



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

MAR 31 2010

CERTIFIED MAIL- RETURN RECEIPT REQUESTED

Timothy C. Haney
Vice President
Area Operations (Northeast Area)
U.S. Postal Service
6 Griffin Road North
Windsor, CT 06006-7010

Re: **In the Matter of United States Postal Service**
Docket No. RCRA-02-2010-7503

Dear Sir:

Enclosed is the Complaint, Compliance Order and Opportunity for Hearing in the above-referenced proceeding. The Complaint alleges violations of the Solid Waste Disposal Act, as amended, 42 U.S.C. §§ 6901 *et seq.* related to the United States Postal Service facilities located in Brooklyn, Flushing, Jamaica, New York City, and Garden City, New York.

You have the right to a formal hearing to contest any of the allegations in the Complaint and/or to contest the penalty proposed in the Complaint. If you wish to contest the allegations and/or the penalty proposed in the Complaint, you must file an Answer within **thirty (30)** days of your receipt of the enclosed Complaint with the Regional Hearing Clerk of the Environmental Protection Agency ("EPA"), Region 2, at the following address:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th floor
New York, New York 10007-1866

If you do not file an Answer within thirty (30) days of receipt of this Complaint and have not obtained a formal extension for filing an Answer from the Regional Judicial Officer of Region 2, a default order may be entered against you and the entire proposed penalty may be assessed.

Whether or not you request a formal hearing, you may request an informal conference with EPA to discuss any issue relating to the alleged violations and the amount of the proposed penalty. EPA encourages all parties against whom it files a Complaint to pursue the possibility of settlement and to have an informal conference with EPA. However, a request for an informal

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PROTECTION AGENCY-REG-2
2010 APR -1 PM 3:30
REGIONAL HEARING
CLERK

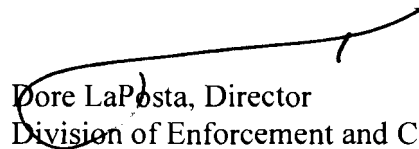
conference **does not** substitute for a written Answer, affect what you may choose to say in an Answer, or extend the thirty (30) days by which you must file an Answer requesting a hearing.

You will find enclosed a copy of the "Consolidated Rules of Practice," which govern this proceeding. (A brief discussion of some of these rules appears in the latter part of the Complaint.)

EPA encourages the use of Supplemental Environmental Projects, where appropriate, as part of any settlement. I am enclosing a brochure on "EPA's Supplemental Environmental Projects Policy." Please note that these are only available as part of a negotiated settlement and are not available if this case has to be resolved by a formal adjudication.

If you have any questions or wish to schedule an informal conference, please contact the attorney whose name is listed in the Complaint.

Sincerely,



Dore LaPosta, Director
Division of Enforcement and Compliance Assistance

Enclosures

cc: Mary Anne Gibbons, Esq.
General Counsel and Senior Vice President
U.S. Postal Service
475 L'Enfant Plaza, S.W.
Washington, D.C. 20260-0010 (Room 6004)

Russ Brauksieck, Chief
Spill Prevention and Bulk Storage Section
NYSDEC
625 Broadway, 11th Floor
Albany, N.Y. 12233

Karen Maples, Regional Hearing Clerk (without enclosures)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG-2
2010 APR -7 PM 3:30
REGIONAL HEARING
MERRILL

In the Matter of

United States Postal Service

COMPLAINT, COMPLIANCE ORDER
AND NOTICE OF OPPORTUNITY
FOR HEARING

Respondent.

Docket No. RCRA-02-2010-7503

Proceeding Under Section 9006
of the Solid Waste Disposal Act,
as amended

COMPLAINT

1. This is a civil administrative proceeding instituted pursuant to Section 9006 of the Solid Waste Disposal Act, as amended, 42 U.S.C. § 6901 et seq. (collectively referred to as "RCRA" or the "Act").
2. Complainant in this proceeding, Dore LaPosta, Director, Division of Enforcement and Compliance Assistance of the United States Environmental Protection Agency, Region 2 (EPA), has been duly delegated the authority to institute this action.
3. Respondent is the United States Postal Service (hereinafter "Respondent").
4. Respondent is a department, agency or instrumentality of the executive branch of the Federal government.
5. Respondent is a "person" within the meaning of Section 9001(5) of the Act, 42 U.S.C. § 6991(6) and 40 C.F.R. § 280.12.
6. Section 9001 of the Act, 42 U.S.C. §6991 and 40 C.F.R. § 280.12 define "underground storage tank" or "UST" to mean any one or combination of tanks (including underground pipes connected thereto) that is used to contain an accumulation of regulated substances, and the volume of which (including the volume of underground pipes connected thereto) is 10 percent or more beneath the surface of the ground.
7. Respondent is or was the "owner" and/or "operator" as those terms are defined in 40 C.F.R. Section § 280.12 of underground storage tanks at various facilities as described in the paragraphs below.

8. Respondent owned and operated a 4,000 gallon gasoline UST located at the United States Postal Service Brooklyn Vehicle Maintenance Facility, 1050 Forbell Street, Brooklyn, NY 11256-9998 (hereinafter "the Brooklyn Facility"). The UST, installed on July 1, 1992 and temporarily closed after EPA's 2006 inspection, supplied fuel for vehicles and had a double-wall fiberglass tank and double-wall steel piping with pressurized pumping.
9. Respondent has owned and operated, and continues to own and operate, four 4,000 gallon diesel USTs (# D01 through D04, also known as UST Systems 1 through 4), and one 4,000 gallon gasoline UST (# G05, also known as UST System 5), at the United States Postal Service Queens Processing and Distribution Center, located at 142-02 20th Avenue, Flushing, NY 11351-9341 (hereinafter "the Queens Facility"). UST Systems 1 through 5 were installed on February 1, 1991, supply fuel for vehicles, and have tanks that are made of STI-P3, with double-wall steel piping and safe suction pumping.
10. Respondent has owned and operated, and continues to own and operate, a 3,000 gallon gasoline UST and a 3,000 gallon diesel UST, located at the United States Postal Service New York International Service Center, JFK Cargo Building No. 250, Jamaica, NY 11430-9802 (hereinafter "the JFK Facility"). The two USTs, installed in March 2000, supply fuel for vehicles and are made of double-wall FRP, and the piping is double-wall FRP with safe suction pumping.
11. Respondent has owned and operated, and continues to own and operate, a 4,000 gallon gasoline UST and a 4,000 gallon diesel UST, at the United States Postal Service FDR Vehicle Maintenance Facility, located at 909 3rd Avenue, New York, NY 10022 (hereinafter "the FDR Facility"). The two USTs, installed in 2000, supply fuel for vehicles and are made of double-wall FRP over steel, and the piping is steel, not in contact with the ground, with pressurized pumping.
12. Respondent has owned and operated, and continues to own and operate, a 12,000 gallon gasoline UST and a 15,000 gallon diesel UST, at the United States Postal Service Western Nassau Vehicle Maintenance Facility, located at 830A Stewart Avenue, Garden City, New York 11599-7932 (hereinafter "the Western Nassau Facility"). The two USTs, installed on April 7, 1992, supply fuel for vehicles and are made of steel, and the piping is non-metallic, with pressurized pumping.
13. Pursuant to §§ 2002, 9002, and 9003 of the Act, 42 U.S.C. §§ 6912, 6991a, and 6991b, EPA promulgated rules setting forth requirements for owners and operators of UST systems, set forth at 40 C.F.R. Part 280.
14. The State of New York has not received State Program Approval for the Underground Storage Tank Program.

Count 1

**Failure of Respondent to Maintain Records of Tank Release Detection Monitoring
UST System Tank at the Brooklyn Facility**

15. Paragraphs 1 through 14 are realleged and incorporated herein.
16. Pursuant to 40 C.F.R. § 280.41(a), owners and operators are required to ensure that UST system tanks must be monitored at least every 30 days for releases from tanks using one of the methods listed in § 280.43(d) through (h).
17. Pursuant to 40 C.F.R. § 280.45(b) the results of any release detection sampling, testing, or monitoring must be maintained for at least 1 year. [See also 40 C.F.R. § 280.34(b)(4)].
18. On August 17, 2006, pursuant to Section 9005 of the Act, 42 U.S.C. § 6991d, an authorized representative of EPA ("Representative") inspected the Brooklyn Facility. The purpose of this inspection was to determine the Respondent's compliance with the Act.
19. During the August 17, 2006 inspection, the EPA Representative made an oral request for the previous twelve months of release detection records for the UST system tank at the Brooklyn Facility.
20. During the August 17, 2006 inspection, in response to the oral request for release detection records, a representative of the Respondent informed the EPA Representative that the Facility did not have records of monthly monitoring of the UST system tank.
21. In its Information Request Letter dated February 15, 2007, EPA requested release detection records for the UST system tank at the Brooklyn Facility for the twelve month period prior to the August 17, 2006 inspection.
22. In its Information Request Letter Response dated April 20, 2007, Respondent failed to provide the requested twelve months of release detection records of the UST system tank at the Brooklyn Facility.
23. At the time of the August 17, 2006 inspection, Respondent had not maintained twelve months of records for the leak detection monitoring of the UST system tank at the Brooklyn Facility.
24. The failure of Respondent to maintain records of release detection for the UST system tank at the Brooklyn Facility for the twelve-month period prior to the August 17, 2006 Inspection constitutes a violation of 40 C.F.R. § 280.45(b).

Count 2
**Respondent's Failure to Maintain Records for Annual Line Tightness Test
Or Monthly Monitoring of Pressurized Piping
UST System Piping at the Brooklyn Facility**

25. Paragraphs 1 through 24 are realleged and incorporated herein.
26. Pursuant to 40 C.F.R. §280.41(b)(1) and §280.45(b), owners and operators of UST system piping must provide release detection, in the form of either an annual line tightness test or monthly release detection monitoring for pressurized piping and documentation of the test results must be maintained for 1 year [See also 40 C.F.R. § 280.34(b)(4)].
27. During the August 17, 2006 inspection of the Brooklyn Facility, the UST system had pressurized piping.
28. In its Information Request Letter dated February 15, 2007, EPA requested records documenting that release detection for the pressurized piping of the UST system at the Brooklyn Facility had been conducted for the twelve month period prior to the August 17, 2006 Inspection.
29. In its Information Request Letter Responses dated April 20, 2007 and June 15, 2007, Respondent agreed that the tank system had pressurized pumping, but failed to provide the requested annual line tightness test records. In an Information Request Letter Response dated May 19, 2008, Respondent stated that it had been unable to locate any line tightness testing records for the year previous to the EPA Inspection. Respondent also failed to document monthly release detection monitoring of the UST piping for the twelve-month period prior to the August 17, 2006 Inspection.
30. Respondent's failure to maintain records of an annual line tightness test or monthly release detection monitoring on the pressurized piping of the Brooklyn Facility UST system for the twelve month period prior to the August 17, 2006 Inspection constitutes a violation of 40 C.F.R. §280.45(b).

Count 3

**Respondent's Failure to Maintain Records of Annual Test of its Automatic Line Leak
Detector for Pressurized Piping
UST system at the Brooklyn Facility**

31. Paragraphs 1 through 30 are realleged and incorporated herein.
32. Pursuant to 40 C.F.R. §280.44(a) and §280.45(b), owners and operators of UST system pressurized piping equipped with an automatic line leak detector (ALLD) must have an annual test of its operation conducted in accordance with the manufacturer's requirements, and documentation of the most recent test results must be maintained for 1 year.
33. During the August 17, 2006 inspection of the Brooklyn Facility, the UST system had pressurized piping.
34. In its Information Request Letter dated February 15, 2007, EPA requested records documenting an annual test of the automatic line leak detector for the pressurized piping of the UST system at the Brooklyn Facility for the twelve month period prior to the August 17, 2006 Inspection.
35. In its Information Request Letter Responses dated April 20, 2007 and June 15, 2007, Respondent agreed that the tank system had pressurized piping, but failed to provide the requested automatic line leak detector test records. In an Information Request Letter Response dated May 19, 2008, Respondent stated that it had been unable to locate any automatic line leak detector testing records for the time period requested.
36. Respondent's failure to maintain records of an annual test of the operation of the automatic line leak detector on the pressurized piping of the Brooklyn Facility UST system piping for one year, constitutes a violation of 40 C.F.R. §280.45(b)

Count 4

**Failure of Respondent to Maintain Records of Tank Release Detection Monitoring
UST Systems 1 through 5 at the Queens Facility**

37. Paragraphs 1 through 36 are realleged and incorporated herein.
38. Pursuant to 40 C.F.R. § 280.41(a), owners and operators are required to ensure that UST system tanks are monitored at least every 30 days for releases from tanks using one of the methods listed in § 280.43(d) through (h).
39. Pursuant to 40 C.F.R. § 280.45(b) the results of any sampling, testing, or monitoring must be maintained for at least 1 year. [See also 40 C.F.R. § 280.34(b)(4)]
40. On August 16, 2006, pursuant to Section 9005 of the Act, 42 U.S.C. § 6991d, an authorized representative of EPA ("Representative") inspected the Queens Facility. The purpose of this inspection was to determine the Respondent's compliance with the Act.
41. During the August 16, 2006 inspection, the EPA Representative made an oral request for release detection records for the preceding twelve months for UST Systems 1 through 5 at the Queens Facility.
42. During the August 16, 2006 inspection, in response to the oral request for release detection records for the past twelve months for UST Systems 1 through 5 at the Queens Facility, a representative of the Respondent informed the EPA Representative that the Facility could not provide the results of monthly monitoring of the UST system tanks.
43. In its Information Request Letter dated February 15, 2007, EPA requested release detection records for the twelve month period prior to the August 2006 inspection for UST Systems 1 through 5 at the Queens Facility.
44. In its Information Request Letter Response dated April 20, 2007, Respondent failed to provide the requested twelve months of release detection records for UST System tanks located at the Queens Facility.
45. At the time of the August 16, 2006 Inspection, Respondent had not maintained twelve months of records for the leak detection monitoring for UST System tanks at the Queens Facility.
46. The failure of Respondent to maintain records of release detection for its UST Systems tanks at the Queens Facility for the twelve month period prior to the August 2006 Inspection constitutes a violation of 40 C.F.R. § 280.45(b).

Count 5
Failure to Continuously Provide Tank Corrosion Protection
Tanks of UST Systems 1 through 5 at the Queens Facility

47. Paragraphs 1 through 46 are realleged and incorporated herein.
48. Pursuant to 40 CFR § 280.31(a), owners and operators of steel UST systems must ensure that all corrosion protection systems are operated and maintained to continuously provide corrosion protection to the metal components of that portion of the tank and piping that routinely contain regulated substances and are in contact with the ground and documentation of such must be maintained pursuant to 40 CFR § 280.34(b).
49. During the January 20, 2009 inspection, Respondent, upon oral inquiry, provided a January 20, 2009 letter from the Louis Berger Group, Inc. (a USPS contractor), stating that the cathodic protection system for the five UST system tanks was not providing sufficient current to protect the tanks.
50. In its Notice of Violation/Information Request Letter dated March 3, 2009, EPA concluded that the cathodic protection system for UST Systems 1 through 5 was not being operated and maintained to continuously provide corrosion protection to the metal components of that portion of the tank that routinely contain regulated substances and was in contact with the ground and requested any information Respondent had to contradict this conclusion.
51. In its Information Request Letter Response dated July 7, 2009, Respondent stated that on December 8, 2008, PCA Engineering, Inc. provided UST system cathodic protection survey results that concluded that the cathodic protection system was not providing sufficient current to protect the tanks.
52. In its Information Request Letter Response dated July 7, 2009, Respondent stated that a larger output rectifier was required to protect the tanks from corrosion and that this was accomplished on May 4, 2009.
53. Between at least December 8, 2008 and May 4, 2009, Respondent had not continuously provided corrosion protection to the tanks of UST Systems 1 through 5.
54. Respondent's failure to continuously provide corrosion protection to the tanks of UST Systems 1 through 5 constitutes a violation of 40 CFR § 280.31(a).

Count 6
Failure of Respondent to Install Cathodic Protection on Piping
UST Systems 1 through 5 at the Queens Facility

55. Paragraphs 1 through 54 are realleged and incorporated herein.
56. Pursuant to 40 C.F.R. § 280.21(c), by December 22, 1998 all existing UST systems with metal piping that routinely contained regulated substances and were in contact with the ground had to be cathodically protected.
57. On August 16, 2006, pursuant to Section 9005 of the Act, 42 U.S.C. § 6991d, an authorized representative of EPA ("Representative") inspected the Queens Facility. The purpose of this inspection was to determine the Respondent's compliance with the Act.
58. At the time of the August 16, 2006 inspection, the Queens Facility utilized metal piping that routinely contained regulated substances and was in contact with the ground.
59. During the August 16, 2006 inspection, in response to an oral inquiry, Respondent's representative could not provide any evidence that the metal piping for Respondent's UST systems 1 through 5 were cathodically protected.
60. In a letter dated January 30, 2007, pursuant to its August 2006 inspection, EPA advised the facility of its concern regarding the inability of the facility to demonstrate compliance with UST corrosion protection regulatory requirements (of which cathodic protection is one).
61. On January 20, 2009, pursuant to Section 9005 of the Act, 42 U.S.C. § 6991d, an authorized representative of EPA ("Representative") inspected the Queens Facility. The purpose of this inspection was to determine the Respondent's compliance with the Act.
62. During the January 2009 inspection, EPA determined that the piping for UST Systems 1 through 5 was single-wall galvanized steel in contact with the ground, and that the facility was unable to provide evidence of cathodic protection installed on the piping for the UST systems.
63. In its Notice of Violation/Information Request Letter dated March 3, 2009, EPA alleged that from the time of the installation of the UST Systems 1 through 5 on February 1, 1991, the piping had not been cathodically protected and requested any information Respondent had contradicting this view.
64. In its Information Request Letter Response dated July 7, 2009, Respondent explained that it had thought the piping for the UST Tanks 1 through 5 was jacketed and thus protected from corrosion. Respondent stated that it had learned from its contractor in 2008 that the piping was single-walled, and later replaced the steel piping with double-walled plastic in

April of 2009.

65. Respondent's failure to install cathodic protection on the piping of UST Systems 1 through 5 at the Queens facility from December 22, 1998 until April 2009 constitutes a violation of 40 C.F.R. § 280.21(c).

Count 7

**Failure to Test, within 6 Months of Installation, Tank Cathodic Protection System
Tanks of UST Systems 1 through 5 at the Queens Facility**

66. Paragraphs 1 through 65 are realleged and incorporated herein.
67. Pursuant to 40 CFR § 280.31(b)(1), all owners and operators of steel UST systems with cathodic protection systems must have the cathodic protection system tested within 6 months of installation and documentation of the test must be maintained pursuant to 40 CFR § 280.34(b).
68. During the January 2009 inspection, Respondent's representative, upon oral inquiry, stated that a newer impressed current cathodic protection system was installed on the tanks of UST Systems 1 through 5 on November 29, 2007 to replace the previously existing cathodic protection system and that no test of the system was conducted within six months of its installation.
69. In its Notice of Violation/Information Request Letter dated March 3, 2009, EPA concluded that Respondent failed to test, within six months of installation, the cathodic protection system for the tanks of UST Systems 1 through 5 at the Queens Facility and requested information that would contradict this conclusion.
70. In its Information Request Letter Response dated July 7, 2009, Respondent stated at one point that the impressed current cathodic protection system was installed on UST Systems 1 through 5 on November 29, 2007, and at another point that the impressed current cathodic protection system was installed on November 26, 2007.
71. By no later than six months after November 29, 2007 (that is, May 29, 2008), Respondent was required to test the impressed current cathodic protection system installed on UST Systems 1 through 5.
72. In its Information Request Letter Response dated July 7, 2009, Respondent stated that on April 29, 2008, it had tested the cathodic protection system five months after installation of the cathodic protection system and provided a copy of the system test as Attachment B.
73. Attachment B (entitled: RAM Services' Cathodic Protection Operating Record) to Respondent's Information Request Letter Response dated July 7, 2009 makes no

reference to testing the cathodic protection system and only states that on April 29, 2008, RAM Services only found a blown fuse, replaced the fuse and readjusted it.

74. Respondent's contractor's fuse replacement and readjustment does not constitute a cathodic protection test.
75. A test of the cathodic protection system was required to be conducted six months after installation (no later than May 29, 2008). Respondent has provided EPA with no documentation that the required test was performed within the regulatory deadline.
76. In its Information Request Letter Response dated July 7, 2009, Respondent stated that on December 8, 2008, PCA Engineering, Inc. completed an inspection and testing of the impressed current cathodic protection system installed on UST Systems 1 through 5.
77. Between May 29, 2008 and December 7, 2008, Respondent failed to test, within six months of installation, the impressed current corrosion protection system for the tanks of UST Systems 1 through 5.
78. Respondent's failure to conduct a test, within six months of installation, of the impressed current cathodic protection system for the tanks of UST Systems 1 through 5 constitutes a violation of 40 CFR § 280.31(b)(1).

Count 8

Failure of Respondent to Maintain Records Of the Last Two Triennial Tests of Tank Cathodic Protection Systems UST Systems 1 through 5 at the Queens Facility

79. Paragraphs 1 through 78 are realleged and incorporated herein.
80. Pursuant to 40 C.F.R. § 280.31(b)(1), all owners and operators of UST systems equipped with cathodic protection systems must have them inspected for proper operation by a qualified cathodic protection tester at least every 3 years.
81. Pursuant to 40 C.F.R. § 280.31(d), the results of the last two triennial cathodic protection tests must be maintained to demonstrate compliance with performance standards.
82. On August 16, 2006, pursuant to Section 9005 of the Act, 42 U.S.C. § 6991d, an authorized representative of EPA ("Representative") inspected the Queens Facility. The purpose of this inspection was to determine the Respondent's compliance with the Act.
83. At the time of the August 16, 2006 inspection, Respondent's UST system tanks at the Queens Facility were equipped with cathodic protection.

84. During the Inspection, Respondent's representative could not provide any evidence that the cathodic protection system for UST Systems 1 through 5 had been inspected by a qualified cathodic protection tester for the last two triennial periods.
85. In its Information Request Letter dated February 15, 2007, EPA requested the results of the last two tests, prior to the August 2006 inspection, of the cathodic protection system for UST Systems 1 through 5 at the Queens Facility.
86. In its Information Request Letter Response dated April 20, 2007, Respondent failed to provide the results of the last two tests, prior to the August 2006 inspection, of the cathodic protection system for UST Systems 1 through 5 at the Queens Facility.
87. Respondent's failure to maintain records of the results of testing from the last two triennial tests of, the cathodic protection system for the tanks of UST Systems 1 through 5 at the Queens Facility constitutes a violation of 40 C.F.R. § 280.31(d).

Count 9

**Failure to Maintain Records of Inspection, every 60 Days, of Impressed Current
Corrosion Protection System
Tanks of UST Systems 1 through 5 at the Queens Facility**

88. Paragraphs 1 through 87 are realleged and incorporated herein.
89. Pursuant to 40 CFR § 280.31(c), owners and operators of UST systems with impressed current cathodic protection systems must have them inspected every 60 days to ensure the equipment is running properly and documentation of such must be maintained pursuant to 40 CFR § 280.34(b).
90. During the January 20, 2009 inspection, upon inquiry, Respondent produced an April 29, 2008 e-mail from RAM Services to the Queens Facility indicating that impressed current cathodic protection systems are required to be monitored every 60 days and that a log must be kept documenting same.
91. During the January 20, 2009 inspection, Respondent's representatives, upon oral inquiry, stated that no logs of this monitoring existed for the impressed current cathodic protection system of UST Systems 1 through 5.
92. In its Notice of Violation/Information Request Letter dated March 3, 2009, EPA alleged the lack of 60-day logs of the inspections of the impressed current cathodic protection systems of UST Systems and requested any information Respondent had contradicting this allegation.

93. In its Information Request Letter Response dated July 7, 2009, Respondent stated that its impressed current cathodic protection system was installed on November 26, 2007 (and at another point in the response, on November 29, 2007), and Respondent provided impressed current inspection logs beginning April 22, 2009.
94. Between January 29, 2008 (sixty days after later date for the impressed-current cathodic protection installation) and April 21, 2009, Respondent had not documented inspections of its impressed current cathodic protection system for the tanks of UST Systems 1 through 5.
95. Respondent's failure to maintain records of inspection, every sixty days, of the impressed current cathodic protection system for the tanks of UST Systems 1 through 5 constitutes a violation of 40 CFR § 280.34(b).

Count 10

**Failure of Respondent to Maintain Records of Tank Release Detection Monitoring
UST System Tanks at the JFK Facility**

96. Paragraphs 1 through 95 are realleged and incorporated herein.
97. Pursuant to 40 C.F.R. § 280.41(a), owners and operators are required to ensure that UST system tanks are monitored at least every 30 days for releases from tanks using one of the methods listed in § 280.43(d) through (h).
98. Pursuant to 40 C.F.R. § 280.45(b) the results of any sampling, testing, or monitoring must be maintained for at least 1 year. [See also 40 C.F.R. § 280.34(b)(4)]
99. On August 14, 2006, pursuant to Section 9005 of the Act, 42 U.S.C. § 6991d, an authorized representative of EPA inspected the JFK Facility. The purpose of this inspection was to determine the Respondent's compliance with the Act.
100. During the August 14, 2006 inspection, the EPA Representative made an oral request for release detection records for the past 12 months for the two UST system tanks at the JFK Facility.
101. During the August 2006 Inspection, in response to the oral request for release detection records, representatives of the Respondent could not provide records of monthly monitoring of UST system tanks at the JFK Facility.
102. In its Notice of Violation/Information Request Letters dated February 15, and May 18, 2007, EPA requested release detection records for the twelve month period prior to the

August 2006 Inspection.

103. In its Information Request Letter Responses dated April 20, and June 15, 2007 Respondent failed to provide the requested twelve months of release detection records for UST Tanks at the JFK Facility.
104. At the time of the August 14, 2006 inspection, Respondent had not maintained twelve months of records for the release detection monitoring for the UST system tanks at the JFK Facility.
105. The failure of Respondent to maintain records of release detection records for UST system tanks at the JFK Facility for the twelve month period prior to the August 2006 Inspection constitutes a violation of 40 C.F.R. § 280.45(b).

Count 11

**Failure of Respondent to Maintain Records of Tank Release Detection Monitoring
Two UST System Tanks at the FDR Facility**

106. Paragraphs 1 through 105 are realleged and incorporated herein.
107. Pursuant to 40 C.F.R. § 280.41(a), owners and operators are required to ensure that UST system tanks must be monitored at least every 30 days for releases from tanks using one of the methods listed in § 280.43(d) through (h).
108. Pursuant to 40 C.F.R. § 280.45(b) the results of any sampling, testing, or monitoring must be maintained for at least 1 year. [See also 40 C.F.R. § 280.34(b)(4)]
109. On April 1, 2008, pursuant to Section 9005 of the Act, 42 U.S.C. § 6991d, an authorized representative of EPA inspected the FDR Facility. The purpose of this inspection was to determine the Respondent's compliance with the Act.
110. During the April 1, 2008 inspection, the EPA Representative made an oral request for release detection records for the past 12 months for UST system tanks at the FDR Facility.
111. During the April 1, 2008 inspection, in response to the EPA Representative's oral request for release detection records, representatives of the Respondent could not provide records of monthly monitoring of the UST system tanks at the FDR Facility, except for the month of March 2008.
112. In its Notice of Violation/Information Request Letter dated May 13, 2008, EPA requested release detection records for the twelve month period prior to the April 1, 2008 inspection for the UST system tanks at the FDR Facility.

113. As of the date of issuance of this Complaint, Respondent has not responded to the May 13, 2008 Information Request Letter.
114. At the time of the April 1, 2008 inspection, Respondent had not maintained twelve months of records for the release detection monitoring for the UST system tanks at the FDR Facility.
115. The failure of Respondent to maintain records of release detection for the UST system tanks at the FDR Facility for the twelve month period prior to the April 1, 2008 Inspection constitutes a violation of 40 C.F.R. § 280.45(b).

Count 12

**Respondent's Failure to Maintain Records of Annual Test of its Automatic Line Leak
Detector for Pressurized Piping
Two UST Systems at the FDR Facility**

116. Paragraphs 1 through 115 are realleged and incorporated herein.
117. Pursuant to 40 C.F.R. §280.44(a) and §280.45(b), owners and operators of UST system pressurized piping equipped with an automatic line leak detector (ALLD) must have an annual test of its operation conducted in accordance with the manufacturer's requirements, and documentation of the most recent test results must be maintained for 1 year.
118. At the time of the April 1, 2008 inspection of the FDR Facility the two UST systems had pressurized piping equipped with ALLDs.
119. In its Notice of Violation/Information Request Letter dated May 13, 2008, EPA requested records documenting testing of the automatic line leak detectors (ALLDs) for the pressurized piping of the two UST Systems at the FDR Facility for the twelve-month period prior to the April 1, 2008 Inspection.
120. As of the date of issuance of this Complaint, Respondent has not responded to the May 13, 2008 Information Request Letter.
121. Respondent's failure to maintain records of an annual test of the operation of the automatic line leak detector on the pressurized piping of the FDR Facility UST system piping for one year, constitutes a violation of 40 C.F.R. §280.45(b)

Count 13

**Respondent's Failure to Properly Install and Maintain Overfill Prevention Equipment
Two UST Systems at the FDR Facility**

122. Paragraphs 1 through 121 are realleged and incorporated herein.
123. Pursuant to 40 C.F.R. §280.20(c), to prevent overfill associated with transfer of product to the UST system, owners and operators must use overfill prevention equipment.
124. Pursuant to 40 C.F.R. §280.20(c), the overfill prevention equipment must be installed so as to alert the operator with an alarm before overfilling or to automatically restrict or shut off the flow of product to the UST system.
125. During the April 1, 2008 inspection of the FDR Facility, the EPA representative observed that the overfill alarm for the two UST Systems was a visual alarm consisting of an indicator light which was located out of sight of the two UST System fill ports and which would not be seen by the operator in case of an overfill.
126. During the April 1, 2008 inspection of the FDR Facility, the EPA representative observed that UST systems did not have equipment that would automatically restrict or shut off the flow of product to the UST system to prevent an overfill.
127. Respondent's installation of its overfill prevention equipment in such a manner that the operator would not be alerted in the case of an overfill or that the flow of product would not be automatically restricted or shut off constitutes a violation of 40 C.F.R. §280.20(c)

Count 14

**Failure to Test, within 6 Months of Installation, Tank Cathodic Protection System
Two UST System Tanks at the Western Nassau Facility**

128. Paragraphs 1 through 127 are realleged and incorporated herein.
129. Pursuant to 40 CFR § 280.31(b)(1), all owners and operators of steel UST systems with cathodic protection systems must have the cathodic protection system tested within 6 months of installation and documentation of the test must be maintained pursuant to 40 CFR § 280.34(b).
130. On October 15, 2009, pursuant to Section 9005 of the Act, 42 U.S.C. § 6991d, an authorized representative of EPA inspected the Western Nassau Facility. The purpose of this inspection was to determine the Respondent's compliance with the Act.
131. During the October 15, 2009 inspection, Respondent's representatives, upon inquiry,

provided a document indicating that the cathodic protection system on the tanks of the UST systems was installed on February 29, 2008.

132. During the inspection, Respondent's representatives, upon oral inquiry, when asked about whether a test of the system was conducted within six months of its installation, responded that a test was in the process of being funded.
133. In its Notice of Violation/Information Request Letter dated October 19, 2009, EPA concluded that Respondent failed to test, within six months of installation, the cathodic protection system for the tanks of the UST systems at the Western Nassau Facility and requested that Respondent provide any information contradicting this conclusion.
134. In its Information Request Letter Response dated November 20, 2009, Respondent stated that "a test of the operation of the system is scheduled for November 20, 2008[sic]."
135. By no later than six months after the February 29, 2008 installation (that is, by or about August 29, 2008), Respondent was required to test the cathodic protection system installed for the tanks of the UST systems at the Western Nassau Facility.
136. Respondent's failure to conduct a test, within six months of installation, of the cathodic protection system for the tanks of the UST systems at the Western Nassau Facility constitutes a violation of 40 CFR § 280.31(b)(1).

Count 15

Failure to Continuously Provide Tank Corrosion Protection

Diesel Tank at the Western Nassau Facility

137. Paragraphs 1 through 136 are realleged and incorporated herein.
138. Pursuant to 40 CFR § 280.31(a), owners and operators of steel UST systems must ensure that all corrosion protection systems are operated and maintained to continuously provide corrosion protection to the metal components of that portion of the tank and piping that routinely contain regulated substances and are in contact with the ground and documentation of such must be maintained pursuant to 40 CFR § 280.34(b).
139. On October 16, 2009, in response to a request made by the EPA Representative during the inspection the previous day, Respondent's representatives provided a Crompco, LLC certificate of testing of, inter alia, the corrosion protection system for the tanks of the UST systems at the Western Nassau Facility.
140. The Crompco, LLC certificate of testing states that on August 2, 2007, the corrosion protection system for the tank of the diesel UST system at the Western Nassau Facility

was tested and found not to be protecting the tank from corrosion.

141. During the October 15, 2009 inspection, Respondent's representatives, upon oral inquiry, provided a document indicating that a replacement impressed current cathodic protection system for the tanks of the gasoline and diesel UST systems was installed on February 29, 2008.
142. Between at least August 2, 2007 and February 28, 2008, Respondent had not continuously provided corrosion protection to the tank of the diesel UST system at the Western Nassau Facility.
143. Respondent's failure to continuously provide corrosion protection to the tank of the diesel UST system at the Western Nassau Facility constitutes a violation of 40 CFR § 280.31(a).

Count 16

Respondent's Failure to Maintain Records of an Annual Test of the Operation of Automatic Line Leak Detectors

Two UST Systems at the Western Nassau Facility

144. Paragraphs 1 through 143 are realleged and incorporated herein.
145. Pursuant to 40 C.F.R. §280.44(a) and §280.45(b), owners and operators of UST system pressurized piping equipped with an automatic line leak detector (ALLD) must have an annual test of its operation conducted in accordance with the manufacturer's requirements, and documentation of the most recent test results must be maintained for 1 year.
146. During the October 15, 2009 inspection, the two UST systems at the Western Nassau Facility had pressurized piping that was equipped with ALLDs.
147. Upon oral inquiry during the inspection, Respondent's representatives were unable to provide any annual tests that had been conducted on the automatic line leak detectors for the piping of the two UST systems at the Western Nassau Facility.
148. On October 16, 2009, Respondent's representatives provided an August 2, 2007 test of the automatic line leak detectors for piping of the two UST systems at the Western Nassau Facility.
149. In its Information Request Letter dated October 19, 2009, EPA requested records documenting testing of the automatic line leak detectors (ALLDs) for the pressurized pumping of the two UST systems at the Western Nassau Facility for the twelve month

period prior to the October 2009 Inspection.

150. In its Information Request Letter Response dated November 20, 2009, Respondent again provided a copy of the August 2, 2007 test, but failed to provide a copy of any later test of its ALLDs.
151. Respondent's failure to maintain records of an annual test of the operation of the automatic line leak detectors on pressurized piping at the Western Nassau Facility UST systems constitutes a violation of 40 C.F.R. §280.45(b).

Count 17

**Respondent's Failure to Maintain Records for Annual Line Tightness Test
Or Monthly Monitoring of Pressurized Piping
Two UST Systems at the Western Nassau Facility**

152. Paragraphs 1 through 151 are realleged and incorporated herein.
153. Pursuant to 40 C.F.R. §280.41(b)(1) and §280.45(b), an annual line tightness test for pressurized piping must be conducted and documentation of the most recent test results must be maintained for 1 year, or the facility must conduct monthly release detection monitoring of the pressurized piping.
154. During the October 15, 2009 inspection, the EPA Representative made an oral request for an annual line tightness test or release detection monitoring records for the past 12 months for the piping of the two UST systems at the Western Nassau Facility.
155. During the October 2009 inspection, in response to the EPA Representative's oral request, representatives of the Respondent could not provide an annual line tightness test or release detection monitoring results for the piping at the two UST systems at the Western Nassau Facility for the months February through October 2009.
156. On October 16, 2009, Respondent's representative provided documentation of only one line tightness test conducted on August 2, 2007 for the piping at two UST systems at the Western Nassau Facility.
157. In its Notice of Violation/Information Request Letter dated October 19, 2009, EPA requested testing records for an annual line tightness test or release detection monitoring records for the twelve month period prior to the October 2009 Inspection for the piping at the two UST systems at the Western Nassau Facility.
158. In its Information Request Letter Response dated November 20, 2009, Respondent again

provided a copy of the August 2, 2007 test but failed to provide any later test or other monitoring documentation.

159. At the time of the October 2009 inspection, Respondent had not maintained records of an annual line tightness test within the past 12 months or maintained the full twelve months of records of release detection monitoring for piping at the two UST systems at the Western Nassau Facility.
160. The failure of Respondent to maintain records of an annual line tightness test or records of release detection monitoring for the piping of the two UST systems at the Western Nassau Facility for the twelve-month period prior to the October 2009 Inspection constitutes a violation of 40 C.F.R. §280.45(b).

PROPOSED CIVIL PENALTY

Section 9007 of the Act and Section 9006(d)(2)(A) of the Act, 42 U.S.C. § 6991e (d)(2)(A), authorizes the assessment of a civil penalty against a federal department or agency of up to \$10,000 for each tank for each day of violation of any requirement or standard promulgated by the Administrator. The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection and Improvement Act of 1996, Pub. L. No. 104-34, 110 Stat. 1321 (1996), required EPA to adjust its penalties for inflation on a periodic basis. EPA issued a Civil Monetary Penalty Inflation Adjustment Rule on December 31, 1996, 61 Fed. Reg. 69360 on February 13, 2004, 69 Fed. Reg. 7121 and on December 11, 2008, 73 Fed. Reg. 75340, codified at 40 C.F.R. Part 19.

Under Table I of the Civil Monetary Penalty Inflation Adjustment Rule, the maximum civil penalty under 42 U.S.C. § 6991e(d)(2) for each tank for each day of violation occurring after March 15, 2004 and before January 13, 2009 is \$11,000. The maximum penalty for violations occurring after January 12, 2009 is \$16,000.

The penalties are proposed pursuant to the "U.S. EPA Penalty Guidance for Violations of UST Requirements" dated November 1990 ("UST Guidance"). The penalty amounts in this guidance were amended by a September 21, 2004 document entitled, "Modifications to EPA Penalty Policies to implement the Civil Monetary Penalty Inflation Rule (pursuant to the Debt Collection Improvement Act of 1996, Effective on October 1, 2004)" and a December 29, 2008 document entitled "Amendments to EPA's Civil Penalty Policies to Implement the 2008 Civil Monetary Penalty Inflation Adjustment Rule (Effective January 12, 2009)." (These documents are available upon request.) This UST guidance provides a rational, consistent, and equitable calculation methodology for applying the statutory penalty factors to particular cases.

Based upon the facts alleged in this Complaint and taking into account factors such as the seriousness of the violations and any good faith efforts by the Respondent to comply with the

applicable requirements, the Complainant proposes, subject to receipt and evaluation of further relevant information, to assess the following civil penalties:

Count 1: a civil penalty of **\$7,253** was calculated against Respondent for failure to Maintain Records of Release Detection Monitoring for the UST System Tank at the Brooklyn Facility

Count 2: a civil penalty of **\$7,253** was calculated against Respondent for failure to Maintain Records of an Annual Line Tightness Test or Monthly Monitoring Records for Pressurized Piping for the UST system at the Brooklyn Facility

Count 3: a civil penalty of **\$7,253** was calculated against Respondent for failure to Maintain Records of an Annual Test of its Automatic Line Leak Detector for Pressurized Piping for the UST system at the Brooklyn Facility

Count 4: a civil penalty of **\$7,253** was calculated against Respondent for failure to Maintain Records of Release Detection Monitoring of UST System Tank at the Queens Facility

Count 5: a civil penalty of **\$35,624** was calculated against Respondent for failure to Continuously Provide Corrosion Protection to the Tanks of UST Systems at the Queens Facility

Count 6: a civil penalty of **\$96,255** was calculated against Respondent for failure to Install Cathodic Protection for the Piping of UST Systems at the Queens Facility

Count 7: a civil penalty of **\$31,914** was calculated against Respondent for Failure to Test, within Six Months of Installation, the Cathodic Protection System for the Tanks of UST Systems at the Queens Facility

Count 8: a civil penalty of **\$32,643** was calculated against Respondent for failure to Maintain the Results of Cathodic Protection Testing of Tanks of UST Systems at the Queens Facility from the Last Two Triennial Inspections

Count 9: a civil penalty of **\$33,350** was calculated against Respondent for failure to Maintain Records of Inspection, every Sixty Days, of the Corrosion Protection System of the Tanks of UST Systems at the Queens Facility

Count 10: a civil penalty of **\$7,253** was calculated against Respondent for failure to Maintain Records of Release Detection Monitoring of UST System Tanks at the JFK Facility

Count 11: a civil penalty of **\$6,045** was calculated against Respondent for failure to Maintain Records of Release Detection Monitoring of UST System Tanks at the FDR Facility

Count 12: a civil penalty of **\$9,670** was calculated against Respondent for failure to Maintain Records of an Annual Test of the Operation of the Automatic Line Leak Detectors (ALLDs) for Pressurized Piping for UST Systems at the FDR Facility.

Count 13: a civil penalty of **\$14,540** was calculated against Respondent for failure to Properly Install and Maintain Overfill Prevention Equipment for UST systems at the FDR Facility

Count 14: a civil penalty of **\$25,992** was calculated against Respondent for failure to Test, within Six Months of Installation, the Cathodic Protection System for the Tanks of Two UST Systems at the Western Nassau Facility

Count 15: a civil penalty of **\$7,254** was calculated against Respondent for Failure to Continuously Provide Corrosion Protection for the Tank of the Diesel UST System at the Western Nassau Facility

Count 16: a civil penalty of **\$19,916** was calculated against Respondent for Failure to Maintain Records of an Annual Test of the Operation of the Automatic Line Leak Detectors (ALLDs) for Pressurized Piping for the Two UST Systems at the Western Nassau Facility

Count 17: a civil penalty of **\$363** was calculated against Respondent for Failure to Maintain Records of Annual Line Tightness Tests or Monthly Monitoring Records for the Piping at Two UST Systems at the Western Nassau Facility

The Total Proposed Penalty Amount for these violations is \$349,831

Penalty Computation Worksheets explaining the rationale for the proposed civil penalties in this specific case are attached to this Complaint.

COMPLIANCE ORDER

Based on the foregoing, and pursuant to the authority of Sections 9006 and 9007 of the Act, 42 U.S.C. § 6991e and 6991f, Complainant issues the following Compliance Order against Respondent, which shall take effect thirty (30) days after service of this Order (i.e., the effective date), unless by that date, the Respondent has requested a hearing pursuant to 40 C.F.R. § 22.15. See 42 U.S.C. § 6991(e)(b) and 40 C.F.R. §§ 22.37(b) and 22.7(c):

1. Respondent shall, within thirty (30) days after the effective date of this Order, comply with all applicable new UST system standards under 40 C.F.R. Section 280 for the UST systems at the Respondent's Facilities in this Order.
2. Respondent shall, within forty-five (45) calendar days after the effective date of this Order, submit to EPA written notice of its compliance (accompanied by a copy of all appropriate supporting documentation) or noncompliance for each of the requirements set forth herein. If the Respondent is in noncompliance with a particular requirement, the notice shall state the reasons

for noncompliance and shall provide a schedule for achieving expeditious compliance with the requirement. Such written notice shall contain the following certification:

I certify that the information contained in this written notice and the accompanying documents is true, accurate and complete. As to the identified portions of this response for which I cannot personally verify their accuracy, I certify under penalty of law that this response and all attachments were prepared in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

Signature: _____
Name: _____
Title: _____

Respondent shall submit the documents specified above to:

Charles Zafonte
Enforcement Officer
U.S. EPA Region 2
Compliance Assistance and Program Support Branch
290 Broadway, 21st Floor
New York, NY 10007-1866

NOTICE OF LIABILITY FOR ADDITIONAL CIVIL PENALTIES

Pursuant to Sections 9006(a)(3) and 9007 of the Act, 42 U.S.C. §6991e(a)(3) and 6991(f), and in accordance with the Debt Collection and Improvement Act of 1996, Pub. L. No. 104-34, 110 Stat. 1321 (1996) and the regulations promulgated thereunder (see the Civil Monetary Inflation Rule, 61 Fed. Reg. 69630 (December 31, 1996), 69 Fed. Reg. 7121 (February 13, 2004) and 73 Fed. Reg. 75340-46 (December 11, 2008), codified at 40 C.F.R. Part 19), a violator failing to comply with a Compliance Order within the time specified in the Order is liable for a civil penalty up to \$37,500 for each day of continued noncompliance.

PROCEDURES GOVERNING THIS ADMINISTRATIVE LITIGATION

The rules of procedure governing this civil administrative litigation have been set forth in 64 Fed. Reg. 40138 (July 23, 1999), entitled, "CONSOLIDATED RULES OF PRACTICE

GOVERNING THE ADMINISTRATIVE ASSESSMENTS OF CIVIL PENALTIES, ISSUANCE OF COMPLIANCE OR CORRECTIVE ACTION ORDERS, AND THE REVOCATION, TERMINATION OR SUSPENSION OF PERMITS” (hereinafter “Consolidated Rules”), and which are to be codified at 40 C.F.R. Part 22. A copy of these rules accompanies this “Complaint, Compliance Order, and Notice of Opportunity for Hearing” (hereinafter the “Complaint”).

A. Answering the Complaint

Where Respondent intends to contest any material fact upon which the Complaint is based, to contend that the proposed penalty and/or the compliance order is inappropriate or to contend that Respondent is entitled to judgment as a matter of law, Respondent must file with the Regional Hearing Clerk of EPA, Region 2, both an original and one copy of a written answer to the Complaint, and such Answer must be filed within 30 days after service of the Complaint. 40 C.F.R. §§ 22.15(a) and 22.7(c). The address of the Regional Hearing Clerk of EPA, Region 2, is:

**Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th floor
New York, New York 10007-1866**

Respondent shall also then serve one copy of the Answer to the Complaint upon Complainant and any other party to the action. 40 C.F.R. § 22.15(a).

Respondent’s Answer to the Complaint must clearly and directly admit, deny, or explain each of the factual allegations that are contained in the Complaint and with regard to which Respondent has any knowledge. 40 C.F.R. § 22.15(b). Where Respondent lacks knowledge of a particular factual allegation and so states in its Answer, the allegation is deemed denied. 40 C.F.R. § 22.15(b). The Answer shall also set forth: (1) the circumstances or arguments that are alleged to constitute the grounds of defense; (2) the facts that Respondent disputes (and thus intends to place at issue in the proceeding); and (3) whether Respondent requests a hearing. 40 C.F.R. § 22.15(b).

Respondent’s failure to affirmatively raise in the Answer facts that constitute or that might constitute the grounds of its defense may preclude Respondent, at a subsequent stage in this proceeding, from raising such facts and/or from having such facts admitted into evidence at a hearing.

B. Opportunity to Request a Hearing

If requested by Respondent in its Answer, a hearing upon the issues raised by the Complaint and Answer may be held. 40 C.F.R. § 22.15(c). If, however, Respondent does not request a hearing, the Presiding Officer (as defined in 40 C.F.R. § 22.3) may hold a hearing if the Answer raises issues appropriate for adjudication. 40 C.F.R. § 22.15(c). With regard to the Compliance Order in the Complaint, unless Respondent requests a hearing pursuant to 40 C.F.R. § 22.15 within 30 days after such Order is served, such Order shall automatically become final. 40 C.F.R. § 22.37.

Any hearing in this proceeding will be held at a location determined in accordance with 40 C.F.R. § 22.21(d). A hearing of this matter will be conducted in accordance with the provisions of the Administrative Procedure Act, 5 U.S.C. §§ 551-59, and the procedures set forth in Subpart D of 40 C.F.R. Part 22.

C. Failure to Answer

If Respondent fails in its Answer to admit, deny, or explain any material factual allegation contained in the Complaint, such failure constitutes an admission of the allegation. 40 C.F.R. § 22.15(d). If Respondent fails to file a timely [i.e. in accordance with the 30-day period set forth in 40 C.F.R. § 22.15(a)] Answer to the Complaint, Respondent may be found in default upon motion. 40 C.F.R. § 22.17(a). Default by Respondent constitutes, for purposes of the pending proceeding only, an admission of all facts alleged in the Complaint and a waiver of Respondent's right to contest such factual allegations. 40 C.F.R. § 22.17(a). Following a default by Respondent for a failure to timely file an Answer to the Complaint, any order issued therefor shall be issued pursuant to 40 C.F.R. § 22.17(c).

Any penalty assessed in the default order shall become due and payable by Respondent without further proceedings 30 days after the default order becomes final pursuant to 40 C.F.R. § 22.27(c). 40 C.F.R. § 22.17(d). If necessary, EPA may then seek to enforce such final order of default against Respondent, and to collect the assessed penalty amount. Any default order requiring compliance action shall be effective and enforceable against Respondent without further proceedings on the date the default order becomes final under 40 C.F.R. § 22.27(c). 40 C.F.R. § 22.17(d).

D. Exhaustion of Administrative Remedies

Where Respondent fails to appeal an adverse initial decision to the Environmental Appeals Board pursuant to 40 C.F.R. § 22.30, and that initial decision thereby becomes a final order pursuant to the terms of 40 C.F.R. § 22.27(c), Respondent waives its right to confer with the Administrator. 40 C.F.R. § 22.31(e).

In order to appeal an initial decision to the Agency's Environmental Appeals Board [EAB; see 40 C.F.R. § 1.25(e)], Respondent must do so "Within thirty (30) days after the initial decision is

served” upon the parties. 40 C.F.R. § 22.30(a). Pursuant to 40 C.F.R. § 22.7(c), where service is effected by mail, “. . .5 days shall be added to the time allowed by these Consolidated Rules of Practice for the filing of a responsive document”. Note that the 45-day period provided for in 40 C.F.R. § 22.27(c) [discussing when an initial decision becomes a final order] does not pertain to or extend the time period prescribed in 40 C.F.R. § 22.30(a) for a party to file an appeal to the EAB of an adverse initial decision.

INFORMAL SETTLEMENT CONFERENCE

Whether or not Respondent requests a formal hearing, EPA encourages settlement of this proceeding consistent with the provisions of the Act and its applicable regulations. 40 C.F.R. § 22.18(b). At an informal conference with a representative(s) of Complainant, Respondent may comment on the charges made in this Complaint, and Respondent may also provide whatever additional information that it believes is relevant to the disposition of this matter, including: (1) actions Respondent has taken to correct any or all of the violations herein alleged; (2) any information relevant to Complainant’s calculation of the proposed penalty; (3) the effect the proposed penalty would have on Respondent’s ability to continue in business; and/or (4) any other special facts or circumstances Respondent wishes to raise.

Complainant has the authority to modify the amount of the proposed penalty, where appropriate, to reflect any settlement agreement reached with Respondent, to reflect any relevant information previously not known to Complainant, or to dismiss any or all of the charges, if Respondent can demonstrate that the relevant allegations are without merit and that no cause of action as herein alleged exists. Respondent is referred to 40 C.F.R. § 22.18.

Any request for an informal conference or any questions that Respondent may have regarding this Complaint should be directed to:

Stuart N. Keith
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th floor
New York, New York 10007-1866
(212) 637- 3217
(212) 637-3199 (fax)

The parties may engage in settlement discussions irrespective of whether Respondent has requested a hearing. 40 C.F.R. § 22.18(b)(1). Respondent’s requesting a formal hearing does not prevent it from also requesting an informal settlement conference; the informal conference procedure may be pursued simultaneously with the formal adjudicatory hearing procedure. A request for an informal settlement conference constitutes neither an admission nor a denial of any

of the matters alleged in the Complaint. Complainant does not deem a request for an informal settlement conference as a request for a hearing as specified in 40 C.F.R. § 22.15(c).

A request for an informal settlement conference does not affect Respondent's obligation to file a timely Answer to the Complaint pursuant to 40 C.F.R. § 22.15. No penalty reduction, however, will be made simply because an informal settlement conference is held.


Any settlement that may be reached as a result of an informal settlement conference shall be embodied in a written consent agreement. 40 C.F.R. § 22.18(b)(2). In accepting the consent agreement, Respondent waives its right to contest the allegations in the Complaint and waives its right to appeal the final order that is to accompany the consent agreement. 40 C.F.R. § 22.18(b)(2). In order to conclude the proceeding, a final order ratifying the parties' agreement to settle will be executed. 40 C.F.R. § 22.18(b)(3).

Respondent's entering into a settlement through the signing of such Consent Agreement and its complying with the terms and conditions set forth in the such Consent Agreement terminates this administrative litigation and the civil proceedings arising out of the allegations made in the Complaint. Respondent's entering into a settlement does not extinguish, waive, satisfy or otherwise affect its obligation and responsibility to comply with all applicable statutory and regulatory requirements, and to maintain such compliance.

RESOLUTION OF THIS PROCEEDING WITHOUT HEARING OR CONFERENCE

If, instead of filing an Answer, Respondent wishes not to contest the Compliance Order in the Complaint and wants to pay the total amount of the proposed penalty within thirty (30) days after receipt of the Complaint, Respondent should promptly contact the Assistant Regional Counsel identified above.

Dated: MARCH 31, 2010



Dore LaPosta, Director
Division of Enforcement and Compliance Assistance
U.S. Environmental Protection Agency -Region 2
290 Broadway
New York, NY 10007-1866

To: Timothy C. Haney
Vice President
Area Operations (Northeast Area)
U.S. Postal Service
6 Griffin Road North
Windsor, CT 06006-7010

cc: Mary Anne Gibbons, Esq.
General Counsel and Senior Vice President
U.S. Postal Service
475 L'Enfant Plaza, S.W.
Washington, D.C. 20260-0010 (Room 6004)

Russ Brauksieck, Chief
Spill Prevention and Bulk Storage Section
NYSDEC
625 Broadway, 11th Floor
Albany, N.Y. 12233

CERTIFICATE OF SERVICE

This is to certify that I have this day caused to be mailed a copy of the foregoing Complaint, Compliance Order, and Notice of Opportunity for Hearing, bearing docket number RCRA-02-2010-7503, and a copy of the Consolidated Rules of Practice, 40 C.F.R. Part 22, by certified mail, return receipt requested, to Timothy C. Haney, Vice President, Area Operations (Northeast Area), U.S. Postal Service, 6 Griffin Road North, Windsor, CT 06006-7010. I hand-carried the original and a copy of the foregoing Complaint to the Office of Regional Hearing Clerk, United States Environmental Protection Agency, Region 2.

Dated: APR - 6 2010
New York, New York

Smedra H. Bag

Enclosure II
PENALTY COMPUTATION WORKSHEET

TOTAL, COUNTS 1 – 17:

\$349,831

Count 1: **Respondent's Failure to Maintain Tank Release Detection Records**
 UST System Tank at the Brooklyn Facility

Part 1: Background

Facility in violation: Brooklyn Facility

<u>Violation:</u>	<u>Regulation</u>	<u>Non-compliance</u>
	40 C.F.R. § 280.45(b)	Failure to maintain required release detection monitoring records for the UST System Tank at the Brooklyn Facility

Penalty Calculation Period:

Date Gravity-based Penalty Calculations Started: Violation started one year previous to the Inspection Date of August 17, 2006.

Date Gravity-based Penalty Calculations Ended: Violation ended on the Inspection Date.

1. Days of Noncompliance for Gravity-Based Penalty: 365 days
2. Number of Tanks: 1

Part 2: Economic Benefit Component / Cost Savings

3. Economic Benefit is not assessed at this time.

Part 3: Matrix Value for the Gravity-Based Component

4. Matrix Value (MV):	\$1,500
5. Total for facility (this is a facility penalty)	\$1,500

Inflation Adjustment Rule:

6. $\$1,500 \times 1.2895$ (inflation adjustment for post March 15, 2004) = \$1,934
See Modifications to EPA Penalty Policies to Implement the Civil Monetary Penalty Inflation Adjustment Rule (Pursuant to the Debt Collection Improvement Act of 1996, Effective October 1, 2004).

Potential for Harm: Major

Extent of Deviation: Major

Justification for Potential for Harm: The potential for harm resulting from this violation was determined to be "major" inasmuch as Respondent's failure to maintain release detection records provides no documentation of adequate monitoring to detect a release of product into the environment.

Justification for Extent of Deviation: The extent of deviation was determined to be "major"

inasmuch as the Respondent failed to comply with this requirement for the time period in which the penalty is being sought.

Part 4: Violator-Specific Adjustments to Matrix Value

	% Change (+/-) MV	Matrix Value	Total Dollar Adjustment
7. Degree of cooperation or non-cooperation:	0	\$1,934	\$0
8. Degree of willfulness or negligence:	0	\$1,934	\$0
9. History of noncompliance:	0	\$1,934	\$0
10. Unique factors:	0	\$1,934	\$0

Justification for Degree of Cooperation/ Non-cooperation:
No adjustment was made.

Justification for Degree of Willfulness or Negligence:
No adjustment was made.

Justification for History of Noncompliance:
No adjustment was made.

Justification for Unique Factors:
No adjustment was made.

Part 5: Gravity-Based Component

11. Adjusted Matrix Value (AMV): (line 6 plus Dollar Adjustment in lines 7 through 10):
 $\$1,934 + 0 = \$1,934$

12. Level of Environmental Sensitivity: Moderate
Environmental Sensitivity Multiplier (ESM): 1.5

Justification for Level of Environmental Sensitivity:
The Environmental Sensitivity Multiplier for this violation was determined to be "Moderate," corresponding to a sensitivity level of 1.5, because the facility is located in a populated area with buildings that have basements and other sub-surface improvements and the facility lies over the Brooklyn-Queens Sole Source Aquifer. The ground water in this area, however, is not used for potable purposes.

13. Days of Non-compliance Multiplier (DNM): (365 days of violation) = 2.5

14. Gravity-based Component: $\$1,934 \text{ (AMV)} \times 1.5 \text{ (ESM)} \times 2.5 \text{ (DNM)} = \$7,253$
Total Gravity Based Penalty: \$7,253

Part 6: Initial Penalty Target Figure

15. Economic Benefit Component (from line 3): \$ 0

16. Gravity-Based Component (from line 14): \$7,253

17. Initial Penalty Target Figure for Tanks (line 15 plus 16): \$7,253

Count 2: Respondent's Failure to Maintain Records of an Annual Line Tightness Test or Monthly Monitoring for Pressurized Piping
UST system at the Brooklyn Facility

Part 1: Background

Facility in violation: Brooklyn Facility

<u>Violation:</u>	<u>Regulation</u>	<u>Non-compliance</u>
	40 C.F.R. § 280.45(b)	Failure to Maintain Test Records

Penalty Calculation Period:

Date Gravity-based Penalty Calculations Started: Violation started one year previous to the Inspection Date of August 17, 2006.

Date Gravity-based Penalty Calculations Ended: Violation ended on the Inspection Date.

1. Days of Noncompliance for Gravity-Based Penalty: 365 days

2. Number of Tanks: 1

Part 2: Economic Benefit Component / Cost Savings

3. Economic Benefit is not assessed at this time.

Part 3: Matrix Value for the Gravity-Based Component

4. Matrix Value (MV): \$1,500

5. Total for facility (this is a facility penalty) \$1,500

Inflation Adjustment Rule:

6. $\$1,500 \times 1.2895$ (inflation adjustment for post March 15, 2004) = \$1,934
 See Modifications to EPA Penalty Policies to Implement the Civil Monetary Penalty Inflation Adjustment Rule (Pursuant to the Debt Collection Improvement Act of 1996; Effective October 1, 2004).

Potential for Harm: Major

Extent of Deviation: Major

Justification for Potential for Harm: The potential for harm resulting from this violation was determined to be “major” inasmuch as the Respondent’s failure to maintain piping release detection or line tightness testing records provides no documentation of adequate monitoring to detect a release of product into the environment.

Justification for Extent of Deviation: The extent of deviation was determined to be “major” inasmuch as the Respondent failed to comply with this requirement for the time period in which the penalty is being sought.

Part 4: Violator-Specific Adjustments to Matrix Value

	% Change (+/-) MV	Matrix Value	Total Dollar Adjustment
7. Degree of cooperation or non-cooperation:	0	\$1,934	\$0
8. Degree of willfulness or negligence:	0	\$1,934	\$0
9. History of noncompliance:	0	\$1,934	\$0
10. Unique factors:	0	\$1,934	\$0

Justification for Degree of Cooperation/ Non-cooperation:
 No adjustment was made.

Justification for Degree of Willfulness or Negligence:
 No adjustment was made.

Justification for History of Noncompliance:
 No adjustment was made.

Justification for Unique Factors:
 No adjustment was made.

Part 5: Gravity-Based Component

11. Adjusted Matrix Value (AMV): (line 6 plus Dollar Adjustment in lines 7 through 10):
\$1,934 + 0 = \$1,934

12. Level of Environmental Sensitivity: Moderate
Environmental Sensitivity Multiplier (ESM): 1.5

Justification for Level of Environmental Sensitivity:

The Environmental Sensitivity Multiplier for this violation was determined to be "Moderate," corresponding to a sensitivity level of 1.5, because the facility is located in a populated area with buildings that have basements and other sub-surface improvements and the facility lies over the Brooklyn-Queens Sole Source Aquifer. The ground water in this area, however, is not used for potable purposes.

13. Days of Non-compliance Multiplier (DNM): (365 days of violation) = 2.5

14. Gravity-based Component: \$1,934 (AMV) x 1.5 (ESM) x 2.5 (DNM) = \$7,253
Total Gravity Based Penalty: \$7,253

Part 6: Initial Penalty Target Figure

15. Economic Benefit Component (from line 3): \$ 0
16. Gravity-Based Component (from line 14): \$7,253

17. Initial Penalty Target Figure (line 15 plus 16): \$7,253

Count 3: Respondent's Failure to Maintain Records of an Annual Test of its Automatic Leak Detector for Pressurized Piping
UST system at the Brooklyn Facility

Part 1: Background

Facility in violation: Brooklyn Facility

<u>Violation:</u>	<u>Regulation</u>	<u>Non-compliance</u>
	40 C.F.R. § 280.45(b)	Respondent's Failure to Maintain Records of the Test

Penalty Calculation Period:

Date Gravity-based Penalty Calculations Started: Violation started one year previous to the Inspection Date of August 17, 2006.

Date Gravity-based Penalty Calculations Ended: Violation ended on the Inspection Date.

1. Days of Noncompliance for Gravity-Based Penalty: 365 days
 2. Number of Tanks: 1

Part 2: Economic Benefit Component / Cost Savings

3. Economic Benefit is not assessed at this time.

Part 3: Matrix Value for the Gravity-Based Component

4. Matrix Value (MV): \$1,500
 5. Total for facility (this is a facility penalty) \$1,500

Inflation Adjustment Rule:

6. $\$1,500 \times 1.2895$ (inflation adjustment for post March 15, 2004) = \$1,934
 See Modifications to EPA Penalty Policies to Implement the Civil Monetary Penalty Inflation Adjustment Rule (Pursuant to the Debt Collection Improvement Act of 1996, Effective October 1, 2004).

Potential for Harm: Major

Extent of Deviation: Major

Justification for Potential for Harm: The potential for harm resulting from this violation was determined to be “major” inasmuch as Respondent’s failure to maintain records of annually testing operation of automatic line leak detectors provides no documentation that there has been adequate testing of the equipment relied upon to detect release of product into the environment.

Justification for Extent of Deviation: The extent of deviation was determined to be “major” inasmuch as the Respondent failed to comply with this requirement for the time period in which the penalty is being sought.

Part 4: Violator-Specific Adjustments to Matrix Value

	% Change (+/-) MV	Matrix Value	Total Dollar Adjustment
7. Degree of cooperation or non-cooperation:	0	\$1,934	\$0
8. Degree of willfulness or negligence:	0	\$1,934	\$0
9. History of noncompliance:	0	\$1,934	\$0

10. Unique factors: 0 \$1,934 \$0

Justification for Degree of Cooperation/ Non-cooperation:

No adjustment was made.

Justification for Degree of Willfulness or Negligence:

No adjustment was made.

Justification for History of Noncompliance:

No adjustment was made.

Justification for Unique Factors:

No adjustment was made.

Part 5: Gravity-Based Component

11. Adjusted Matrix Value (AMV): (line 6 plus Dollar Adjustment in lines 7 through 10):

$$\$1,934 + 0 = \$1,934$$

12. Level of Environmental Sensitivity: Moderate
Environmental Sensitivity Multiplier (ESM): 1.5

Justification for Level of Environmental Sensitivity:

The Environmental Sensitivity Multiplier for this violation was determined to be "Moderate," corresponding to a sensitivity level of 1.5, because the facility is located in a populated area with buildings that have basements and other sub-surface improvements and the facility lies over the Brooklyn-Queens Sole Source Aquifer. The ground water in this area, however, is not used for potable purposes.

13. Days of Non-compliance Multiplier (DNM): (365 days of violation) = 2.5

14. Gravity-based Component: $\$1,934$ (AMV) x 1.5 (ESM) x 2.5 (DNM) = $\$7,253$

Total Gravity Based Penalty: $\$7,253$

Part 6: Initial Penalty Target Figure

15. Economic Benefit Component (from line 3): \$ 0

16. Gravity-Based Component (from line 14): \$7,253

17. Initial Penalty Target Figure (line 15 plus 16): \$7,253

Count 4: **Respondent's Failure to Maintain Tank Release Detection Records**
UST Systems at the Queens Facility

Part 1: Background

Facility in violation: Queens Facility

<u>Violation:</u>	<u>Regulation</u>	<u>Non-compliance</u>
	40 C.F.R. § 280.45(b)	Failure to maintain required release detection monitoring records for the five UST System Tanks

Penalty Calculation Period:

Date Gravity-based Penalty Calculations Started: Violation started one year previous to the Inspection Date of August 16, 2006.

Date Gravity-based Penalty Calculations Ended: Violation ended on the Inspection Date.

- Days of Noncompliance for Gravity-Based Penalty: 365 days
- Number of Tanks: 5

Part 2: Economic Benefit Component / Cost Savings

3. Economic Benefit is not assessed at this time.

Part 3: Matrix Value for the Gravity-Based Component

- Matrix Value (MV): \$1,500
- Total for facility (Facility-based penalty): \$1,500

Inflation Adjustment Rule:

6. $\$1,500 \times 1.2895$ (inflation adjustment for post March 15, 2004) = \$1,934

See Modifications to EPA Penalty Policies to Implement the Civil Monetary Penalty Inflation Adjustment Rule (Pursuant to the Debt Collection Improvement Act of 1996, Effective October 1, 2004).

Potential for Harm: Major Extent of Deviation: Major

Justification for Potential for Harm: The potential for harm resulting from this violation was determined to be "major" inasmuch as Respondent's failure to maintain release detection records provides no documentation of adequate monitoring to detect a release of product into the environment.

Justification for Extent of Deviation: The extent of deviation was determined to be "major" inasmuch as the Respondent failed to comply with this

requirement for the time period in which the penalty is being sought.

Part 4: Violator-Specific Adjustments to Matrix Value

	% Change (+/-) MV	Matrix Value	Total Dollar Adjustment
7. Degree of cooperation or non-cooperation:	0	\$1,934	\$0
8. Degree of willfulness or negligence:	0	\$1,934	\$0
9. History of noncompliance:	0	\$1,934	\$0
10. Unique factors:	0	\$1,934	\$0

Justification for Degree of Cooperation/ Non-cooperation:

No adjustment was made.

Justification for Degree of Willfulness or Negligence:

No adjustment was made.

Justification for History of Noncompliance:

No adjustment was made.

Justification for Unique Factors:

No adjustment was made.

Part 5: Gravity-Based Component

11. Adjusted Matrix Value (AMV): (line 6 plus Dollar Adjustment in lines 7 through 10):

$$\$1,934 + 0 = \$1,934.$$

12. Level of Environmental Sensitivity: Moderate

Environmental Sensitivity Multiplier (ESM): 1.5

Justification for Level of Environmental Sensitivity:

The Environmental Sensitivity Multiplier for this violation was determined to be "Moderate," corresponding to a sensitivity level of 1.5, because the facility is located in a populated area with buildings that have basements and other sub-surface improvements and the facility lies over the Brooklyn-Queens Sole Source Aquifer. The ground water in this area, however, is not used for potable purposes.

13. Days of Non-compliance Multiplier (DNM): (365 days of violation) = 2.5

14. Gravity-based Component: $\$1,934 \text{ (AMV)} \times 1.5 \text{ (ESM)} \times 2.5 \text{ (DNM)} = \$7,253$
Total Gravity Based Penalty: \$7,253

Part 6: Initial Penalty Target Figure

15. Economic Benefit Component (from line 3): \$ 0
16. Gravity-Based Component (from line 14): \$7,253

17. Initial Penalty Target Figure (line 15 plus 16): \$7,253

**Count 5: Respondent's Failure to Continuously Provide Corrosion Protection for Tanks
UST System Tanks 1 through 5 at the Queens Facility**

Part 1: Background

Facility in violation: Queens Facility

Violation: Regulation
40 C.F.R. § 280.31

Non-compliance

Failure of Respondent to continuously provide corrosion protection for the tanks of UST Systems 1 through 5

Penalty Calculation Period:

Date Gravity-based Penalty Calculations Started: Per the December 8, 2008 letter from Respondent's contractor, the violation started some time before December 8, 2008, which is the date calculations start.

Date Gravity-based Penalty Calculations Ended: Per Respondent, the violation ended on May 4, 2009, when a larger output rectifier was installed to protect the five tanks.

1. Days of Noncompliance for Gravity-Based Penalty: 147 days (4 months, 26 days).

2. Number of Tanks: 5

Part 2: Economic Benefit Component / Cost Savings: Not assessed at this time.

Part 3: Matrix Value for the Gravity-Based Component

3. Matrix Value (MV): \$1,500

4. MV for all tanks (line 2 times line 3) \$7,500

Inflation Adjustment Rule:

- 5. a. \$7,500 x 1.2895 (inflation adjustment for pre-Jan 12, 2009) x 35/147 days = \$ 2,303
- b. \$7,500 x 1.4163 (inflation adjustment for post-Jan 12, 2009)x 112/147days = \$ 8,093
- c. Total \$10,396

See Modifications to EPA Penalty Policies to Implement the Civil Monetary Penalty Inflation Adjustment Rule (Pursuant to the Debt Collection Improvement Act of 2008, Effective January 12, 2009).

Potential for Harm: Major

Extent of Deviation: Major

Justification for Potential for Harm: Lack of cathodic protection left the five steel tanks subject to corrosion and the potential release of product into the environment.

Justification for Extent of Deviation: On December 8, 2008, PCA Engineering, Inc. advised Respondent that the cathodic protection system was providing insufficient current to protect the five tanks. Respondent did not resolve the problem for close to five months, during which time the five tanks were unprotected from corrosion.

Part 4: Violator-Specific Adjustments to Matrix Value

	% Change (+/-) MV	Matrix Value	Total Dollar Adjustment
6. Degree of cooperation or non-cooperation:	0	\$10,396	\$ 0
7. Degree of willfulness or negligence:	+50	\$10,396	+ \$5,437
8. History of noncompliance:	0	\$10,396	\$ 0
9. Unique factors:	0	\$10,396	\$ 0

Justification for Degree of Cooperation/ Non-cooperation:

No adjustment was made.

Justification for Degree of Willfulness or Negligence:

A 50 percent upward adjustment was made, primarily because Respondent's representative was specifically advised of this requirement nine months prior to EPA's inspection and the violation continued nevertheless. In addition: (1) Testing corrosion protection systems has been a longstanding requirement of the program; and (2) Respondent knew of this legal requirement prior to the December 22, 1998 deadline, yet Respondent failed to comply with this requirement for the UST systems. In the fall of 1998, EPA conducted an outreach program for federal agencies, including the Respondent, to discuss the December

22, 1998 UST deadline, and EPA met with Respondent and other federal agencies on November 24, 1998 in furtherance of this outreach effort. As a follow-up to the meeting, EPA issued a letter, dated December 2, 1998, requesting that federal agencies submit UST compliance information. The amount of the adjustment reflects the degree of willfulness or negligence in relation to the seriousness of the violation.

Justification for History of Noncompliance:

No adjustment was made.

Justification for Unique Factors:

No adjustment was made.

Part 5: Gravity-Based Component

10. Adjusted Matrix Value (AMV): $\$10,396 + \$5,437 = \$15,833$

11. Level of Environmental Sensitivity: Moderate
Environmental Sensitivity Multiplier (ESM): 1.5

Justification for Level of Environmental Sensitivity:

The Environmental Sensitivity Multiplier for this violation was determined to be "Moderate," corresponding to a sensitivity level of 1.5, because the facility is located in a populated area with buildings that have basements and other sub-surface improvements and the facility lies over the Brooklyn-Queens Sole Source Aquifer. The ground water in this area, however, is not used for potable purposes.

12. Days of Non-compliance Multiplier (DNM): (147 days of violation) = 1.5

13. Gravity-based Component: $\$15,833 \text{ (AMV)} \times 1.5 \text{ (ESM)} \times 1.5 \text{ (DNM)} = \$35,624$

Total Gravity Based Penalty: \$35,624

Part 6: Initial Penalty Target Figure

14. Economic Benefit Component (from line 6): \$ 0

15. Gravity-Based Component (from line 17): \$35,624

16. Initial Penalty Target Figure (line 14 plus 15): \$35,624

**Count 6: Respondent's Failure to Install Cathodic Protection on Piping
UST Systems 1 through 5 at the Queens Facility**

Part 1: Background

Facility in violation: Queens Facility

<u>Violation:</u>	<u>Regulation</u> 40 C.F.R. § 280.21(c)	<u>Non-compliance</u> Failure of Respondent to Protect the Piping of UST Systems 1 through 5 from Corrosion
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Penalty Calculation Period:

Date Gravity-based Penalty Calculations Started: The violation apparently started at the time of installation of UST Systems 1 through 5 on February 1, 1991. Gravity penalty calculation only starts on March 31, 2005.

Date Gravity-based Penalty Calculations Ended: The violation ended in April 2009, when Respondent replaced the steel piping with double-walled plastic. Calculations use April 1, 2009 as the end date.

1. Days of Noncompliance for Gravity-Based Penalty: 1,462 days (4 yr, 1 day)
2. Number of Tanks: 5

Part 2: Economic Benefit Component / Cost Savings: Not assessed at this time.

Part 3: Matrix Value for the Gravity-Based Component

3. Matrix Value (MV): \$1,500
4. MV for all tanks (line 2 times line 3) \$7,500

Inflation Adjustment Rule:

5. a. $\$7500 \times 1.2895$ (inflation adjustment for post-March 15, 2004) $\times 1383/1462$ days = \$9,149
b. $\$7500 \times 1.4163$ (inflation adjustment for post-January 12, 2009) $\times 79/1462$ days = \$ 574
c. Total \$9,723

See Modifications to EPA Penalty Policies to Implement the Civil Monetary Penalty Inflation Adjustment Rule (Pursuant to the Debt Collection Improvement Act of 2008, Effective January 12, 2009).

Potential for Harm: Major Extent of Deviation: Major

Justification for Potential for Harm: Lack of cathodic protection leaves steel piping subject to corrosion and the potential release of product into the environment.

Justification for Extent of Deviation: Respondent provided no corrosion protection for the piping.

Part 4: Violator-Specific Adjustments to Matrix Value

	% Change (+/-) MV	Matrix Value	Total Dollar Adjustment
6. Degree of cooperation or non-cooperation:	+10	\$9,723	+\$972
7. Degree of willfulness or negligence:	0	\$9,723	\$ 0
8. History of noncompliance:	0	\$9,723	\$ 0
9. Unique factors:	0	\$9,723	\$ 0

Justification for Degree of Cooperation/ Non-cooperation:

A 10 percent upward adjustment was made. Respondent requested, by telephone, and EPA granted, in an April 10, 2009 e-mail, extensions of time to respond to EPA's Information Request Letter dated March 3, 2009 for the Queens facility (to June 13, 2009). This information request had asked, inter alia, about corrosion protection of the facility's UST system piping. Respondent failed to respond by the extended due date. Respondent failed to notify EPA that it would not be responding on time. Only after EPA contacted Respondent did EPA learn that Respondent would not be responding by the extended due date. After EPA's phone calls to inquire about its responses, Respondent provided its response on July 9, 2009. In addition to Respondent's lack of timely response, it turned out that Respondent's response did not provide any additional substantive information that warranted the time extension. The amount of the adjustment reflects the degree of willfulness or negligence in relation to the seriousness of the violation.

Justification for Degree of Willfulness or Negligence:

No adjustment was made.

Justification for History of Noncompliance:

No adjustment was made.

Justification for Unique Factors:

No adjustment was made.

Part 5: Gravity-Based Component

10. Adjusted Matrix Value (AMV): $\$9,723 + \$972 = 10,695$

11. Level of Environmental Sensitivity: Moderate
Environmental Sensitivity Multiplier (ESM): 1.5

Justification for Level of Environmental Sensitivity:

The Environmental Sensitivity Multiplier for this violation was determined to be "Moderate," corresponding to a sensitivity level of 1.5, because the facility is located in a populated area with buildings that have basements and other sub-surface improvements and the facility lies over the Brooklyn-Queens Sole Source Aquifer. The ground water in this area, however, is not used for potable purposes.

12. Days of Non-compliance Multiplier (DNM): (1,462 days of violation) = 6.0

13. Gravity-based Component: $\$10,695 \text{ (AMV)} \times 1.5 \text{ (ESM)} \times 6.0 \text{ (DNM)} = \$96,255$
Total Gravity Based Penalty: \$96,255

Part 6: Initial Penalty Target Figure

14. Economic Benefit Component (from Part 2): \$ 0

15. Gravity-Based Component (from line 13): \$96,255

16. **Initial Penalty Target Figure (line 14 plus 15): \$96,255**

Count 7: Respondent's Failure to Test, Within Six Months of Installation, the Cathodic Protection System for Tanks
UST Systems 1 through 5 at the Queens Facility

Part 1: Background

Facility in violation: Queens Facility

<u>Violation:</u>	<u>Regulation</u>	<u>Non-compliance</u>
	40 C.F.R. § 280.31(b)(1)	Failure of Respondent to test, within six months of installation, the cathodic protection system for the tanks of UST Systems 1 through 5 at the Queens Facility

Penalty Calculation Period:

Date Gravity-based Penalty Calculations Started: The violation started at six months after installation of the cathodic protection system for the tanks of UST Systems 1 through 5, i.e., six months after November 29, 2007,

which is May 29, 2008.

Date Gravity-based Penalty Calculations Ended: The violation ended on December 8, 2008, when PCA Engineering, Inc. completed an inspection and testing of the impressed-current cathodic protection system installed on UST Systems 1 through 5.

1. Days of Noncompliance for Gravity-Based Penalty: 192 days (6 months, 8 days), excluding the end date.
2. Number of Tanks: 5

Part 2: Economic Benefit Component / Cost Savings: Not assessed at this time.

Part 3: Matrix Value for the Gravity-Based Component

3. Matrix Value (MV): \$1,500
4. MV for all tanks (line 2 times line 3) \$7,500

Inflation Adjustment Rule:

5. $\$7,500 \times 1.2895$ (inflation adjustment for post March 15, 2004) = \$9,671

See Modifications to EPA Penalty Policies to Implement the Civil Monetary Penalty Inflation Adjustment Rule (Pursuant to the Debt Collection Improvement Act of 1996, Effective October 1, 2004).

Potential for Harm: Major

Extent of Deviation: Major

Justification for Potential for Harm: Failure to test, within six months of installation, the cathodic protection system for the five tanks leaves it unclear whether it is functioning adequately to protect the tanks from corrosion.

Justification for Extent of Deviation: Respondent failed to conduct the required test within the required time period.

Part 4: Violator-Specific Adjustments to Matrix Value

	% Change (+/-) MV	Matrix Value	Total Dollar Adjustment
6. Degree of cooperation or non-cooperation:	+10	\$9,671	+\$967
7. Degree of willfulness or negligence:	0	\$9,671	\$ 0
8. History of noncompliance:	0	\$9,671	\$ 0

9. Unique factors: 0 \$9,671 \$ 0

Justification for Degree of Cooperation/ Non-cooperation:

Respondent requested, by telephone, and EPA granted, in an April 10, 2009 e-mail, extensions of time to respond to EPA's Information Request Letter dated March 3, 2009 for the Queens facility (to June 13, 2009). This information request had asked, inter alia, about corrosion protection of the facility's UST system tanks. Respondent failed to respond by the extended due dates. Respondent failed to notify EPA that it would not be responding on time. Only after EPA contacted Respondent did EPA learn that Respondent would not be responding by the extended due date. After EPA's phone calls to inquire about its responses, Respondent provided its response regarding the Queens facility on July 9, 2009. In addition to Respondent's lack of timely response, it turned out that Respondent's response did not provide any additional substantive information that warranted the time extension. The amount of the adjustment reflects the degree of willfulness or negligence in relation to the seriousness of the violation.

Justification for Degree of Willfulness or Negligence:

No adjustment was made.

Justification for History of Noncompliance:

No adjustment was made.

Justification for Unique Factors:

No adjustment was made.

Part 5: Gravity-Based Component

10. Adjusted Matrix Value (AMV): $\$9,671 + \$967 = \$10,638$

11. Level of Environmental Sensitivity: Moderate
Environmental Sensitivity Multiplier (ESM): 1.5

Justification for Level of Environmental Sensitivity:

The Environmental Sensitivity Multiplier for this violation was determined to be "Moderate," corresponding to a sensitivity level of 1.5, because the facility is located in a populated area with buildings that have basements and other sub-surface improvements and the facility lies over the Brooklyn-Queens Sole Source Aquifer. The ground water in this area, however, is not used for potable purposes.

12. Days of Non-compliance Multiplier (DNM): $(192 \text{ days of violation}) = 2.0$

13. Gravity-based Component:

$$\$10,638 \text{ (AMV)} \times 1.5 \text{ (ESM)} \times 2.0 \text{ (DNM)} = \$31,914$$

Total Gravity Based Penalty: \$31,914

Part 6: Initial Penalty Target Figure

14. Economic Benefit Component (from Part 2):	\$ 0
15. Gravity-Based Component (from line 13):	\$31,914
16. Initial Penalty Target Figure (line 14 plus 15):	\$31,914

Count 8: **Respondent's Failure to Maintain the Results of Testing, of the Cathodic Protection Systems of Tanks from the Last Two Triennial Tests**
Tanks of UST Systems 1 through 5 at the Queens Facility

Part 1: Background

Facility in violation: Queens Facility

<u>Violation:</u>	<u>Regulation</u> 40 C.F.R. § 280.31(d)	<u>Non-compliance</u> Failure of Respondent to Maintain the Results of Cathodic Protection Testing of Tanks of UST Systems 1 through 5 from the Last Two Triennial Inspections
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Penalty Calculation Period:

Date Gravity-based Penalty Calculations Started: The violation covered the six years before the August 16, 2006 inspection. Penalty calculations, however, start March 31, 2005.

Date Gravity-based Penalty Calculations Ended: Calculations end when Respondent's contractor, RAM Services LLC, tested the cathodic protection systems on November 29, 2007.

Days of Noncompliance for Gravity-Based Penalty: 973 days (2 yr, 7 mo, 29 days)

1. Number of Tanks: 5

Part 2: Economic Benefit Component / Cost Savings:

2. Not assessed at this time.

Part 3: Matrix Value for the Gravity-Based Component

3. Matrix Value (MV): \$750

4. MV for all tanks (line 1 times line 3) \$3,750

Inflation Adjustment Rule:

5. $\$3,750 \times 1.2895$ (inflation adjustment for post March 15, 2004) = \$4,836

See Modifications to EPA Penalty Policies to Implement the Civil Monetary Penalty Inflation Adjustment Rule (Pursuant to the Debt Collection Improvement Act of 1996, Effective October 1, 2004).

Potential for Harm: Moderate

Extent of Deviation: Major

Justification for Potential for Harm: Failure to maintain records of cathodic protection testing left their functional status uncertain.

Justification for Extent of Deviation: Respondent provided no evidence of conducting the tests until after EPA's inspection.

Part 4: Violator-Specific Adjustments to Matrix Value

	% Change (+/-) MV	Matrix Value	Total Dollar Adjustment
6. Degree of cooperation or non-cooperation:	0	\$4,836	\$0
7. Degree of willfulness or negligence:	0	\$4,836	\$0
8. History of noncompliance:	0	\$4,836	\$0
9. Unique factors:	0	\$4,836	\$0

Justification for Degree of Cooperation/ Non-cooperation:
No adjustment was made.

Justification for Degree of Willfulness or Negligence:
No adjustment was made.

Justification for History of Noncompliance:
No adjustment was made.

Justification for Unique Factors:
No adjustment was made.

Part 5: Gravity-Based Component

10. Adjusted Matrix Value (AMV): $\$4,836 + 0 = \$4,836$

11. Level of Environmental Sensitivity: Moderate
Environmental Sensitivity Multiplier (ESM): 1.5

Justification for Level of Environmental Sensitivity:

The Environmental Sensitivity Multiplier for this violation was determined to be "Moderate," corresponding to a sensitivity level of 1.5, because the facility is located in a populated area with buildings that have basements and other sub-surface improvements and the facility lies over the Brooklyn-Queens Sole Source Aquifer. The ground water in this area, however, is not used for potable purposes.

12. Days of Non-compliance Multiplier (DNM): (973 days of violation) = 4.5

13. Gravity-based Component:

$\$4,836 \text{ (AMV)} \times 1.5 \text{ (ESM)} \times 4.5 \text{ (DNM)} = \$32,643$

Total Gravity Based Penalty: \$32,643

Part 6: Initial Penalty Target Figure

14. Economic Benefit Component (from line 2):	\$ 0
15. Gravity-Based Component (from line 13):	\$32,643
16. Initial Penalty Target Figure (line 14 plus 15):	\$32,643

Count 9: Respondent's Failure to Maintain a Record of Inspections, every Sixty Days, of the Impressed Current Corrosion Protection System for Tanks
UST Systems 1 through 5 at the Queens Facility

Part 1: Background

Facility in violation: Queens Facility

Violation:

Regulation
40 C.F.R. § 280.34(b)

Non-compliance

Failure of Respondent to maintain records of inspecting, every 60 days, the impressed current corrosion protection system for the tanks of UST Systems 1 through 5 at the Queens Facility

Penalty Calculation Period:

Date Gravity-based Penalty Calculations Started: 1/29/08, sixty days after installation of the impressed current corrosion protection system for the tanks of UST Systems 1

through 5 at the Queens Facility

Date Gravity-based Penalty Calculations Ended: 4/21/09, the first documentation provided by Respondent of a 60-day inspection of the impressed current corrosion protection system for the tanks of UST Systems 1 through 5 at the Queens Facility

- 1. Days of Noncompliance for Gravity-Based Penalty: 448 days (1 yr, 2 mo, 23 days)
- 2. Number of Tanks: 5

Part 2: Economic Benefit Component /Cost Savings: Not assessed at this time.

Part 3: Matrix Value for the Gravity-Based Component

- 3. Matrix Value (MV): \$750
- 4. MV for all tanks (line 2 times line 3) \$3,750

Inflation Adjustment Rule:

- 5.a. $\$3,750 \times 1.2895$ (inflation adjustment for pre-January 12, 2009) $\times 349/448$ days = \$3,767
- b. $\$3,750 \times 1.4163$ (inflation adjustment for post-January 12, 2009) $\times 99/448$ days = \$1,174
- c. Total: \$4,941

See Modifications to EPA Penalty Policies to Implement the Civil Monetary Penalty Inflation Adjustment Rule (Pursuant to the Debt Collection Improvement Act of 2008, Effective January 12, 2009).

Potential for Harm: Moderate Extent of Deviation: Major

Justification for Potential for Harm: Failure to maintain records of having inspected the cathodic protection system provides no assurance that the five steel tanks are protected from corrosion and the potential release of product into the environment.

Justification for Extent of Deviation: Respondent ignored this regulatory requirement until April 21, 2009.

Part 4: Violator-Specific Adjustments to Matrix Value

	% Change (+/-) MV	Matrix Value	Total Dollar Adjustment
6. Degree of cooperation or non-cooperation:	0	\$4,941	\$ 0
7. Degree of willfulness or negligence:	+50	\$4,941	+\$2,470

8. History of noncompliance:	0	\$4,941	\$ 0
9. Unique factors:	0	\$4,941	\$ 0

Justification for Degree of Cooperation/ Non-cooperation:

No adjustment was made.

Justification for Degree of Willfulness or Negligence:

A 50 percent upward adjustment was made, because Respondent's contractor, RAM Services, warned Respondent, by e-mail dated April 29, 2008, that impressed current cathodic protection systems are required to be monitored every sixty days, and a log kept documenting same. Nevertheless, the violation continued for another year. The amount of the adjustment reflects the degree of willfulness or negligence in relation to the seriousness of the violation.

Justification for History of Noncompliance:

No adjustment was made.

Justification for Unique Factors:

No adjustment was made.

Part 5: Gravity-Based Component

10. Adjusted Matrix Value (AMV): $\$4,941 + \$2,470 = \$7,411$

11. Level of Environmental Sensitivity: Moderate
 Environmental Sensitivity Multiplier (ESM): 1.5

Justification for Level of Environmental Sensitivity:

The Environmental Sensitivity Multiplier for this violation was determined to be "Moderate," corresponding to a sensitivity level of 1.5, because the facility is located in a populated area with buildings that have basements and other sub-surface improvements and the facility lies over the Brooklyn-Queens Sole Source Aquifer. The ground water in this area, however, is not used for potable purposes.

12. Days of Non-compliance Multiplier (DNM): (448 days of violation) = 3.0

13. Gravity-based Component: $\$7,411 \text{ (AMV)} \times 1.5 \text{ (ESM)} \times 3.0 \text{ (DNM)} = \$33,350$

Total Gravity Based Penalty: \$33,350

Part 6: Initial Penalty Target Figure

14. Economic Benefit Component (from Part 2): \$ 0

15. Gravity-Based Component (from line 13): \$33,350

16. Initial Penalty Target Figure (line 14 plus 15): \$33,350

**Count 10: Respondent's Failure to Maintain Tank Release Detection Records
UST Systems 1 and 2 at the JFK Facility**

Part 1: Background

Facility in violation: JFK Facility

<u>Violation:</u>	<u>Regulation</u>	<u>Non-compliance</u>
	40 C.F.R. § 280.45(b)	Failure to maintain required release detection records for UST Systems 1 and 2

Penalty Calculation Period:

Date Gravity-based Penalty Calculations Started: Violation started one year previous to the August 14, 2006 Inspection Date.

Date Gravity-based Penalty Calculations Ended: Violation ended on the Inspection Date.

1. Days of Noncompliance for Gravity-Based Penalty: 365 days

2. Number of Tanks: 2

Part 2: Economic Benefit Component / Cost Savings

3. Economic Benefit is not assessed at this time.

Part 3: Matrix Value for the Gravity-Based Component

4. Matrix Value (MV): \$1,500

5. Total for facility (Facility-based penalty): \$1,500

Inflation Adjustment Rule:

6. $\$1,500 \times 1.2895$ (inflation adjustment for post March 15, 2004) = \$1,934

See Modifications to EPA Penalty Policies to Implement the Civil Monetary Penalty Inflation Adjustment Rule (Pursuant to the Debt Collection Improvement Act of 1996, Effective October 1, 2004).

Potential for Harm: Major

Extent of Deviation: Major

Justification for Potential for Harm: The potential for harm resulting from this violation was determined to be “major” inasmuch as Respondent’s failure to maintain release detection records provides no documentation of adequate monitoring to detect a release of product into the environment.

Justification for Extent of Deviation: The extent of deviation was determined to be “major” inasmuch as the Respondent failed to comply with this requirement for the time period in which the penalty is being sought.

Part 4: Violator-Specific Adjustments to Matrix Value

	% Change (+/-) MV	Matrix Value	Total Dollar Adjustment
7. Degree of cooperation or non-cooperation:	0	\$1,934	\$0
8. Degree of willfulness or negligence:	0	\$1,934	\$0
9. History of noncompliance:	0	\$1,934	\$0
10. Unique factors:	0	\$1,934	\$0

Justification for Degree of Cooperation/ Non-cooperation:
No adjustment was made.

Justification for Degree of Willfulness or Negligence:
No adjustment was made.

Justification for History of Noncompliance:
No adjustment was made.

Justification for Unique Factors:
No adjustment was made.

Part 5: Gravity-Based Component

11. Adjusted Matrix Value (AMV): (line 6 plus Dollar Adjustment in lines 7 through 10):
\$1,934 + 0 = \$1,934.

12. Level of Environmental Sensitivity: Moderate
Environmental Sensitivity Multiplier (ESM): 1.5

Justification for Level of Environmental Sensitivity:

The Environmental Sensitivity Multiplier for this violation was determined to be "Moderate," corresponding to a sensitivity level of 1.5, because the facility is located in a commercial area with buildings that have basements and other sub-surface improvements and the facility lies over the Brooklyn-Queens Sole Source Aquifer. The ground water in this area, however, is not used for potable purposes.

13. Days of Non-compliance Multiplier (DNM): (365 days of violation) = 2.5

14. Gravity-based Component: $\$1,934 \text{ (AMV)} \times 1.5 \text{ (ESM)} \times 2.5 \text{ (DNM)} = \$7,253$
Total Gravity Based Penalty: \$7,253

Part 6: Initial Penalty Target Figure

15. Economic Benefit Component (from line 3): \$ 0
16. Gravity-Based Component (from line 14): \$7,253
17. Initial Penalty Target Figure (line 15 plus 16): \$7,253

Count 11: Respondent's Failure to Maintain Tank Release Detection Records
UST Tanks 1 and 2 at the FDR Facility

Part 1: Background

Facility in violation: FDR Facility

<u>Violation:</u>	<u>Regulation</u>	<u>Non-compliance</u>
	40 C.F.R. § 280.45(b)	Failure to maintain required release detection records for UST Tanks 1 and 2

Penalty Calculation Period:

Date Gravity-based Penalty Calculations Started: Violation started one year previous to the Inspection Date of April 1, 2008.

Date Gravity-based Penalty Calculations Ended: Violation ended in March 2008, the month when inspection records are available.

1. Days of Noncompliance for Gravity-Based Penalty: 334 days
2. Number of Tanks: 2

Part 2: Economic Benefit Component / Cost Savings

3. Economic Benefit is not assessed at this time.

Part 3: Matrix Value for the Gravity-Based Component

- 4. Matrix Value (MV): \$1,500

- 5. Total for facility (Facility-based penalty): \$1,500

Inflation Adjustment Rule:

- 6. $\$1,500 \times 1.2895$ (inflation adjustment for post March 15, 2004) = \$1,934
 See Modifications to EPA Penalty Policies to Implement the Civil Monetary Penalty Inflation Adjustment Rule (Pursuant to the Debt Collection Improvement Act of 1996, Effective October 1, 2004).

Potential for Harm: Major

Extent of Deviation: Major

Justification for Potential for Harm: The potential for harm resulting from this violation was determined to be “major” inasmuch as Respondent’s failure to maintain release detection records provides no documentation of adequate monitoring to detect a release of product into the environment.

Justification for Extent of Deviation: The extent of deviation was determined to be “major” inasmuch as the Respondent failed to comply with this requirement for the time period in which the penalty is being sought.

Part 4: Violator-Specific Adjustments to Matrix Value

	% Change (+/-) MV	Matrix Value	Total Dollar Adjustment
7. Degree of cooperation or non-cooperation:	+25	\$1,934	\$484
8. Degree of willfulness or negligence:	0	\$1,934	\$ 0
9. History of noncompliance:	0	\$1,934	\$ 0
10. Unique factors:	0	\$1,934	\$ 0

Justification for Degree of Cooperation/ Non-cooperation:

Respondent has not responded to EPA’s May 13, 2008 Information Request Letter, requesting information regarding the count. The amount of the adjustment reflects the degree of willfulness or negligence in relation to the seriousness of the violation.

Justification for Degree of Willfulness or Negligence:

No adjustment was made.

Justification for History of Noncompliance:

No adjustment was made.

Justification for Unique Factors:

No adjustment was made.

Part 5: Gravity-Based Component

11. Adjusted Matrix Value (AMV): (line 6 plus Dollar Adjustment in lines 7 through 10):

$$\$1,934 + \$484 = \$2,418$$

12. Level of Environmental Sensitivity: Low

Environmental Sensitivity Multiplier (ESM): 1.0

Justification for Level of Environmental Sensitivity:

The Environmental Sensitivity Multiplier for this violation was determined to be "low" corresponding to a sensitivity level of 1.0.

13. Days of Non-compliance Multiplier (DNM): (334 days of violation) = 2.5

14. Gravity-based Component: $\$2,418$ (AMV) \times 1.0 (ESM) \times 2.5 (DNM) = $\$6,045$

Total Gravity Based Penalty: $\$6,045$

Part 6: Initial Penalty Target Figure

15. Economic Benefit Component (from line 3): \$ 0

16. Gravity-Based Component (from line 14): $\$6,045$

17. Initial Penalty Target Figure (line 15 plus 16): $\$6,045$

Count 12: Respondent's Failure to Maintain Records of an Annual Test of the Operation of the Automatic Line Leak Detectors (ALLDs) for Pressurized Piping
UST Systems 1 and 2 at the FDR Facility

Part 1: Background

Facility in violation: FDR Facility

<u>Violation:</u>	<u>Regulation</u>	<u>Non-compliance</u>
	40 C.F.R. § 280.45(b)	Failure to Maintain Records of an Annual Test of the Operation of the Automatic Line Leak Detectors (ALLDs) for Pressurized Piping for UST Systems 1 and 2

Penalty Calculation Period:

Date Gravity-based Penalty Calculations Started: Violation started one year previous to the Inspection Date.

Date Gravity-based Penalty Calculations Ended: Violation ended on the Inspection Date.

1. Days of Noncompliance for Gravity-Based Penalty: 365 days
2. Number of Tanks: 2

Part 2: Economic Benefit Component / Cost Savings

3. Economic Benefit is not assessed at this time.

Part 3: Matrix Value for the Gravity-Based Component

4. Matrix Value (MV): \$1,500
5. Total for facility (line 2 x line 4): \$3,000

Inflation Adjustment Rule:

6. $\$1,500 \times 1.2895$ (inflation adjustment for post March 15, 2004) = \$1,934
See Modifications to EPA Penalty Policies to Implement the Civil Monetary Penalty Inflation Adjustment Rule (Pursuant to the Debt Collection Improvement Act of 1996, Effective October 1, 2004).

Potential for Harm: Major

Extent of Deviation: Major

Justification for Potential for Harm: The potential for harm resulting from this violation was determined to be "major" inasmuch as Respondent's failure to maintain records of annually testing operation of automatic line leak detectors provides no documentation that there has been adequate testing of the equipment relied

upon to detect release of product into the environment.

Justification for Extent of Deviation: The extent of deviation was determined to be “major” inasmuch as the Respondent failed to comply with this requirement for the time period in which the penalty is being sought.

Part 4: Violator-Specific Adjustments to Matrix Value

	% Change (+/-) MV	Matrix Value	Total Dollar Adjustment
7. Degree of cooperation or non-cooperation:	0	\$1,934	\$0
8. Degree of willfulness or negligence:	0	\$1,934	\$0
9. History of noncompliance:	0	\$1,934	\$0
10. Unique factors:	0	\$1,934	\$0

Justification for Degree of Cooperation/ Non-cooperation:
No adjustment was made.

Justification for Degree of Willfulness or Negligence:
No adjustment was made.

Justification for History of Noncompliance:
No adjustment was made.

Justification for Unique Factors:
No adjustment was made.

Part 5: Gravity-Based Component

11. Adjusted Matrix Value (AMV): (line 6. plus Dollar Adjustment in lines 7 through 10):

$$\begin{array}{r} \$1,934 \\ + 0 \\ \hline = \$1,934 \end{array}$$
 Multiply by # tanks (2): $\$3,868$

12. Level of Environmental Sensitivity: Low
 Environmental Sensitivity Multiplier (ESM): 1.0

Justification for Level of Environmental Sensitivity:
 The Environmental Sensitivity Multiplier for this violation was determined to be

“low” corresponding to a sensitivity level of 1.0.

13. Days of Non-compliance Multiplier (DNM): (365 days of violation) = 2.5

14. Gravity-based Component:

Post-March 15, 2004 violation period: \$3,868 (AMV) x 1.0 (ESM) x 2.5 (DNM) = \$9,670

Total Gravity Based Penalty: \$9,670

Part 6: Initial Penalty Target Figure

15. Economic Benefit Component (from line 3): \$ 0

16. Gravity-Based Component (from line 14): \$9,670

17. Initial Penalty Target Figure (line 15 plus 16): \$9,670

Count 13: Respondent’s Failure to Properly Install and Maintain Overfill Prevention Equipment

UST Systems 1 and 2 at the FDR Facility

Part 1: Background

Facility in violation: FDR Facility

<u>Violation:</u>	<u>Regulation</u>	<u>Non-compliance</u>
	40 CFR §280.20(c)	Respondent’s Failure to Properly Install and Maintain Overfill Prevention Equipment on UST Systems 1 and 2

Penalty Calculation Period:
Date Gravity-based Penalty Calculations Started: The violation of improperly installing overfill protection started at the installation of UST Systems 1 and 2 in 2000. Penalty calculations, however, begin March 31, 2005.

Date Gravity-based Penalty Calculations Ended: The violation will end with installation of compliant overfill prevention equipment. For the purposes of penalty calculation, EPA assumed compliance by March 31, 2010.

- 1. Days of Noncompliance for Gravity-Based Penalty: 1,825 days
- 2. Number of Tanks: 2

Part 2: Economic Benefit Component / Cost Savings

3. Capital Costs:	\$2,500	Basis: Cost of new installation
4. One-Time Non-depreciable Expenditure:	\$ 0	Basis: N/A
5. Avoided Costs (Annual Expenditure):	\$ 0	Basis: N/A
6. Economic Benefit Component:	\$1,663	Basis: BEN model v. 4.5

Justification of Economic Benefit Component / Cost Savings:

The economic benefit component, calculated with the BEN computer model, is more accurately categorized as "cost savings" for Federal facilities. The period of non-compliance began on the date of UST installation (in the year 2000). The BEN calculation used 12-31-00 as this date, and used March 31, 2010 as the assumed compliance date. The cost of compliance (\$2,500) is taken from cost estimates in a state insurance web site.

Part 3: Matrix Value for the Gravity-Based Component

4. Per-Tank Matrix Value (MV):	\$ 750
5. Total MV (line 2 times line 4)	\$1,500

Inflation Adjustment Rule:

6. a. \$1,500 x 1.2895 (inflation adjustment for post-Mar 15, 2004) x 1382/1825 days =	\$1,465
b. \$1,500 x 1.4163 (inflation adjustment for post-Jan 12, 2009) x 443/1825 days =	\$ 516
c. Total	\$ 1,981

See Modifications to EPA Penalty Policies to Implement the Civil Monetary Penalty Inflation Adjustment Rule (Pursuant to the Debt Collection Improvement Act of 2008, Effective January 12, 2009).

Potential for Harm: Major

Extent of Deviation: Moderate

Justification for Potential for Harm: The potential for harm resulting from this violation was determined to be "Major." Respondent's failure to provide an effective overfill prevention system for its existing UST systems can result in a release into the environment associated with product transfer to the UST systems.

Justification for Extent of Deviation: The extent of deviation was determined to be "Moderate." Respondent failed to comply with this requirement for the time period in which the penalty is being sought.

Part 4: Violator-Specific Adjustments to Matrix Value

	% Change (+/-) MV	Matrix Value	Total Dollar Adjustment
7. a. Degree of cooperation or non-cooperation:	0	\$1,981	\$0

8. a. Degree of willfulness or negligence:	0	\$1,981	\$0
9. a. History of noncompliance:	0	\$1,981	\$0
10. a. Unique factors:	0	\$1,981	\$0

Justification for Degree of Cooperation/ Non-cooperation:
No adjustment was made.

Justification for Degree of Willfulness or Negligence:
No adjustment was made.

Justification for History of Noncompliance:
No adjustment was made.

Justification for Unique Factors:
No adjustment was made.

Part 5: Gravity-Based Component

11. Adjusted Matrix Value (AMV) for Post-March 15, 2004 period of violation: (line 6. plus Dollar Adjustment in lines 7. through 10.): \$1,981.
12. Level of Environmental Sensitivity: Low
Environmental Sensitivity Multiplier (ESM): 1.0

Justification for Level of Environmental Sensitivity:
The Environmental Sensitivity Multiplier for this violation was determined to be “low” corresponding to a sensitivity level of 1.0.

13. Days of Non-compliance Multiplier (DNM): (1,825 days of violation) = 6.5
14. Gravity-based Component: \$1,981 (AMV) x 1.0 (ESM) x 6.5 (DNM) = \$12,877

Total Gravity Based Penalty: \$12,877

Part 6: Initial Penalty Target Figure

15. Economic Benefit Component (from line 6): \$ 1,663
16. Gravity-Based Component (from line 14): \$12,877
- 17. Initial Penalty Target Figure (line 15 plus 16): \$14,540**

Count 14: Respondent's Failure to Test, Within Six Months of Installation, the Cathodic Protection System for Tanks

Two UST Systems at the Western Nassau Facility

Part 1: Background

Facility in violation: Western Nassau Facility

<u>Violation:</u>	<u>Regulation</u>	<u>Non-compliance</u>
	40 C.F.R. § 280.31(b)(1)	Failure of Respondent to test, within six months of installation, the cathodic protection system for the tanks.

Penalty Calculation Period:

Date Gravity-based Penalty Calculations Started: The violation started at six months after installation of the cathodic protection system for the tanks, i.e., six months after February 29, 2008, which is August 29, 2008.

Date Gravity-based Penalty Calculations Ended: Respondent's Nov. 20, 2009 Response states that the test will be conducted on Nov. 20, 2009.

1. Days of Noncompliance for Gravity-Based Penalty: 448 days (1 year, 2 months, 22 days)

2. Number of Tanks: 2

Part 2: Economic Benefit Component / Cost Savings: Not assessed at this time.

Part 3: Matrix Value for the Gravity-Based Component

3. Matrix Value (MV): \$1,500

4. MV for all tanks (line 2 times line 3) \$3,000

Inflation Adjustment Rule:

5. a. $\$3,000 \times 1.2895$ (inflation adjustment for post-Mar. 15, 2004) $\times 136/420 = \$1,253$

b. $\$3,000 \times 1.4163$ (inflation adjustment for post-Jan. 12, 2009) $\times 284/420 = \underline{\$2,873}$

c. Total: \$4,126

See Modifications to EPA Penalty Policies to Implement the Civil Monetary Penalty Inflation Adjustment Rule (Pursuant to the Debt Collection Improvement Act of 2008, Effective January 12, 2009).

Potential for Harm: Major

Extent of Deviation: Major

Justification for Potential for Harm: Failure to test, within six months of installation, the cathodic protection system for the five tanks leaves it unclear whether it is functioning adequately to protect the tanks from corrosion.

Justification for Extent of Deviation: Respondent ignored this regulatory requirement.

Part 4: Violator-Specific Adjustments to Matrix Value

	% Change (+/-) MV	Matrix Value	Total Dollar Adjustment
6.a. Degree of cooperation or non-cooperation:	0	\$4,126	\$ 0
7.a. Degree of willfulness or negligence:	+40	\$4,126	+ \$1,650
8.a. History of noncompliance:	0	\$4,126	\$ 0
9 a. Unique factors:	0	\$4,126	\$ 0

Justification for Degree of Cooperation/ Non-cooperation:

No adjustment was made.

Justification for Degree of Willfulness or Negligence:

A 40 percent upward adjustment was made, primarily because Respondent's representative was advised of this requirement nine months prior to EPA's inspection and the violation continued nevertheless. In addition: (1) Testing corrosion protection systems has been a longstanding requirement of the program; and (2) Respondent knew of this legal requirement prior to the December 22, 1998 deadline, yet Respondent failed to comply with this requirement for the UST systems, and such non-compliance continued more than ten years later. In the fall of 1998, EPA conducted an outreach program for federal agencies, including the Respondent, to discuss the December 22, 1998 UST upgrade deadline, and EPA met with Respondent and other federal agencies on November 24, 1998 in furtherance of this outreach effort. As a follow-up to the meeting, EPA issued a letter, dated December 2, 1998, requesting that federal agencies submit UST compliance information. The amount of the adjustment reflects the degree of willfulness or negligence in relation to the seriousness of the violation.

Justification for History of Noncompliance:

No adjustment was made.

Justification for Unique Factors:

No adjustment was made.

Part 5: Gravity-Based Component

10. Adjusted Matrix Value (AMV): $\$4,126 + \$1,650 = \$5,776$
11. Level of Environmental Sensitivity: Moderate
Environmental Sensitivity Multiplier (ESM): 1.5

Justification for Level of Environmental Sensitivity:

The Environmental Sensitivity Multiplier for this violation was determined to be "moderate," corresponding to a sensitivity level of 1.5 because the facility is located in a populated area with buildings that have basements and other sub-surface improvements and the facility lies over the Nassau Coastal Plain Sole Source Aquifer.

12. Days of Non-compliance Multiplier (DNM): (448 days of violation) = 3.0
13. Gravity-based Component:
Post-March 15, 2004 violation period: $\$5,776 \text{ (AMV)} \times 1.5 \text{ (ESM)} \times 3.0 \text{ (DNM)} = \$25,992$

Total Gravity Based Penalty: \$25,992

Part 6: Initial Penalty Target Figure

14. Economic Benefit Component (from Part 2): \$ 0
15. Gravity-Based Component (from line 13): \$25,992
16. Initial Penalty Target Figure (line 14 plus 15): \$25,992

Count 15: Respondent's Failure to Continuously Provide Corrosion Protection for Tanks
Diesel UST System Tank at the Western Nassau Facility

Part 1: Background

Facility in violation: Western Nassau Facility

Violation: Regulation
40 C.F.R. § 280.31(a)

Non-compliance
Failure of Respondent to continuously provide corrosion protection for the tank of the diesel UST system

Penalty Calculation Period:

Date Gravity-based Penalty Calculations Started: August 2, 2007, when Respondent's contractor found that the diesel tank was not being protected from corrosion.

Date Gravity-based Penalty Calculations Ended: February 29, 2008, per Respondent's

contractor's (PCA Engineering's) March 10, 2008 report, documenting installation of the impressed-current cathodic protection system on the tanks of the gasoline and diesel UST systems.

1. Days of Noncompliance for Gravity-Based Penalty: 211 days (6 months, 27 days)
2. Number of Tanks: 1

Part 2: Economic Benefit Component / Cost Savings: Not assessed at this time.

Part 3: Matrix Value for the Gravity-Based Component

3. Matrix Value (MV): \$1,500
4. MV for all tanks (line 2 times line 3) \$1,500

Inflation Adjustment Rule:

5. $\$1,500 \times 1.2895$ (inflation adjustment for pre-January 12, 2009) = \$1,934
- See Modifications to EPA Penalty Policies to Implement the Civil Monetary Penalty Inflation Adjustment Rule (Pursuant to the Debt Collection Improvement Act of 1996, Effective October 1, 2004).

Potential for Harm: Major

Extent of Deviation: Major

Justification for Potential for Harm: Lack of cathodic protection left the diesel tank subject to corrosion and release of product into the environment.

Justification for Extent of Deviation: Respondent did not resolve the problem for more than six months, during which time the tank was unprotected from corrosion.

Part 4: Violator-Specific Adjustments to Matrix Value

	% Change (+/-) MV	Matrix Value	Total Dollar Adjustment
6. Degree of cooperation or non-cooperation:	0	\$1,934	\$ 0
7. Degree of willfulness or negligence:	+25	\$1,934	\$484
8. History of noncompliance:	0	\$1,934	\$ 0
9. Unique factors:	0	\$1,934	\$ 0

Justification for Degree of Cooperation/ Non-cooperation:

No adjustment was made.

Justification for Degree of Willfulness or Negligence:

A 25 percent upward adjustment was made, primarily because Respondent's representative was advised of this requirement nine months prior to EPA's inspection and the violation continued nevertheless. In addition: (1) Testing corrosion protection systems has been a longstanding requirement of the program; and (2) Respondent knew of this legal requirement prior to the December 22, 1998 deadline, yet Respondent failed to comply with this requirement for the UST systems, and such non-compliance continued more than ten years later. In the fall of 1998, EPA conducted an outreach program for federal agencies, including the Respondent, to discuss the December 22, 1998 UST upgrade deadline, and EPA met with Respondent and other federal agencies on November 24, 1998 in furtherance of this outreach effort. As a follow-up to the meeting, EPA issued a letter, dated December 2, 1998, requesting that federal agencies submit UST compliance information. The amount of the adjustment reflects the degree of willfulness or negligence in relation to the seriousness of the violation.

Justification for History of Noncompliance:

No adjustment was made.

Justification for Unique Factors:

No adjustment was made.

Part 5: Gravity-Based Component

10. Adjusted Matrix Value (AMV): \$1,934 + \$484 = \$2,418

11. Level of Environmental Sensitivity: Moderate
 Environmental Sensitivity Multiplier (ESM): 1.5

Justification for Level of Environmental Sensitivity:

The Environmental Sensitivity Multiplier for this violation was determined to be "moderate," corresponding to a sensitivity level of 1.5 because the facility is located in a populated area with buildings that have basements and other sub-surface improvements and the facility lies over the Nassau Coastal Plain Sole Source Aquifer.

12. Days of Non-compliance Multiplier (DNM): (211 days of violation) = 2.0

13. Gravity-based Component: \$2,418 (AMV) x 1.5 (ESM) x 2.0 (DNM) = \$7,254

Total Gravity Based Penalty: \$7,254

Part 6: Initial Penalty Target Figure

14. Economic Benefit Component (from Part 2): \$ 0

15. Gravity-Based Component (from line 13): \$7,254

16. Initial Penalty Target Figure (line 14 plus 15): \$7,254

Count 16: Respondent's Failure to Maintain Records of an Annual Test of the Operation of the Automatic Line Leak Detectors (ALLDs) for Pressurized Piping

Two UST Systems at the Western Nassau Facility

Part 1: Background

Facility in violation: Western Nassau Facility

<u>Violation:</u>	<u>Regulation</u>	<u>Non-compliance</u>
	40 C.F.R. § 280.45(b)	Failure to Maintain Records of an Annual Test of the Operation of the Automatic Line Leak Detectors (ALLDs) for Pressurized Piping

Penalty Calculation Period:

Date Gravity-based Penalty Calculations Started: Violation started one year after the only ALLD test conducted by Respondent, that is, one year after August 2, 2007. However, the penalty calculation period is assumed to begin one year prior to the October 15, 2009 Inspection.

Date Gravity-based Penalty Calculations Ended: Violation will end when another test is conducted. Calculations, however, end on the day of the inspection.

1. Days of Noncompliance for Gravity-Based Penalty: 365 days.

2. Number of Tanks: 2

Part 2: Economic Benefit Component / Cost Savings

3. Economic Benefit is not assessed at this time.

Part 3: Matrix Value for the Gravity-Based Component

- 4. Matrix Value (MV): \$1,500
- 5. Total for facility (line 2 x line 4): \$3,000

Inflation Adjustment Rule:

6. \$3,000 x 1.4163 (inflation adjustment for post-Jan. 12, 2009) = \$4,249
 See Modifications to EPA Penalty Policies to Implement the Civil Monetary Penalty Inflation Adjustment Rule (Pursuant to the Debt Collection Improvement Act of 2008, Effective January 12, 2009).

Potential for Harm: Major

Extent of Deviation: Major

Justification for Potential for Harm: The potential for harm resulting from this violation was determined to be “major” inasmuch as Respondent’s failure to maintain records of annually testing operation of automatic line leak detectors provides no documentation that there has been adequate testing of the equipment relied upon to detect release of product into the environment.

Justification for Extent of Deviation: The extent of deviation was determined to be “major” inasmuch as the Respondent failed to comply with this requirement for the time period in which the penalty is being sought.

Part 4: Violator-Specific Adjustments to Matrix Value

	% Change (+/-) MV	Matrix Value	Total Dollar Adjustment
7. Degree of cooperation or non-cooperation:	0	\$4,249	\$ 0
8. Degree of willfulness or negligence:	+25	\$4,249	+\$1,062
9. History of noncompliance:	0	\$4,249	\$ 0
10. Unique factors:	0	\$4,249	\$ 0

Justification for Degree of Cooperation/ Non-cooperation:
 No adjustment was made.

Justification for Degree of Willfulness or Negligence:
 A 25 percent upward adjustment was made, primarily because Respondent’s representative was advised of this requirement nine months prior to EPA’s

inspection and the violation continued nevertheless. In addition: (1) Testing corrosion protection systems has been a longstanding requirement of the program; and (2) Respondent knew of this legal requirement prior to the December 22, 1998 deadline, yet Respondent failed to comply with this requirement for the UST systems, and such non-compliance continued more than ten years later. In the fall of 1998, EPA conducted an outreach program for federal agencies, including the Respondent, to discuss the December 22, 1998 UST upgrade deadline, and EPA met with Respondent and other federal agencies on November 24, 1998 in furtherance of this outreach effort. As a follow-up to the meeting, EPA issued a letter, dated December 2, 1998, requesting that federal agencies submit UST compliance information. The amount of the adjustment reflects the degree of willfulness or negligence in relation to the seriousness of the violation.

Justification for History of Noncompliance:

No adjustment was made.

Justification for Unique Factors:

No adjustment was made.

Part 5: Gravity-Based Component

11. Adjusted Matrix Value (AMV): (line 6 plus Dollar Adjustment in lines 7 through 10):
 $\$4,249 + \$1,062 = \$5,311$

12. Level of Environmental Sensitivity: Moderate
Environmental Sensitivity Multiplier (ESM): 1.5

Justification for Level of Environmental Sensitivity:

The Environmental Sensitivity Multiplier for this violation was determined to be "moderate," corresponding to a sensitivity level of 1.5 because the facility is located in a populated area with buildings that have basements and other sub-surface improvements and the facility lies over the Nassau Coastal Plain Sole Source Aquifer.

13. Days of Non-compliance Multiplier (DNM): (365 days of violation) = 2.5

14. Gravity-based Component:

Post-March 15, 2004 violation period: $\$5,311$ (AMV) x 1.5 (ESM) x 2.5 (DNM) = $\$19,916$
Total Gravity Based Penalty: $\$19,916$

Part 6: Initial Penalty Target Figure

15. Economic Benefit Component (from line 3):	\$ 0
16. Gravity-Based Component (from line 14):	\$19,916
17. Initial Penalty Target Figure (line 15 plus 16):	\$19,916

**Count 17: Respondent's Failure to Maintain Records of Annual Line Tightness Tests
Or Monthly Monitoring of Pressurized Piping
Two UST Systems at the Western Nassau Facility**

Part 1: Background

Facility in violation: Western Nassau Facility

<u>Violation:</u>	<u>Regulation</u>	<u>Non-compliance</u>
	40 C.F.R. § 280.45(b)	Failure to maintain records of annual line tightness tests, or of piping release detection.

Penalty Calculation Period:

Date Gravity-based Penalty Calculations Started: Violation started November 1, 2008.

Date Gravity-based Penalty Calculations Ended: Violation ended January 31, 2009.

1. Days of Noncompliance for Gravity-Based Penalty: 90 days

2. Number of Tanks: 2

Part 2: Economic Benefit Component / Cost Savings

3. Economic Benefit is not assessed at this time.

Part 3: Matrix Value for the Gravity-Based Component

4. Matrix Value (MV): \$100

5. Total for facility: \$100 (This is a facility-based penalty)

Inflation Adjustment Rule:

6. $\$100 \times 1.2895$ (inflation adjustment for post March 15, 2004) = \$129
See Modifications to EPA Penalty Policies to Implement the Civil Monetary Penalty Inflation Adjustment Rule (Pursuant to the Debt Collection Improvement Act of 1996, Effective October 1, 2004). Starting January 12, 2009, the inflation adjustment factor was increased to 1.4163. Given that this increase would apply to only 19 days of the violation period, it is not assessed at this time.

Potential for Harm: Minor

Extent of Deviation: Moderate

Justification for Potential for Harm: The potential for harm resulting from this violation was determined to be "minor" inasmuch as Respondent's release detection or tightness testing records provided some documentation of adequate monitoring to detect a release of product into the environment.

Justification for Extent of Deviation: The extent of deviation was determined to be "moderate"

inasmuch as the Respondent had maintained 9 of 12 months of piping release detection.

Part 4: Violator-Specific Adjustments to Matrix Value

	% Change (+/-) MV	Matrix Value	Total Dollar Adjustment
7. Degree of cooperation or non-cooperation:	0	\$129	\$ 0
8. Degree of willfulness or negligence:	+25	\$129	+\$ 32
9. History of noncompliance:	0	\$129	\$ 0
10. Unique factors:	0	\$129	\$ 0

Justification for Degree of Cooperation/ Non-cooperation:

No adjustment was made.

Justification for Degree of Willfulness or Negligence:

A 25 percent upward adjustment was made, primarily because Respondent's representative was advised of this requirement nine months prior to EPA's inspection and the violation continued nevertheless. In addition: (1) Piping release detection has been a longstanding requirement of the program; and (2) Respondent knew of this legal requirement prior to the December 22, 1998 deadline, yet Respondent failed to comply with this requirement for the UST systems, and such non-compliance continued more than ten years later. In the fall of 1998, EPA conducted an outreach program for federal agencies, including the Respondent, to discuss the December 22, 1998 UST upgrade deadline, and EPA met with Respondent and other federal agencies on November 24, 1998 in furtherance of this outreach effort. As a follow-up to the meeting, EPA issued a letter, dated December 2, 1998, requesting that federal agencies submit UST compliance information. The amount of the adjustment reflects the degree of willfulness or negligence in relation to the seriousness of the violation.

Justification for History of Noncompliance:

No adjustment was made.

Justification for Unique Factors:

No adjustment was made.

Part 5: Gravity-Based Component

11. Adjusted Matrix Value (AMV): (line 6 plus Dollar Adjustment in lines 7 through 10):
\$129 + \$32 = \$161

12. Level of Environmental Sensitivity: Moderate
Environmental Sensitivity Multiplier (ESM): 1.5

Justification for Level of Environmental Sensitivity:

The Environmental Sensitivity Multiplier for this violation was determined to be "moderate," corresponding to a sensitivity level of 1.5 because the facility is located in a populated area with buildings that have basements and other sub-surface improvements and the facility lies over the Nassau Coastal Plain Sole Source Aquifer.

13. Days of Non-compliance Multiplier (DNM): (90 days of violation) = 1.5

14. Gravity-based Component:

Post-March 15, 2004 violation period: \$161 (AMV) x 1.5 (ESM) x 1.5 (DNM) = \$363
Total Gravity Based Penalty: \$363

Part 6: Initial Penalty Target Figure

15. Economic Benefit Component (from line 3):	\$ 0
16. Gravity-Based Component (from line 14):	\$363
17. Initial Penalty Target Figure (line 15 plus 16):	\$363