



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

SEP 28 2018

**CERTIFIED MAIL-RETURN RECEIPT REQUESTED**

**Article Number: 7016 1370 0001 3671 2856**

Muhammad Raza  
President  
Chamba Holdings, LLC  
2749 Norton St.  
Rochester, NY 14609

Re: In the Matter of Chamba Holdings, LLC  
Docket Number RCRA-02-2018-7504

Dear Mr. Raza:

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.

REGIONAL HEARING  
CLERK  
2018 OCT -3 AM 7:32

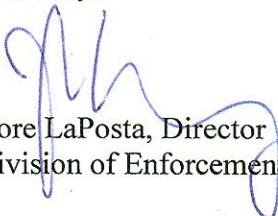
You will find enclosed a copy of the "Consolidated Rules of Practice," which govern this proceeding. (A brief discussion of some of these rules appears in the later part of the Complaint).

For your general information and use, I also enclose an Information Sheet for U.S. EPA Small Business Resources which you may find helpful.

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,



*to* Dore LaPosta, Director  
Division of Enforcement and Compliance Assistance

Enclosures

cc: Karen Maples, Regional Hearing Clerk (without enclosures)

Russ Brauksieck, Chief  
Facility Compliance Section  
Bureau of Technical Support  
Division of Environmental Remediation  
New York State Department of Environmental Conservation  
625 Broadway, 11th Floor  
Albany, N.Y. 12233-7020

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
**Region 2**

2018 OCT -3 AM 7:32  
REGIONAL HEARINGS  
CLERK

IN THE MATTER OF:

Chamba Holdings, LLC

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-02-2018-7504

**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 Chamba Holdings, LLC, a New York corporation, located at 2749 Norton St., Rochester, NY 14609
4. 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.
5. Respondent, at all relevant times for this complaint, has been and is still the "owner" and/or "operator" of underground storage tank systems or "UST systems," as those terms are defined in Section 9001 of the Act, 42 U.S.C. § 6991, and 40 C.F.R. § 280.12, which are located at 501 Main St., East Rochester, NY (the "Facility").

6. 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.
7. For the purposes of reporting suspected releases of regulated substances, spills, overfills, and cleanups that cannot be accomplished within 24 hours, the implementing Agency is the New York State Department of Environmental Conservation (“NYS DEC”).
8. Pursuant to Sections 2002, 9002, and 9003 of the Act, 42 U.S.C. §§ 6912, 6991a, and 6991b, EPA promulgated regulations setting forth requirements for owners and operators of UST systems, codified at 40 C.F.R. Part 280. These regulations include requirements related to release detection, overfill prevention, record-keeping, upgrade requirements, temporary and permanent closure, and financial assurance.
9. 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.
10. 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.
11. 40 C.F.R. § 280.12 defines a “New tank system” as a tank system used to contain an accumulation of regulated substances and for which installation has commenced after December 22, 1988.
12. 40 C.F.R. § 280.12 defines “Regulated substance” as: (a) Any substance defined in section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980 (but not including any substance regulated as a hazardous waste under subtitle C), and (b) Petroleum, including crude oil or any fraction thereof that is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute).
13. Pursuant to 40 C.F.R. § 280.12, the term “regulated substance” includes but is not limited to petroleum and petroleum-based substances comprised of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading, and finishing, such as motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils.
14. 40 C.F.R. § 280.12 defines “Petroleum UST system” as an underground storage tank system that contains petroleum or a mixture of petroleum with de minimis quantities of other regulated substances. Such systems include those containing motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils.

15. 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....”
16. 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”).
17. Pursuant to 40 C.F.R. § 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 specifies records that must be maintained in accordance with 40 C.F.R. § 280.34.
18. Pursuant to 40 C.F.R. § 280.20(c)(1)(ii), owners and operators of UST systems must provide adequate overfill protection to their USTs that will: (A) Automatically shut off flow into the tank when the tank is no more than 95 percent full; or (B) Alert the transfer operator when the tank is no more than 90 percent full by restricting the flow into the tank or triggering a high-level alarm; or (C) Restrict flow 30 minutes prior to overfilling, alert the transfer operator with a high level alarm one minute before overfilling, or automatically shut off flow into the tank so that none of the fittings located on top of the tank are exposed to product due to overfilling.
19. Pursuant to 40 C.F.R. § 280.41(a), owners and operators of UST systems must conduct monthly release detection for any UST storing petroleum products using one of the approved methods listed in 40 C.F.R. § 280.43.
20. Pursuant to 40 C.F.R. § 280.45(c), owners and operators of UST systems must maintain written documentation of all calibration, maintenance, and repair of release detection equipment permanently located on-site for at least one year after the servicing work is completed, or for another reasonable time period determined by the implementing agency.
21. Pursuant to 40 C.F.R. § 280.50(c), owner and operators of UST systems must report to the implementing agency within 24 hours, or another reasonable period specified by the implementing agency, and follow the procedures in §280.52 for the following conditions: Monitoring results, including investigation of an alarm, from a release detection method required under §§280.41 and 280.42 that indicate a release may have occurred unless: (1) The monitoring device is found to be defective, and is immediately repaired, recalibrated or replaced, and additional monitoring does not confirm the initial result; (2) The leak is contained in the secondary containment and: (i) Except as provided for in §280.43(g)(2)(iv), any liquid in the interstitial space not used as part of the interstitial monitoring method (for example, brine filled) is immediately removed; and (ii) Any defective system equipment or component is immediately repaired or replaced; (3) In the

case of inventory control described in §280.43(a), a second month of data does not confirm the initial result or the investigation determines no release has occurred; or (4) The alarm was investigated and determined to be a non-release event (for example, from a power surge or caused by filling the tank during release detection testing).

22. Pursuant to 40 C.F.R. § 280.93(a), owners or operators of petroleum underground storage tanks must demonstrate financial responsibility for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks in the per-occurrence amounts specified in the regulation.
23. On June 5, 2017, a duly designated representative of the EPA conducted an inspection of the USTs at Respondent's facility as described in paragraph 5 above ("EPA Inspection").

**COUNT 1 – Failure to Respond to Request for Information.**

24. Complainant repeats, realleges and incorporates by reference paragraphs 1 through 23 with the same force and effect as if fully set forth below.
25. EPA issued "RCRA UST IR-17-025", Notice of Violation and Request for Information pursuant to Section 9005(a) of RCRA and 40 C.F.R. § 280.34 to Respondent on October 10, 2017 (the "October 2017 NOV/IRL").
26. The October 2017 NOV/IRL informed Respondent of potential violations and included twenty-six (26) questions requesting information to evaluate the compliance status of the USTs at Respondent's Facility. EPA's questions, set forth in Enclosure II, built on observations made during the EPA Inspection and included questions about ownership and operation of the Facility, general UST requirements (e.g., registration application), overfill and spill protection, leak detection, tank closure, UST maintenance, and financial responsibility.
27. The October 2017 NOV/IRL stated that a response must be mailed to the Team Leader of the UST Team ("EPA UST Team Leader") and provided the mailing address. It also said that the response was due within thirty (30) calendar days of receipt of the October 2017 NOV/IRL.
28. Respondent received the NOV/IRL on October 13, 2017 as confirmed by the US Post Office's tracking system. Respondent's response was due on or before November 12, 2017.
29. Respondent failed to respond to the October 2017 NOV/IRL.
30. In a letter dated April 11, 2018, EPA issued a "2<sup>nd</sup> Notice – Response Overdue RCRA UST IR-17-025" ("April 2018 Overdue Notice Letter"), to Respondent. The letter informed Respondent that EPA had not received a response to the October 2017

NOV/IRL and that Respondent had to provide such response or contact EPA within 5 days of receipt of the letter.

31. EPA received a “green card” confirmation as part of certified mail delivery that the April 2018 Overdue Notice Letter was received by Respondent on April 14, 2018.
32. Respondent had to submit a response to the April 2018 Overdue Notice Letter or contact EPA not later than April 19, 2018.
33. On April 16, 2018, Muhammad Raza, on behalf of Respondent, sent an e-mail to the EPA UST Team Leader stating that the e-mail was in response to the October 2017 NOV/IR (“Respondent’s April 16, 2018 e-mail”).
34. Respondent’s April 16, 2018 e-mail focused on the five (5) violations listed in the body of the October 2017 NOV/IRL but it did not answer the questions in Enclosure II. Respondent further claimed that it had sent documents responsive to the IRL-NOV to the NYS DEC back in October 2017.
35. EPA issued a Follow-Up Request for Information letter (2<sup>nd</sup> IRL) to Respondent on May 7, 2018 (“May 2018 IRL”).
36. The May 2018 IRL had fifteen (15) questions. In addition to asking specific questions regarding EPA’s observations during the June 2017 Inspection, it had questions that followed up on Respondent’s April 16, 2018 e-mail, including questions on overfill protection, leaks and leak detection and financial responsibility. It also asked for a copy of any records provided to the NYS DEC.
37. The May 2018 IRL stated that a response to the IRL must be mailed to the “UST Team Leader” and provided the mailing address. It also said that the response was due within fifteen (15) calendar days of receipt of the letter.
38. EPA received a “green card” confirmation as part of certified mail delivery that Respondent received the May 2018 IRL on May 12, 2018.
39. Respondent’s response to the May 2018 IRL was due by May 27, 2018.
40. Respondent failed to respond to the May 2018 IRL by May 27, 2018.
41. EPA issued a notice of non-response to the May 2018 IRL to Respondent on June 4, 2018 (“June 2018 Overdue Notice”). This letter reminded Respondent of the overdue response to the May 2018 IRL and gave Respondent five (5) days to contact EPA.
42. EPA received a “green card” confirmation of certified mail that Respondent received the June 2018 Overdue Notice on June 7, 2018.
43. Respondent had to submit a response or contact EPA not later than June 12, 2018.

44. Respondent failed to respond to the May 2018 IRL or contact EPA by June 12, 2018.
45. On June 14, 2018, EPA Enforcement Officer, Paul Sacker called and spoke with Mr. Raza by telephone about responding to the June 2018 Overdue Notice and the May 2018 IRL. Mr. Raza indicated he would have a response to EPA shortly.
46. To date, EPA has not received a response to the May 2018 IRL.
47. Respondent's failure to respond to the May 2018 IRL constitutes a violation of 40 C.F.R. § 280.34 and Section 9005 of the Act, 42 U.S.C. § 6991d.
48. Respondent is liable for civil penalties pursuant to Section 9006 of RCRA for its failure to respond to the IRL between at least May 27, 2018 to present.

### **Count 2 – Failure to Provide Adequate Overfill Prevention**

49. Complainant repeats, realleges and incorporates by reference paragraphs 1 through 48 with the same force and effect as if fully set forth below.
50. At the time of the EPA Inspection, the NYDEC Petroleum Bulk Storage Certificate (“PBS”) at the Facility showed that there were two (2) active USTs at the Facility:  
  
Tank 001: 12,000-gallon UST for regular gasoline storage, and  
Tank 002: 6,000-gallon UST for premium gasoline.
51. The USTs at the Facility were installed in August 1994, making them new tanks as defined by 40 C.F.R. § 280.12.
52. During the EPA Inspection there was an audible alarm that was reportedly being used for overfill prevention of the two USTs. However, the alarm did not sound when the inspector tested it. The alarm did not appear to be connected to the electronic tank release detection monitor.
53. EPA's October 2017 NOV-IRL requested that Respondent provide documentation showing that a functioning overfill device was installed and operating for the two USTs at this Facility on the day of the EPA Inspection. The IRL also stated that if the overfill device was repaired or replaced to provide documentation showing such repair or replacement or to state why such documentation could not be provided.
54. Respondent's April 16, 2018 e-mail to EPA only provided a copy of what seems to be an overdue invoice, dated March 6, 2018, for unspecified work that occurred on June 15, 2017, as evidence that an overfill prevention device was “connected to the Veeder Root TLS 350.” However, the invoice did not specify what type of work was done. Also, the invoice provided was addressed to Speedy Mart LLC at 1662 St. Paul St., Rochester, NY,

which is a different location.

55. The May 2018 IRL requested that Respondent provide more detailed documentation that the overfill prevention device was repaired or replaced, including an exact date when the work was completed or that Respondent state why it could not provide such documentation.
56. To date, Respondent has not provided any documentation showing that the two USTs at the Facility had a working overfill prevention device on the date of the EPA inspection or that it was later repaired or replaced.
57. Respondent failed to provide an adequate overfill prevention device for its two USTs at the Facility for at least June 5, 2017.
58. Respondent's failure to provide an adequate overfill prevention device for the two USTs at the Facility on at least June 5, 2017 constitutes a violation of 40 C.F.R. §280.20(c)(1)(ii).

**Count 3 – Failure to Monitor an UST for Releases Every Thirty Days.**

59. Complainant repeats, realleges and incorporates by reference paragraphs 1 through 58 with the same force and effect as if fully set forth below.
60. During the June 2017 Inspection the regular gasoline UST had no visible monthly release detection monitoring method despite the presence of a Veeder Root TLS 350 monitor. The Veeder Root had no set-up for any sensor for the regular gasoline UST.
61. During the June 2017 Inspection, the inspector requested records showing that the regular gasoline UST had been monitored for releases for the previous twelve months but the Facility had no records.
62. EPA's October 2017 NOV-IRL requested that Respondent provide documentation that the regular gasoline UST was monitored monthly for releases via a method approved by federal regulations.
63. Respondent's April 16, 2018 e-mail only states that it had submitted four months of leak detection monitoring records from the Veeder Root TLS 350 for the regular gasoline UST, from July 2017 through October 2017, to the NYS DEC. There was no other information provided as to why the regular gasoline UST was not being monitored during the June 2017 Inspection.
64. EPA's May 2018 IRL requested that Respondent submit the documents it claimed to have sent to the NYS DEC and also asked that Respondent include additional monthly monitoring records through the date of receipt of the May 2018 IRL. The letter additionally requested Respondent provide documentation showing the date when the

work to connect the regular gasoline UST to the Veeder Root TLS 350 was conducted and to include any receipts.

65. To date, Respondent has not provided EPA with any documentation to show that: (a) the regular gasoline UST at the Facility had a release detection system on the date of the Inspection, or (b) that it was later repaired and that the UST is being monitored monthly for releases.
66. Respondent failed to provide a release detection method or failed to provide release detection records of release detection monitoring for the regular gasoline UST at the Facility for at least June 5, 2016.
67. Respondent's failure to provide a release detection monitoring system for the regular gasoline UST at the Facility for at least June 5, 2016.
68. Respondent's failure to maintain and provide release detection monitoring records for the regular gasoline UST at the Facility from at least June 5, 2016 through May 12, 2018 constitutes violations of 40 C.F.R. §§ 280.34 and 280.45

**Count 4 – Failure to Maintain and Provide Records of Release Detection Monitoring.**

69. Complainant repeats, realleges and incorporates by reference paragraphs 1 through 68 with the same force and effect as if fully set forth below.
70. During the June 2017 Inspection, Respondent used electronic interstitial monitoring (EIM) as the release detection method for the premium gasoline UST.
71. During the June 2017 Inspection, the inspector requested records showing that the premium gasoline UST had been monitored for releases for the previous twelve (12) months but the Facility had no records.
72. EPA's October 2017 NOV-IRL requested that Respondent provide EIM records for the premium gasoline UST for the period from June 5, 2016 (twelve months prior to the inspection) through receipt of the October 2017 NOV/IRL (October 13, 2017).
73. Respondent's April 16, 2018 e-mail states that at the time of the June 2017 Inspection the records were "at accountant office."
74. EPA's May 2018 IRL requested Respondent to confirm it cannot provide monitoring records for the premium gasoline UST for the period from June 2016 through June 2017 and to provide to EPA monthly release detection monitoring records from June 5, 2017 through the date of receipt of the May 2018 IRL (May 12, 2018).
75. To date, Respondent has not provided to EPA any records for release detection monitoring for the premium gasoline UST.

76. Respondent failed to provide release detection records of release detection monitoring for the premium gasoline UST at the Facility from at least June 5, 2017 to May 12, 2018.
77. Respondent's failure to provide release detection monitoring records for the premium gasoline UST at the Facility from at least June 5, 2017 through May 12, 2018 constitutes violations of 40 C.F.R. §§ 280.34 and 280.45.

### **PROPOSED CIVIL PENALTY**

The proposed civil penalty has been determined in accordance with Section 9006(d)(2)(A) of the Act, 42 U.S.C. § 6991e(d)(2)(A). For purposes of determining the amount of any penalty to be assessed, Section 9006(c) of the Act, 42 U.S.C. § 6991e(c)14, states that, "Any order issued under this section shall... assess a penalty, if any, which the Administrator [of EPA] determines is reasonable taking into account the seriousness of the violation and any good faith efforts to comply with the applicable requirements." Additionally, Sections 9006(e)(1) and (2) of the Act, 42 U.S.C. § 6991e(e)(1) and (2), provide that EPA "may... take[] into account in determining the terms of a civil penalty [the] compliance history of an owner or operator" of underground storage tanks and "[a]ny other factor the Administrator [of EPA] considers appropriate[.]" respectively.

To develop the proposed penalty in this Complaint, Complainant has taken into account the particular facts and circumstances of this case, to the extent known at the time of its filing, and has used "US EPA Penalty Guidance for Violations of UST Requirements" (EPA's "UST Penalty Policy"), dated November 14, 1990. EPA's UST Penalty Policy is available upon request and also publicly available on the Internet at <http://www.epa.gov/swerust1/directiv/od961012.htm>. EPA's UST Penalty Policy provides guidance to effect a rational, consistent and equitable calculation methodologies for applying the statutory penalty criteria (enumerated above) to particular cases.

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 of EPA. The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended through 2015 (the "Inflation Adjustment Act"), 28 U.S.C. § 245, required EPA to adjust its penalties for inflation on a periodic basis. Consistent with this statutory mandate, EPA has amended the penalty amounts in the November 1990 UST Penalty Policy to reflect inflationary adjustments. The adjustments were made pursuant to the June 11, 2018 document entitled "Amendments to the U.S. Environmental Protection Agency's Civil Penalty Policies to Account for Inflation (effective January 15, 2018). This policy is applicable where violations occurred after November 2, 2015 and penalties are assessed on or after January 15, 2018."

Pursuant to the Inflation Adjustment Act, the maximum statutory civil penalty under Section 9006(d)(2) of RCRA, 42 U.S.C. § 6991e(d)(2), is \$23,426 per day for each violation occurring after November 2, 2015, where the penalty is assessed on or after January 15, 2018. See 40 C.F.R. Part 19 and 83 *Fed Reg* 1190 (January 10, 2018).

A penalty calculation worksheet to support the penalty figure for the violation cited in this Complaint is included in Attachment 1, below.

The Complainant proposes, subject to the receipt and evaluation of further relevant information (including a demonstration to EPA's satisfaction that Respondent is unable to pay the proposed penalty) that the Respondent be assessed the following civil penalty for the violations alleged in the Complaint:

Total Proposed Penalty: **\$ 16, 703.00**

Facility/Violation Number	UST(s) at issue	40 CFR Part 280 requirement violated	Violation summary failure to:	Proposed penalty for count
Count 1	N/A	280.34 and Section 9005(a) of RCRA	Failure to respond to IRL	\$ 4,158.00
Count 2	001, 002	280.20(c)(1)(ii)	Failure to provide adequate overfill prevention device.	\$ 2,772.00
Count 3	Tank 001	280.41(a) or 280.34 & .45	Failure to monitor monthly an UST for releases or to maintain/provide release detection records.	\$ 2,773.00
Count 4	Tank 002	280.34 & .45	Failure to maintain/provide release detection records	\$ 7,000.00
Total Penalty				\$16,703.00

EPA reserves its authority to seek additional penalties if Respondent's failure to respond to the Information Request Letter continues.

### **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 to 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):

Respondent shall certify compliance with all requirements of 40 C.F.R. Part 280 for each federally regulated UST system at the facility located at 501 Main St., East Rochester, NY (the Facility). Specifically, Respondent shall:

- a.) Ensure that all USTs at the Facility have operating overfill prevention devices installed in accordance with 40 C.F.R. § 280.20(c).
- b.) Ensure that all USTs at the Facility are monitored monthly for releases in accordance with 40 C.F.R. § 280.41(a).
- c.) Ensure that it maintains all monthly release detection records for the tanks at the Facility in accordance with 40 C.F.R. §§ 280.34 and 280.45.
- d.) Provide to EPA within thirty (30) days after service of this Order, a full investigation of the June 5, 2017 fuel alarm noted for the regular gasoline UST at the Facility and report any confirmed releases to the NYSDEC immediately in accordance with 40 C.F.R. § 280.50(c) including receipts and records for any maintenance or repaired conducted on the regular gasoline UST release detection monitoring system.
- e.) Provide within thirty (30) days after service of this Order a complete response to EPA's October 10, 2017 and May 7, 2018 information request letters (copies enclosed) in accordance with 40 C.F.R. § 280.34 and Section 9005 of the Act, 42 U.S.C. § 6991d. As part of its full response, Respondent shall include: (a) proof of all repairs to release detection equipment on site (repair records have to be maintained for at least a year after work is completed) and (b) documentation that the USTs at the Facility are covered for third party bodily injury liability resulting from any releases from the USTs in accordance with 40 C.F.R. § 280.93(a).

Within forty-five (45) days of the effective date of this Compliance Order, if the Respondent is in noncompliance with the provisions of this Compliance Order, the Respondent shall submit to EPA written notice stating 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 supporting documentation is true, accurate and complete to the best of my knowledge and belief. As to the identified portions of this response for which I am unable personally to verify their truthfulness, accuracy and/or completeness, I certify that this response and all accompanying supporting documentation were prepared in accordance with a system designed to assure that qualified personnel gather and evaluate the information submitted. I am aware that there are significant penalties for submitting false, misleading and/or incomplete information, and such penalties might include criminal fines and

imprisonment for knowing violations.

Signature: \_\_\_\_\_

