



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

MAR 31 2011

**CERTIFIED MAIL- RETURN RECEIPT REQUESTED**

Article Number: 7005 3110 0000 5933 5406

Edward P. Mangano, County Executive  
Office of the County Executive  
County of Nassau  
1550 Franklin Avenue  
Mineola, NY 11501

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG.11  
2011 APR -6 P 12: 14  
REGIONAL HEARING  
CLERK

Re: **In the Matter of Nassau County, Respondent**  
**Docket No. RCRA-02-2011-7506**

Dear County Executive Mangano:

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.*

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.

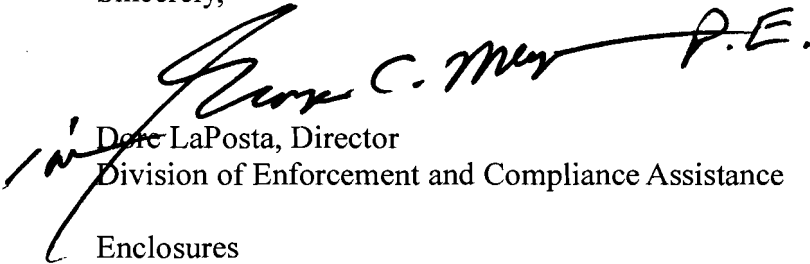
Whether or not you request a formal hearing, you may request an informal conference with EPA to discuss any issue relating to the alleged violations and the amount of the proposed penalty. EPA encourages all parties against whom it files a Complaint to pursue the possibility of settlement and to have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

A handwritten signature in black ink that reads "Dore C. LaPosta P.E." with a stylized flourish at the end.

Dore LaPosta, Director  
Division of Enforcement and Compliance Assistance

Enclosures

cc: Russ Brauksieck, Chief (with enclosures)  
Facility Compliance Section  
New York State Department of Environmental Conservation  
625 Broadway, 11<sup>th</sup> 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. II

2011 APR -6 P 12:14

REGIONAL HEARING  
CLERK

IN THE MATTER OF:

Nassau County

Respondent

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

COMPLAINT, COMPLIANCE ORDER  
AND  
NOTICE OF OPPORTUNITY FOR HEARING

DOCKET NO. RCRA-02-2011-7506

**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.* (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 Nassau County (hereinafter "Nassau County", "Nassau" and/or "Respondent"), which occupies approximately 287 square miles in the State of New York.
4. Nassau County's headquarters (i.e., main administrative offices) is located at 1550 Franklin Avenue, Mineola, NY 11501.
5. Respondent is a "person" within the meaning of Section 9001(5) of the Act, 42 U.S.C. § 6991(5), and 40 C.F.R. § 280.12.
6. Nassau County, through its various subdivisions, including, but not limited to, the Nassau County Department of Public Works (hereinafter "NCDPW"), owns and/or operates (and has owned and/or operated) at least thirty-three (33) facilities which have underground storage tanks ("USTs") throughout Nassau County, New York.

7. Respondent was and is the “owner” and/or “operator” of “underground storage tanks” (“USTs”) or “UST system,” as those terms are defined in Section 9001 of the Act, 42 U.S.C. §6991, and 40 C.F.R. §280.12, that are located at least thirty-three (33) facilities in the County of Nassau, State of New York.
8. Pursuant to 40 C.F.R. §280.12, EPA is the “implementing agency” responsible for enforcing the requirements of the Act and the regulations promulgated pursuant thereto which are the subject of this Complaint.
9. Pursuant to Sections 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, codified at 40 C.F.R. Part 280. These rules include ones related to release detection, record-keeping, upgrade requirements, and temporary and permanent closure.
10. 40 C.F.R. § 280.12 defines an underground storage tank or UST as 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.
11. 40 C.F.R. § 280.12 defines an “existing tank system” as a tank system used to contain an accumulation of regulated substances or for which installation has commenced on or before December 22, 1988.
12. 40 C.F.R. § 280.12 defines a “new tank system” as a tank system used to contain an accumulation of regulated substances or for which installation has commenced after December 22, 1988.
13. Pursuant to 40 C.F.R. §280.20(c)(1)(ii), owners and operators of new UST systems must use overfill prevention equipment that will: (A) Automatically shut off flow into the tank when the tank is no more than 95% full; or (B) Alert the transfer operator when the tank is no more than 90 percent full by restricting the flow into the tank or triggering a high-level alarm; or (C) Restrict flow 30 minutes prior to overfilling, alert the operator with a high-level alarm one minute before overfilling, or automatically shut off flow into the tank so that none of the fittings located on top of the tank are exposed to product due to overfilling.
14. Pursuant to 40 C.F.R. §280.21(d), all existing UST systems must comply with the new UST system overfill prevention equipment requirements specified in 40 CFR Section 280.20(c).
15. Pursuant to 40 C.F.R. §280.34, owners and operators of UST systems must cooperate fully with inspections by the implementing agency, as well as requests for document submission, testing, and monitoring by the owner or operator pursuant to Section 9005 of Subtitle I of the Resource Conservation and Recovery Act, as amended (“RCRA”).

16. Pursuant to 40 C.F.R. Section 280.34(b)(4) owners and operators of UST systems must maintain records of recent compliance with release detection requirements (40 C.F.R. Section 280.45).
17. Pursuant to 40 C.F.R. Section 280.34(c) owners and operators of UST systems must keep the records required either: (1) at the UST site and immediately available for inspection by the implementing agency; or (2) at a readily available alternative site and be provided for inspection to the implementing agency.
18. Pursuant to 40 C.F.R. §280.45(a), owners and operators of UST systems must maintain, for 5 years from the date of installation, or another reasonable period of time determined by EPA, records of all written performance claims pertaining to any release detection system used, and the manner in which these claims have been justified or tested by the equipment manufacturer or installer.
19. Pursuant to 40 C.F.R. §280.45(b), owners and operators of UST systems must maintain, for at least a year, the results of any sampling, testing or release detection monitoring.
20. Pursuant to 40 C.F.R. Section 280.41(a), owners and operators of petroleum UST systems must monitor tanks at least every 30 days for releases using one of the methods listed in 40 C.F.R. Section 280.43 (d) through (f), except that other methods may be used in circumstances that are inapplicable to the UST systems cited in this civil administrative proceeding.
21. The underground piping for each UST system owned and/or operated by Respondent at the facilities listed in the counts of this Complaint is the type referred to as “suction” piping.
22. Pursuant to 40 C.F.R. Section 280.41(b)(2), no release detection is required for suction piping that is designed and constructed to meet the following standards: i) the below-grade piping operates at less than atmospheric pressure; ii) the below-grade piping is sloped so that the contents of the pipe will drain back into the storage tank if the suction is released; iii) only one check valve is included in each suction line; and iv) the check valve is located directly below and as close as practical to the suction pump.
23. Pursuant to 40 C.F.R. §280.41(b) (2), owners and operators of new and existing UST systems with suction piping not meeting the design and construction standards as defined in this section must either have line tightness tests conducted at least every 3 years in accordance with 40 C.F.R. §280.44(b), or use a monthly monitoring method in accordance with 40 C.F.R. §280.44(c). 40 C.F.R. §280.44(c) states that any of the methods in §280.43(e) through (h) may be used to detect releases from underground piping.

24. EPA sent a RCRA § 9005 Information Request Letter, dated June 24, 2008 (hereinafter “IRL,” “First IRL” or “the 2008 Information Request Letter”), to Respondent, in order to determine its compliance with the Act and 40 C.F.R. Part 280. This IRL required the submittal of information on each and every UST system owned and/or operated by Nassau County.
25. On April 14, 2009, November 10, 2009, December 21, 2009, January 15, 2010 and January 27, 2010, Respondent submitted partial and incomplete responses to the First IRL.
26. Question 9 of the First IRL requested that Respondent “[S]tate the type of overfill prevention devices employed with each UST. The three main types of overfill prevention devices are: automatic shutoff devices (sometimes referred to as a ‘fill pipe device’), overfill alarms, and ball float valves.”
27. Respondent’s January 27, 2010 response to the First IRL indicates that for all tanks owned by Nassau County the type of overfill prevention equipment used is “Overfill Box with Alarm.”
28. On May 25, 2010, EPA sent a second IRL (hereinafter “the Second IRL” or “the 2010 Information Request Letter”) to Respondent seeking clarifying and additional information to complete EPA’s assessment of Respondent’s RCRA-UST compliance status.
29. Respondent submitted a response to the Second IRL on September 10, 2010.
30. Question 6 of the Second IRL made a request for Respondent to inform EPA as to the method of release detection being used for the USTs at the facilities identified by Respondent in its January 27, 2010 response to the First IRL.
31. Respondent’s September 10, 2010 response to Question 6 of the Second IRL states that Inventory Control and Manual Tank Gauging was the method being utilized for the USTs at all of its facilities.
32. Inventory Control and Manual Tank Gauging are not permissible methods of release detection, because they are not one of the EPA approved methods listed in 40 CFR Section 280.43(d) through (f).
33. Pursuant to 40 C.F.R. Section 280.43(b), tanks of greater than 2,000 gallons capacity may not use Manual Tank Gauging to satisfy federal release detection requirements under 40 C.F.R. Part 280, subpart D.
34. Almost all of the tanks owned and/or operated by Respondent are greater than 2000 gallons capacity.

35. Moreover, notwithstanding Respondent's assertion to the contrary, Respondent has not utilized manual tank gauging and inventory control as a method of release detection for tanks it owns and/or operates in Nassau County.
36. Respondent's September 10, 2010 response to Question 6 of EPA's Second IRL states that most facilities were not recording the appropriate information and as a result there were no records of either method (Inventory Control or Manual Tank Gauging) being done.
37. Respondent's September 10, 2010 response to Question 6 of the Second IRL states that a review of the Department's practices was underway to determine how best to address the issue of the proper release detection method for tanks for the long term.
38. Respondent's September 10, 2010 response to Question 6 of EPA's Second IRL states that in order to comply with the federal release detection requirements of 40 C.F.R. 280.43, it has directed that all fuel tanks be tested as soon as possible.
39. Questions 7 to 36 of the Second IRL asked for specific information and documentation of compliance with federal release detection requirements for each UST system owned and/or operated by Respondent at each of the facilities identified in Respondent's January 27, 2010 response to EPA's First IRL.
40. Respondent's September 10, 2010 response to Questions 7 to 36 of the Second IRL states: ". . . [t]here are no site specific records associated [with] release detection of the tanks with the sites identified in these questions."
41. Tank and line tightness test results from several years ago, which were provided by Respondent in response to EPA's First IRL and Second IRL do not satisfy federal release detection requirements.
42. Questions 4 and 5 of the Second IRL sought information specifically about whether Respondent met the requirements for federal release detection for suction piping.
43. Respondent's September 10, 2010 response to Questions 4 and 5 of the Second IRL states that it understands that suction piping at its facilities did not meet the exemption criteria and that ". . . [its] piping requires release detection methods as outlined in 40 C.F.R. 280.44."
44. Respondent's September 10, 2010 response to Question 4 and 5 of the Second IRL states that Respondent ". . . is moving forward with testing all piping systems that have not been tested in the last three years. . ."

45. Pursuant to Section 9005 of the Act, 42 U.S.C. § 6991d, during various months in 2008, 2009 and 2010, authorized representatives of EPA inspected thirty-three facilities understood to be owned and/or operated by Respondent, in order to determine its compliance with the Act and 40 C.F.R. Part 280.

## COUNT 1

### **Count 1 – Failure of Respondent to Comply with Information Request Letters Issued Under RCRA § 9005 for all UST Systems Owned and/or Operated by Respondent.**

46. Complainant realleges each allegation contained in Paragraphs “1” through “45” with the same force and effect as if fully set forth herein.
47. RCRA § 9005, 42 U.S.C. § 6991d provides, in relevant part, that “any owner or operator of an underground storage tank (or any tank subject to study under Section 9009 that is used for storing regulated substances) shall, upon request of any officer, employee or representative of the Environmental Protection Agency...furnish information relating to such tanks....”
48. Pursuant to Section 9005 of RCRA, 42 U.S.C. Section 6991d, and 40 C.F.R. Section 280.34, EPA sent the First IRL, dated June 24, 2008, to Respondent.
49. Section 9005 and 40 C.F.R. Section 280.34 constitute requirements of Subtitle I of RCRA for purposes of Section 9006(a) of RCRA, 42 U.S.C. § 6991e(a).
50. The First IRL required an answer within thirty (30) calendar days of receipt of the letter, or a request for additional time to respond within ten (10) days of receipt of the letter.
51. Respondent did not respond to the First IRL by July 26, 2008, which was thirty (30) calendar days after its receipt of said IRL.
52. EPA did not receive a request for an extension of time by which the Respondent was to respond to the IRL.
53. EPA issued a Notice of Violation (NOV) to Respondent on November 18, 2008 for failing to respond to the IRL. A duplicate copy of the IRL was enclosed with the NOV.
54. EPA sent a reminder to Respondent on February 6, 2009, indicating that “. . . the response is already past due and that a response should be provided as soon as possible.”
55. On April 14, 2009, Respondent submitted a partial and incomplete response to EPA’s IRL. Respondent did not respond to all the questions EPA had asked in the IRL.
56. EPA sent an electronic mail to Respondent on July 6, 2009 which informed the Respondent that the April 14, 2009 response to the IRL “. . . does not fully address the questions provided by EPA in its [aforementioned] Information Request Letter.”



57. On September 1, 2009, EPA issued a Second Notice of Violation to Respondent for its failure to respond to all the questions in the First IRL. A duplicate copy of the IRL was enclosed with the second NOV.
58. On November 10, 2009, December 21, 2009, January 15, 2010, and January 27, 2010, Respondent submitted partial and incomplete responses to the First IRL.
59. On May 25, 2010, EPA sent the Second IRL to the Respondent.
60. The Second IRL required an answer within fifteen (15) days of receipt, or a request for additional time to respond within ten (10) days of receipt.
61. Respondent sent a letter, dated June 4, 2010, to EPA requesting an extension of forty-five (45) days so that a comprehensive response could be prepared. Additionally, Respondent requested a meeting with EPA to discuss the amount of information requested and to review questions regarding past submittals.
62. On June 22, 2010, a meeting was held between EPA and Nassau County to discuss the Second IRL.
63. By letter of June 28, 2010, EPA granted an extension until July 23, 2010 for Respondent to respond to the Second IRL.
64. Respondent did not respond to the Second IRL by the extended due date.
65. On September 16, 2010, EPA issued a third Notice of Violation to Respondent for Respondent's failure to respond to the Second IRL. A duplicate copy of the original IRL was enclosed with the third NOV.
66. On September 17, 2010, Respondent mailed a response, dated September 10, 2010, to the Second IRL.
67. On September 21, 2010, EPA received Respondent's response to the Second IRL, dated September 10, 2010.
68. Respondent's failure to comply with the First IRL, from July 26, 2008 to November 10, 2009, constitutes a violation of 40 C.F.R. Section 280.34 and Section 9005 of the Act, 42 U.S.C. Section 6991d.
69. Respondent's failure to comply with the Second IRL, from July 23, 2010 to September 10, 2010, constitutes a violation of 40 C.F.R. Section 280.34 and Section 9005 of the Act, 42 U.S.C. Section 6991d.

COUNTS 2 to 4  
Bay Park Water Pollution Control Plant (BPWPCP), Rockaway, NY

**Count 2 - Failure to Provide Required Release Detection Monitoring and to Maintain Release Detection Records for Seven Tanks at the BPWPCP Facility**

70. Complainant realleges each allegation contained in Paragraphs "1" through "69" with the same force and effect as if fully set forth herein.
71. Respondent has owned and/or operated, and continues to own and/or operate seven petroleum UST systems (one 6,000 gallon unleaded gasoline UST, one 6,000 gallon diesel UST, three 20,000 gallon diesel USTs, and two waste oil USTs of 1,000 and 550 gallon capacity) located at the Bay Park Water Pollution Control Plant (BPWPCP), 2 Marjorie Lane, East Rockaway, NY.
72. As of the EPA's February 14, 2008 and November 10, 2009 inspections of the BPWPCP facility, Respondent had not maintained documents showing compliance during the year preceding the inspections with the requirement to monitor USTs at least every 30 days for releases.
73. As of the date of the February 14, 2008 and November 10, 2009 inspections of the BPWPCP facility, the automated release detection systems for monitoring the UST systems were not functioning.
74. In Respondent's reply submitted in response to the First IRL and Second IRL, despite EPA's request for such information, Respondent did not provide documentation showing that it had performed, prior to the date of EPA's February 2008 and November 2009 inspections, the required monitoring for seven tanks at this facility at least every 30 days for releases.
75. Between February 14, 2007 and September 10, 2010, Respondent did not conduct monitoring for releases from the seven tanks using any method in compliance with 40 C.F.R. 280.43(d) through (h).
76. Between February 14, 2007 and September 10, 2010, Respondent did not maintain the results/records of release detection monitoring for the seven tanks located at this facility.
77. Respondent's failure, between at least February 14, 2007 and September 10, 2010, to conduct monitoring for releases from the seven tanks located at this facility constitutes a violation of 280.41(a).
78. Respondent's failure to maintain the results of at least a year of monitoring for releases from the seven tanks located at this facility constitutes a violation of 40 C.F.R. Sections 280.34(b)(4), 280.34(c) and 280.45(b).

**Count 3 - Failure to Conduct Line Tightness Tests At Least Every 3 Years or to Provide Monthly Monitoring of Suction Piping System, and to Maintain Release Detection Records for Piping for Two UST systems at the BPWPCP Facility**

79. Complainant realleges each allegation contained in Paragraphs "1" through "78" with the same force and effect as if fully set forth herein.
80. In its December 21, 2009 and January 15, 2010 responses to EPA's First IRL, Respondent submitted as-built drawings and other information for the suction piping for the UST systems at this facility.
81. The as-built drawings for suction piping at this facility did not demonstrate that suction piping met all the design criteria required to qualify for an exemption from release detection, as noted in 40 C.F.R. §280.41(b) (2)(i) thru (v).
82. Suction piping at this facility requires the performance of the release detection method set forth in 40 C.F.R. §280.41(b)(2).
83. Respondent failed to perform release detection for suction piping in accordance with the requirements of 40 C.F.R. 280.41(b)(2).
84. During the February 2008 and November 2009 inspections at this facility, Respondent's representative could not provide the results of line tightness testing or any monthly monitoring for the suction piping for the twelve month period prior to each of the inspections.
85. Between February 14, 2007 and September 10, 2010, Respondent did not conduct line tightness testing or monthly monitoring (using one of the specified methods in 40 C.F.R. §280.43(e) through (h)) for releases from the suction for the UST systems (i.e., 6,000 gallon diesel UST and the 6,000 gallon unleaded gasoline UST) at this facility.
86. Between February 14, 2007 and September 10, 2010, Respondent did not maintain the results/records of line testing or release detection monitoring for suction piping for two of the seven UST systems located at this facility.
87. Respondent's failure, between at least February 14, 2007 and September 10, 2010, to conduct line tightness testing or monitoring for releases from piping for two of the seven UST systems at this facility constitutes a violation of 40 C.F.R. § 280. 41(b)(2) .
88. Respondent's failure to maintain the results of the last line tightness test result or at least a year of monitoring for releases from piping of two of the seven UST systems located at this facility constitutes a violation of 40 C.F.R. Sections 280.34(b)(4), 280.34(c) and 280.45(b).

**Count 4 – Failure to Use Overfill Prevention Equipment on Two UST systems at the BPWPCP Facility**

89. Complainant realleges each allegation contained in Paragraphs “1” through “88” with the same force and effect as if fully set forth herein.
90. Two of the UST systems (one 6,000 gallon diesel UST and one 6,000 gallon unleaded gasoline UST) at this facility were installed subsequent to 1988 and are considered “new tank systems” pursuant to 40 C.F.R. Part 280.12.
91. Pursuant to 40 C.F.R. §280.20(c)(1)(ii), owners and operators of new UST systems must use overfill prevention equipment on each UST system.
92. The type of overfill prevention equipment that Respondent employed was an overfill box with an alarm.
93. At the time of the November 10, 2009 inspection at this facility, the overfill alarms for the diesel and unleaded gasoline 6,000 gallon UST systems were out-of-service.
94. Between at least November 10, 2009 and September 10, 2010, the overfill alarms for the 6,000 gallon diesel and 6,000 gallon unleaded gasoline UST systems were out-of-service.
95. Respondent’s failure, between at least November 10, 2009 and September 10, 2010, to use overfill prevention equipment for two of the USTs located at this facility, constitutes a violation of 40 C.F.R. § 280.20(c)(1)(ii).

COUNTS 5 to 7

Cedar Creek Water Pollution Control Plant (CCWPCP), Wantagh, NY

**Count 5 - Failure to Provide Required Release Detection Monitoring and to Maintain Release Detection Records for 4 Tanks at the CCWPCP Facility.**

96. Complainant realleges each allegation contained in Paragraphs “1” through “95” with the same force and effect as if fully set forth herein.
97. Respondent has owned and/or operated, and continues to own and/or operate four petroleum UST systems (one 10,000 gallon unleaded gasoline UST, one 10,000 gallon diesel UST, and two 2,000 gallon waste oil USTs) located at the Cedar Creek Water Pollution Control Plant (CCWPCP), 3340 Merrick Rd, Wantagh, NY
98. As of EPA’s February 14, 2008, November 10, 2009 and November 17, 2009 inspections at the CCWPCP facility, Respondent had not maintained documents showing compliance during the year preceding each of the inspections with the requirement to monitor USTs at least every 30 days for releases.

99. As of the dates of EPA's February 14, 2008, November 10, 2009 and November 17, 2009 inspections at the CCWPCP facility, the automated release detection systems for monitoring the UST systems were not functioning.
100. During EPA's February 14, 2008 inspection, the facility operator stated he was unfamiliar with how to operate the automated release detection systems for monitoring USTs.
101. In Respondent's reply submitted in response to the First IRL and Second IRL, despite EPA's request for such information, Respondent did not provide documentation showing that it had performed, prior to the date of EPA's February 2008 and November 2009 inspections, the required monitoring of four tanks at least every 30 days for releases.
102. Between February 14, 2007 and September 10, 2010, Respondent did not conduct monitoring for releases from the four tanks using any method in compliance with 40 C.F.R. Section 280.43(d) through (h).
103. Between February 14, 2007 and September 10, 2010, Respondent did not maintain the results/records of release detection monitoring for the four tanks located at this facility.
104. Respondent's failure, between at least February 14, 2007 and September 10, 2010, to conduct monitoring for releases from the four tanks located at this facility constitutes a violation of 280.41(a).
105. Respondent's failure to maintain the results of at least a year of monitoring for releases from the four tanks located at this facility, constitutes a violation of 40 C.F.R. Sections 280.34(b)(4), 280.34(c) and 280.45(b).

**Count 6 - Failure to Conduct Line Tightness Tests At Least Every 3 Years or to Provide Monthly Monitoring of the Suction Piping System, and to Maintain Release Detection Records for Piping for 2 UST systems at the CCWPCP facility**

106. Complainant realleges each allegation contained in Paragraphs "1" through "105" with the same force and effect as if fully set forth herein.
107. In its December 21, 2009 and January 15, 2010 responses to EPA's First IRL, Respondent submitted as-built drawings and other information for the suction piping for the UST systems at this facility.
108. The as-built drawings for suction piping at this facility did not demonstrate that suction piping met all the design criteria required to qualify for an exemption from release detection, as noted in 40 C.F.R. §280.41(b) (2)(i) thru (v).
109. Suction piping at this facility requires the performance of the release detection method set forth in 40 C.F.R. Section 280.41(b)(2).

110. During the February 2008 inspection, the facility operator stated he was unaware if there was any leak detection for piping located at the facility.
111. Respondent failed to perform release detection for suction piping in accordance with the requirements of 40 C.F.R. Section 280.41(b)(2).
112. During the February 2008 and November 2009 inspections at this facility, Respondent's representative could not provide the results of line tightness testing or any monthly monitoring for suction piping during the twelve month period prior to each of the inspections.
113. Between February 14, 2007 and September 10, 2010, Respondent did not conduct line tightness testing or monthly monitoring (using one of the specified methods in 40 C.F.R. Section 280.43(e) through (h)) for releases from the suction piping for the 10,000 gallon unleaded gasoline and 10,000 gallon diesel UST systems located at this facility.
114. Between February 14, 2007 and September 10, 2010, Respondent did not maintain the results/records of line tightness testing or release detection monitoring for suction piping for the 10,000 gallon unleaded gasoline and 10,000 gallon diesel UST systems located at this facility.
115. Respondent's failure, between at least February 14, 2007 and September 10, 2010, to conduct monitoring for releases from piping for the two UST systems located at this facility, constitutes a violation of 40 C.F.R. § 280. 41(b) (2).
116. Respondent's failure to maintain the results of the last line tightness test result or at least a year of monitoring for releases from piping of the two UST systems at this facility, constitutes a violation of 40 C.F.R. Sections 280.34(b)(4), 280.34(c) and 280.45(b).

**Count 7 – Failure to Use Overfill Prevention Equipment on Two UST systems at the CCWPCP Facility**

117. Complainant realleges each allegation contained in Paragraphs “1” through “116” with the same force and effect as if fully set forth herein.
118. Two of the UST systems (one diesel, one unleaded gasoline, each with a 10,000 gallon capacity) at this facility were installed subsequent to 1988 and are considered “new tank systems” pursuant to 40 C.F.R. Section 280.12.
119. Pursuant to 40 C.F.R. §280.20(c)(1)(ii), owners and operators of new UST systems must use overfill prevention equipment on each UST system.
120. The type of overfill prevention equipment that Respondent employed was an overfill box with an alarm.

121. At the time of the February 14, 2008 and November 10, 2009 inspections at this facility, the overfill alarms for the 10,000 gallon diesel and unleaded gasoline UST systems were out-of-service.
122. Between at least February 14, 2008 and September 10, 2010, the overfill alarms for the 10,000 gallon diesel and unleaded gasoline UST systems were out-of- service.
123. Respondent's failure, between at least February 14, 2008 and September 10, 2010, to use overfill prevention equipment for the two 10,000 gallon USTs located at this facility, constitutes a violation of 40 C.F.R. § 280.20(c)(1)(ii).

COUNT 8  
Atlantic Bridge, Lawrence, NY

**Count 8 – Failure to Maintain Release Detection Records for the Tanks at the Atlantic Bridge Facility**

124. Complainant realleges each allegation contained in Paragraphs “1” through “123” with the same force and effect as if fully set forth herein.
125. Respondent has owned and/or operated, and continues to own and/or operate two petroleum UST systems (one 10,000 gallon unleaded gasoline UST and one 550 gallon diesel UST) located at the Atlantic Bridge facility, Doughty Blvd, Lawrence, NY.
126. Pursuant to 40 C.F.R. Section 280.34(b)(4) owners and operators of UST systems must maintain information concerning recent compliance with release detection requirements (40 C.F.R. 280.45).
127. Pursuant to 40 C.F.R. Section 280.45, owners and operators of UST systems must maintain records of release detection monitoring for at least 1 year.
128. During the January 12, 2010 inspection at this facility, Respondent's representative could not provide the results of monthly monitoring for the twelve month period prior to the inspection.
129. In Respondent's reply submitted in response to the First IRL and Second IRL, despite EPA's request for this information, Respondent did not provide documentation showing that it had performed, prior to the date of EPA's January 12, 2010 inspection at this facility, the required monitoring of two tanks at least every 30 days for releases.
130. Between at least June 24, 2007 and September 10, 2010, Respondent did not maintain the results/records of release detection monitoring for the two tanks located at this facility.
131. Respondent's failure to maintain the results of at least a year of monitoring for releases from the two tanks located at this facility constitutes a violation of 40 C.F.R. Sections 280.34(b)(4), 280.34(c) and 280.45(b).

COUNTS 9 to 11

Nassau County Correctional Facility (NCCF), East Meadow, NY

**Count 9 - Failure to Provide Required Release Detection Monitoring and to Maintain Release Detection Records for a Tank at the NCCF**

132. Complainant realleges each allegation contained in Paragraphs "1" through "131" with the same force and effect as if fully set forth herein.
133. Respondent has owned and/or operated, and continues to own and/or operate five petroleum UST systems (one 10,000 gallon unleaded gasoline UST, one 6,000 gallon diesel UST for an emergency generator, two 4,000 gallon diesel USTs for an emergency generator, and one 2,500 gallon unleaded gasoline UST for an emergency generator) located at Nassau County Correctional Facility (NCCF), 100 Carman Ave, East Meadow, N.Y.
134. Only one out of five UST systems (the 10,000 gallon unleaded gasoline UST) at the facility is subject to federal release detection requirements.
135. As of EPA's April 20, 2010 inspection at the NCCF, Respondent had not maintained documents showing compliance during the year preceding the inspection with the requirement to monitor the 10,000 gallon UST at least every 30 days for releases.
136. As of the date of EPA's April 20, 2010 inspection at the NCCF facility, there was no leak detection system in place for monitoring the 10,000 gallon UST.
137. In Respondent's reply submitted in response to the First IRL and Second IRL, despite EPA's request for this information, Respondent did not provide documentation showing that it had performed, prior to the date of EPA's April 20, 2010 inspection at this facility, the required monitoring of the 10,000 gallon tank at least every 30 days for releases.
138. Between June 24, 2007 and September 10, 2010, Respondent did not conduct monitoring for releases from the tank using any method of compliance with 40 C.F.R. Section 280.43(d) through (h).
139. Between June 24, 2007 and September 10, 2010, Respondent did not maintain the results/records of release detection monitoring for the 10,000 gallon unleaded gasoline tank located at this facility.
140. Respondent's failure, between at least June 24, 2007 and September 10, 2010, to conduct monitoring for releases from the 10,000 gallon unleaded gasoline tank located at this facility constitutes a violation of 280.41(a).
141. Respondent's failure to maintain the results of at least a year of monitoring for releases from the 10,000 gallon unleaded gasoline tank located at this facility, constitutes a



violation of 40 C.F.R. Sections 280.34(b)(4), 280.34(c) and 280.45(b).

**Count 10 - Failure to Conduct Line Tightness Tests at Least Every 3 Years or to Provide Monthly Monitoring of the Suction Piping System and to Maintain Release Detection Records for Piping for the UST system at the NCCF.**

142. Complainant realleges each allegation contained in Paragraphs "1" through "141" with the same force and effect as if fully set forth herein.
143. In its December 21, 2009 and January 15, 2010 responses to EPA's First IRL, Respondent submitted as-built drawings and other information for the suction piping for the UST systems at this facility.
144. The as-built drawings for suction piping at this facility did not demonstrate that suction piping met all the design criteria required to qualify for an exemption from release detection, as noted in 40 C.F.R. §280.41(b) (2)(i) thru (v).
145. Suction piping at this facility requires the performance of the release detection method set forth in 40 C.F.R. Section 280.41(b)(2).
146. Respondent failed to perform release detection for suction piping in accordance with the requirements of 40 C.F.R. 280.41(b)(2).
147. During the April 20, 2010 inspection at this facility, Respondent's representative could not provide results of line tightness testing or any monthly monitoring for suction piping of the 10,000 gallon unleaded gasoline UST system for the twelve month period prior to the inspection.
148. Between June 24, 2007 and September 10, 2010, Respondent did not conduct line tightness testing or monthly monitoring (using one of the specified methods in 40 C.F.R. Section 280.43(e) through (h) for releases from suction piping of the 10,000 gallon unleaded gasoline UST system at this facility.
149. Between June 24, 2007 and September 10, 2010, Respondent did not maintain the results/records of line tightness testing or release detection monitoring for suction piping for the 10,000 gallon unleaded gasoline UST system located at this facility.
150. Respondent's failure, between at least June 24, 2007 and September 10, 2010, to conduct line tightness testing or monitoring for releases from piping for the 10,000 gallon unleaded gasoline UST system located at this facility constitutes a violation of 40 C.F.R. § 280. 41(b) (2).
151. Respondent's failure to maintain the results of the last line tightness test result or at least a year of monitoring for releases from piping for the 10,000 gallon unleaded gasoline UST system located at this facility constitutes a violation of 40 C.F.R. Sections 280.34(b)(4), 280.34(c) and 280.45(b).

**Count 11 – Failure to Use Overfill Prevention Equipment on Five UST systems at the NCCF.**

152. Complainant realleges each allegation contained in Paragraphs “1” through “151” with the same force and effect as if fully set forth herein.
153. Five of the UST systems (one 10,000 gallon unleaded gasoline UST, one 6,000 gallon diesel UST, diesel, two 4,000 gallon diesel USTs and one 2,500 gallon unleaded gasoline UST) at this facility were installed subsequent to 1988 and are considered “new tank systems” pursuant to 40 C.F.R. Part 280.12.
154. Pursuant to 40 C.F.R. §280.20(c)(1)(ii), owners and operators of new UST systems must use overfill prevention equipment on each UST system.
155. The type of overfill prevention equipment that Respondent employed was an overfill box with an alarm.
156. At the time of EPA’s April 20, 2010 inspection at this facility, the overfill alarms for the five UST systems were out-of-service.
157. Between at least April 20, 2010 and September 10, 2010, the overfill alarms for the five UST systems were out-of-service.
158. Respondent’s failure, between at least April 20, 2010 and September 10, 2010, to use overfill prevention equipment for the five UST systems located at this facility, constitutes a violation of 40 C.F.R. § 280.20(c)(1)(ii).

COUNTS 12 to 14  
Eisenhower Park, East Meadows, NY

**Count 12 - Failure to Maintain Release Detection Records for the Tanks at the Eisenhower Park Facility**

159. Complainant realleges each allegation contained in Paragraphs “1” through “158” with the same force and effect as if fully set forth herein.
160. Respondent has owned and/or operated, and continues to own and/or operate three petroleum UST systems (one 10,000 gallon unleaded gasoline UST, one 2,500 gallon diesel UST, and one 2,000 gallon unleaded gasoline UST) located at the Eisenhower Park facility, East Meadow, NY.
161. Pursuant to 40 C.F.R. Section 280.34(b)(4) owners and operators of UST systems must maintain information concerning recent compliance with release detection requirements (40 C.F.R. 280.45).

162. Pursuant to 40 C.F.R. Section 280.45, owners and operators of UST systems must maintain records of release detection monitoring for at least 1 year.
163. During EPA's November 17, 2009 and January 13, 2010 inspections at this facility, Respondent's representative could not provide the results of monthly monitoring for the twelve month period prior to each inspection.
164. In Respondent's reply submitted in response to the First IRL and Second IRL, despite EPA's request for this information, Respondent did not provide documentation showing that it had performed, prior to the date of EPA's November 17, 2009 and January 13, 2010 inspections at this facility, the required monitoring of the three tanks at least every 30 days for releases.
165. Between at least June 24, 2007 and September 10, 2010, Respondent did not maintain the results/records of release detection monitoring for the three tanks located at this facility.
166. Respondent's failure to maintain the results of at least a year of monitoring for releases from the three tanks located at this facility constitutes a violation of 40 C.F.R. Sections 280.34(b)(4), 280.34(c) and 280.45(b).

**Count 13 - Failure to Conduct Line Tightness Tests At Least Every 3 years or to Provide Monthly Monitoring of the Suction Piping System and to Maintain Release Detection Records for Piping for One of the Three UST Systems at the Eisenhower Park Facility**

167. Complainant realleges each allegation contained in Paragraphs "1" through "166" with the same force and effect as if fully set forth herein.
168. In its December 21, 2009 and January 15, 2010 responses to EPA's First IRL, Respondent submitted as-built drawings and other information for the suction piping for the UST systems at this facility.
169. The as-built drawings for suction piping at this facility did not demonstrate that suction piping met all the design criteria required to qualify for an exemption from release detection, as noted in 40 C.F.R. §280.41(b) (2)(i) thru (v).
170. Suction piping at this facility requires the performance of the release detection method set forth in 40 C.F.R. Section 280.41(b)(2).
171. Respondent failed to perform release detection for suction piping in accordance with the requirements of 40 C.F.R. Section 280.41(b)(2).
172. During the November 17, 2009 and January 13, 2010 inspections at this facility, Respondent's representative could not provide results of line tightness testing or any monthly monitoring for suction piping for the 2,000 gallon UST system for the twelve

month period prior to each of the inspections.

173. Between June 24, 2007 and September 10, 2010, Respondent did not conduct line tightness testing or monthly monitoring (using one of the specified methods in 40 C.F.R. Section 280.43(e) through (h) for releases from suction piping for one (the 2,000 gallon UST) of the three UST systems located at this facility.
174. Between June 24, 2007 and September 10, 2010, Respondent did not maintain the results/records of line tightness testing or release detection monitoring for suction piping for one (the 2,000 gallon UST) of the three UST systems located at this facility.
175. Respondent's failure, between at least June 24, 2007 and September 10, 2010, to conduct line tightness testing or monitoring for releases from piping for the 2,000 gallon UST system located at this facility constitutes a violation of 40 C.F.R. § 280. 41(b) (2).
176. Respondent's failure to maintain the results of the last line tightness test result or at least a year of monitoring for releases from piping for the 2,000 gallon UST system located at this facility constitutes a violation of 40 C.F.R. Sections 280.34(b)(4), 280.34(c) and 280.45(b).

**Count 14 – Failure to Use Overfill Prevention Equipment on Two UST Systems at the Eisenhower Park Facility.**

177. Complainant realleges each allegation contained in Paragraphs “1” through “176” with the same force and effect as if fully set forth herein.
178. Three of the UST systems (one 10,000 gallon unleaded gasoline UST, one 2,500 gallon diesel UST, and one 2,000 gallon unleaded gasoline UST) at this facility were installed subsequent to 1988 and are considered “new tank systems” pursuant to 40 C.F.R. Section 280.12.
179. Pursuant to 40 C.F.R. §280.20(c)(1)(ii), owners and operators of new UST systems must use overfill prevention equipment on each UST system.
180. The type of overfill prevention equipment that Respondent employed was an overfill box with an alarm.
181. At the time of the November 17, 2009 and January 13, 2010 inspections at this facility, the overfill alarms for one 10,000 gallon UST and one 2,500 gallon UST were out-of-service.
182. Between at least November 17, 2009 and September 10, 2010, the overfill alarms for one 10,000 gallon UST and one 2,500 gallon UST were out-of-service.

183. Respondent's failure, between at least November 17, 2009 and September 10, 2010, to use overfill prevention equipment for two of the three UST systems located at this facility, constitutes a violation of 40 C.F.R. § 280.20(c)(1)(ii).

COUNTS 15 to 17

Firemens Training Center a/k/a Fire Service Academy, Old Bethpage, NY

**Count 15 - Failure to Provide Required Release Detection Monitoring and to Maintain Release Detection Records for Five Tanks at the Firemens Training Center Facility**

184. Complainant realleges each allegation contained in Paragraphs "1" through "183" with the same force and effect as if fully set forth herein.
185. Respondent has owned and/or operated, and continues to own and/or operate six petroleum UST systems (two 6,000 gallon unleaded gasoline UST, one 6000 gallon diesel UST, one 2,500 gallon diesel UST used for an emergency generator, one 2,500 gallon unleaded gasoline UST, and one 2,500 waste oil UST) located at Firemens Training Center a/k/a Fire Service Academy, 300 Winding Rd, Old Bethpage, NY
186. As of the date of the November 12, 2009 and April 19, 2010 inspections at the Firemens Training Center facility, the automated release detection systems for monitoring USTs were not functioning.
187. Five USTs at this facility, not including the 2,500 gallon diesel UST that stores fuel for use by an emergency generator, are subject to release detection requirements for monitoring USTs.
188. As of the EPA's November 12, 2009 and April 19, 2010 inspections of the Firemens Training Center facility, Respondent had not maintained documents showing compliance during the year preceding each of the inspections with the requirement to monitor USTs at least every 30 days for releases.
189. In Respondent's reply submitted in response to the First IRL and Second IRL, despite EPA's request for such information, Respondent did not provide documentation showing that it had performed, prior to the date of EPA's November 12, 2009 and April 19, 2010 inspections at this facility, the required monitoring of five tanks at least every 30 days for releases.
190. During the April 19, 2010 inspection at this facility, Respondent's representative stated that monthly or regular inspection of the USTs is not performed and therefore there were no UST monitoring records kept on-site.
191. Between June 24, 2007 and September 10, 2010, Respondent did not conduct monitoring for releases from five of the six tanks using any method in compliance with 40 C.F.R. Section 280.43(d) through (h).

192. Between June 24, 2007 and September 10, 2010, Respondent did not maintain the results/records of release detection monitoring for five of the six tanks located at this facility.
193. Respondent's failure, between at least June 24, 2007 and September 10, 2010, to conduct monitoring for releases from five of the six tanks located at this facility constitutes a violation of 40 C.F.R. Section 280.41(a).
194. Respondent's failure to maintain the results of at least a year of monitoring for releases from five of the six tanks located at this facility constitutes a violation of 40 C.F.R. Sections 280.34(b)(4), 280.34(c) and 280.45(b).

**Count 16 - Failure to Conduct Line Tightness Tests At Least Every 3 years or to Provide Monthly Monitoring of the Suction Piping System and to Maintain Release Detection Records for Piping for Four USTs at the Firemens Training Center Facility**

195. Complainant realleges each allegation contained in Paragraphs "1" through "194" with the same force and effect as if fully set forth herein.
196. In its December 21, 2009 and January 15, 2010 responses to EPA's First IRL, Respondent submitted as-built drawings and other information for the suction piping for the UST systems at this facility.
197. The as-built drawings for suction piping at this facility did not demonstrate that suction piping met all the design criteria required to qualify for an exemption from release detection, as noted in 40 C.F.R. §280.41(b) (2)(i) thru (v).
198. Suction piping at this facility requires the performance of the release detection method as set forth in 40 C.F.R. Section 280.41(b)(2).
199. Respondent failed to perform release detection for suction piping in accordance with the requirements of 40 C.F.R. Section 280.41(b) (2).
200. During the November 12, 2009 and April 19, 2010 inspections at this facility, Respondent's representative could not provide results of line tightness testing or any monthly monitoring for suction piping for four (e.g., the two 6,000 gallon unleaded gasoline UST systems, one 6,000 gallon diesel UST, and one 2,500 gallon unleaded gasoline UST) of the six UST systems for the twelve month period prior to each of the inspections.
201. Between June 24, 2007 and September 10, 2010, Respondent did not conduct line tightness testing or monthly monitoring (using one of the specified methods in 40 C.F.R. Section 280.43(e) through (h)) for releases from suction piping for four of the six UST systems at this facility.

202. Between June 24, 2007 and September 10, 2010, Respondent did not maintain the results/records of line tightness testing or release detection monitoring for suction piping for four of the six UST systems at this facility.
203. Respondent's failure, between at least June 24, 2007 and September 10, 2010, to conduct line tightness testing or monitoring for releases from piping for four of the six UST system located at this facility constitutes a violation of 40 C.F.R. § 280.41(b)(2).
204. Respondent's failure to maintain the results of the last line tightness test result or at least a year of monitoring for releases from piping for four of the six UST systems located at this facility constitutes a violation of 40 C.F.R. Sections 280.34(b)(4), 280.34(c) and 280.45(b).

**Count 17 – Failure to Use Overfill Prevention Equipment on Four UST systems at the Firemens Training Center Facility**

205. Complainant realleges each allegation contained in Paragraphs “1” through “204” with the same force and effect as if fully set forth herein.
206. Four of the UST systems (two 6,000 gallon unleaded gasoline USTs, one 6,000 gallon diesel UST and one 2,500 gallon unleaded gasoline UST) at this facility were installed subsequent to 1988 and are considered “new tank systems” pursuant to 40 C.F.R. Section 280.12.
207. Pursuant to 40 C.F.R. §280.20(c)(1)(ii), owners and operators of new UST systems must use overfill prevention equipment on each UST system.
208. The type of overfill prevention equipment that Respondent employed was an overfill box with an alarm.
209. At the time of the November 12, 2009 and April 19, 2010 inspections at this facility, the overfill alarms for the three unleaded gasoline UST systems and one diesel UST system were out-of-service.
210. Between at least November 12, 2009 and September 10, 2010, the overfill alarms for the three unleaded gasoline UST systems and one diesel UST system were out-of-service.
211. Respondent's failure, between at least November 12, 2009 and September 10, 2010, to use overfill prevention equipment for four of the USTs located at this facility, constitutes a violation of 40 C.F.R. § 280.20(c)(1)(ii).

COUNT 18  
Glen Cove Garage, Glen Cove, NY

**Count 18 - Failure to Conduct Line Tightness Tests At Least Every 3 years or to Provide Monthly Monitoring of the Suction Piping System and to Maintain Release Detection Records for Piping for Two UST systems at the Glen Cove Garage Facility**

212. Complainant realleges each allegation contained in Paragraphs “1” through “211” with the same force and effect as if fully set forth herein.
213. Respondent has two petroleum UST systems (one 6,000 gallon unleaded gasoline UST and one 4,000 gallon diesel UST) at the Glen Cove Garage facility.
214. In its December 21, 2009 and January 15, 2010 responses to EPA’s First IRL, Respondent submitted as-built drawings and other information for the suction piping for the UST systems at this facility.
215. The as-built drawings for suction piping at this facility did not demonstrate that suction piping met all the design criteria required to qualify for an exemption from release detection, as noted in 40 C.F.R. §280.41(b) (2)(i) thru (v).
216. Suction piping at this facility requires the performance of the release detection method set forth in 40 C.F.R. Section 280.41(b)(2).
217. Respondent failed to perform release detection for suction piping in accordance with the requirements of 40 C.F.R. Section 280.41(b)(2).
218. Between June 24, 2007 and September 10, 2010, Respondent did not conduct line tightness testing or monthly monitoring (using one of the specified methods in 40 C.F.R. Section 280.43(e) through (h)) for releases from suction piping for the two UST systems located at this facility.
219. Between June 24, 2007 and September 10, 2010, Respondent did not maintain the results/records of line tightness testing or release detection monitoring for suction piping for the two UST systems located at this facility.
220. Respondent’s failure, between at least June 24, 2007 and September 10, 2010, to conduct line tightness testing or monitoring for releases from piping for the two UST systems located at this facility constitutes a violation of 40 C.F.R. § 280. 41(b) (2).
221. Respondent’s failure to maintain the results of the last line tightness test result or at least a year of monitoring for releases from piping for the two UST systems located at this facility constitutes a violation of 40 C.F.R. Sections 280.34(b)(4), 280.34(c) and 280.45(b).



COUNTS 19 to 20  
Hempstead Garage, Hempstead, NY

**Count 19 – Failure to Provide Required Release Detection Monitoring and to Maintain Release Detection Records for Two Tanks at the Hempstead Garage Facility**

222. Complainant realleges each allegation contained in Paragraphs “1” through “221” with the same force and effect as if fully set forth herein.
223. Respondent has owned and/or operated, and continues to own and/or operate two petroleum UST systems (one 10,000 gallon unleaded gasoline UST, one 6,000 diesel UST) located at the Hempstead Garage, 467 Baldwin Rd, Hempstead, NY.
224. As of EPA’s January 13, 2010 inspection of the Hempstead Garage facility, Respondent had not maintained documents showing compliance during the year preceding the inspection with the requirement to monitor USTs at least every 30 days for releases.
225. As of the date of the January 13, 2010 inspection at the Hempstead Garage facility, there was no release detection system for monitoring the USTs.
226. In Respondent’s reply submitted in response to the First IRL and Second IRL, despite EPA’s request for such information, Respondent did not provide documentation showing that it had performed, prior to the date of EPA’s January 13, 2010 inspection, the required monitoring of two tanks at least every 30 days for releases.
227. Between June 24, 2007 and September 10, 2010, Respondent did not conduct monitoring for releases from the two tanks using any method in compliance with 40 C.F.R. Section 280.43(d) through (h).
228. Between June 24, 2007 and September 10, 2010, Respondent did not maintain the results/records of release detection monitoring for the two tanks located at this facility.
229. Respondent’s failure, between at least June 24, 2007 and September 10, 2010, to conduct monitoring for releases from the two tanks located at this facility constitutes a violation of 40 C.F.R. Section 280.41(a).
230. Respondent’s failure to maintain the results of at least a year of monitoring for releases from the two tanks located at this facility constitutes a violation of 40 C.F.R. Sections 280.34(b)(4), 280.34(c) and 280.45(b).

**Count 20 - Failure to Conduct Line Tightness Tests At Least Every 3 years or to Provide Monthly Monitoring of the Suction Piping System and to Maintain Release Detection Records for Piping for Two UST system at the Hempstead Garage Facility**

231. Complainant realleges each allegation contained in Paragraphs “1” through “230” with the same force and effect as if fully set forth herein.
232. In its December 21, 2009 and January 15, 2010 responses to EPA’s First IRL, Respondent submitted as-built drawings and other information for the suction piping for the UST systems at this facility.
233. The as-built drawings for suction piping at this facility did not demonstrate that suction piping met all the design criteria required to qualify for an exemption from release detection, as noted in 40 C.F.R. §280.41(b) (2)(i) thru (v).
234. Suction piping at this facility requires the performance of the release detection method set forth in 40 C.F.R. Section 280.41(b)(2).
235. Respondent failed to perform release detection for suction piping in accordance with the requirements of 40 C.F.R. Section 280.41(b)(2).
236. During the January 13, 2010 inspection at this facility, Respondent’s representative could not provide results of line tightness testing or any monthly monitoring for suction piping for the two UST systems (i.e., one 10,000 gallon unleaded gasoline UST and one 6,000 diesel UST) for the twelve month period prior to the inspection.
237. Between June 24, 2007 and September 10, 2010, Respondent did not conduct line tightness testing or monthly monitoring (using one of the specified methods in 40 C.F.R. Section 280.43(e) through (h)) for releases from suction piping for the two UST systems located at this facility.
238. Between June 24, 2007 and September 10, 2010, Respondent did not maintain the results/records of line tightness testing or release detection monitoring for suction piping for the two UST systems located at this facility.
239. Respondent’s failure, between at least June 24, 2007 and September 10, 2010, to conduct line tightness testing or monitoring for releases from piping for the two UST systems located at this facility constitutes a violation of 40 C.F.R. § 280. 41(b) (2).
240. Respondent’s failure to maintain the results of the last line tightness test result or at least a year of monitoring for releases from piping for the two UST systems located at this facility constitutes a violation of 40 C.F.R. Sections 280.34(b)(4), 280.34(c) and 280.45(b).

COUNTS 21 to 22  
Hicksville Garage, Hicksville, NY

**Count 21 - Failure to Provide Required Release Detection Monitoring and to Maintain Release Detection Records for Three Tanks at the Hicksville Garage Facility**

241. Complainant realleges each allegation contained in Paragraphs "1" through "240" with the same force and effect as if fully set forth herein.
242. Respondent has owned and/or operated, and continues to own and/or operate three petroleum UST systems (two 10,000 gallon unleaded gasoline USTs, one 6,000 gallon diesel UST) located at Hicksville Garage, 170 Cantiague Rock Rd, Hicksville, NY
243. As of EPA's January 11, 2010 inspection of the Hicksville Garage facility, Respondent had not maintained documents showing compliance during the year preceding the inspection with the requirement to monitor USTs at least every 30 days for releases.
244. During the January 11, 2010 inspection, Respondent's representative claimed that groundwater monitoring is performed. However, EPA could find no evidence of groundwater monitoring or any other method of release detection being performed as of the date of this inspection.
245. In Respondent's reply submitted in response to the First IRL and Second IRL, despite EPA's request for this information, Respondent did not provide documentation showing that it had performed, prior to the date of EPA's January 11, 2010 inspection, groundwater monitoring (or any method specified in 40 C.F.R. Section 280.43(d) through (h)) of three tanks at least every 30 days for releases.
246. Between June 24, 2007 and September 10, 2010, Respondent did not conduct monitoring for releases from the three tanks using any method compliance with 40 C.F.R. Section 280.43(d) through (h).
247. Between June 24, 2007 and September 10, 2010, Respondent did not maintain the results/records of release detection monitoring for the three tanks located at this facility.
248. Respondent's failure, between at least June 24, 2007 and September 10, 2010, to conduct monitoring for releases from the three tanks located at this facility constitutes a violation of 40 C.F.R. Section 280.41(a).
249. Respondent's failure to maintain the results of at least a year of monitoring for releases from the three tanks located at this facility constitutes a violation of 40 C.F.R. Sections 280.34(b)(4), 280.34(c) and 280.45(b).

**Count 22 - Failure to Conduct Line Tightness Tests At Least Every 3 years or to Provide Monthly Monitoring of the Suction Piping System and to Maintain Release Detection Records for Piping for Three UST systems at the Hicksville Garage Facility**

250. Complainant realleges each allegation contained in Paragraphs "1" through "249" with the same force and effect as if fully set forth herein.
251. In its December 21, 2009 and January 15, 2010 responses to EPA's First IRL, Respondent submitted as-built drawings and other information for the suction piping for the UST systems at this facility.
252. The as-built drawings for suction piping at this facility did not demonstrate that suction piping met all the design criteria required to qualify for an exemption from release detection, as noted in 40 C.F.R. §280.41(b) (2)(i) thru (v).
253. Suction piping at this facility requires the performance of the release detection method set forth in 40 C.F.R. Section 280.41(b)(2).
254. Respondent failed to perform release detection for suction piping in accordance with the requirements of 40 C.F.R. Section 280.41(b)(2).
255. During the January 11, 2010 inspection at this facility, Respondent's representative could not provide results of line tightness testing or any monthly monitoring for suction piping for the three UST systems (i.e., two 10,000 gallon unleaded gasoline USTs and one 6,000 gallon diesel UST) located at this facility for the twelve month period prior to the inspection.
256. Between June 24, 2007 and September 10, 2010, Respondent did not conduct line tightness testing or monitoring (using one of the specified methods in 40 C.F.R. Section 280.43(e) through (h)) for releases from suction piping for the three UST systems located at this facility.
257. Between June 24, 2007 and September 10, 2010, Respondent did not maintain the results/records of line tightness testing or release detection monitoring for suction piping for the three UST systems located at this facility.
258. Respondent's failure, between at least June 24, 2007 and September 10, 2010, to conduct line tightness testing or monitoring for releases from piping for the three UST systems located at this facility constitutes a violation of 40 C.F.R. § 280. 41(b) (2).
259. Respondent's failure to maintain the results of the last line tightness test result or at least a year of monitoring for releases from piping for the three UST systems located at this facility, constitutes a violation of 40 C.F.R. Sections 280.34(b)(4), 280.34(c) and 280.45(b).

Counts 23 to 24  
Inwood Garage, Inwood, NY

**Count 23 - Failure to Provide Required Release Detection Monitoring and to Maintain Release Detection Records for Two Tanks at the Inwood Garage Facility**

260. Complainant realleges each allegation contained in Paragraphs "1" through "259" with the same force and effect as if fully set forth herein.
261. Respondent has owned and/or operated, and continues to own and/or operate two petroleum UST systems (one 6,000 gallon unleaded gasoline UST, one 6,000 diesel UST) located at the Inwood Garage, 599 Bayview Avenue, Inwood, NY
262. As of EPA's November 17, 2009 inspection of the Inwood Garage Facility, Respondent had not maintained documents showing compliance during the year preceding the inspection with the requirement to monitor USTs at least every 30 days for releases.
263. During the November 17, 2009 inspection, Respondent's representative admitted that there was no release detection system in place for the USTs, only an antiquated tank tightness testing had been performed several years ago.
264. In Respondent's reply submitted in response to the First IRL and the Second IRL, despite EPA's request for this information, Respondent did not provide documentation showing that it had performed, prior to the date of EPA's November 17, 2009 inspection at this facility, the required monitoring of the two tanks at least every 30 days for releases.
265. Between June 24, 2007 and September 10, 2010, Respondent did not conduct monitoring for releases from the two tanks using any method in compliance with 40 C.F.R. Section 280.43(d) through (h).
266. Between June 24, 2007 and September 10, 2010, Respondent did not maintain the results/records of release detection monitoring for the two tanks located at this facility.
267. Respondent's failure, between at least June 24, 2007 and September 10, 2010, to conduct monitoring for releases from the two tanks located at this facility constitutes a violation of 40 C.F.R. Section 280.41(a).
268. Respondent's failure to maintain the results of at least a year of monitoring for releases from the two tanks located at this facility constitutes a violation of 40 C.F.R. Sections 280.34(b)(4), 280.34(c) and 280.45(b).

**Count 24 - Failure to Conduct Line Tightness Tests At Least Every 3 years or to Provide Monthly Monitoring of the Suction Piping System and to Maintain Release Detection Records for Piping for Two UST systems at the Inwood Garage Facility**

269. Complainant realleges each allegation contained in Paragraphs "1" through "268" with the same force and effect as if fully set forth herein.
270. In its December 21, 2009 and January 15, 2010 responses to EPA's First IRL, Respondent submitted as-built drawings and other information for the suction piping for the UST systems at this facility.
271. The as-built drawings for suction piping at this facility did not demonstrate that suction piping met all the design criteria required to qualify for an exemption from release detection, as noted in 40 C.F.R. §280.41(b) (2)(i) thru (v).
272. Suction piping at this facility requires the performance of the release detection method set forth in 40 C.F.R. Section 280.41(b)(2).
273. Respondent failed to perform release detection for suction piping in accordance with the requirements of 40 C.F.R. Section 280.41(b)(2).
274. During the November 17, 2009 inspection at this facility, Respondent's representative could not provide results of line tightness testing or any monthly monitoring for suction piping for the UST systems (i.e., one 6,000 gallon unleaded gasoline UST and one 6,000 diesel UST) for the twelve month period prior to the inspections.
275. Between June 24, 2007 and September 10, 2010, Respondent did not conduct line tightness testing or monthly monitoring (using one of the specified methods in 40 C.F.R. Section 280.43(e) through (h)) for releases from suction piping for the two UST systems located at this facility.
276. Between June 24, 2007 and September 10, 2010, Respondent did not maintain the results/records of line tightness testing or release detection monitoring for suction piping for the two UST systems located at this facility.
277. Respondent's failure, between at least June 24, 2007 and September 10, 2010, to conduct line tightness testing or monitoring for releases from piping for the two UST systems located at this facility constitutes a violation of 40 C.F.R. § 280. 41(b) (2).
278. Respondent's failure to maintain the results of the last line tightness test result or at least a year of monitoring for releases from piping for the two UST systems located at this facility constitutes a violation of 40 C.F.R. Sections 280.34(b)(4), 280.34(c) and 280.45(b).

COUNTS 25 to 28  
Manhasset Garage, Manhasset, NY

**Count 25 - - Failure to Provide Required Release Detection Monitoring and to Maintain Release Detection Records for Two Tanks at the Manhasset Garage Facility**

279. Complainant realleges each allegation contained in Paragraphs "1" through "278" with the same force and effect as if fully set forth herein.
280. Respondent has owned and/or operated, and continues to own and/or operate three petroleum UST systems (one 10,000 gallon unleaded UST, one 6,000 gallon diesel UST and one 600 gallon waste oil UST) located at the Manhasset Garage facility, 350 Bayview Avenue, Manhasset, NY
281. As of EPA's December 15, 2009 inspection of the Manhasset Garage Facility, Respondent had not maintained documents showing compliance during the year preceding the inspection with the requirement to monitor USTs at least every 30 days for releases.
282. As of the date of the December 15, 2009 inspection, the release detection system for the UST systems at this facility was not functioning.
283. In Respondent's reply submitted in response to the First IRL and the Second IRL, despite EPA's request for such information, Respondent did not provide documentation showing that it had performed, prior to the date of EPA's December 15, 2009 inspection at this facility, the required monitoring of two tanks at least every 30 days for releases.
284. Between June 24, 2007 and September 10, 2010, Respondent did not conduct monitoring for releases from two (i.e., one 10,000 gallon unleaded gasoline UST and the one 6,000 gallon diesel UST) of the three tanks using any method in compliance with 40 C.F.R. Section 280.43(d) through (h).
285. Between June 24, 2007 and September 10, 2010, Respondent did not maintain the results/records of release detection monitoring for two of the three tanks located at this facility.
286. Respondent's failure, between at least June 24, 2007 and September 10, 2010, to conduct monitoring for releases from two of the three tanks located at this facility constitutes a violation of 40 C.F.R. Section 280.41(a).
287. Respondent's failure to maintain the results of at least a year of monitoring for releases from two of the three tanks located at this facility constitutes a violation of 40 C.F.R. Sections 280.34(b)(4), 280.34(c) and 280.45(b).

**Count 26 - Failure to Conduct Line Tightness Tests At Least Every 3 years Or To Provide Monthly Monitoring of the Suction Piping System And To Maintain Release Detection Records for Piping for Two UST systems at the Manhasset Garage facility**

288. Complainant realleges each allegation contained in Paragraphs “1” through “287” with the same force and effect as if fully set forth herein.
289. In its December 21, 2009 and January 15, 2010 responses to EPA’s First IRL, Respondent submitted as-built drawings and other information for the suction piping for the UST systems at this facility.
290. The as-built drawings for suction piping at this facility did not demonstrate that suction piping met all the design criteria required to qualify for an exemption from release detection, as noted in 40 C.F.R. §280.41(b) (2)(i) thru (v).
291. Suction piping at this facility requires the performance of the release detection method set forth in 40 C.F.R. Section 280.41(b)(2).
292. Respondent failed to perform release detection for suction piping in accordance with the requirements of 40 C.F.R. Section 280.41(b)(2).
293. During the December 15, 2009 inspection at this facility, Respondent’s representative could not provide results of line tightness testing or any monthly monitoring for suction piping for the UST systems for the twelve month period prior to the inspection.
294. Between June 24, 2007 and September 10, 2010, Respondent did not conduct line tightness testing or monthly monitoring (using one of the specified methods in 40 C.F.R. Section 280.43(e) through (h)) for releases from suction piping for two (i.e., one 10,000 gallon unleaded gasoline UST and the one 6,000 gallon diesel UST) of the three UST systems located at this facility.
295. Between June 24, 2007 and September 10, 2010, Respondent did not maintain the results/records of line tightness testing or release detection monitoring for suction piping for two of the three UST systems located at this facility.
296. Respondent’s failure, between at least June 24, 2007 and September 10, 2010, to conduct line tightness testing or monitoring for releases from piping for two of the three UST systems located at this facility constitutes a violation of 40 C.F.R. § 280. 41(b) (2).
297. Respondent’s failure to maintain the results of the last line tightness test result or at least a year of monitoring for releases from piping for two of the three UST systems located at this facility constitutes a violation of 40 C.F.R. Sections 280.34(b)(4), 280.34(c) and 280.45(b).



**Count 27 – Failure to Use Overfill Prevention Equipment on Two UST systems at the Manhasset Garage Facility**

298. Complainant realleges each allegation contained in Paragraphs “1” through “297” with the same force and effect as if fully set forth herein.
299. Two of the UST systems (i.e., one 10,000 gallon unleaded gasoline UST and the one 6,000 gallon diesel UST) at this facility were installed prior to 1988 and are considered “existing tank systems” within the meaning of 40 C.F.R. Section 280.12.
300. Pursuant to 40 C.F.R. §280.21(d), all existing UST systems must comply with new UST system spill and overfill prevention equipment requirements specified in 280.20(c) .
301. The type of overfill prevention equipment that Respondent employed for each was an overfill box with an alarm.
302. At the time of the December 15, 2009 inspection at this facility, the overfill alarms for the unleaded gasoline and diesel UST systems were out-of-service.
303. Between at least December 15, 2009 and September 10, 2010, the overfill alarms for the unleaded and diesel UST systems were out-of-service.
304. Respondent’s failure, between at least December 15, 2009 and September 10, 2010, to use overfill prevention equipment for two of the three UST systems at this facility, constitutes a violation of 40 C.F.R. § 280.21(d).

**Count 28- Failure to Cap and Secure a Temporarily Closed UST after 3 Months at the Manhasset Garage Facility.**

305. Complainant realleges each allegation contained in Paragraphs “1” through “304” with the same force and effect as if fully set forth herein.
306. 40 C.F.R. §280.70 (b) requires that for any UST system that is temporarily closed for 3 months or more, owners and operators must also comply with the following requirements: 1) Leave vent lines open and functioning: and 2) cap and secure all other lines, pumps, manways, and ancillary equipment.
307. As of the date of the December 15, 2009 inspection at the Manhasset Garage facility, the 600 gallon waste oil tank had been closed for a period greater than three months.
308. The December 15, 2009 inspection at the Manhasset Garage facility found no evidence that the 600 gallon waste oil UST was capped and secured.
309. Respondent did not cap and secure the 600 gallon waste oil UST after the tank had been closed for three months.

310. Respondent's failure, between at least December 15, 2009 and September 10, 2010, to cap and secure a temporarily closed UST constitutes a violation of 40 C.F.R. § 280.70(b).

Count 29 to 31  
Mitchell Field Complex, Garden City, NY

**Count 29 - Failure to Provide Required Release Detection Monitoring and to Maintain Release Detection Records for Two Tanks at the Mitchell Field Complex Facility**

311. Complainant realleges each allegation contained in Paragraphs "1" through "310" with the same force and effect as if fully set forth herein.
312. Respondent has owned and/or operated, and continues to own and/or operate two petroleum UST systems (one 1,000 gallon unleaded gasoline UST and one 600 gallon diesel UST) located at the Mitchell Field Complex Facility, Charles Lindberg Blvd, Garden City, NY
313. As of EPA's April 19, 2010 inspection of the Mitchell Field Complex Facility, Respondent had not maintained documents showing compliance during the year preceding the inspection with the requirement to monitor USTs at least every 30 days for releases.
314. As of the date of the April 19, 2010 inspection, the release detection system was not functioning.
315. In Respondent's reply submitted in response to the First IRL and the Second IRL, despite EPA's prior request for such information, Respondent did not provide documentation showing that it had performed, prior to the date of EPA's April 19, 2010 inspection at this facility, the required monitoring of two tanks at least every 30 days for releases.
316. Between June 24, 2007 and September 10, 2010, Respondent did not conduct monitoring for releases from the two tanks using any method in compliance with 40 C.F.R. Section 280.43(d) through (h).
317. Between June 24, 2007 and September 10, 2010, Respondent did not maintain the results/records of release detection monitoring for the two tanks located at this facility.
318. Respondent's failure, between at least June 24, 2007 and September 10, 2010, to conduct monitoring for releases from the two tanks located at this facility constitutes a violation of 40 C.F.R. Section 280.41(a).
319. Respondent's failure to maintain the results of at least a year of monitoring for releases from the two tanks located at this facility constitutes a violation of 40 C.F.R. Sections 280.34(b)(4), 280.34(c) and 280.45(b).

**Count 30 - Failure to Conduct Line Tightness Tests At Least Every 3 years or to Provide Monthly Monitoring of the Suction Piping System and to Maintain Release Detection Records for Piping for the Two UST systems at the Mitchell Field Complex facility**

320. Complainant realleges each allegation contained in Paragraphs "1" through "319" with the same force and effect as if fully set forth herein.
321. In its December 21, 2009 and January 15, 2010 responses to EPA's First IRL, Respondent submitted as-built drawings and other information for the suction piping for the UST systems at this facility.
322. The as-built drawings for suction piping at this facility did not demonstrate that suction piping met all the design criteria required to qualify for an exemption from release detection, as noted in 40 C.F.R. §280.41(b) (2)(i) thru (v).
323. Suction piping at this facility requires the performance of the release detection method set forth in 40 C.F.R. Section 280.41(b)(2).
324. Respondent failed to perform release detection for suction piping in accordance with the requirements of 40 C.F.R. Section 280.41(b)(2).
325. During the April 19, 2010 inspection at this facility, Respondent's representative could not provide results of line tightness testing or any monthly monitoring for suction piping for the UST systems for the twelve month period prior to the inspections.
326. Between June 24, 2007 and September 10, 2010, Respondent did not conduct line tightness testing or monthly monitoring (using one of the specified methods in 40 C.F.R. Section 280.43(e) through (h)) for releases from suction piping for the two UST systems (one 1,000 gallon unleaded gasoline UST and one 600 gallon diesel UST) located at this facility.
327. Between June 24, 2007 and September 10, 2010, Respondent did not maintain the results/records of line tightness testing or release detection monitoring for suction piping for the two UST systems located at this facility.
328. Respondent's failure, between at least June 24, 2007 and September 10, 2010, to conduct line tightness testing or monitoring for releases from piping for the two UST systems located at this facility constitutes a violation of 40 C.F.R. § 280. 41(b) (2).
329. Respondent's failure to maintain the results of the last line tightness test result or at least a year of monitoring for releases from piping for the two UST systems located at this facility constitutes a violation of 40 C.F.R. Sections 280.34(b)(4), 280.34(c) and 280.45(b).

**Count 31 – Failure to Use Overfill Prevention Equipment on Two UST systems at the Mitchell Field Complex Facility**

330. Complainant realleges each allegation contained in Paragraphs “1” through “329” with the same force and effect as if fully set forth herein.
331. The two UST systems (one 1,000 gallon unleaded gasoline UST and one 600 gallon diesel UST) at this facility were installed subsequent to 1988 and are considered “new tank systems” within the meaning of 40 C.F.R. Part 280.12.
332. Pursuant to 40 C.F.R. §280.20(c)(1)(ii), owners and operators of new UST systems must use overfill prevention equipment on each UST system.
333. The type of overfill prevention equipment that Respondent employed for each tank was an overfill box with an alarm.
334. At the time of the April 19, 2010 inspection at this facility, the overfill alarms for the unleaded gasoline and diesel UST systems were out-of-service.
335. Between at least April 19, 2010 and September 10, 2010, the overfill alarms for the unleaded and diesel UST systems located at this facility were out-of-service.
336. Respondent’s failure, between at least April 19, 2010 and September 10, 2010, to use overfill prevention equipment for two UST systems located at this facility, constitutes a violation of 40 C.F.R. § 280.20 (c)(1)(ii).

Counts 32 to 34  
Nassau Beach Maintenance Facility, Lido Beach, NY

**Count 32 - Failure to Provide Required Release Detection Monitoring and to Maintain Release Detection Records for Three Tanks at the Nassau Beach Maintenance Facility**

337. Complainant realleges each allegation contained in Paragraphs “1” through “336” with the same force and effect as if fully set forth herein.
338. Respondent has owned and/or operated, and continues to own and/or operate three petroleum UST systems (one 1,000 gallon unleaded gasoline UST, one 1,000 gallon diesel UST and one 550 gallon waste oil UST) located at the Nassau Beach Maintenance Facility, 88 Lido Blvd, Lido Beach, N.Y.
339. As of EPA’s February 14, 2008 and November 16, 2009 inspections of this facility, Respondent had not maintained documents showing compliance during the year preceding each inspection with the requirement to monitor USTs at least every 30 days for releases.

340. As of the date of the February 14, 2008 and November 16, 2009 inspections, the automated release detection system for the USTs at this facility was not functioning.
341. During the February 14, 2008 inspection, the Respondent's representative stated that he was unaware of how to maintain or use the release detection system for monitoring USTs.
342. In Respondent's reply submitted in response to the First IRL and the Second IRL, despite EPA's request for such information, Respondent did not provide documentation showing that it had performed, prior to the date of EPA's February 14, 2008 and November 16, 2009 inspections at this facility, the required monitoring of the three tanks at least every 30 days for releases.
343. Between February 14, 2007 and September 10, 2010, Respondent did not conduct monitoring for releases from the three tanks using any method compliance with 40 C.F.R. 280.43(d) through (h).
344. Between February 14, 2007 and September 10, 2010, Respondent did not maintain the results/records of release detection monitoring for the three tanks located at this facility.
345. Respondent's failure, between at least February 14, 2007 and September 10, 2010, to conduct monitoring for releases from the three tanks located at this facility constitutes a violation of 40 C.F.R. Section 280.41(a).
346. Respondent's failure to maintain the results of at least a year of monitoring for releases from the three tanks located at this facility constitutes a violation of 40 C.F.R. Sections 280.34(b)(4), 280.34(c) and 280.45(b).

**Count 33 - Failure to Conduct Line Tightness Tests At Least Every 3 years or to Provide Monthly Monitoring of the Suction Piping System and to Maintain Release Detection Records for Piping for Two UST systems at the Nassau Beach Maintenance Facility**

347. Complainant realleges each allegation contained in Paragraphs "1" through "346" with the same force and effect as if fully set forth herein.
348. In its December 21, 2009 and January 15, 2010 responses to EPA's First IRL, Respondent submitted as-built drawings and other information for the suction piping for the UST systems at this facility.
349. The as-built drawings for suction piping at this facility did not demonstrate that suction piping met all the design criteria required to qualify for an exemption from release detection, as noted in 40 C.F.R. §280.41(b) (2)(i) thru (v).
350. Suction piping at this facility requires the performance of the release detection method set forth in 40 C.F.R. Section 280.41(b)(2).

351. Respondent failed to perform release detection for suction piping in accordance with the requirements of 40 C.F.R. Section 280.41(b)(2).
352. During the February 14, 2008 and November 16, 2009 inspections at this facility, Respondent's representative could not provide results of line tightness testing or any monthly monitoring for suction piping for two of the three UST systems for the twelve month period prior to the inspections.
353. Between February 14, 2007 and September 10, 2010, Respondent did not conduct line tightness testing or monthly monitoring (using one of the specified methods in 40 C.F.R. Section 280.43(e) through (h)) for releases from suction piping for the 1,000 gallon unleaded gasoline UST system and the 1,000 gallon diesel UST system at this facility.
354. Between February 14, 2007 and September 10, 2010, Respondent did not maintain the results/records of line tightness testing or release detection monitoring for suction piping for the 1,000 gallon unleaded gasoline UST system and the 1,000 gallon diesel UST system located at this facility.
355. Respondent's failure, between at least February 14, 2007 and September 10, 2010, to conduct line tightness testing or monitoring for releases from piping for two of the three UST systems located at this facility, constitutes a violation of 40 C.F.R. § 280. 41(b) (2).
356. Respondent's failure to maintain the results of the last line tightness test result or at least a year of monitoring for releases from piping for two of the three UST systems located at this facility, constitutes a violation of 40 C.F.R. Sections 280.34(b)(4), 280.34(c) and 280.45(b).

**Count 34 – Failure to Use Overfill Prevention Equipment on Two UST systems at the Nassau Beach Maintenance Facility.**

357. Complainant realleges each allegation contained in Paragraphs “1” through “356” with the same force and effect as if fully set forth herein.
358. Two UST systems (1,000 gallon unleaded gasoline UST system and the 1,000 gallon diesel UST system) located at this facility were installed subsequent to 1988 and are considered “new tank systems” within the meaning of 40 C.F.R. Section 280.12.
359. Pursuant to 40 C.F.R. §280.20(c)(1)(ii), owners and operators of new UST systems must use overfill prevention equipment on each UST system.
360. The type of overfill prevention equipment that Respondent employed was an overfill box with an alarm.

361. At the time of the November 16, 2009 inspection at this facility, the overfill alarms for the unleaded gasoline and diesel UST systems were out-of-service.
362. Between at least November 16, 2009 and September 10, 2010, the overfill alarms for the unleaded gasoline and diesel UST systems were out-of-service.
363. Respondent's failure, between at least November 16, 2009 and September 10, 2010, to use overfill prevention equipment for two UST systems located at this facility, constitutes a violation of 40 C.F.R. § 280.20 (c)(1)(ii).

COUNT 35

Nassau County Executive Building (NCEB), Mineola, NY

**Count 35 – Failure to Use Overfill Prevention Equipment on UST system at NCEB.**

364. Complainant realleges each allegation contained in Paragraphs “1” through “363” with the same force and effect as if fully set forth herein.
365. Respondent has owned and/or operated, and continues to own and/or operate one 10,000 gallon diesel UST for an emergency generator at the Nassau County Executive Building (NCEB), 1 West Street, Mineola, NY.
366. The UST system at this facility was installed subsequent to 1988 and is considered a “new tank system” pursuant to 40 C.F.R. Section 280.12.
367. Pursuant to 40 C.F.R. §280.20(c)(1)(ii), owners and operators of new UST systems must use overfill prevention equipment on each UST system.
368. The type of overfill prevention equipment that Respondent employed was an overfill box with an alarm.
369. At the time of EPA's May 11, 2010 inspection at this facility, the overfill alarm for the UST system was out-of-service.
370. Between at least May 11, 2010 and September 10, 2010, the overfill alarm for the UST system was out-of-service.
371. Respondent's failure, between at least May 11, 2010 and September 10, 2010, to use overfill prevention equipment for the UST system located at this facility, constitutes a violation of 40 C.F.R. § 280.20 (c)(1)(ii).

COUNTS 36 to 38  
Nassau County Fire Marshal (NCFM), Uniondale, NY

**Count 36 - Failure to Provide Required Release Detection Monitoring and to Maintain Release Detection Records for a Tank at the NCFM Facility**

372. Complainant realleges each allegation contained in Paragraphs "1" through "371" with the same force and effect as if fully set forth herein.
373. Respondent has owned and/or operated, and continues to own and/or operate a petroleum UST system (one 2,500 gallon unleaded gasoline UST system) located at the Nassau County Fire Marshall (NCFM) facility, 899 Jerusalem Avenue, Uniondale, NY
374. As of EPA's November 12, 2009 inspection of this facility, Respondent had not maintained documents showing compliance during the year preceding the inspection with the requirement to monitor USTs at least every 30 days for releases.
375. During EPA's November 12, 2009 inspection, Respondent's representative stated he did not know of any release detection system for monitoring USTs at this facility.
376. In Respondent's reply submitted in response to the First IRL and the Second IRL, despite EPA's request for such information, Respondent did not provide documentation showing that it had performed, prior to the date of EPA's November 12, 2009 inspection at this facility, the required monitoring of the tank at least every 30 days for releases.
377. Between June 24, 2007 and September 10, 2010, Respondent did not conduct monitoring for releases from the tank using any method in compliance with 40 C.F.R. 280.43(d) through (h).
378. Between June 24, 2007 and September 10, 2010, Respondent did not maintain the results/records of release detection monitoring for the tank at this facility.
379. Respondent's failure, between at least June 24, 2007 and September 10, 2010, to conduct monitoring for releases from the tank at this facility constitutes a violation of 40 C.F.R. Section 280.41(a).
380. Respondent's failure to maintain the results of at least a year of monitoring for releases from the tank at this facility constitutes a violation of 40 C.F.R. Sections 280.34(b)(4), 280.34(c) and 280.45(b).



**Count 37 - Failure to Conduct Line Tightness Tests At Least Every 3 years or to Provide Monthly Monitoring of the Suction Piping System and to Maintain Release Detection Records for Piping for the UST system at the NCFM Facility**

381. Complainant realleges each allegation contained in Paragraphs "1" through "380" with the same force and effect as if fully set forth herein.
382. In its December 21, 2009 and January 15, 2010 responses to EPA's First IRL, Respondent submitted as-built drawings and other information for the suction piping for the UST systems at this facility.
383. The as-built drawings for suction piping at this facility did not demonstrate that suction piping met all the design criteria required to qualify for an exemption from release detection, as noted in 40 C.F.R. §280.41(b) (2)(i) thru (v).
384. Suction piping at this facility requires the performance of the release detection method set forth in 40 C.F.R. Section 280.41(b)(2).
385. Respondent failed to perform release detection for suction piping in accordance with the requirements of 40 C.F.R. Section 280.41(b)(2).
386. During the November 12, 2009 inspection at this facility, Respondent's representative could not provide results of line tightness testing or any monthly monitoring for suction piping for the one 2,500 gallon unleaded gasoline UST system for the twelve month period prior to the inspections.
387. Between June 24, 2007 and September 10, 2010, Respondent did not conduct line tightness testing or monthly monitoring (using one of the specified methods in 40 C.F.R. Section 280.43(e) through (h)) for releases from suction piping for the 2,500 gallon unleaded gasoline UST system located at this facility.
388. Between June 24, 2007 and September 10, 2010, Respondent did not maintain the results/records of line tightness testing or release detection monitoring for suction piping for the 2,500 gallon unleaded gasoline UST system located at this facility.
389. Respondent's failure, between at least June 24, 2007 and September 10, 2010, to conduct line tightness testing or monitoring for releases from piping for the UST system located at this facility, constitutes a violation of 40 C.F.R. § 280. 41(b) (2).
390. Respondent's failure to maintain the results of the last line tightness test result or at least a year of monitoring for releases from piping for the UST system located at this facility, constitutes a violation of 40 C.F.R. Sections 280.34(b)(4), 280.34(c) and 280.45(b).

**Count 38 – Failure to Use Overfill Prevention Equipment on an UST system at the NCFM Facility**

391. Complainant realleges each allegation contained in Paragraphs “1” through “390” with the same force and effect as if fully set forth herein.
392. Respondent has owned and/or operated, and continues to own and/or operate one 2,500 gallon unleaded UST at the Fire Marshall facility.
393. The UST system at this facility was installed subsequent to 1988 and is considered a “new tank system” pursuant to 40 C.F.R. Section 280.12.
394. Pursuant to 40 C.F.R. §280.20(c)(1)(ii), owners and operators of new UST systems must use overfill prevention equipment on each UST system.
395. The type of overfill prevention equipment that Respondent employed was an overfill box with an alarm.
396. At the time of EPA’s November 12, 2009 inspection at this facility, the overfill alarm for the UST system was out-of- service.
397. From between at least November 12, 2009 and September 10, 2010, the overfill alarm for the UST system was out-of-service.
398. Respondent’s failure, between at least November 12, 2009 and September 10, 2010, to use overfill prevention equipment for the UST system at this facility, constitutes a violation of 40 C.F.R. § 280.20 (c)(1)(ii).

COUNTS 39 to 41  
Nassau County Marine Bureau, Uniondale, NY

**Count 39 - Failure to Provide Required Release Detection Monitoring and to Maintain Release Detection Records for Two Tanks at the Nassau County Marine Bureau Facility**

399. Complainant realleges each allegation contained in Paragraphs “1” through “398” with the same force and effect as if fully set forth herein.
400. Respondent has owned and/or operated, and continues to own and/or operate two petroleum UST systems (a 10,000 gallon unleaded gasoline UST and a 10,000 gallon diesel UST) located at Nassau County Marine Bureau (NCMB), 12 Sampson Avenue, Uniondale, NY.

401. As of EPA's November 10, 2009 inspection of this facility, Respondent had not maintained documents showing compliance during the year preceding the inspection with the requirement to monitor USTs at least every 30 days for releases.
402. During the November 10, 2009 inspection, Respondent's representative stated he did not know of any release detection system for monitoring USTs at this facility.
403. In Respondent's reply submitted in response to the First IRL and the Second IRL, despite EPA's request for such information, Respondent did not provide documentation showing that it had performed, prior to the date of EPA's November 10, 2009 inspection at this facility, the required monitoring of two tanks at least every 30 days for releases.
404. Between June 24, 2007 and September 10, 2010, Respondent did not conduct monitoring for releases from the two tanks using any method compliance with 40 C.F.R. 280.43(d) through (h).
405. Between June 24, 2007 and September 10, 2010, Respondent did not maintain the results/records of release detection monitoring for the two tanks located at this facility.
406. Respondent's failure, between at least June 24, 2007 and September 10, 2010, to conduct monitoring for releases from the two tanks located at this facility constitutes a violation of 40 C.F.R. Section 280.41(a).
407. Respondent's failure to maintain the results of at least a year of monitoring for releases from the two tanks located at this facility constitutes a violation of 40 C.F.R. Sections 280.34(b)(4), 280.34(c) and 280.45(b).

**Count 40 - Failure to Conduct Line Tightness Tests At Least Every 3 years or to Provide Monthly Monitoring of the Suction Piping System and to Maintain Release Detection Records for Piping for Two UST systems at the Nassau County Marine Bureau Facility**

408. Complainant realleges each allegation contained in Paragraphs "1" through "407" with the same force and effect as if fully set forth herein.
409. In its December 21, 2009 and January 15, 2010 responses to EPA's First IRL, Respondent submitted as-built drawings and other information for the suction piping for the UST systems at this facility.
410. The as-built drawings for suction piping at this facility did not demonstrate that suction piping met all the design criteria required to qualify for an exemption from release detection, as noted in 40 C.F.R. §280.41(b) (2)(i) thru (v).
411. Suction piping at this facility requires the performance of the release detection method set forth in 40 C.F.R. Section 280.41(b)(2).

- 412. Respondent failed to perform release detection for suction piping in accordance with the requirements of 40 C.F.R. Section 280.41(b)(2).
- 413. During the November 10, 2009 inspection at this facility, Respondent's representative could not provide results of line tightness testing or any monthly monitoring for suction piping for the UST systems for the twelve month period prior to the inspection.
- 414. Between June 24, 2007 and September 10, 2010, Respondent did not conduct line tightness testing or monthly monitoring (using one of the specified methods in 40 C.F.R. Section 280.43(e) through (h)) for releases from suction piping for the two UST systems located at this facility.
- 415. Between June 24, 2007 and September 10, 2010, Respondent did not maintain the results/records of line tightness testing or release detection monitoring for suction piping for the two UST systems (i.e., 10,000 gallon unleaded gasoline UST and a 10,000 gallon diesel UST) located at this facility.
- 416. Respondent's failure, between at least June 24, 2007 to September 10, 2010, to conduct line tightness testing or monitoring for releases from piping for the two UST systems located at this facility constitutes a violation of 40 C.F.R. § 280. 41(b) (2).
- 417. Respondent's failure to maintain the results of the last line tightness test result or at least a year of monitoring for releases from piping for the two UST systems located at this facility constitutes a violation of 40 C.F.R. Sections 280.34(b)(4), 280.34(c) and 280.45(b).

**Count 41 – Failure to Use Overfill Prevention Equipment on Two UST Systems at the Nassau County Marine Bureau Facility.**

- 418. Complainant realleges each allegation contained in Paragraphs “1” through “417” with the same force and effect as if fully set forth herein.
- 419. Respondent has owned and/or operated, and continues to own and/or operate two UST systems (i.e., 10,000 gallon unleaded gasoline UST and a 10,000 gallon diesel UST) at the Nassau County Marine Bureau Facility.
- 420. The tanks at this facility were installed subsequent to 1988 and are considered a “new tank systems” pursuant to 40 C.F.R. Section 280.12.
- 421. Pursuant to 40 C.F.R. §280.20(c)(1)(ii), owners and operators of new UST systems must use overfill prevention equipment on each UST system.
- 422. The type of overfill prevention equipment that Respondent employed was an overfill box with an alarm.

423. At the time of EPA's November 10, 2009 inspection at this facility, the overfill alarm for the two UST systems was out-of-service.
424. Between at least November 10, 2009 and September 10, 2010, the overfill alarm for the two UST systems was out-of-service.
425. Respondent's failure, between at least November 10, 2009 and September 10, 2010, to use overfill prevention equipment for the two UST systems at this facility, constitutes a violation of 40 C.F.R. § 280.20 (c)(1)(ii).

COUNTS 42 and 43

Nassau County Police Department Headquarters, Mineola, NY

**Count 42 - Failure to Maintain Release Detection Records for the Tanks at the Nassau County Police Department Headquarters Facility**

426. Complainant realleges each allegation contained in Paragraphs "1" through "425" with the same force and effect as if fully set forth herein.
427. Respondent has owned and/or operated, and continues to own and/or operate four petroleum UST systems (two 10,000 gallon unleaded gasoline USTs, one 6,000 gallon diesel UST, and one 4,000 gallon diesel UST used for an emergency generator) located at Nassau County Police Department Headquarters (NCPDH), 1490 Franklin Avenue, Mineola, NY.
428. All of the UST systems, except the 4,000 gallon diesel UST for an emergency generator, at this facility are subject to release detection requirements under 40 C.F.R. Part 280, subpart D.
429. Pursuant to 40 C.F.R. Section 280.34(b)(4) owners and operators of UST systems must maintain information concerning recent compliance with release detection requirements (40 C.F.R. Section 280.45).
430. Pursuant to 40 C.F.R. Section 280.45, owners and operators of UST systems must maintain records of release detection monitoring for at least 1 year.
431. During EPA's January 12, 2010 inspection at this facility, Respondent's representative could not provide the results of monthly monitoring for the twelve month period prior to the inspection.
432. In Respondent's reply submitted in response to the First IRL and Second IRL, despite EPA's request for such information, Respondent did not provide documentation showing that it had performed, prior to the date of EPA's January 12, 2010 inspection at this facility, the required monitoring of three (two 10,000 gallon unleaded gasoline USTs and one 6,000 gallon diesel UST) of the four tanks at least every 30 days for releases.

433. Between at least February 14, 2007 and September 10, 2010, Respondent did not maintain the results/records of release detection monitoring for three of the four tanks located at this facility.
434. Respondent's failure to maintain the results of at least a year of monitoring for releases from three of the four tanks located at this facility constitutes a violation of 40 C.F.R. 280.34(b)(4), 280.34(c) and 280.45(b).

**Count 43 – Failure to Use Overfill Prevention Equipment on Three UST Systems at the Nassau County Police Department Headquarters Facility.**

435. Complainant realleges each allegation contained in Paragraphs "1" through "434" with the same force and effect as if fully set forth herein.
436. Respondent has owned and/or operated, and continues to own and/or operate three UST systems (two 10,000 gallon unleaded gasoline USTs and one 6,000 gallon diesel UST) at the Nassau County Police Department Headquarters facility.
437. The tanks at this facility were installed subsequent to 1988 and are considered "new tank systems" pursuant to 40 C.F.R. Section 280.12.
438. Pursuant to 40 C.F.R. §280.20(c)(1)(ii), owners and operators of new tank systems must use overfill prevention equipment on each UST system.
439. The type of overfill prevention equipment that Respondent employed was an overfill box with an alarm.
440. At the time of EPA's January 12, 2010 inspection at this facility, the overfill alarm was out-of-service for three UST systems located at this facility.
441. Between at least January 12, 2010 and September 10, 2010, the overfill alarm was out-of-service for three UST systems located at this facility.
442. Respondent's failure, between at least January 12, 2010 and September 10, 2010, to use overfill prevention equipment for three UST systems located at this facility, constitutes a violation of 40 C.F.R. § 280.20 (c)(1)(ii).

COUNTS 44 to 46  
Nassau County Police Department, 1<sup>st</sup> Precinct, Baldwin, NY

**Count 44 - Failure to Provide Required Release Detection Monitoring and to Maintain Release Detection Records for a Tank at the Nassau County Police Department, 1<sup>st</sup> Precinct**

443. Complainant realleges each allegation contained in Paragraphs "1" through "442" with the same force and effect as if fully set forth herein.
444. Respondent has owned and/or operated, and continues to own and/or operate two petroleum UST systems (one 10,000 unleaded gasoline UST and one 550 gallon diesel UST used for an emergency generator) located at Nassau County Police Department (NCPD) 1<sup>st</sup> Precinct, 900 Merrick Road, Baldwin, NY.
445. Only the 10,000 unleaded gasoline UST at this facility is subject to the federal release detection requirements of 40 C.F.R. Part 280, subpart D.
446. As of EPA's November 16, 2009 inspection of this facility, Respondent had not maintained documents showing compliance during the year preceding the inspection with the requirement to monitor the UST system at least every 30 days for releases.
447. As of the date of the November 16, 2009 inspection, Respondent's representative stated he did not know of any release detection system for monitoring USTs at this facility.
448. In Respondent's reply submitted in response to the First IRL and the Second IRL, despite EPA's request for such information, Respondent did not provide documentation showing that it had performed, prior to the date of EPA's November 16, 2009 inspection at this facility, the required monitoring of one tank at least every 30 days for releases.
449. Between June 24, 2007 and September 10, 2010, Respondent did not conduct monitoring for releases from the tank using any method in compliance with 40 C.F.R. 280.43(d) through (h).
450. Between June 24, 2007 and September 10, 2010, Respondent did not maintain the results/records of release detection monitoring for the tank located at this facility.
451. Respondent's failure, between at least June 24, 2007 and September 10, 2010, to conduct monitoring for releases from the tank located at this facility constitutes a violation of 40 C.F.R. Section 280.41(a).
452. Respondent's failure to maintain the results of at least a year of monitoring for releases from the tank located at this facility constitutes a violation of 40 C.F.R. Sections 280.34(b)(4), 280.34(c) and 280.45(b).

**Count 45 - Failure to Conduct Line Tightness Tests At Least Every 3 years or to Provide Monthly Monitoring of the Suction Piping System and to Maintain Release Detection Records for Piping for an UST system at the Nassau County Police Department 1<sup>st</sup> Precinct**

453. Complainant realleges each allegation contained in Paragraphs "1" through "452" with the same force and effect as if fully set forth herein.
454. In its December 21, 2009 and January 15, 2010 responses to EPA's First IRL, Respondent submitted as-built drawings and other information for the suction piping for the UST systems at this facility.
455. The as-built drawings for suction piping at this facility did not demonstrate that suction piping met all the design criteria required to qualify for an exemption from release detection, as noted in 40 C.F.R. §280.41(b) (2)(i) thru (v).
456. Suction piping for the 10,000 gallon unleaded gasoline UST system at this facility requires the performance of the release detection method set forth in 40 C.F.R. Section 280.41(b)(2).
457. Respondent failed to perform release detection for suction piping in accordance with the requirements of 40 C.F.R. 280.41(b)(2).
458. During the November 16, 2009 inspection at this facility, Respondent's representative could not provide results of line tightness testing or any monthly monitoring for suction piping for the UST system for the twelve month period prior to the inspection.
459. Between June 24, 2007 and September 10, 2010, Respondent did not conduct line tightness testing or monthly monitoring (using one of the specified methods in 40 C.F.R. Section 280.43(e) through (h) for releases) from suction piping for the 10,000 gallon unleaded gasoline UST system at this facility.
460. Between June 24, 2007 and September 10, 2010, Respondent did not maintain the results/records of line tightness testing or release detection monitoring for suction piping for the UST system located at this facility.
461. Respondent's failure, between at least June 24, 2007 and September 10, 2010, to conduct line tightness testing or monitoring for releases from piping for the UST system located at this facility constitutes a violation of 40 C.F.R. § 280.41(b) (2).
462. Respondent's failure to maintain the results of the last line tightness test result or at least a year of monitoring for releases from piping for the UST system located at this facility constitutes a violation of 40 C.F.R. Sections 280.34(b)(4), 280.34(c) and 280.45(b).



**Count 46 – Failure to Upgrade Existing UST system or Meet the New UST system Performance Standards, or Close the Existing UST system at the Nassau County Police Department 1<sup>st</sup> Precinct, as Required by 40 C.F.R. Section 280.21**

463. Complainant realleges each allegation contained in Paragraphs “1” through “462” with the same force and effect as if fully set forth herein.
464. Pursuant to 40 C.F.R. Section 280.21, not later than December 22, 1998, all existing UST systems had to comply with the upgrading requirements in paragraphs (b) through (d) of that section, or with the new performance standard requirements set forth in 40 C.F.R. Section 280.20, or closure requirements set forth in 40 C.F.R. Sections 280.70 to 280.74.
465. Pursuant to 40 C.F.R. Section 280.21(b), steel tanks must be upgraded by internal lining or cathodic protection, or both.
466. The November 1, 2009 and August 31, 2010 “State of New York, County of Nassau, Office of Fire Marshall” Tank Registration for NCPD 1<sup>st</sup> Precinct provided by Respondent in its response to the First IRL indicated that Respondent was the owner of one 550 gallon tank, located at this facility, which was installed on January 1, 1970.
467. Respondent’s January 27, 2010 response to the First IRL acknowledged that Respondent was the owner of one 550 gallon steel UST, which was installed at this facility on January 1, 1970, and was used for storage of diesel fuel to power an emergency generator.
468. From at least April 1, 2006 to September 10, 2010, Respondent failed to comply with upgrade requirements specified in 40 C.F.R. Section 280.21, or with the performance standards set forth in 40 C.F.R. Sections 280.70 – 280.74.
469. Respondent’s failure, between at least April 1, 2006 and September 10, 2010, to comply with the upgrade requirements specified in 40 C.F.R. Section 280.21, or with the performance standards set forth in 40 C.F.R. Section 280.20, or with the closure requirements set forth in 40 C.F.R. Sections 280.70 – 280.74, constitutes violations of 40 C.F.R. § 280.21.

**COUNT 47**

Nassau County Police Department, 2<sup>nd</sup> Precinct, Woodbury, NY

**Count 47 - Failure to Conduct Line Tightness Tests At Least Every 3 years or to Provide Monthly Monitoring of the Suction Piping System and to Maintain Release Detection Records for Piping for UST system at the Nassau County Police Department 2<sup>nd</sup> Precinct.**

470. Complainant realleges each allegation contained in Paragraphs “1” through “469” with the same force and effect as if fully set forth herein.

471. Respondent has owned and/or operated, and continues to own and/or operate a 10,000 gallon unleaded gasoline UST system located at Nassau County Police Department (NCPD) 2<sup>nd</sup> Precinct, 7700 Jericho Turnpike, Woodbury, N.Y.
472. In its December 21, 2009 and January 15, 2010 responses to EPA's First IRL, Respondent submitted as-built drawings and other information for the suction piping for the UST systems located at this facility.
473. The as-built drawings for suction piping at this facility did not demonstrate that suction piping met all the design criteria required to qualify for an exemption from release detection, as noted in 40 C.F.R. §280.41(b) (2)(i) thru (v).
474. Suction piping for the UST system at this facility requires performance of the release detection method set forth in 40 C.F.R. Section 280.41(b)(2).
475. Respondent failed to perform release detection for suction piping in accordance with the requirements of 40 C.F.R. 280.41(b)(2).
476. Between June 24, 2007 and September 10, 2010, Respondent did not conduct line tightness testing or monthly monitoring (using one of the specified methods in 40 C.F.R. Section 280.43(e) through (h)) for releases from suction piping for the UST system at this facility.
477. Between June 24, 2007 and September 10, 2010, Respondent did not maintain the results/records of line tightness testing or release detection monitoring for suction piping for the UST system located at this facility.
478. Respondent's failure, between at least June 24, 2007 and September 10, 2010, to conduct line tightness testing or monitoring for releases from piping for the UST system located at this facility constitutes a violation of 40 C.F.R. § 280. 41(b) (2).
479. Respondent's failure to maintain the results of the last line tightness test result or at least a year of monitoring for releases from piping for the UST system located at this facility constitutes a violation of 40 C.F.R. Sections 280.34(b)(4), 280.34(c) and 280.45(b).

COUNTS 48 and 49

Nassau County Police Department (NCPD) 3<sup>rd</sup> Precinct, Williston, NY

**Count 48 - Failure to Conduct Line Tightness Tests At Least Every 3 years Or To Provide Monthly Monitoring of the Suction Piping System And To Maintain Release Detection Records for Piping for UST system at the Nassau County Police Department 3<sup>rd</sup> Precinct.**

480. Complainant realleges each allegation contained in Paragraphs "1" through "479" with the same force and effect as if fully set forth herein.

481. Respondent has owned and/or operated, and continues to own and/or operate a 10,000 gallon unleaded gasoline UST system located at Nassau County Police Department (NCPD) 3<sup>rd</sup> Precinct, 220 Hillside, Avenue, Williston, NY
482. In its December 21, 2009 and January 15, 2010 responses to EPA's First IRL, Respondent submitted as-built drawings and other information for the suction piping for the UST systems at this facility.
483. The as-built drawings for suction piping at this facility did not demonstrate that suction piping met all the design criteria required to qualify for an exemption from release detection, as noted in 40 C.F.R. §280.41(b) (2)(i) thru (v).
484. Suction piping for the UST system at this facility requires performance of the release detection method set forth in 40 C.F.R. Section 280.41(b)(2).
485. Respondent failed to perform release detection for suction piping in accordance with the requirements of 40 C.F.R. Section 280.41(b)(2).
486. During the November 17, 2009 inspection at this facility, Respondent's representative could not provide results of line tightness testing or any monthly monitoring for suction piping for the UST system for the twelve month period prior to the inspection.
487. Between June 24, 2007 and September 10, 2010, Respondent did not conduct line tightness testing or monthly monitoring (using one of the specified methods in 40 C.F.R. Section 280.43(e) through (h)) for releases from suction piping for the UST system located at this facility.
488. Between June 24, 2007 and September 10, 2010, Respondent did not maintain the results/records of line tightness testing or release detection monitoring for suction piping for the UST system located at this facility.
489. Respondent's failure, between at least June 24, 2007 to September 10, 2010, to conduct line tightness testing or monitoring for releases from piping for the UST system located at this facility constitutes a violation of 40 C.F.R. § 280. 41(b) (2).
490. Respondent's failure to maintain the results of the last line tightness test result or at least a year of monitoring for releases from piping for the UST system located at this facility constitutes a violation of 40 C.F.R. Sections 280.34(b)(4), 280.34(c) and 280.45(b).

**Count 49 – Failure to Use Overfill Prevention Equipment on UST system at the Nassau County Police Department 3<sup>rd</sup> Precinct.**

491. Complainant realleges each allegation contained in Paragraphs "1" through "490" with the same force and effect as if fully set forth herein.

492. The UST system (one 10,000 gallon unleaded gasoline UST) at this facility was installed subsequent to 1988 and is considered a “new tank system” pursuant to 40 C.F.R. Section 280.12.
493. Pursuant to 40 C.F.R. §280.20(c)(1)(ii), owners and operators of new UST systems must use overfill prevention equipment on each UST system.
494. The type of overfill prevention equipment that Respondent employed was an overfill box with an alarm.
495. At the time of EPA’s November 17, 2009 inspection at this facility, the overfill alarm for the UST system was out-of-service.
496. Between at least November 17, 2009 and September 10, 2010, the overfill alarm for the UST system was out-of-service.
497. Respondent’s failure, between at least November 17, 2009 and September 10, 2010, to use overfill prevention equipment for the UST system at this facility, constitutes a violation of 40 C.F.R. § 280.20(c)(1)(ii).

COUNTS 50 to 52

Nassau County Police Department, 4<sup>th</sup> Precinct, Hewlett, NY

**Count 50 - Failure to Provide Required Release Detection Monitoring and to Maintain Release Detection Records for Two Tanks at the Nassau County Police Department 4<sup>th</sup> Precinct**

498. Complainant realleges each allegation contained in Paragraphs “1” through “497” with the same force and effect as if fully set forth herein.
499. Respondent has owned and/or operated, and continues to own and/or operate two petroleum UST systems (one 10,000 gallon unleaded gasoline UST and one 6,000 diesel UST) located at Nassau County Police Department (NCPD) 4<sup>th</sup> Precinct, 1699 Broadway, Hewlett, NY
500. As of the EPA’s November 16, 2009 inspection of the NCPD 4<sup>th</sup> Precinct facility, Respondent had not maintained documents showing compliance during the year preceding the inspection with the requirement to monitor USTs at least every 30 days for releases.
501. As of the date of the November 16, 2009 inspection at the NCPD 4<sup>th</sup> Precinct facility, the automated release detection system was out of service.
502. Respondent’s January 27, 2010 reply to EPA’s First IRL indicated that there was one, not two UST systems at this facility.

503. In Respondent's reply submitted in response to the First IRL and Second IRL, despite EPA's request for such information, Respondent did not provide documentation showing that it had performed, prior to the date of EPA's November 16, 2009 inspection at this facility, the required monitoring of two tanks at least every 30 days for releases.
504. Between June 24, 2007 and September 10, 2010, Respondent did not conduct monitoring for releases from the two tanks using any method compliance with 40 C.F.R. 280.43(d) through (h).
505. Between June 24, 2007 and September 10, 2010, Respondent did not maintain the results/records of release detection monitoring for the two tanks located at this facility.
506. Respondent's failure, between at least June 24, 2007 and September 10, 2010, to conduct monitoring for releases from the two tanks located at this facility constitutes a violation of 40 C.F.R. Section 280.41(a).
507. Respondent's failure to maintain the results of at least a year of monitoring for releases from the two tanks located at this facility constitutes a violation of 40 C.F.R. Sections 280.34(b)(4), 280.34(c) and 280.45(b).

**Count 51 - Failure to Conduct Line Tightness Tests At Least Every 3 years or to Provide Monthly Monitoring of the Suction Piping System and to Maintain Release Detection Records for Piping for Two UST systems at the Nassau County Police Department 4<sup>th</sup> Precinct.**

508. Complainant realleges each allegation contained in Paragraphs "1" through "507" with the same force and effect as if fully set forth herein.
509. In its December 21, 2009 and January 15, 2010 responses to EPA's First IRL, Respondent submitted as-built drawings and other information for the suction piping for the UST systems located at this facility.
510. The as-built drawings for suction piping at this facility did not demonstrate that suction piping met all the design criteria required to qualify for an exemption from release detection, as noted in 40 C.F.R. §280.41(b) (2)(i) thru (v).
511. Suction piping at this facility requires performance of the release detection method set forth in 40 C.F.R. Section 280.41(b)(2).
512. Respondent failed to perform release detection for suction piping in accordance with the requirements of 40 C.F.R. Section 280.41(b)(2).
513. During EPA's November 16, 2009 inspection at this facility, Respondent's representative could not provide results of line tightness testing or any monthly monitoring for suction piping for the twelve month period prior to the inspection.

514. Between June 24, 2007 and September 10, 2010, Respondent did not conduct line tightness testing or monthly monitoring (using one of the specified methods in 40 C.F.R. Section 280.43(e) through (h) for releases from suction piping for the two UST systems (i.e., one 10,000 gallon unleaded gasoline UST and one 6,000 diesel UST) at this facility.
515. Between June 24, 2007 and September 10, 2010, Respondent did not maintain the results/records of line tightness testing or release detection monitoring for suction piping for the two UST systems (i.e., one 10,000 gallon unleaded gasoline UST and one 6,000 diesel UST) located at this facility.
516. Respondent's failure, between at least June 24, 2007 and September 10, 2010, to conduct line tightness testing or monitoring for releases from piping for the two UST systems located at this facility constitutes a violation of 40 C.F.R. § 280. 41(b) (2).
517. Respondent's failure to maintain the results of the last line tightness test result or at least a year of monitoring for releases from piping for the two UST systems located at this facility constitutes a violation of 40 C.F.R. Sections 280.34(b)(4), 280.34(c) and 280.45(b).

**Count 52 – Failure to Use Overfill Prevention Equipment on Two UST systems at the Nassau County Police Department 4<sup>th</sup> Precinct**

518. Complainant realleges each allegation contained in Paragraphs “1” through “517” with the same force and effect as if fully set forth herein.
519. The two UST systems (i.e., one 10,000 gallon unleaded gasoline UST and one 6,000 diesel UST) were installed subsequent to 1988 and are considered “new tank systems” pursuant to 40 C.F.R. Section 280.12.
520. Pursuant to 40 C.F.R. §280.20(c)(1)(ii), owners and operators of new UST systems must use overfill prevention equipment on each UST system.
521. The type of overfill prevention equipment that Respondent employed for each tank was an overfill box with an alarm.
522. At the time of the November 16, 2009 inspection at this facility, the overfill alarms for the unleaded gasoline and diesel UST systems were out-of-service.
523. Between at least November 16, 2009 and September 10, 2010, the overfill alarms for the unleaded gasoline and diesel UST systems were out-of-service.
524. Respondent's failure, between at least November 16, 2009 and September 10, 2010, to use overfill prevention equipment for the two UST systems located at this facility, constitutes a violation of 40 C.F.R. § 280.20(c)(1)(ii).

COUNTS 53 and 54  
Nassau County Police Department, 5<sup>th</sup> Precinct, Elmont, NY

**Count 53 - Failure to Provide Required Release Detection Monitoring and to Maintain Release Detection Records for a Tank at the Nassau County Police Department 5<sup>th</sup> Precinct**

525. Complainant realleges each allegation contained in Paragraphs “1” through “524” with the same force and effect as if fully set forth herein.
526. Respondent has owned and/or operated, and continues to own and/or operate two petroleum UST systems (one 10,000 gallon unleaded gasoline UST and one 550 gallon diesel UST used for an emergency generator) located at Nassau County Police Department (NCPD) 5<sup>th</sup> Precinct, 1655 Dutch Broadway, Elmont, NY
527. Only one (the 10,000 unleaded gasoline UST) out of the two UST systems is subject to federal release detection requirements under 40 C.F.R. Part 280, subpart D.
528. As of the EPA’s November 17, 2009 inspection of this facility, Respondent had not maintained documents showing compliance during the year preceding the inspection with the requirement to monitor USTs at least every 30 days for releases.
529. As of the date of the November 17, 2009 inspection at this facility, the automated release detection system was not functioning.
530. In Respondent’s reply submitted in response to the First IRL and the Second IRL, despite EPA’s request for such information, Respondent did not provide documentation showing that it had performed, prior to the date of EPA’s November 17, 2009 inspection at this facility, the required monitoring of the tank at least every 30 days for releases.
531. Between June 24, 2007 and September 10, 2010, Respondent did not conduct monitoring for releases from the tank using any method compliance with 40 C.F.R. Section 280.43(d) through (h).
532. Between June 24, 2007 and September 10, 2010, Respondent did not maintain the results/records of release detection monitoring for the tank located at this facility.
533. Respondent’s failure, between at least June 24, 2007 and September 10, 2010, to conduct monitoring for releases from the tank located at this facility constitutes a violation of 40 C.F.R. Section 280.41(a).
534. Respondent’s failure to maintain the results of at least a year of monitoring for releases from the tank located at this facility constitutes a violation of 40 C.F.R. Sections 280.34(b)(4), 280.34(c) and 280.45(b).

**Count 54 - Failure to Conduct Line Tightness Tests At Least Every 3 years or to Provide Monthly Monitoring of the Suction Piping System, and to Maintain Release Detection Records for Piping for an UST system at the Nassau County Police Department 5<sup>th</sup> Precinct**

535. Complainant realleges each allegation contained in Paragraphs “1” through “534” with the same force and effect as if fully set forth herein.
536. In its December 21, 2009 and January 15, 2010 responses to EPA’s First IRL, Respondent submitted as-built drawings and other information for the suction piping for the UST systems at this facility.
537. The as-built drawings for suction piping at this facility did not demonstrate that suction piping met all the design criteria required to qualify for an exemption from release detection, as noted in 40 C.F.R. §280.41(b) (2)(i) thru (v).
538. Suction piping at this facility requires the performance of the release detection method set forth in 40 C.F.R. Section 280.41(b)(2).
539. Respondent failed to perform release detection for suction piping in accordance with the requirements of 40 C.F.R. Section 280.41(b)(2).
540. During the November 16, 2009 inspection at this facility, Respondent’s representative could not provide results of line tightness testing or any monthly monitoring for suction piping for the twelve month period prior to the inspection.
541. Between June 24, 2007 and September 10, 2010, Respondent did not conduct line tightness testing or monthly monitoring (using one of the specified methods in 40 C.F.R. Section 280.43(e) through (h)) for releases from suction piping, for the UST system (i.e., the 10,000 gallon unleaded gasoline UST) at this facility.
542. Between June 24, 2007 and September 10, 2010, Respondent did not maintain the results/records of line tightness testing or release detection monitoring for suction piping for the 10,000 gallon unleaded gasoline UST system at this facility.
543. Respondent’s failure, between at least June 24, 2007 and September 10, 2010, to conduct line tightness testing or monitoring for releases from piping for the 10,000 gallon unleaded gasoline UST system at this facility, constitutes a violation of 40 C.F.R. § 280.41(b) (2).
544. Respondent’s failure to maintain the results of the last line tightness test result or at least a year of monitoring for releases from piping for the 10,000 gallon unleaded gasoline UST system at this facility constitutes a violation of 40 C.F.R. Sections 280.34(b)(4), 280.34(c) and 280.45(b).



COUNT 55  
Nassau County Police Department (NCPD) 6<sup>th</sup> Precinct, Manhasset, NY

**Count 55 - Failure to Maintain Release Detection Records for a Tank at the 6<sup>th</sup> Precinct, Manhasset, NY**

545. Complainant realleges each allegation contained in Paragraphs "1" through "544" with the same force and effect as if fully set forth herein.
546. Respondent has owned and/or operated, and continues to own and/or operate two petroleum UST systems (one 1,000 gallon diesel UST for an emergency generator and one 10,000 gallon unleaded gasoline UST) located at Nassau County Police Department (NCPD) 6<sup>th</sup> Precinct, 100 Community Drive, Manhasset, NY
547. Only one (the 10,000 unleaded gasoline UST) out of the two UST systems is subject to federal release detection requirements under 40 C.F.R. Part 280, subpart D.
548. Pursuant to 40 C.F.R. Section 280.34(b)(4) owners and operators of UST systems must maintain information concerning recent compliance with release detection requirements (40 C.F.R. Section 280.45).
549. Pursuant to 40 C.F.R. Section 280.45, owners and operators of UST systems must maintain records of release detection monitoring for at least 1 year.
550. During EPA's December 15, 2009 inspection at this facility, Respondent's representative could not provide the results of monthly monitoring for the twelve month period prior to the inspection.
551. In Respondent's reply submitted in response to the First IRL and the Second IRL, despite EPA's request for such information, Respondent did not provide documentation showing that it had performed, prior to the date of EPA's December 15, 2009 inspection, the required monitoring of the tank at least every 30 days for releases.
552. Between at least June 24, 2007 and September 10, 2010, Respondent did not maintain the results/records of release detection monitoring for the 10,000 gallon unleaded gasoline tank located at this facility.
553. Respondent's failure to maintain the results of at least a year of monitoring for releases from the 10,000 gallon unleaded gasoline tank located at this facility constitutes a violation of 40 C.F.R. Sections 280.34(b)(4), 280.34(c) and 280.45(b).

COUNTS 56 and 57

Nassau County Police Department (NCPD) 7<sup>th</sup> Precinct, Seaford, NY

**Count 56 - Failure to Provide Required Release Detection Monitoring and to Maintain Release Detection Records for a Tank at the Nassau County Police Department 7<sup>th</sup> Precinct**

554. Complainant realleges each allegation contained in Paragraphs "1" through "553" with the same force and effect as if fully set forth herein.
555. Respondent has owned and/or operated, and continues to own and/or operate one UST system (one 10,000 gallon unleaded gasoline UST) located at Nassau County Police Department (NCPD) 7<sup>th</sup> Precinct, 3636 Merrick Road, Seaford, NY
556. As of the EPA's November 16, 2009 inspection of this facility, Respondent had not maintained documents showing compliance during the year preceding the inspection with the requirement to monitor USTs at least every 30 days for releases.
557. As of the date of the November 16, 2009 inspection at this facility, the automated release detection system for the UST system was not functioning.
558. In Respondent's reply submitted in response to the First IRL and the Second IRL, despite EPA's request for such information, Respondent did not provide documentation showing that it had performed, prior to the date of EPA's November 16, 2009 inspection, the required monitoring of the tank at least every 30 days for releases.
559. Between June 24, 2007 and September 10, 2010, Respondent did not conduct monitoring for releases from the tank using any method compliance with 40 C.F.R. Section 280.43(d) through (h).
560. Between June 24, 2007 and September 10, 2010, Respondent did not maintain the results/records of release detection monitoring for the tank located at this facility.
561. Respondent's failure, between at least June 24, 2007 and September 10, 2010, to conduct monitoring for releases from the tank located at this facility constitutes a violation of 40 C.F.R. Section 280.41(a).
562. Respondent's failure to maintain the results of at least a year of monitoring for releases from the tank located at this facility constitutes a violation of 40 C.F.R. Sections 280.34(b)(4), 280.34(c) and 280.45(b).

**Count 57 - Failure to Conduct Line Tightness Tests At Least Every 3 years or to Provide Monthly Monitoring of the Suction Piping System, and to Maintain Release Detection Records for Piping for the UST system at the Nassau County Police Department 7<sup>th</sup> Precinct**

563. Complainant realleges each allegation contained in Paragraphs "1" through "562" with the same force and effect as if fully set forth herein.
564. In its December 21, 2009 and January 15, 2010 responses to EPA's First IRL, Respondent submitted as-built drawings and other information for the suction piping for the UST system at this facility.
565. The as-built drawings for suction piping at this facility did not demonstrate that suction piping met all the design criteria required to qualify for an exemption from release detection, as noted in 40 C.F.R. §280.41(b) (2)(i) thru (v).
566. Suction piping at this facility requires the performance of the release detection method set forth in 40 C.F.R. Section 280.41(b)(2).
567. Respondent failed to perform release detection for suction piping in accordance with the requirements of 40 C.F.R. Section 280.41(b)(2).
568. During the November 16, 2009 inspection at this facility, Respondent's representative could not provide results of line tightness testing or any monthly monitoring for suction piping for the twelve month period prior to the inspection.
569. Between June 24, 2007 and September 10, 2010, Respondent did not conduct line tightness testing or monthly monitoring (using one of the specified methods in 40 C.F.R. Section 280.43(e) through (h)) for releases from suction piping for the UST system (i.e., 10,000 gallon unleaded gasoline UST) at this facility.
570. Between June 24, 2007 and September 10, 2010, Respondent did not maintain the results/records of line tightness testing or release detection monitoring for suction piping for the 10,000 gallon unleaded gasoline UST system located at this facility.
571. Respondent's failure, between at least June 24, 2007 and September 10, 2010, to conduct line tightness testing or monitoring for releases from piping for the UST system at this facility constitutes a violation of 40 C.F.R. § 280. 41(b) (2).
572. Respondent's failure to maintain the results of the last line tightness test result or at least a year of monitoring for releases from piping for the UST system at this facility constitutes a violation of 40 C.F.R. Sections 280.34(b)(4), 280.34(c) and 280.45(b).

COUNT 58

Nassau County Police Department (NCPD) 8<sup>th</sup> Precinct, Levittown, NY

**Count 58 - Failure to Maintain Release Detection Records for Two Tanks at the Nassau County Police Department 8<sup>th</sup> Precinct**

573. Complainant realleges each allegation contained in Paragraphs "1" through "572" with the same force and effect as if fully set forth herein.
574. Respondent has owned and/or operated, and continues to own and/or operate two petroleum UST systems (one 10,000 gallon unleaded gasoline UST and one 6,000 gallon diesel UST) located at Nassau County Police Department (NCPD) 8<sup>th</sup> Precinct, 286 Wantagh Avenue, Levittown, N. Y.
575. Pursuant to 40 C.F.R. Section 280.34(b)(4) owners and operators of UST systems must maintain information concerning recent compliance with release detection requirements (40 C.F.R. Section 280.45).
576. Pursuant to 40 C.F.R. Section 280.45, owners and operators of UST systems must maintain records of release detection monitoring for at least 1 year.
577. During EPA's January 11, 2010 inspection at this facility, Respondent's representative could not provide the results of monthly monitoring of the two tanks for the twelve month period prior to the inspection.
578. In Respondent's reply submitted in response to the First IRL and the Second IRL, despite EPA's request for such information, Respondent did not provide documentation showing that it had performed, prior to the date of EPA's January 11, 2010 inspection, the required monitoring of the two tanks at least every 30 days for releases.
579. Between at least June 24, 2007 and September 10, 2010, Respondent did not maintain the results/records of release detection monitoring for the two tanks at this facility.
580. Respondent's failure to maintain the results of at least a year of monitoring for releases from the two tanks at this facility constitutes a violation of 40 C.F.R. Sections 280.34(b)(4), 280.34(c) and 280.45(b).

COUNT 59 to 61

Nassau County Police Department (NCPD) Emergency Services Bureau, Bellmore, NY

**Count 59 - Failure to Provide Required Release Detection Monitoring and to Maintain Release Detection Records for Two Tanks at the Nassau County Police Department Emergency Services Bureau**

581. Complainant realleges each allegation contained in Paragraphs "1" through "580" with the same force and effect as if fully set forth herein.
582. Respondent has owned and/or operated, and continues to own and/or operate two petroleum UST systems (one 10,000 gallon diesel UST and one 10,000 gallon unleaded gasoline UST) located at Nassau County Police Department (NCPD) Emergency Services Bureau, 1255 Newbridge Road, Bellmore, NY
583. As of the EPA's November 16, 2009 inspection of the NCPD Emergency Services Bureau facility, Respondent had not maintained documents showing compliance during the year preceding the inspection with the requirement to monitor USTs at least every 30 days for releases.
584. As of the date of the November 16, 2009 inspection at this facility, there was no release detection system for the two UST systems.
585. In Respondent's reply submitted in response to the First IRL and the Second IRL, despite EPA's request for such information, Respondent did not provide documentation showing that it had performed, prior to the date of EPA's November 16, 2009 inspection at this facility, the required monitoring of two tanks at least every 30 days for releases.
586. Between June 24, 2007 and September 10, 2010, Respondent did not conduct monitoring for releases from the two tanks using any method compliance with 40 C.F.R. 280.43(d) through (h).
587. Between June 24, 2007 and September 10, 2010, Respondent did not maintain the results/records of release detection monitoring for the two tanks located at this facility.
588. Respondent's failure, between at least June 24, 2007 and September 10, 2010, to conduct monitoring for releases from the two tanks located at this facility constitutes a violation of 40 C.F.R. Section 280.41(a).
589. Respondent's failure to maintain the results of at least a year of monitoring for releases from the two tanks located at this facility constitutes a violation of 40 C.F.R. Sections 280.34(b)(4), 280.34(c) and 280.45(b).

**Count 60 - Failure to Conduct Line Tightness Tests At Least Every 3 years or to Provide Monthly Monitoring of the Suction Piping System, and to Maintain Release Detection Records for Piping for the Two UST systems at the Nassau County Police Department Emergency Services Bureau**

590. Complainant realleges each allegation contained in Paragraphs "1" through "589" with the same force and effect as if fully set forth herein.
591. In its December 21, 2009 and January 15, 2010 responses to EPA's First IRL,

Respondent submitted as-built drawings and other information for the suction piping for the UST systems at this facility.

592. The as-built drawings for suction piping at this facility did not demonstrate that suction piping met all the design criteria required to qualify for an exemption from release detection, as noted in 40 C.F.R. §280.41(b) (2)(i) thru (v).
593. Suction piping at this facility requires the performance of the release detection method set forth in 40 C.F.R. §280.41(b)(2).
594. Respondent failed to perform release detection for suction piping in accordance with the requirements of 40 C.F.R. Section 280.41(b)(2).
595. During the November 26, 2009 inspection at this facility, Respondent's representative could not provide the results of line tightness testing or any monthly monitoring for suction piping for the twelve month period prior to the inspection.
596. Between June 24, 2007 and September 10, 2010, Respondent did not conduct line testing or monthly monitoring (using one of the specified methods in 40 C.F.R. Section 280.43(e) through (h)) for releases from the suction piping for the two UST systems (i.e., 10,000 gallon unleaded gasoline UST and 10,000 gallon diesel UST) at this facility.
597. Between June 24, 2007 and September 10, 2010, Respondent did not maintain the results/records of line testing or release detection monitoring for suction piping for the two UST systems located at this facility.
598. Respondent's failure, between at least June 24, 2007 and September 10, 2010, to conduct line tightness testing or monitoring for releases from piping for the two UST systems at the facility constitutes a violation of 40 C.F.R. § 280. 41(b)(2).
599. Respondent's failure to maintain the results of the last line tightness test result or at least a year of monitoring for releases from piping of the two UST systems located at this facility constitutes a violation of 40 C.F.R. Sections 280.34(b)(4), 280.34(c) and 280.45(b).

**Count 61 – Failure to Use Overfill Prevention Equipment on Two UST systems at the Nassau County Police Department Emergency Services Bureau**

600. Complainant realleges each allegation contained in Paragraphs "1" through "599" with the same force and effect as if fully set forth herein.
601. The two UST systems (one diesel, one unleaded gasoline, each with a 10,000 gallon capacity) at this facility were installed subsequent to 1988 and are considered "new tank systems" pursuant to 40 C.F.R. Section 280.12.

602. Pursuant to 40 C.F.R. §280.20(c)(1)(ii), owners and operators of new UST systems must use overfill prevention equipment on each UST system.
603. The type of overfill prevention equipment that Respondent employed was an overfill box with an alarm.
604. At the time of the November 16, 2009 inspection at this facility, the overfill alarm for the diesel and unleaded 10,000 gallon UST systems was out-of-service.
605. Between at least November 16, 2009 and September 10, 2010, the overfill alarm for the diesel and unleaded 10,000 gallon UST systems was out-of-service.
606. Respondent's failure, between at least November 16, 2009 and September 10, 2010, to use overfill prevention equipment for its two USTs at this facility, constitutes a violation of 40 C.F.R. § 280.20(c)(1)(ii).

COUNTS 62 and 63

Nassau County Police Department (NCPD) Highway Patrol, New Cassel, NY

**Count 62- Failure to Maintain Release Detection Records for a Tank at the Nassau County Police Department Highway Patrol**

607. Complainant realleges each allegation contained in Paragraphs "1" through "606" with the same force and effect as if fully set forth herein.
608. Respondent has owned and/or operated, and continues to own and/or operate an UST system (one 10,000 unleaded gasoline UST) located at Nassau County Police Department, Highway Patrol, 870 Brush Hollow Road, New Cassel, NY.
609. Pursuant to 40 C.F.R. Section 280.34(b)(4) owners and operators of UST systems must maintain information concerning recent compliance with release detection requirements (40 C.F.R. 280.45).
610. Pursuant to 40 C.F.R. Section 280.45, owners and operators of UST systems must maintain records of release detection monitoring for at least 1 year.
611. During EPA's January 11, 2010 inspection at this facility, Respondent's representative could not provide the results of monthly monitoring for the twelve month period prior to the inspection.
612. In Respondent's reply submitted in response to the First IRL and the Second IRL, despite EPA's request for such information, Respondent did not provide documentation showing that it had performed, prior to the date of EPA's January 11, 2010 inspection at this facility, the required monitoring of the tank at least every 30 days for releases.

613. Between at least June 24, 2007 and September 10, 2010, Respondent did not maintain the results/records of release detection monitoring for the tank located at this facility.
614. Respondent's failure to maintain the results of at least a year of monitoring for releases from the tank located at this facility constitutes a violation of 40 C.F.R. 280.34(b)(4), 280.34(c) and 280.45(b).

**Count 63 – Failure to Use Overfill Prevention Equipment on UST system at the Nassau County Police Department Highway Control**

615. Complainant realleges each allegation contained in Paragraphs "1" through "614" with the same force and effect as if fully set forth herein.
616. The UST system (one 10,000 gallon unleaded gasoline UST) at this facility was installed subsequent to 1988 and is considered a "new tank system" pursuant to 40 C.F.R. Section 280.12.
617. Pursuant to 40 C.F.R. §280.20(c)(1)(ii), owners and operators of new UST systems must use overfill prevention equipment on each UST system.
618. The type of overfill prevention equipment that Respondent employed was an overfill box with an alarm.
619. At the time of the January 11, 2010 inspection at this facility, the overfill alarm for the UST system was out-of-service.
620. Between at least January 11, 2010 and September 10, 2010, the overfill alarm for the UST system was out-of-service.
621. Respondent's failure, between at least January 11, 2010 and September 10, 2010, to use overfill prevention equipment for its UST system at this facility, constitutes a violation of 40 C.F.R. § 280.20(c)(1)(ii).

COUNT 64 and 65

Nassau County Police Department (NCPD) Booth 2G, Laurel Hollow, NY

**Count 64 - Failure to Maintain Release Detection Records for a Tank at the Nassau County Police Department Booth 2G**

622. Complainant realleges each allegation contained in Paragraphs "1" through "621" with the same force and effect as if fully set forth herein.
623. Respondent has owned and/or operated, and continues to own and/or operate a petroleum UST system (one 2,500 gallon unleaded gasoline UST) located at Nassau County Police Department (NCPD) Booth 2G, 1210 Moores Hill Road, Laurel Hollow, NY



624. Pursuant to 40 C.F.R. Section 280.34(b)(4) owners and operators of UST systems must maintain information concerning recent compliance with release detection requirements (40 C.F.R. Section 280.45).
625. Pursuant to 40 C.F.R. Section 280.45, owners and operators of UST systems must maintain records of release detection monitoring for at least 1 year.
626. During EPA's January 12, 2010 inspection at this facility, Respondent's representative could not provide the results of monthly monitoring for the twelve month period prior to the inspection.
627. In Respondent's reply submitted in response to the First IRL and the Second IRL, despite EPA's request for such information, Respondent did not provide documentation showing that it had performed, prior to the date of EPA's January 12, 2010 inspection at this facility, the required monitoring of the tank at least every 30 days for releases.
628. Between at least June 24, 2007 and September 10, 2010, Respondent did not maintain the results/records of release detection monitoring for the tank located at this facility.
629. Respondent's failure to maintain the results of at least a year of monitoring for releases from the tank located at this facility constitutes a violation of 40 C.F.R. Sections 280.34(b)(4), 280.34(c) and 280.45(b).

**Count 65 – Failure to Use Overfill Prevention Equipment on UST system at Nassau County Police Department Booth 2 G.**

630. Complainant realleges each allegation contained in Paragraphs "1" through "629" with the same force and effect as if fully set forth herein.
631. The UST system (one 2,500 gallon unleaded gasoline UST) at this facility was installed subsequent to 1988 and is considered a "new tank system" pursuant to 40 C.F.R. Section 280.12.
632. Pursuant to 40 C.F.R. §280.20(c)(1)(ii), owners and operators of new UST systems must use overfill prevention equipment on each UST system.
633. The type of overfill prevention equipment that Respondent employed was an overfill box with an alarm.
634. At the time of the January 12, 2010 inspection at this facility, the overfill alarm for the UST system was out-of-service.
635. Between at least January 12, 2010 and September 10, 2010, the overfill alarm for the UST system was out-of-service.

636. Respondent's failure, between at least January 12, 2010 and September 10, 2010, to use overfill prevention equipment for the UST system at this facility, constitutes a violation of 40 C.F.R. § 280.20(c)(1)(ii).

Counts 66 and 67  
Sands Point Preserve, Great Neck, NY

**Count 66 - Failure to Maintain Release Detection Records for a Tank at the Sands Point Preserve**

637. Complainant realleges each allegation contained in Paragraphs "1" through "636" with the same force and effect as if fully set forth herein.
638. Respondent has owned and/or operated, and continues to own and/or operate one petroleum UST system (one 1,000 gallon unleaded gasoline UST) located at Sands Point Preserve, 127 Middleneck Road, Great Neck, NY
639. Pursuant to 40 C.F.R. Section 280.34(b)(4) owners and operators of UST systems must maintain information concerning recent compliance with release detection requirements (40 C.F.R. Section 280.45).
640. Pursuant to 40 C.F.R. Section 280.45, owners and operators of UST systems must maintain records of release detection monitoring for at least 1 year.
641. During EPA's December 15, 2009 inspection at this facility, Respondent's representative could not provide the results of monthly monitoring for the twelve month period prior to the inspection.
642. In Respondent's reply submitted in response to the First IRL and the Second IRL, despite EPA's requests for such information, Respondent did not provide documentation showing that it had performed, prior to the date of EPA's December 15, 2009 inspection at this facility, the required monitoring of the tank system for releases.
643. Between at least June 24, 2007 and September 10, 2010, Respondent did not maintain the results/records of release detection monitoring for the tank located at this facility.
644. Respondent's failure to maintain the results of at least a year of monitoring for releases from the tank located at this facility constitutes a violation of 40 C.F.R. Sections 280.34(b)(4), 280.34(c) and 280.45(b).

**Count 67 – Failure to Use Overfill Prevention Equipment on UST system at the Sands Point Preserve**

645. Complainant realleges each allegation contained in Paragraphs "1" through "644" with the same force and effect as if fully set forth herein.
646. The UST system (one 1,000 gallon unleaded gasoline UST) at this facility was installed subsequent to 1988 and is considered a "new tank system" pursuant to 40 C.F.R. Section 280.12.
647. Pursuant to 40 C.F.R. §280.20(c)(1)(ii), owners and operators of new UST systems must use overfill prevention equipment on each UST system.
648. The type of overfill prevention equipment that Respondent employed was an overfill box with an alarm.
649. At the time of the December 15, 2009 inspection at this facility, the overfill alarm for the UST system was out-of-service.
650. Between at least December 15, 2009 and September 10, 2010, the overfill alarm for the UST system was out-of-service.
651. Respondent's failure, between at least December 15, 2009 and September 10, 2010, to use overfill prevention equipment for the UST system at this facility, constitutes a violation of 40 C.F.R. § 280.21(c)(1)(ii).

COUNTS 68 to 70

Nassau County Wantagh Park (NCWP), Wantagh, NY

**Count 68 - Failure to Provide Required Release Detection Monitoring and to Maintain Release Detection Records for Two Tanks at the Nassau County Wantagh Park Facility**

652. Complainant realleges each allegation contained in Paragraphs "1" through "651" with the same force and effect as if fully set forth herein.
653. Respondent has owned and/or operated, and continues to own and/or operate two petroleum UST systems (one 1,000 gallon unleaded gasoline UST and one 600 gallon diesel UST) located at Nassau County Wantagh Park, 1 King Road, Wantagh, NY.
654. As of EPA's January 20, 2010 inspection of this facility, Respondent had not maintained documents showing compliance during the year preceding the inspection with the requirement to monitor USTs at least every 30 days for releases.
655. As of the date of the January 20, 2010 inspection at this facility, the automated release detection system was out-of-service.
656. In Respondent's reply submitted in response to the First IRL and the Second IRL, despite EPA's request for such information, Respondent did not provide documentation showing

that it had performed, prior to the date of EPA's January 20, 2010 inspection at this facility, the required monitoring of the two tanks at least every 30 days for releases.

- 657. Between at least June 24, 2007 and September 10, 2010, Respondent did not conduct monitoring for releases from the two tanks using any method compliance with 40 C.F.R. Section 280.43(d) through (h).
- 658. Between at least June 24, 2007 and September 10, 2010, Respondent did not maintain the results/records of release detection monitoring for the two tanks located at this facility.
- 659. Respondent's failure, between at least June 24, 2007 and September 10, 2010, to conduct monitoring for releases from the two tanks located at this facility constitutes a violation of 40 C.F.R. Section 280.41(a).
- 660. Respondent's failure to maintain the results of at least a year of monitoring for releases from the two tanks located at this facility constitutes a violation of 40 C.F.R. Sections 280.34(b)(4), 280.34(c) and 280.45(b).

**Count 69 - Failure to Conduct Line Tightness Tests At Least Every 3 years or to Provide Monthly Monitoring of the Suction Piping System, and to Maintain Release Detection Records for Piping for Two UST systems at the Nassau County Wantagh Park Facility**

- 661. Complainant realleges each allegation contained in Paragraphs "1" through "660" with the same force and effect as if fully set forth herein.
- 662. In its December 21, 2009 and January 15, 2010 responses to EPA's First IRL, Respondent submitted as-built drawings and other information for the suction piping for the UST systems (ie., one 1,000 gallon unleaded gasoline UST and one 600 gallon diesel UST) at this facility.
- 663. The as-built drawings for suction piping at this facility did not demonstrate that suction piping met all the design criteria required to qualify for an exemption from release detection, as noted in 40 C.F.R. §280.41(b) (2)(i) thru (v).
- 664. Suction piping at this facility requires the performance of the release detection method set forth in 40 C.F.R. §280.41(b)(2).
- 665. Respondent failed to perform release detection for suction piping in accordance with the requirements of 40 C.F.R. Section 280.41(b)(2).
- 666. During the January 20, 2010 inspection at this facility, Respondent's representative could not provide the results of line tightness testing or any monthly monitoring for suction piping for the twelve month period prior to the inspection.
- 667. Between June 24, 2007 and September 10, 2010, Respondent did not conduct line testing or monthly monitoring (using one of the specified methods in 40 C.F.R. Section

280.43(e) through (h)) for releases from the suction piping for the one 1,000 gallon unleaded gasoline UST and one 600 gallon diesel UST located at this facility.

668. Between June 24, 2007 and September 10, 2010, Respondent did not maintain the results/records of line testing or release detection monitoring for suction piping for the two UST systems located at this facility.
669. Respondent's failure, between at least June 24, 2007 and September 10, 2010, to conduct line tightness testing or monitoring for releases from piping at this facility constitutes a violation of 40 C.F.R. § 280. 41(b)(2).
670. Respondent's failure to maintain the results of the last line tightness test result or at least a year of monitoring for releases from piping of the two UST systems located at this facility constitutes a violation of 40 C.F.R. Sections 280.34(b)(4), 280.34(c) and 280.45(b).

**Count 70 –Failure to Use Overfill Prevention Equipment on Two UST Systems at the Nassau County Wantagh Park Facility**

671. Complainant realleges each allegation contained in Paragraphs “1” through “670” with the same force and effect as if fully set forth herein.
672. The UST systems (one 1,000 gallon unleaded gasoline UST and one 600 gallon diesel UST) at this facility were installed subsequent to December 22, 1988 and are considered “new tank systems” pursuant to 40 C.F.R. Section 280.12.
673. Pursuant to 40 C.F.R. §280.20(c)(1)(ii), owners and operators of new UST systems must use overfill prevention equipment on each UST system.
674. The type of overfill prevention equipment that Respondent employed was an overfill box with an alarm.
675. At the time of the January 20, 2010 inspection, the overfill alarm for the two UST systems was out-of-service.
676. Between at least January 20, 2010 and September 10, 2010, the overfill alarm for the two UST systems was out-of-service.
677. Respondent's failure, between at least January 20, 2010 and September 10, 2010, to use overfill prevention equipment for the two UST systems located at this facility constitutes a violation of 40 C.F.R. Section 280.20(c)(1)(ii).

COUNT 71  
Nassau County DPW Salt Dome, Port Washington, NY

**Count 71 – Failure to Maintain Release Detection Records for Tanks and Piping at the Nassau County DPW Salt Dome**

678. Complainant realleges each allegation contained in Paragraphs “1” through “677” with the same force and effect as if fully set forth herein.
679. Respondent has owned and/or operated, and continues to own and/or operate three petroleum UST systems (one 6,000 gallon unleaded gasoline UST, one 6,000 gallon diesel UST, and one 2,500 gallon waste oil UST) located at Nassau County DPW Salt Dome, West Shore Road, Port Washington, NY.
680. Pursuant to 40 C.F.R. Section 280.34(b)(4) owners and operators of UST systems must maintain information concerning recent compliance with release detection requirements (40 C.F.R. Section 280.45).
681. Pursuant to 40 C.F.R. Section 280.45, owners and operators of UST systems must maintain records of release detection monitoring for at least 1 year.
682. During the February 13, 2008 inspection at this facility, Respondent’s representative could not provide the results of monthly monitoring for the twelve month period prior to the inspection
683. In Respondent’s reply submitted in response to the First IRL and the Second IRL, despite EPA’s request for such information, Respondent did not provide documentation showing that it had performed, prior to the date of EPA’s February 13, 2008 inspection at this facility, the required monitoring of the three tanks at least every 30 days for releases.
684. Between at least February 13, 2007 and September 10, 2010, Respondent did not maintain the results/records of release detection monitoring for the UST systems (i.e., one 6,000 gallon unleaded gasoline UST, one 6,000 gallon diesel UST, and one 2,500 gallon waste oil UST) located at this facility.
685. Respondent’s failure to maintain the results of at least a year of monitoring for releases from the UST systems located at this facility constitutes a violation of 40 C.F.R. Sections 280.34(b)(4), 280.34(c) and 280.45(b).

**COUNTS 72 and 73**  
Rockville Centre Depot, Rockville Centre, NY

**Count 72 - Failure to Provide Adequate Secondary Containment of Tank for a Hazardous Substance UST at the Rockville Centre Depot Facility.**

686. Complainant realleges each allegation contained in Paragraphs "1" through "685" with the same force and effect as if fully set forth herein.
687. Pursuant to 40 C.F.R. Section 280.12 a Hazardous Substance UST system means an underground storage tank system that contains a hazardous substance defined in Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (but not including any substance regulated as a hazardous waste under subtitle C) or any mixture of such substances and petroleum, and which is not a petroleum UST system.
688. Section 101(14) of the Comprehensive Environmental Response Compensation and Liability Act of 1980 and the regulations promulgated thereto at 40 C.F.R. Section 302.4, list "ethylene glycol" as a hazardous substance, with a Chemical Abstract Services Registry Number of 107-21-1.
689. Respondent has owned and/or operated, and continues to own and/or operate a 5,000 gallon Hazardous Substance UST system, containing ethylene glycol used as antifreeze, at the Rockville Centre Depot Facility, 50 Banks Avenue, Rockville Centre, NY.
690. The Metropolitan Transportation Authority (MTA) is the operator of the Rockville Centre Depot facility.
691. Table 3-1 of the Facility Audit Agreement ("FAA") Disclosure Report submitted by the MTA in November 2009 as well as an MTA letter, dated July 13, 2010, addressed to EPA, indicate that the ethylene glycol UST is constructed of single wall fiberglass and steel piping, with no secondary containment.
692. The Hazardous Substance UST system at the Rockville Centre Depot Facility was installed prior to December 22, 1988 and is therefore an "existing UST system" pursuant to 40 C.F.R. Section 280.12.
693. Pursuant to 40 C.F.R. §280.42(a), by December 22, 1998, all existing hazardous substance UST systems must meet the release detection requirements for new systems as defined in section (b) of this section.

694. Pursuant to 40 C.F.R. §280.42(b), release detection for hazardous substance UST systems must meet the following requirements: (1) Secondary containment systems must be designed, constructed and installed to: (i) Contain regulated substances released from the tank system until they are detected and removed; (ii) Prevent the release of regulated substances to the environment at any time during the operational life of the UST system; and (iii) Be checked for evidence of a release at least every 30 days.
695. A secondary containment system has not been installed for the ethylene glycol hazardous substance UST system located at the facility.
696. Respondent's failure at Rockville Centre Depot, between at least April 1, 2006 and January 19, 2011, to provide a secondary containment system for its ethylene glycol hazardous substance UST system located at the facility constitutes a violation of release detection requirements under 40 C.F.R. § 280.42(b)(1).

**Count 73 - Failure to Permanently Close a Temporarily Closed UST after Twelve Months and Failure to Maintain Records of Closure at the Rockville Centre Depot Facility**

697. Complainant realleges each allegation contained in Paragraphs "1" through "696" with the same force and effect as if fully set forth herein.
698. Respondent has owned and/or operated, and continues to own and/or operate a 1,000 gallon waste oil UST at the Rockville Centre Depot Facility, 50 Banks Avenue, Rockville Centre, NY.
699. Reports and information provided by MTA indicated that the waste oil tank was taken out of service in late 2003 or early 2004.
700. The waste oil tank was installed prior to December 22, 1988 and is an "existing tank system" pursuant to 40 C.F.R. Section 280.12.
701. Pursuant to 40 C.F.R. § 280.70(c), owners and operators are required to permanently close any UST system that has been temporarily closed for more than 12 months and which does not meet either the performance standards in §280.20 for new UST systems or the upgrading requirements in §280.21, except that the spill and overfill equipment requirements do not have to be met.
702. MTA's July 13, 2010 letter to EPA indicates that the UST system is not cathodically protected and does not comply with either the performance standards in Section 280.20 for new UST systems or the upgrading requirements in Section 280.21.
703. Pursuant to 40 C.F.R. Section 280.71(b), to permanently close a tank, owners and operators must empty and clean it by removing all liquids and accumulated sludges. All tanks taken out of service permanently must also be either removed from the ground or filled with an inert material.



704. Pursuant to 40 C.F.R. Section 280.72(a), before permanent closure is completed, owners and operators must conduct a site assessment to measure for the presence of releases where contamination is most likely to be present at the UST site.
705. To date, notwithstanding EPA's requests in the First IRL and Second IRL, Respondent has not provided any evidence that the tank was permanently closed in accordance with closure requirements of 40 C.F.R. Part 280, Subpart G.
706. Pursuant to 40 C.F.R. Section 280.34(b)(5) owners and operators of UST systems must maintain information concerning permanent closure.
707. Pursuant to 40 C.F.R. Section 280.34(c), owners and operators of UST systems must keep the records required either at the UST site, at a readily available alternative site, or, in the case of permanent closure, owners and operators are provided the additional alternative of mailing closure records to the implementing agency if they cannot be kept at the site or an alternative site.
708. Question 15 of EPA's First IRL asked about the status of any UST system temporarily or permanently closed.
709. Respondent's September 10, 2010 response to Question 15 of EPA's First IRL states that "[d]ue to records storage limitations, the information requested is not readily available."
710. In a January 19, 2011 response to EPA's request for an update concerning the waste oil at the Rockville Depot Center facility, MTA's representative stated that the MTA has "no record of the tank being [temporarily or permanently] closed in accordance with closure requirements of 40 C.F.R. 280."
711. Between at least April 1, 2006 and January 19, 2011, Respondent did not maintain the results/records of permanent closure for the waste oil UST system located at this facility.
712. Respondent's failure at Rockville Centre Depot, between at least April 1, 2006 and January 19, 2011, to permanently close the waste oil UST system constitutes a violation of 40 C.F.R. § 280.70(c).
713. In the alternative, Respondent's failure to maintain information concerning the permanent closure of the waste oil UST system constitutes a violation of 40 C.F.R. 280.34(b)(5) and 280.34(c).

COUNT 74  
Norman Levy Depot, Garden City, NY

**Count 74 - Failure to Provide Adequate Secondary Containment of Tank for a Hazardous Substance UST at the Norman Levy Depot Facility**

714. Complainant realleges each allegation contained in Paragraphs “1” through “713” with the same force and effect as if fully set forth herein.
715. Respondent has owned and/or operated, and continues to own and/or operate a Hazardous Substance 20,000 gallon UST system, containing ethylene glycol as antifreeze, at the Normal Levy Depot, 700 Commercial Avenue, Garden City, NY.
716. The Metropolitan Transportation Authority (MTA) is the operator of this facility.
717. Table 4-1 of the FAA Disclosure Report submitted by the MTA in November 2009 as well as an MTA letter, dated July 13, 2010, addressed to EPA, indicate that the ethylene glycol UST is constructed of single wall fiberglass and steel piping, with no secondary containment.
718. The Hazardous Substance UST system at the Norman Levy Depot Facility was installed prior to December 22, 1988 and is therefore an “existing UST system” pursuant to 40 C.F.R. Section 280.12.
719. Pursuant to 40 C.F.R. §280.42(a), by December 22, 1998, all existing hazardous substance UST systems must meet the release detection requirements for new systems as defined in section (b) of this section.
720. Pursuant to 40 C.F.R. §280.42(b), release detection for hazardous substance UST systems must meet the following requirements: (1) Secondary containment systems must be designed, constructed and installed to: (i) Contain regulated substances released from the tank system until they are detected and removed; (ii) Prevent the release of regulated substances to the environment at any time during the operational life of the UST system; and (iii) Be checked for evidence of a release at least every 30 days.
721. A secondary containment system has not been installed for the ethylene glycol hazardous substance UST system at the facility.
722. Respondent’s failure at the Norman Levy Depot, between at least April 1, 2006 and January 19, 2011, to provide a secondary containment system for its ethylene glycol hazardous substance UST system located at the facility constitutes a violation of release detection requirements under 40 C.F.R. § 280.42(b)(1).

## **PROPOSED CIVIL PENALTY**

Section 9006(d)(2)(A) of the Act, 42 U.S.C. § 6991e (d)(2)(A), authorizes the assessment of a civil penalty 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, see 61 Fed. Reg. 69360 (1996); on February 13, 2004, see 69 Fed. Reg. 7121 (2004); and on December 11, 2008, see 73 Fed. Reg. 239 (2008), 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. Section 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 civil penalty for violations occurring on January 13, 2009 and afterwards was increased to \$16,000.

Complainant proposes, subject to receipt and evaluation of further relevant information, that the Respondent be assessed the statutory maximum penalty authorized by the Act, as adjusted for inflation pursuant to the amendments to the Civil Monetary Inflation Adjustment Rule, for each violation at each tank (including underground pipes connected thereto) for each day of violation.

## **COMPLIANCE ORDER**

Based on the foregoing, and pursuant to the authority of Section 9006 of the Act, 42 U.S.C. § 6991e, 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 release detection and testing requirements of 40 C.F.R. Sections 280.41 and 280.44 for all UST systems owned and/or operated by Respondent at the thirty-one Facilities identified above in counts 1 to 71 of the Complaint. (Release detection for Hazardous Substance UST systems is addressed in paragraph 7, below).
2. Respondent shall, within sixty (60) days after the effective date of this Order, comply with all applicable overfill prevention equipment requirements of 40 C.F.R. § 280.20(c)(1)(ii) and 280.21(d) for all UST systems owned and/or operated by Respondent at the facilities where non-compliance is alleged in counts 1 to 74 of the Complaint.
3. Respondent shall, within sixty (60) days after the effective date of this Order, comply with all applicable record-keep requirements of 40 C.F.R. Sections 280.34 and 280.45 for all UST systems owned and/or operated by Respondent at the thirty-three Facilities identified in counts 1 to 74 of the Complaint.

4. Respondent shall, within thirty (30) days after the effective date of this Order, comply with all applicable requirements of 40 C.F.R. Section 280.70(b) for UST systems it owns and/or operates that have been temporarily closed for 3 months or more.

5. Respondent shall, within sixty (60) days after the effective date of this Order, comply with all applicable upgrade requirements of 40 C.F.R. Section 280.21 or with the performance standards set forth in 40 C.F.R. Section 280.20, or with the closure requirements set forth in 40 C.F.R. Sections 280.70-280.74 for all UST systems owned and/or operated by Respondent at the Facilities where noncompliance is alleged in counts 1 to 74 of the Complaint.

6. Respondent shall, within sixty (60) days after the effective date of this Order, comply with all applicable permanent closure requirements of 40 C.F. R. Section 280.70(c) for any UST system owned and/or operated by Respondent at the Facilities identified in counts 1 to 74 of the Complaint, that have been temporarily closed for more than 12 months and which do not meet either the performance standards in §280.20 for new UST systems or the upgrading requirements in §280.21(except for spill and overfill equipment requirements, which do not have to be met).

7. Respondent shall, within sixty (60) days after the effective date of this Order, comply with all applicable release detection requirements of 40 C.F.R. Section 280.42 for the hazardous substance UST systems owned and/or operated by Respondent at the Rockville Centre Depot and Norman Levy Depot Facilities identified in counts 72 and 74 of the subject Complaint.

8. Respondent shall, within ninety (90) 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 notice required to be submitted pursuant to this paragraph to:

**Paul Sacker, Acting Team Leader  
UST Team  
Division of Enforcement and Compliance Assistance  
RCRA Compliance Branch  
290 Broadway, 20th Floor  
New York, NY 10007  
Attn: Ton Moy**

**NOTICE OF LIABILITY FOR ADDITIONAL CIVIL PENALTIES**

Pursuant to Section 9006(a)(3) of the Act, 42 U.S.C. §6991e(a)(3), 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 there under (see the Civil Monetary Inflation Rule, 73 Fed. Reg. 75340 (December 11, 2008), codified at 40 C.F.R. Part 19), a violator failing to comply with the requirements of a Compliance Order that has taken effect 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 40 C.F.R. Part 22, 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"). 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 therefore 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 the 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 judicial review. 40 C.F.R. § 22.27(d).

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:

**Bruce H. Aber**  
**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) 637-3224 (phone)**  
**(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).

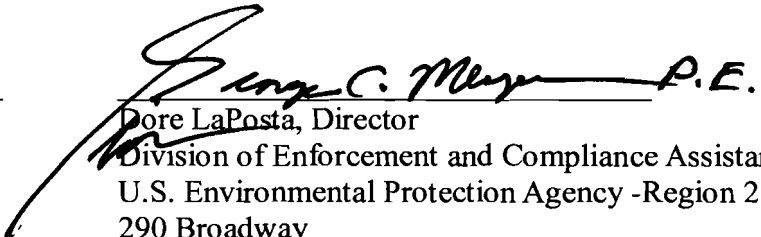
Respondent's entering into a settlement through the signing of such Consent Agreement and its complying with the terms and conditions set forth in the such Consent Agreement terminates this administrative litigation and the civil proceedings arising out of the allegations made in the Complaint. Respondent's 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: 3/31/11

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

- To: Edward P. Mangano, County Executive  
County of Nassau  
1550 Franklin Avenue  
Mineola, NY 11501
- cc: Russ Brauksieck, Chief  
Facility Compliance Section  
New York State Department of Environmental Conservation  
625 Broadway, 11<sup>th</sup> Floor  
Albany, N.Y. 12233

Edward P. Mangano, County Executive  
Office of the County Executive  
County of Nassau  
1550 Franklin Avenue  
Mineola, NY 11501

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 2011  
New York, New York

Mildred N. Bag