Thrifty Mart

COUNT 6: Failure to document that a corrosion expert designed a field-installed cathodic protection system

42. Paragraphs 1-41 above are realleged and incorporated herein by reference.

43. According to OAC 165:25-2-33(3)(A)&(B) [40 CFR 280.20(a)(2)(ii)], tanks must be properly designed and constructed, and any portion underground that routinely contains product must be protected from corrosion as specified below:

1. Tanks constructed of steel and cathodically protected must conform to the standards in UL 1746 and NACE RP-0285 and must be protected in the following manner:
    1. The tank must be coated with a suitable dielectric material.
    2. Field-installed cathodic protection systems must be designed by a corrosion expert.

44. According to OAC 165:25-1-11 [40 CFR 280.12], Definitions "Corrosion expert" means a person who has knowledge of the physical sciences and principles of engineering and mathematics, acquired by education and/or experience, and is qualified to engage in the practice of corrosion control on buried or submerged metal tanks and metal piping systems. The person must be NACE-certified)or be a Registered Professional Engineer who has education and experience in corrosion control of buried or submerged metal tanks and metal piping systems.

45. Since the corrosion protection system was field-installed and the Respondent could not verify that the design of the cathodic protection system was designed by a "corrosion expert", this is a violation of OAC 165:25-1-11 [40 CFR 280.12].

46. The period of violation is from December 22, 1998 (date corrosion protection was required) to February 16, 2005

(earliest date compliance could be achieved); however, due to the five-year statute of limitations, the start date of the violation, is September 30,2000 (see penalty calculations for Count 6, Attachment A).

(10,000 gallon unleaded, 6,000 gallon prem, 4,000 gallon diesel)

COUNT 7: Failure to operate cathodic protection system continuously

47. Paragraphs 1-46 above are realleged and incorporated herein by reference.

48. According to OAC 165:25-2-52 [40 CFR 280.31(a)], corrosion protection systems must be operated and maintained in accordance with manufacturer's instructions and specifications to provide continuous corrosion protection to the metal components of the storage tank system that are routinely in contact with the ground.

49. Based on the inspection of the facilities on February 16, 2005, EPA determined that the cathodic protection system (impressed current system) was not in operation at the time of the inspection (rectifier for impressed current system was off at the time of the inspection, and could not remain on after switching power on).

50. Since the cathodic protection system was not in operation, metal components that routinely contain regulated substances

and are in contact with the soil (e.g. tanks, piping, flexjoints, pump manifolds) are not protected from corrosion as required by OAC 165:25-2-52 [40 CFR 280.31(a)].

51. Based upon the records review, EPA representatives determined that the last corrosion protection test was on March 19, 2004. The results of this test was a low voltage (below -0.85 volts) reading indicating that at the time of testing the tank/piping did not produce enough current to protect the tank.

52. Thus, on March 19, 2004, the cathodic protection system was not working properly.

53. Failure to protect metal components that routinely contain regulated substances and are in contact with the soil from corrosion is a violation of OAC 165:25-2-52 [40 CFR 280.31(a)].

54. The period of violation is from March 19, 2004, the date the last corrosion protection test was conducted to the date of the inspection February 16, 2005, the earliest date the violation could have been corrected. (See penalty calculations for Count 7, Attachment A).

(10,000 gallon unleaded, 6,000 gallon prem, 4,000 gallon diesel)

COUNT 8: Failure to test automatic line leak detector annually

55. Paragraphs 1-54 above are realleged and incorporated herein

by reference.

56. According to OAC 165:25-3-6(3)(A) [40 CFR 280.44(a)], each method of release detection for pressurized piping must be done in accordance with the following requirements:

1. ***Automatic mechanical line leak detectors and annual line tightness testing.*** Methods which alert the owner and/or operator to the presence of a leak by restricting or shutting off the flow of regulated substances through piping or triggering an audible or visual alarm may be used only if they detect leaks of 3 gallons per hour at 10 psi line pressure within 1 hour. An annual test of the operation of the leak detector must be conducted in accordance with the manufacturer's requirements. Automatic line leak detectors installed on or after September 22, 1991 must be capable of detecting the leak rate with a probability of detection of 0.95 and a probability of false alarm of 0.05.

57. During the inspection of February 16, 2005,and records review on February 17, 2005, the inspector observed that the last annual test of the automatic line leak detector was conducted on January 10, 2005.

58. The previous test was conducted on November 14, 2003, therefore the next annual test of the automatic line leak detector should have been performed by November 14, 2004.

59. Since the last test on January 10, 2005 was conducted after November 14, 2004, the period between annual tests exceeded 12 months.

60. Failure to test the automatic lined leak detectors for three UST systems within 12 months, is a violation of OAC 165:25-3-6(3)(A) [40 CFR 280.44(a)].

61. The period of violation occurred from November 14, 2004, the date the test should have been conducted to January 10, 2005, the date the test of the automatic line leak detector was actually conducted(See penalty calculations for Count 8, Attachment A).

(10,000 gallon unleaded, 6,000 gallon prem, 4,000 gallon diesel)

COUNT 9: Failure to test pressure lines annually

62. Paragraphs 1-61 above are realleged and incorporated herein by reference.

63. According to OAC 165:25-3-6(3)(A)(i) [40 CFR 280.41b(1)(ii)], all pressurize piping containing regulated substances and in contact with soil, must conduct a hydrostatic line tightness test annually by a certified tester unless using a sump sensor or monthly monitoring method.

64. During the inspection of February 16, 2005 and records review on February 17, 2005, the inspector observed that the

last annual line tightness test was conducted on January 10, 2005.

65. The previous line tightness test was conducted on November 14, 2003, therefore the next annual line tightness test should have been performed by November 14, 2004.

66. Since the last test on January 10, 2005 was conducted after November 14, 2004, the period between annual tests exceeded 12 months.

67. Failure to conduct a line tightness for three UST systems within 12 months, is a violation of OAC 165:25-3-6(3)(A)(i) [40 CFR 280.41(b)(ii)].

68. The period of violation occurred from November 14, 2004, the date the test should have been conducted to January 10, 2005, the date the test of the automatic line leak detector was actually conducted (See penalty calculations for Count 9, Attachment A).

(10,000 gallon unleaded, 6,000 gallon prem, 4,000 gallon diesel)

Goodwin's One Stop CRACKED SPILL Bucket

COUNT 10: Failure to provide adequate spill prevention for tanks

69. Paragraphs 1-68 above are realleged and incorporated herein by reference.

70. According to OAC 165:25-2-39(a) [40 CFR 280.20(c)(1)], Underground storage tanks must have spill and overfill

protection on the tanks, and further, according to OAC 165:25-2-39(f)(1) [40 CFR 280.20(c)(i)], spill prevention equipment must prevent release of product to the environment when the transfer hose is detached from the fill pipe (for example, a spill bucket or a drain system).

71. Based on the inspection at the facilities on February 16, 2005, the spill containment device (spill bucket) on the premium tank fill port was cracked such that spilling from a disconnected transfer hose would not be able to contain spills from escaping into the environment.

72. Because the spill containment device could not prevent a release of product to the environment when the transfer hose is detached from the fill pipe, the UST system does not meet the requirements of OAC 165:25-2-39(a) [40 CFR 280.20(c)(1)], and therefore the Respondent is in violation.

73. The period of violation is from February 16, 2005, the date the spill bucket was inspected and found to be defective to February 16, 2005, the earliest date violation could have been corrected. (See penalty calculations for Count 10, Attachment A).

Count 11: Failure to document that a corrosion expert designed a field-installed cathodic protection system

74. Paragraphs 1-73 above are realleged and incorporated herein

by reference.

75. According to OAC 165:25-2-33(3)(A)&(B) [40 CFR 280.20(a)(2)(ii)], tanks must be properly designed and constructed, and any portion underground that routinely contains product must be protected from corrosion as specified below:

    1. Tanks constructed of steel and cathodically protected must conform to the standards in UL 1746 and NACE RP-0285 and must be protected in the following manner:

        1. The tank must be coated with a suitable dielectric material.

        2. Field-installed cathodic protection systems must be designed by a corrosion expert.

76. According to OAC 165:25-1-11 [40 CFR 280.12] Definitions "Corrosion expert" means a person who has knowledge of the physical sciences and principles of engineering and mathematics, acquired by education and/or experience, and is qualified to engage in the practice of corrosion control on buried or submerged metal tanks and metal piping systems. The person must be NACE-certified or be a Registered Professional Engineer who has education and experience in corrosion control of buried or submerged metal tanks and metal piping systems.

77. Since the corrosion protection system was field-installed

and the Respondent could not verify that the design of the cathodic protection system was designed by a "corrosion expert", this is a violation of OAC 165:25-1-11 [40 CFR 280.12].

78. The period of violation is from December 22, 1998 (date corrosion protection was required) to February 16, 2005 (earliest date compliance could be achieved); however, due to the five-year statute of limitations, the start date of the violation, is September 30,2000 (see penalty calculations for Count 11, Attachment A).

(12,000 gallon unleaded, 12,000 gallon premium, 12,000 gallon diesel)

Count 12: Failure to conduct stick readings as required for Inventory Control & Tank Tightness Testing, no release detection

79. Paragraphs 1-78 above are realleged and incorporated herein by reference.

80. In accordance with OAC 165:25-3-5.1 [40 CFR 280.40(a)] tanks must be monitored at least every 30 days for releases using one of the methods or combinations of methods listed in this Chapter, except that:

1. Underground storage tanks that meet the performance standards and monthly inventory requirements of this Chapter may use tank tightness testing, performed by a certified tester, at least every 5 years and only until

10 years after the tank is installed or upgraded in accordance with this Chapter, whichever is later.

81. Based on the inspection of February 16, 2005 and the records review of February 17, 2005, the Respondent utilized the Inventory Control and Tank Tightness Testing method to meet its release detection requirements.

82. According to OAC 165:25-3-5.2(3)(A) [40 CFR 280.43(a)(1)], product inventory control (or another test of equivalent performance) must be conducted monthly to detect a release of at least 1.0 percent of flow-through plus 130 gallons on a monthly basis in the following manner:

1. Inventory volume measurements for regulated substance inputs, withdrawals, and the amount remaining in the tank are recorded each operating day.
2. The equipment used is capable of measuring the level of product over the full range of the tank's height to the nearest one-eighth inch (1/8").
3. The regulated substance inputs are reconciled with delivery receipts by measurement of the tank inventory volume before and after delivery.
4. Deliveries are made through a drop tube that extends to within 6 inches (6") of the tank bottom.

5. Product dispensing is metered and recorded within an accuracy of 6 cubic inches for every 5 gallons of product withdrawn.

6. The measurement of any water level in the bottom of the tank is made to the nearest one-eighth inch (1/8") at least once a month.

83. During the February 17, 2005 inspection Respondent's representative stated that the Respondent was not measuring the amount of product remaining in the three tanks each operating day.

84. Further, based on information obtained from the records review on February 17, 2005, it was determined that the inventory volume measurement for regulated substance amount remaining in the tank was not recorded each operating day.

85. Since the Respondent failed to measure the amount of product remaining in the three tanks each operating day, the minimal requirements for release detection of OAC 165:25-3-5.1 [40 CFR 280.40(a)] was not met and therefore was in violation of the release detection requirements.

86. The period of violation is considered to be one year, from February 16, 2004 (one year prior to the February 16, 2005 inspection) to February 16, 2005 (the date of the inspection), since the Respondent must maintain at least 12 months of release detection records in accordance with)OAC

165:25-1-53 [40 CFR 280.45(b)] (See penalty calculations for Count 12, Attachment A).

(12,000 gallon unleaded, 12,000 gallon premium, 12,000 gallon diesel)

COUNT 13: Failure to test Cathodic Protection systems for metallic flex-connectors within 6 mo. of installation, then every three years thereafter

87. Paragraphs 1-86 above are realleged and incorporated herein by reference.

88. According to OAC 165:25-2-53(1) [40 CFR 280.31(b)(1)], all corrosion protection systems must be tested within six months of installation of a cathodic protection system then every three years thereafter to determine whether corrosion (cathodic) protection is adequate.

89. Records provided by the Respondent indicate that the test of the cathodic protection system for the tanks was conducted on April 26, 2001 and again on March 22, 2004, however the metallic flex-connectors under the dispensers were not tested.

90. The metallic flex-connectors are part of the underground piping system and should have been tested along with the cathodic protection system for the tanks.

91. During the inspection of the Respondent's records, EPA determined that the Respondent failed to provide any evidence that tests of the cathodic protection system for

the metallic flex-connectors were conducted before February 16, 2005.

92. Since the Respondent failed to test the cathodic protection systems on three metallic flex-connectors, to ensure that the corrosion protection was adequately operating in accordance with OAC 165:25-2-53(1) [40 CFR 280.31(b)(1)], it is a violation.

93. The period of violation occurred from April 26, 2001 (the date the flex-connectors should have been tested along with the tanks) to February 16, 2005 (the date of the inspection, the earliest compliance could have been achieved) (See the penalty calculation for Count 13, Attachment A).

(12,000 gallon unleaded, 12,000 gallon premium, 12,000 gallon diesel)

Monroe's Service Station
(Temporary Closed)

COUNT 14: Failure to conduct release detection for tanks in temporary closure

94. Paragraphs 1-93 above are realleged and incorporated herein by reference.

95. According to OAC 165:25-3-62(a)(2) [40 CFR 280.70(a)], when an underground storage tank system is taken temporarily out of service, the owner or operator must, continue release detection; however, release detection is not required as

long as the underground storage tank system is empty.

96. In accordance with OAC 165:25-3-62(b) (40 CFR 280.70(a)), the underground storage tank system is empty when all materials have been removed using commonly employed practices so that no more than 1 inch (1") of residue remains in the tank.

97. Since the premium tank, at the time of the inspection on February 16, 2005, held approximately 9 inches of product, the tank was not considered empty and release detection is required.

98. Failure to conduct release detection for the 1,000 gallon premium tank (the tank with the approximately 9 inches of product) is a violation of OAC 165:25-3-62(b) [40 CFR 280.70(a)].

99. The period of violation started on the day of the inspection, February 16, 2005, to February 16, 2005, the date of the inspection, which would be the earliest the respondent could have achieved compliance. (See the penalty calculations for Count 14, Attachment A).

(1,000 gallon premium)

COUNT 15: Failure to operate corrosion protection systems for tanks when in temporary closure

100. Paragraphs 1-99 above are realleged and incorporated herein

by reference.

101. Based on OAC 165:25-3-62(a)(1) [40 CFR 280.70(a)], when an underground storage tank system is taken temporarily out of service, the owner or operator must continue the operation and maintenance of corrosion protection.

102. Based on the February 16, 2005 inspection, the cathodic protection system was not in operation at the time of the inspection.

103. According to the records review the tanks were last used on August 17, 2001.

104. Failure to continue operating the cathodic protection system after the USTs were placed in temporary closure, is a violation of OAC 165:25-3-62(a)(1) [40 CFR 280.70(a)].

105. The period of violation is from the date the USTs were placed in temporary closure, which was August 17, 2001, to February 16, 2005 (the earliest date compliance could have been achieved). (See penalty calculations for Count 15, Attachment A)

(8,000 gallon unleaded, 1,000 gallon unleaded, 1,000 gallon premium, 1,000 gallon midgrade)

COUNT 16: Failure to test Cathodic Protection systems for metallic flex-connectors within 6 mo. of installation, then every three years thereafter

106. Paragraphs 1-105 above are realleged and incorporated herein

by reference.

107. According to OAC 165:25-2-53(1) [40 CFR 280.31(b)(1)], all corrosion protection systems must be tested within six months of installation of a cathodic protection system then every three years thereafter to determine whether corrosion (cathodic) protection is adequate.

108. During the inspection of the Respondent's records, EPA determined that the Respondent failed to provide any evidence that tests of the cathodic protection system for the cathodic protection system before February 16, 2005.

109. Since the Respondent failed to test the cathodic protection systems on four USTs, to ensure that the corrosion protection was adequately operating in accordance with OAC 165:25-2-53(1) [40 CFR 280.31(b)(1)], it is a violation.

110. The period of violation occurred from July 22, 1999 (the latest date the corrosion system had to be installed plus a maximum of six months after installation for the first test requirement) to February 16, 2005 (the date of the inspection, the earliest compliance could have been achieved); however, due to the five-year statute of limitations, the start date used is September 30,2000 (See the penalty calculation for Count 16, Attachment A).

(8,000 gallon unleaded, 1,000 gallon unleaded, 1,000 gallon premium, 1,000 gallon midgrade)

COUNT 17: Failure to conduct an integrity test prior to installing a cathodic protetcion system

111. Paragraphs 1-110 above are realleged and incorporated herein by reference.

112. According to the Respondent and the OCC registration, the USTs were installed on April 2, 1976, and the USTs were upgraded prior December 22, 1998 by installing a cathodic protection system, in order to meet the December 22, 1998 upgrade deadline.

113. Pursuant to 40 CFR 280.21(b)(2)(i), if a tank was 10 years old or older, prior to installation of the cathodic protection system, the structural integrity had to be determined by an internal inspection or other approved methods.

114. By December 22, 1998, the USTs at Monroe Service Station were over 20 years old, therefore a structural integrity test was required.

115. At the time of the inspection on February 16, 2005 and the records review on February 17, 2005, the Respondent could not verify that the USTs were internally inspected or tested by another approved method to ensure the structural integrity of the steel tanks prior to the installation of the cathodic protection system.

116. Failure to conduct a structure integrity test prior to the

installation of a cathodic protection system is a violation of 40 CFR 280.21(b)(2)(i).

117. The period of violation is from December 22, 1998, the latest date a structural integrity test could have been conducted prior to the installation of the cathodic protection system, to February 16, 2005, the earliest date compliance could have been achieved; however, due to the five-year statute of limitations, the start date used is September 30,2000. (See penalty calculations for Count 17, Attachment A).

(8,000 gallon unleaded, 1,000 gallon unleaded, 1,000 gallon premium, 1,000 gallon midgrade)

Longtown Citgo Station

COUNT 18: Failure to conduct tank tightness testing every five years when using the Inventory Control and Tank Tightness Testing method for release detection

118. Paragraphs 1-117 above are realleged and incorporated herein by reference.

119. According to OAC 165:25-3-5 [40 CFR 280.41(a)(1)], General monitoring requirements, tanks must be monitored at least every 30 days for releases using one of the methods or combinations of methods listed in this Chapter, except that:

1. Underground storage tanks that meet the performance standards and monthly inventory requirements of this Chapter may use tank tightness testing, performed by a

certified tester, at least every 5 years and only until 10 years after the tank is installed or upgraded in accordance with this Chapter, whichever is later.

120. Based on the records review conducted on February 17, 2005, Respondent failed to conduct tank tightness tests on four USTs prior to the inspection of February 16, 2005.

121. The tanks were installed in 1978, but were upgraded to meet the 1998 upgrade requirements by adding CP and spill and overfill devices.

122. Based upon the records review the tanks were upgraded on or about 12/22/98, therefore Respondent had 10 years from the date of upgrade or until 12/22/2008 to use inventory control and tank tightness method.

123. Since the four tanks were not tested every five years, they are in violation of OAC 165:25-3-5 [40 CFR 280.41(a)(1)].

124. The period of violation for the four tanks are from December 22, 1998 (the date the tanks should have first been tested to meet the five year requirement) to February 16, 2005 (the date the four tanks were inspected). However, due to the five-year statute of limitations, the violation is assumed to begin five years prior to the issuance of the order, September 30, 2000 (see calculation for Count 18, Attachment A)

(2-1,000 gallon diesel, 1-3,000 gallon prem, 1-8,000 gallon unleaded)

COUNT 19: Failure to document that a corrosion expert designed a field-installed cathodic protection system

125. Paragraphs 1-124 above are realleged and incorporated herein by reference.

126. According to OAC 165:25-2-33(3)(B) [40 CFR 280.20(a)(2)(ii)] tanks must be properly designed and constructed, and any portion underground that routinely contains product must be protected from corrosion as specified below:

1. Tanks constructed of steel and cathodically protected must conform to the standards in UL 1746 and NACE RP-0285 and must be protected in the following manner:

1. The tank must be coated with a suitable dielectric material.

2. Field-installed cathodic protection systems must be designed by a corrosion expert.

127. According to OAC 165:25-1-11 [40 CFR 280.12] Definitions "Corrosion expert" means a person who has knowledge of the physical sciences and principles of engineering and mathematics, acquired by education and/or experience, and is qualified to engage in the practice of corrosion control on buried or submerged metal tanks and metal piping systems. The person must be NACE-certified (National Association of Corrosion Engineers)or be a Registered Professional Engineer who has education and experience in corrosion control of

buried or submerged metal tanks and metal piping systems.

128. Since the corrosion protection system was field-installed and the Respondent could not verify that the design of the cathodic protection system was designed by a "corrosion expert", this is a violation of OAC 165:25-1-11 [40 CFR 280.12].

129. The period of violation is from December 22, 1998 (date corrosion protection was required) to February 16, 2005 (earliest date compliance could be achieved); however, due to the five-year statute of limitations, the start date of the violation, is September 30,2000 (see penalty calculations for Count 19, Attachment A).

(2-1,000 gallon diesel, 1-3,000 gallon prem, 1-8,000 gallon unleaded)

COUNT 20: Failure to conduct an integrity test prior to installing a cathodic protetcion system

130. Paragraphs 1-129 above are realleged and incorporated herein by reference.

131. According to the Respondent and the OCC registration, the USTs were installed in 1978, and the USTs were upgraded prior December 22, 1998 by installing a cathodic protection system, in order to meet the December 22, 1998 upgrade deadline.

132. Pursuant to 40 CFR 280.21(b)(2)(i), it is required that if a

tank was 10 years old or older, prior to installation of the cathodic protection system, the structural integrity had to be determined by an internal inspection or other approved methods.

133. By December 22, 1998, the USTs at Longtown Citgo were over 20 years old, therefore a structural integrity test was required.

134. At the time of the inspection on February 16 and the records review on February 17, 2005, the Respondent could not verify that the USTs were internally inspected or tested by another approved method to ensure the structural integrity of the steel tanks prior to the installation of the cathodic protection system.

135. Failure to conduct a structure integrity test prior to the installation of a cathodic protection system is a violation of 40 CFR 280.21(b)(2)(i).

136. The period of violation is from December 22, 1998, the latest date a structural integrity test could have been conducted prior to the installation of the cathodic protection system, to February 16, 2005, the earliest date compliance could have been achieved; however, due to the five-year statute of limitations, the start date used is September 30,2000. (See penalty calculations for Count 20, Attachment A).

(2-1,000 gallon diesel, 1-3,000 gallon prem, 1-8,000 gallon unleaded)

III. COMPLIANCE ORDER

Not later than sixty (60) days from the date of receipt of this Complaint, Respondent shall come into compliance with all of the Federal and State UST regulations and submit the following information for each specified facility:

Citgo Quick Mart

137. Provide written evidence that all spill prevention devices installed are installed on each fill port for the three 12,000 gallon tanks located in the front of the building.
138. Provide written evidence to verify that all spill containment devices have been clean and have full capacity to contain possible spills from fuel loading operations.
139. Provide written evidence that an allowable method of release detection is in place for each tank that has an inch or more of liquid in the tank.
140. Provide written documentation that all cathodic protection systems protecting metal components in contact with the soil have been certified by a N.A.C.E. corrosion expert verifying that the cathodic protection system meets the minimum requirements of N.A.C.E.

Citgo Thrifty Mart

141. Provide written documentation that all cathodic protection systems protecting metal components in contact with the soil have been designed and certified by a N.A.C.E. corrosion expert in accordance with the N.A.C,E guidances.

142. Provide written documentation that will demonstrate that the cathodic protection systems are operating in accordance with the OCC regulations.

143. Provide written documentation verifying that all automatic line leak detectors have been tested in accordance to the OCC requirements with in one year prior to issuance of this Order.

144. Provide written documentation verifying that all underground pressurized piping has been tested within one year prior to issuance of this Order, or that a monthly leak detection method has been implemented that will meet the OCC regulations.

Goodwin's One Stop

145. Replace all spill containment devices that can leak product or are warping and provide written documentation.

146. Provide written documentation that all cathodic protection systems protecting metal components in contact with the soil have been designed and certified by a N.A.C.E. corrosion

expert in accordance with the N.A.C,E guidances.

147. Provide written documentation verifying that stick readings are taken every day of operation, or that another acceptable monthly monitoring method is in use.

148. Provide written documentation verifying that the cathodic protection systems have been tested by a cathodic protection tester in accordance with the OCC regulations, within three years prior to issuance of this Order.

Monroe's Service Station

149. Provide written documentation verifying that a method of release detection is in place for all USTs that contain more than 1 inch of material in the tank(s), or verify that all tanks have been emptied of all materials to no more than one inch in depth.

150. Continue to operate the cathodic protection system for each UST, conduct a test of the cathodic protection system within three years prior to issuance of this Order, and provide written documentation verifying that all USTs have passed an integrity test as required by OCC, or, permanently close the USTs in accordance with the OCC regulations.

Longtown Citgo

151. Provide written documentation that the tanks have been

tightness tested within five years prior to issuance of this Order, or verify that an acceptable release detection method has been implemented, as allowed under the OCC regulations.

152. Provide written documentation that all cathodic protection systems protecting metal components in contact with the soil have been designed and certified by a N.A.C.E. corrosion expert in accordance with the N.A.C,E guidances.

153. Provide written documentation verbifying that an integrity test was conducted on the tanks prior to installing cathodic protection or have an integrity test conducted as required by the OCC regulations.

154. Submit all information for each item in Paragraphs 126 through 143 above in a logically sequenced, bound format. Respondent shall provide the documentation of compliance required in Paragraphs 126 through 143 above to:

(EPA) John Cernero, Enforcement Officer
UST/Solid Waste Section (6PD-U)
EPA
1445 Ross Avenue
Dallas, TX 75202

(ADEQ) Mr. Joe Hover
Division Chief
Regulated Storage Tank Division
Arkansas Department of Environmental Quality
P.O. Box 8913
Little Rock, AR 72209

IV. PROPOSED CIVIL PENALTY

Section 9006 of the Solid Waste Disposal Act, 42 U.S.C.

§ 6991e, authorizes a civil penalty of up to ELEVEN THOUSAND DOLLARS ($11,000.00) per day for each violation of the underground storage tank regulations. The computation of the penalty is based upon the Underground Storage Tank Penalty Policy, a copy of which is attached hereto.

Pursuant to Section 9006 of the Solid Waste Disposal Act, 42 U.S.C. § 6991e, Complainant proposes to assess against Respondent a civil penalty totaling **$279,752**. The computation of this amount is based on the seriousness of the violations, violator-specific adjustments, environmental sensitivity, number of days of noncompliance, economic benefit of noncompliance and the November 1990 UST Civil Penalty Policy. The penalties were calculated as shown in Attachment A.

The payment shall be made by mailing a cashier's check or certified check payable to the Treasurer of the United States, within 30 days of the effective date of this document to the following address:

Regional Hearing Clerk (6C)
U.S. EPA, Region 6
P.O. Box 371099M
Pittsburgh, PA 15251

Docket No. SWDA-06-2005-5301 should be clearly typed on the check to ensure credit. Respondent shall send simultaneous notices of such payments, including copies of the cashier's check or certified check to the following:

(1) Mr. Willie Kelley, Chief
UST/Solid Waste Section
Multimedia Planning and
Permitting Division(6PD-U)
U.S. EPA, Region 6
1445 Ross Avenue
Dallas, Texas 75202

(2) Lorraine Dixon
Assistant Regional Counsel (6RC-EW)
U.S. EPA, Region 6
1445 Ross Avenue
Dallas, Texas 75202

V. FAILURE TO COMPLY

In the event Respondent fails to comply with any provision of the compliance order, then in accordance with 42 U.S.C. §6996(a)(3), 42 U.S.C. § 9006(a)(3), Respondent shall be liable for a civil penalty of not more than $32,500 for each day of continued noncompliance.

VI. NOTICE OF OPPORTUNITY FOR HEARING

Where Respondent (1) contests any material fact upon which the Complaint is based, (2) contends the amount of the penalty proposed in the Complaint is inappropriate, or (3) contends it is entitled to judgment as a matter of law, Respondent shall file a written Answer to the Complaint with the Regional Hearing Clerk, Region 6, no later than thirty (30) days after the service of this Complaint.

The Answer shall clearly and directly admit, deny, or explain each of the factual allegations contained in the

Complaint with regard to which Respondent has any knowledge. Where the Respondent has no knowledge of a particular factual allegation and so states, the allegation is deemed denied. Failure of Respondent, to admit, deny, or explain any material factual allegation contained in the Complaint constitutes an admission of the allegation.

The Answer shall also state (1) the circumstances or arguments which are alleged to constitute the grounds of defense, (2) the facts which Respondent disputes; (3) the basis for opposing any proposed relief; and (4) whether a hearing is requested. A hearing upon the issues raised by the Complaint and Answer shall be held upon request of the Respondent in the Answer.

The hearing, if requested, will be conducted in accordance with the provisions of the Administrative Procedures Act (5 U.S.C. 552 et seq., and the Consolidated Rules of Practice, codified at 40 CFR Part 22. A copy of the Consolidated Rules of Practice is enclosed. Respondent may retain counsel to represent them at the hearing.

The Regional Hearing Clerk's address is:

Regional Hearing Clerk (6RC-D)
U.S. Environmental Protection Agency
1445 Ross Avenue
Dallas, Texas 75202-2733

VII. DEFAULT ORDER

If Respondent fails to file an Answer within thirty (30)

days after the date of service of this Complaint, Respondent may be found to be in default pursuant to 40 CFR § 22.17. For purposes of this action, default by Respondent constitutes an admission of all facts alleged in the Complaint and a waiver of Respondent' right to a hearing under 40 CFR § 22.15 concerning such factual allegations. The proposed penalty shall become due and payable by Respondent without further proceedings sixty (60) days after issuance of a Final Order upon default. Upon issuance of the Final Order upon default, Respondent must immediately comply with the "Order" set forth in the Complaint.

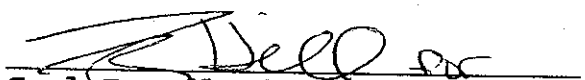
VIII. SETTLEMENT CONFERENCE

Whether or not Respondent requests a hearing, it may confer with Complainant concerning settlement. The EPA encourages settlement consistent with the provisions and objectives of the applicable regulations. A request for a settlement conference does not extend the thirty (30) day period during which the written Answer and a request for hearing must be submitted. The settlement conference procedures may be pursued as an alternative to and simultaneous with the formal hearing procedures. Respondent may appear at the settlement conference and/or be represented by counsel.

Any settlement reached by the parties shall be set forth in a written Consent Agreement and Final Order signed by the Regional Administrator, EPA Region 6, in accordance with 40 CFR

§ 22.18. The issuance of a Final Order shall constitute a waiver of Respondent's right to request a hearing on any matter stipulated therein.

To explore the possibility of settlement in this matter, contact the attorney assigned to this case, Terry Sykes, who can be reached at (214) 665-2158 or in writing to John Cernero, Enforcement Officer, UST/Solid Waste Section (6PD-U), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733.



Carl E. Edlund, P.E.
Division Director
Multimedia Planning and Permitting Division
U.S. EPA, Region 6

8/19/05
Date

ATTACHMENT A
Penalty Calculations

COUNT 1: Failure to provide spill prevention for new tanks

1. Per facility or per number of lines/tanks — 3 Tanks

2. Gravity based penalty from matrix — $1500
   (a) Potential for harm - Major
   (b) Extent of deviation - Major

3. Total violator specific adjustments — 0
   (a) Degree of cooperation/noncooperation — 0% x No.2
   (b) Degree of willfulness or negligence, — 0% x No.2
   (c) History of noncompliance — 0% x No.2
   (d) Other unique factors — 0% x No.2

4. Environmental sensitivity multiplier — 1.0

   Low - 1.0
   Moderate - 1.5
   High - 2.0

5. Days of noncompliance multiplier — 6.0
   (09/30/00 to 02/16/05 = 1,600 Days)

   0 - 90 1.0
   91 - 180 1.5
   181 - 270 2.0
   271 - 365 2.5
   Each additional 6 months or fraction thereof - add 0.5

6. Economic Benefit — $137.98
   Avoided costs $0
   Delayed costs $137.98

Calculation:
No.1 x [(No.2 +/- No.3) x No.4 x No.5 + No.6]=$(Penalty)
3 x [($1500+/- 0) x 1.0 x 6.0 + $137.98]= $27,413.93
Proposed Penalty for Count 1 = $27,413.93

COUNT 2: Failure to provide adequate capacity for spill prevention

1. Per facility or per number of lines/tanks — 6 Tanks

2. Gravity based penalty from matrix — $1500

(a) Potential for harm - Major
(b) Extent of deviation - Major

3. Total violator specific adjustments - 0
   (a) Degree of cooperation/noncooperation 0% x No.2
   (b) Degree of willfulness or negligence, 0% x No.2
   (c) History of noncompliance 0% x No.2
   (d) Other unique factors 0% x No.2

4. Environmental sensitivity multiplier 1.0

   Low - 1.0
   Moderate - 1.5
   High - 2.0

5. Days of noncompliance multiplier 1.0
   (02/16/05 to 2/16/05 = 0 Days)

   0 - 90 1.0
   91 - 180 1.5
   181 - 270 2.0
   271 - 365 2.5
   Each additional 6 months or fraction thereof - add 0.5

6. Economic Benefit $0
   Avoided costs $0
   Delayed costs $0

Calculation:
No.1 x [(No.2 +/- No.3) x No.4 x No.5 + No.6]=$(Penalty)
6 x [($1500+/- 0) x 1.0 x 1.0 + $0]= $9,000
Proposed Penalty for Count 2 = $9,000

COUNT 3: Failure to conduct release detection for a temporarily closed tank

1. Per facility or per number of lines/tanks 1 Tank

2. Gravity based penalty from matrix - $1500
   (a) Potential for harm - Major
   (b) Extent of deviation - Major

3. Total violator specific adjustments - $0
   (a) Degree of cooperation/noncooperation 0% x No.2
   (b) Degree of willfulness

	or negligence	0% x No.2
(c)	History of noncompliance	0% x No.2
(d)	Other unique factors	0% x No.2

4. Environmental sensitivity multiplier 1.0

Low -	1.0
Moderate -	1.5
High -	2.0

5. Days of noncompliance multiplier 3.0
(03/01/00 to 05/24/04=1,545 days)

0 - 90	1.0
91 - 180	1.5
181 - 270	2.0
271 - 365	2.5

Each additional 6 months or fraction thereof - add 0.5

6. Economic Benefit $0

Avoided costs	$0
Delayed costs	$0

Calculation:
No.1 x [(No.2 +/- No.3) x No.4 x No.5 + No.6]=$(Penalty)
1 x [($1500 +/- $0) x 1.0 x 3.0 + $0]= $4,500
Proposed Penalty for Count 3 = $4,500

COUNT 4: Failure to conduct monthly release detection monitoring for tanks

1. Per facility or per number of lines/tanks 5 Tanks
2. Gravity based penalty from matrix $1,500
   (a) Potential for harm - Major
   (b) Extent of deviation - Major

3. Total violator specific adjustments $0

(a)	Degree of cooperation/noncooperation	0% x No.2
(b)	Degree of willfulness or negligence	0% x No.2
(c)	History of noncompliance	0% x No.2
(d)	Other unique factors	0% x No.2

4. Environmental sensitivity multiplier 1.0

Low -	1.0
Moderate -	1.5

High - 2.0

5. Days of noncompliance multiplier 3.0
(02/16/04 to 02/16/05= 366 Days)

0 - 90 1.0
91 - 180 1.5
181 - 270 2.0
271 - 365 2.5
Each additional 6 months or fraction thereof - add 0.5

6. Economic Benefit $145.89
Avoided costs $0
Delayed costs $145.89

Calculation:
No.1 x [(No.2 +/- No.3) x No.4 x No.5 + No.6]=$(Penalty)
5 x [($1,500.00 +/-$0) x 1.0 x 3.0 + $145.89]=$23,229.43
Proposed Penalty for Count 4 = $23,229.43

COUNT 5: Failure to have field installed cathodic protection systems designed by a corrosion expert

1. Per facility or per number of lines/tanks 6 Tanks
2. Gravity based penalty from matrix $500
(a) Potential for harm - Moderate
(b) Extent of deviation - Moderate

3. Total violator specific adjustments $0
(a) Degree of cooperation/noncooperation 0% x No.2
(b) Degree of willfulness or negligence 0% x No.2
(c) History of noncompliance 0% x No.2
(d) Other unique factors 0% x No.2

4. Environmental sensitivity multiplier 1.0

Low - 1.0
Moderate - 1.5
High - 2.0

5. Days of noncompliance multiplier 6.0
(09/30/00 to 02/16/05= 1,600 Days)

0 - 90 1.0
91 - 180 1.5

181 - 270 2.0
271 - 365 2.5
Each additional 6 months or fraction thereof - add 0.5

6. Economic Benefit $137.98
Avoided costs $0
Delayed costs $137.98

Calculation:
No.1 x [(No.2 +/- No.3) x No.4 x No.5 + No.6]=$(Penalty)
6 x [($500 +/-$0) x 1.0 x 6.0 + $137.98]=$18,827.86
Proposed Penalty for Count 5 = $18,827.86

COUNT 6: Failure to have field installed cathodic protection systems designed by a corrosion expert

1. Per facility or per number of lines/tanks 3 Tanks
2. Gravity based penalty from matrix $500
   (a) Potential for harm - Moderate
   (b) Extent of deviation - Moderate

3. Total violator specific adjustments $0
   (a) Degree of cooperation/noncooperation 0% x No.2
   (b) Degree of willfulness or negligence 0% x No.2
   (c) History of noncompliance 0% x No.2
   (d) Other unique factors 0% x No.2

4. Environmental sensitivity multiplier 1.0

Low - 1.0
Moderate - 1.5
High - 2.0

5. Days of noncompliance multiplier 6.0
(09/30/00 to 02/16/05= 1,600 Days)

0 - 90 1.0
91 - 180 1.5
181 - 270 2.0
271 - 365 2.5
Each additional 6 months or fraction thereof - add 0.5

6. Economic Benefit $137.98
Avoided costs $0
Delayed costs $137.98

Calculation:
No.1 x [(No.2 +/- No.3) x No.4 x No.5 + No.6]=$(Penalty)

3 x [($500 +/-$0) x 1.0 x 6.0 + $137.98]=$9,413.93
Proposed Penalty for Count 6 = $9,413.93

COUNT 7: Failure to operate cathodic protection system continuously

1.	Per facility or per number of lines/tanks		3 Tanks
2.	Gravity based penalty from matrix		$1,500
	(a) Potential for harm - Major		
	(b) Extent of deviation - Major		
3.	Total violator specific adjustments		$0
	(a) Degree of cooperation/noncooperation	0% x No.2	
	(b) Degree of willfulness or negligence	0% x No.2	
	(c) History of noncompliance	0% x No.2	
	(d) Other unique factors	0% x No.2	
4.	Environmental sensitivity multiplier		1.0

Low - 1.0
Moderate - 1.5
High - 2.0

5.	Days of noncompliance multiplier (03/19/04 to 02/16/05= 334 Days)	2.5

0 - 90 1.0
91 - 180 1.5
181 - 270 2.0
271 - 365 2.5
Each additional 6 months or fraction thereof - add 0.5

6.	Economic Benefit		$0
	Avoided costs	$0	
	Delayed costs	$0	

Calculation:
No.1 x [(No.2 +/- No.3) x No.4 x No.5 + No.6]=$(Penalty)
3 x [($1,500.00 +/-$0) x 1.0 x 2.5 + $0]=$11,250
Proposed Penalty for Count 7 = $11,250

COUNT 8: Failure to test automatic line leak detectors annually

1.	Per facility or per number of lines/tanks	3 Tanks
2.	Gravity based penalty from matrix	$1,500

(a) Potential for harm - Major
(b) Extent of deviation - Major

3. Total violator specific adjustments $0
   (a) Degree of cooperation/noncooperation 0% x No.2
   (b) Degree of willfulness or negligence 0% x No.2
   (c) History of noncompliance 0% x No.2
   (d) Other unique factors 0% x No.2

4. Environmental sensitivity multiplier 1.0

   Low - 1.0
   Moderate - 1.5
   High - 2.0

5. Days of noncompliance multiplier 1.5
   (11/14/04 to 02/16/05= 94 Days)

   0 - 90 1.0
   91 - 180 1.5
   181 - 270 2.0
   271 - 365 2.5
   Each additional 6 months or fraction thereof - add 0.5

6. Economic Benefit $63.65
   Avoided costs $63.65
   Delayed costs $0

Calculation:
No.1 x [(No.2 +/- No.3) x No.4 x No.5 + No.6]=$(Penalty)
3 x [($1,500.00 +/-$0) x 1.0 x 1.5 + $63.65]=$6,940.96
Proposed Penalty for Count 8 = $6,941

COUNT 9: Failure to test pressurized lines annually or use monthly monitoring

1. Per facility or per number of lines/tanks 3 Tanks
2. Gravity based penalty from matrix $1,500
   (a) Potential for harm - Major
   (b) Extent of deviation - Major

3. Total violator specific adjustments $0
   (a) Degree of cooperation/noncooperation 0% x No.2
   (b) Degree of willfulness or negligence 0% x No.2

(c) History of noncompliance 0% x No.2
(d) Other unique factors 0% x No.2

4. Environmental sensitivity multiplier 1.0

Low - 1.0
Moderate - 1.5
High - 2.0

5. Days of noncompliance multiplier 1.5
(11/14/04 to 02/16/05= 94 Days)

0 - 90 1.0
91 - 180 1.5
181 - 270 2.0
271 - 365 2.5
Each additional 6 months or fraction thereof - add 0.5

6. Economic Benefit $63.65
Avoided costs $63.65
Delayed costs $0

Calculation:
No.1 x [(No.2 +/- No.3) x No.4 x No.5 + No.6]=$(Penalty)
3 x [($1,500.00 +/-$0) x 1.0 x 1.5 + $63.65]=$6,940.96
Proposed Penalty for Count 9 = $6,941

COUNT 10: Failure to provide spill prevention for new tank

1. Per facility or per number of lines/tanks 1 Tanks
2. Gravity based penalty from matrix $1,500
(a) Potential for harm - Major
(b) Extent of deviation - Major

3. Total violator specific adjustments $0
(a) Degree of cooperation/noncooperation 0% x No.2
(b) Degree of willfulness or negligence 0% x No.2
(c) History of noncompliance 0% x No.2
(d) Other unique factors 0% x No.2

4. Environmental sensitivity multiplier 1.0

Low - 1.0
Moderate - 1.5
High - 2.0

5. Days of noncompliance multiplier 1.0
(02/16/05 to 02/16/05= 0 Day)

0	- 90	1.0
91	- 180	1.5
181	- 270	2.0
271	- 365	2.5

Each additional 6 months or fraction thereof - add 0.5

6. Economic Benefit $0

Avoided costs	$0
Delayed costs	$0

Calculation:
No.1 x [(No.2 +/- No.3) x No.4 x No.5 + No.6]=$(Penalty)
1 x [($1,500.00 +/-$0) x 1.0 x 1.0 + $0]=$1,500
Proposed Penalty for Count 10 = $1,500

COUNT 11: Failure to have field installed cathodic protection systems designed by a corrosion expert

1. Per facility or per number of lines/tanks 3 Tanks
2. Gravity based penalty from matrix $500
   (a) Potential for harm - Moderate
   (b) Extent of deviation - Moderate

3. Total violator specific adjustments $0

(a)	Degree of cooperation/noncooperation	0% x No.2
(b)	Degree of willfulness or negligence	0% x No.2
(c)	History of noncompliance	0% x No.2
(d)	Other unique factors	0% x No.2

4. Environmental sensitivity multiplier 1.0

Low -	1.0
Moderate -	1.5
High -	2.0

5. Days of noncompliance multiplier 6.0
(09/30/00 to 02/16/05= 1,600 Days)

0	- 90	1.0
91	- 180	1.5
181	- 270	2.0
271	- 365	2.5

Each additional 6 months or fraction thereof - add 0.5

6. Economic Benefit $137.98
Avoided costs $0
Delayed costs $137.98

Calculation:
No.1 x [(No.2 +/- No.3) x No.4 x No.5 + No.6]=$(Penalty)
3 x [($500 +/-$0) x 1.0 x 6.0 + $137.98]=$9,413.93
Proposed Penalty for Count 11 = $9413.93

COUNT 12: Failure to conduct stick readings as required for inventory control and tank tightness testing method, no release detection

1. Per facility or per number of lines/tanks 3 Tanks
2. Gravity based penalty from matrix $1500
   (a) Potential for harm -Major
   (b) Extent of deviation - Major

3. Total violator specific adjustments $0
   (a) Degree of cooperation/noncooperation 0% x No.2
   (b) Degree of willfulness or negligence 0% x No.2
   (c) History of noncompliance 0% x No.2
   (d) Other unique factors 0% x No.2

4. Environmental sensitivity multiplier 1.0

   Low - 1.0
   Moderate - 1.5
   High - 2.0

5. Days of noncompliance multiplier 3.0
   (02/16/04 to 02/16/05= 365 Days)

   0 - 90 1.0
   91 - 180 1.5
   181 - 270 2.0
   271 - 365 2.5
   Each additional 6 months or fraction thereof - add 0.5

6. Economic Benefit $0
   Avoided costs $0
   Delayed costs $0

Calculation:
No.1 x [(No.2 +/- No.3) x No.4 x No.5 + No.6]=$(Penalty)

3 x [($1500 +/-$0) x 1.0 x 3.0 + $0]=$13,500
Proposed Penalty for Count 12 = $13,500

COUNT 13: Failure to test cathodic protection system within 6 months of installation, then every three years there after

1. Per facility or per number of lines/tanks — 3 Tanks
2. Gravity based penalty from matrix — $750
   (a) Potential for harm - Moderate
   (b) Extent of deviation - Major
3. Total violator specific adjustments — $0
   (a) Degree of cooperation/noncooperation — 0% x No.2
   (b) Degree of willfulness or negligence — 0% x No.2
   (c) History of noncompliance — 0% x No.2
   (d) Other unique factors — 0% x No.2
4. Environmental sensitivity multiplier — 1.0

   Low - 1.0
   Moderate - 1.5
   High - 2.0

5. Days of noncompliance multiplier — 5.5
   (04/26/01 to 02/16/05= 1392 Days)

   0 - 90 1.0
   91 - 180 1.5
   181 - 270 2.0
   271 - 365 2.5
   Each additional 6 months or fraction thereof - add 0.5

6. Economic Benefit — $83.14
   Avoided costs $83.14
   Delayed costs $0

Calculation:
No.1 x [(No.2 +/- No.3) x No.4 x No.5 + No.6]=$(Penalty)
3 x [($750.00 +/-$0) x 1.0 x 5.5 + $83.14]=$12,624.43
Proposed Penalty for Count 13 = $12,624

COUNT 14: Failure to conduct monthly release detection for tanks

when in temporary closure

1.	Per facility or per number of lines/tanks	1 Tank
2.	Gravity based penalty from matrix	$1,500
	(a) Potential for harm - Major	
	(b) Extent of deviation - Major	
3.	Total violator specific adjustments	$0
	(a) Degree of cooperation/noncooperation	0% x No.2
	(b) Degree of willfulness or negligence	0% x No.2
	(c) History of noncompliance	0% x No.2
	(d) Other unique factors	0% x No.2
4.	Environmental sensitivity multiplier	1.0

Low - 1.0
Moderate - 1.5
High - 2.0

5.	Days of noncompliance multiplier (02/16/05 to 02/16/05= 0 Days)	1.0

0 - 90 1.0
91 - 180 1.5
181 - 270 2.0
271 - 365 2.5
Each additional 6 months or fraction thereof - add 0.5

6.	Economic Benefit		$0
	Avoided costs	$0	
	Delayed costs	$0	

Calculation:
No.1 x [(No.2 +/- No.3) x No.4 x No.5 + No.6]=$(Penalty)
1 x [($1,500.00 +/-$0) x 1.0 x 1.0 + $0]=$1,500
Proposed Penalty for Count 14 = $1,500

COUNT 15: Failure to operate the cathodic protection system continuosly for tanks in temporary closure

1.	Per facility or per number of lines/tanks	4 Tanks
2.	Gravity based penalty from matrix	$750
	(a) Potential for harm - Moderate	
	(b) Extent of deviation - Major	
3.	Total violator specific adjustments	$0

(a) Degree of cooperation/noncooperation 0% x No.2
(b) Degree of willfulness or negligence 0% x No.2
(c) History of noncompliance 0% x No.2
(d) Other unique factors 0% x No.2

4. Environmental sensitivity multiplier 1.0

Low - 1.0
Moderate - 1.5
High - 2.0

5. Days of noncompliance multiplier 5.5
(08/17/01 to 02/16/05= 1279 Days)

0 - 90 1.0
91 - 180 1.5
181 - 270 2.0
271 - 365 2.5
Each additional 6 months or fraction thereof - add 0.5

6. Economic Benefit $0
Avoided costs $0
Delayed costs $0

Calculation:
No.1 x [(No.2 +/- No.3) x No.4 x No.5 + No.6]=$(Penalty)
4 x [($750 +/-$0) x 1.0 x 5.5 + $0]=$16,500
Proposed Penalty for Count 15 = $16,500

COUNT 16: Failure to test cathodic protection system within 6 months of installation, then every three years there after

1. Per facility or per number of lines/tanks 4 Tanks
2. Gravity based penalty from matrix $750
(a) Potential for harm - Moderate
(b) Extent of deviation - Major

3. Total violator specific adjustments $0
(a) Degree of cooperation/noncooperation 0% x No.2
(b) Degree of willfulness or negligence 0% x No.2
(c) History of noncompliance 0% x No.2
(d) Other unique factors 0% x No.2

4. Environmental sensitivity multiplier 1.0

Low -	1.0
Moderate -	1.5
High -	2.0

5. Days of noncompliance multiplier 6.0
(09/30/00 to 02/16/05= 1600 Days)

0 - 90	1.0
91 - 180	1.5
181 - 270	2.0
271 - 365	2.5

Each additional 6 months or fraction thereof - add 0.5

6. Economic Benefit $86.78

Avoided costs	$86.78
Delayed costs	$0

Calculation:
No.1 x [(No.2 +/- No.3) x No.4 x No.5 + No.6]=$(Penalty)
4 x [($750 +/-$0) x 1.0 x 6.0 + $86.78]=$18,347.11
Proposed Penalty for Count 16 = $18,347.11

COUNT 17: Failure to test conduct an integrity test of tanks prior to installing cathodic protection system

1. Per facility or per number of lines/tanks 4 Tanks
2. Gravity based penalty from matrix $750
   (a) Potential for harm - Moderate
   (b) Extent of deviation - Major

3. Total violator specific adjustments $0

(a)	Degree of cooperation/noncooperation	0% x No.2
(b)	Degree of willfulness or negligence	0% x No.2
(c)	History of noncompliance	0% x No.2
(d)	Other unique factors	0% x No.2

4. Environmental sensitivity multiplier 1.0

Low -	1.0
Moderate -	1.5
High -	2.0

5. Days of noncompliance multiplier 6.0
(09/30/00 to 02/16/05= 1600 Days)

0 - 90	1.0
91 - 180	1.5
181 - 270	2.0
271 - 365	2.5

Each additional 6 months or fraction thereof - add 0.5

6. Economic Benefit $386.34
   Avoided costs $0
   Delayed costs $386.34

Calculation:
No.1 x [(No.2 +/- No.3) x No.4 x No.5 + No.6]=$(Penalty)
4 x [($750 +/-$0) x 1.0 x 6.0 + $386.34]=$19,545.34
Proposed Penalty for Count 17 = $19,545.34

COUNT 18: Failure to conduct tank tightness tests every five years when using the inventory control and tank tightness testing method for release detection

1. Per facility or per number of lines/tanks 4 Tanks
2. Gravity based penalty from matrix $1,500
   (a) Potential for harm - Major
   (b) Extent of deviation - Major

3. Total violator specific adjustments $0
   (a) Degree of cooperation/noncooperation 0% x No.2
   (b) Degree of willfulness or negligence 0% x No.2
   (c) History of noncompliance 0% x No.2
   (d) Other unique factors 0% x No.2

4. Environmental sensitivity multiplier 1.0

Low -	1.0
Moderate -	1.5
High -	2.0

5. Days of noncompliance multiplier 6.0
   (09/30/00 to 02/16/05= 1600 Days)

0 - 90	1.0
91 - 180	1.5
181 - 270	2.0
271 - 365	2.5

Each additional 6 months or fraction thereof - add 0.5

6. Economic Benefit $301.73

Avoided costs $301.73
Delayed costs $0

Calculation:
No.1 x [(No.2 +/- No.3) x No.4 x No.5 + No.6]=$(Penalty)
4 x [($1,500 +/-$0) x 1.0 x 6.0 + $301.73]=$37,206.91
Proposed Penalty for Count 18 = $37,206.91

COUNT 19: Failure to have field installed cathodic protection systems designed by a corrosion expert

1. Per facility or per number of lines/tanks — 4 Tanks
2. Gravity based penalty from matrix — $500
   (a) Potential for harm - Moderate
   (b) Extent of deviation - Moderate
3. Total violator specific adjustments — $0
   (a) Degree of cooperation/noncooperation — 0% x No.2
   (b) Degree of willfulness or negligence — 0% x No.2
   (c) History of noncompliance — 0% x No.2
   (d) Other unique factors — 0% x No.2
4. Environmental sensitivity multiplier — 1.0

   Low - 1.0
   Moderate - 1.5
   High - 2.0

5. Days of noncompliance multiplier — 6.0
   (09/30/00 to 02/16/05= 1600 Days)

   0 - 90 1.0
   91 - 180 1.5
   181 - 270 2.0
   271 - 365 2.5
   Each additional 6 months or fraction thereof - add 0.5

6. Economic Benefit — $137.98
   Avoided costs $0
   Delayed costs $137.98

Calculation:
No.1 x [(No.2 +/- No.3) x No.4 x No.5 + No.6]=$(Penalty)
4 x [($500 +/-$0) x 1.0 x 6.0 + $137.98]=$12,551.91
Proposed Penalty for Count 19 = $12,551.91

COUNT 20: Failure to test conduct an integrity test of tanks prior to installing cathodic protection system

1. Per facility or per number of lines/tanks — 4 Tanks
2. Gravity based penalty from matrix — $750
   (a) Potential for harm - Moderate
   (b) Extent of deviation - Major

3. Total violator specific adjustments — $0
   (a) Degree of cooperation/noncooperation — 0% x No.2
   (b) Degree of willfulness or negligence — 0% x No.2
   (c) History of noncompliance — 0% x No.2
   (d) Other unique factors — 0% x No.2

4. Environmental sensitivity multiplier — 1.0

   Low - 1.0
   Moderate - 1.5
   High - 2.0

5. Days of noncompliance multiplier (09/30/00 to 02/16/05= 1600 Days) — 6.0

   0 - 90 1.0
   91 - 180 1.5
   181 - 270 2.0
   271 - 365 2.5
   Each additional 6 months or fraction thereof - add 0.5

6. Economic Benefit — $386.34
   Avoided costs $0
   Delayed costs $386.34

Calculation:
No.1 x [(No.2 +/- No.3) x No.4 x No.5 + No.6]=$(Penalty)
4 x [($750 +/-$0) x 1.0 x 6.0 + $386.34]=$19,545.34
Proposed Penalty for Count 20 = $19,545.34

SUMMARY OF PROPOSED PENALTIES

COUNT	PENALTY AMOUNT	FACILITY NAME	VIOLATION
1	$27,413.93	Citgo Quick Mart	Failure to provide spill prevention for new tanks
2	$9,000.00	"	Failure to provide adequate spill prevention for tanks
3	$4,500.00	"	Failure to conduct release detection for temporary closed tanks
4	$23,229.43	"	Failure to conduct monthly release detection monitoring
5	$18,827.86	"	Failure to have field installed cathodic protection systems designed by NACE expert
6	$9,413.93	Citgo Thrifty Mart	Failure to have field installed cathodic protection systems designed by NACE expert
7	$11,250.00	"	Failure to operate cathodic protection system continuously
8	$6,940.96	"	Failure to test automatic line leak detectors annually
9	$6,940.96	"	Failure to test pressure lines annually of conduct monthly monitoring
10	$1,500.00	Goodwin's	Failure to provide spill prevention for new tanks
11	$9,413.93	"	Failure to have field installed cathodic protection systems designed by NACE expert
12	$13,500.00	"	Failure to conduct stick readings as required by the inventory control and tank tightness test method, no release detection
13	$12,624.43	"	Failure to test cathodic protection system within 6 months of installation and every three years there after
14	$1,500.00	Monroe's	Failure to conduct release detection for temporary closed tanks
15	$16,500.00	"	Failure to operate cathodic protection system in temporary closure
16	$18,347.11	"	Failure to test cathodic protection system within 6 months of installation and every three years there after
17	$19,545.34	"	Failure to conduct an integrity test prior to installing cathodic protection system
18	$37,206.91	Longtown	Failure to conduct a tank tightness test every five years when using the inventory control and tank tightness method
19	$12,551.91	"	Failure to have field installed cathodic protection systems designed by NACE expert
20	$19,545.34	"	Failure to conduct an integrity test prior to installing cathodic protection system
Total	$279,752.04	$279,752	(Rounded)

PROPOSED PENALTY= $279,752

SUMMARY OF USTS		
STATE ID#	NAME/LOCATION	TANKS
6112639	Citgo Quik Mart 1400 E. Carl Albert, Mc Alester	6
6113782	Citgo Thrifty Mart 650 S. Main, Mc Alester	3
6112635	Goodwin s One Stop 1000 Penn Ave., Hartshorne	3
4604346	Monroe s Service Station 320 N. Main, Eufaula	4
6104478	Longtown Citgo HWY 9A, Eufaula	4
	TOTAL UST SYSTEMS IN ORDER	20

ATTACHMENT B

Summary of Violations

FAC. & USTs	COUNTS																			
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
Citgo Quick Mart																				
12k un	x	x		x	x															
12k prem	x	x		x	x															
12k diesel	x	x		x	x															
12k diesel, west		x	x		x															
4k kerosene		x		x	x															
2k off-road diesel		x		x	x															
Citgo Thrifty Mart																				
10k un						x	x	x	x											
6k prem						x	x	x	x											
4k diesel						x	x	x	x											
Goodwin's One Stop																				
12k un											x	x	x							
12k prem										x	x	x	x							
12k diesel											x	x	x							

FAC. & USTs	COUNTS																		
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
Mponroe's Service Station																				
8k un															x	x	x			
1k plus															x	x	x			
1k prem														x	x	x	x			
1k															x	x	x			
Longtown Citgo																				
8k un																		x	x	x
3k prem																		x	x	x
1k diesel																		x	x	x
1k diesel																		x	x	x
Totals	3	6	1	5	6	3	3	3	3	1	3	3	3	1	4	4	4	4	4	4
												Total Violations			68					

CERTIFICATE OF SERVICE

I hereby certify that on AUG 19 2005 the original of the foregoing Complaint, Compliance Order, and Notice of Opportunity for Hearing concerning **RAM, Inc., 106 S. 6th Street, McAlester, OK 74502, Docket No. SWDA 06-2005-5301**, was filed with the Regional Hearing Clerk, EPA Region 6, Dallas, Texas, and a true and correct copy of such Complaint, together with a copy of the Consolidated Rules of Practice (40 CFR Part 22) was placed in the United States mail, postage prepaid, certified mail, return receipt requested, addressed to the following:

Mr. Ronald Allford
Registered Agent for RAM, Inc.
515 E. Cherokee
McAlester, OK 74501

John Cernero, EPA