



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

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG.II
2008 APR -3 PM 2:33
REGIONAL HEARING
CLERK

MAR 31 2008

CERTIFIED MAIL- RETURN RECEIPT REQUESTED

Brigadier General Roberto Marrero Corletto
Assistant Adjutant General (Army)
P.O. Box 9023786
San Juan, Puerto Rico 00902-3786

Jose A. Fernandes, Col. En., PRARNG
Director of Engineering
Camp Santiago Training Center
State Road #1
Salinas, Puerto Rico 00751

Brigadier General Keith L. Thurgood
Commander, Army & Air Force Exchange Service
3911 S. Walton Walker Blvd
Dallas, TX 75222

Mrs. Ivette Guzman, AAFES Store Manager
Camp Santiago Training Center
State Road #1
Salinas, Puerto Rico 00751

Re: **In the Matter of Puerto Rico Army National Guard, Camp Santiago, and the Army
and Air Force Exchange Service, Camp Santiago, Salinas, Puerto Rico
Docket No. RCRA-02-2008-7502**

Dear Sir/Madam:

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

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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." This document offers some useful information and resources.

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

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

Sincerely,



Dore LaPosta, Director
Division of Enforcement and Compliance Assistance

Enclosures

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



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In the Matter of

Puerto Rico Army National Guard,
Camp Santiago; and the Army and
Air Force Exchange Service, Camp
Santiago, Salinas, Puerto Rico

Respondents

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

COMPLAINT, COMPLIANCE ORDER,
AND NOTICE OF OPPORTUNITY
FOR HEARING

Docket No. RCRA-02-2008-7502

COMPLAINT

This is a civil administrative proceeding instituted pursuant to Section 9006 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act ("RCRA"), the Hazardous and Solid Waste Amendments of 1984 ("HSWA"), the Superfund Amendments and Reauthorization Act of 1986 ("SARA"), 42 U.S.C. §§6901 *et seq.*, and the Energy Policy Act of 2005, 42 U.S.C. §9601 *et seq.* (hereinafter collectively referred to as the "Act"). 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.

1. Respondents are the Puerto Rico Army National Guard, Camp Santiago, and the Army and Air Force Exchange Service, Camp Santiago ("the Respondents").
2. Respondents are "persons" within the meaning of Section 9001(5) of the Act, 42 U.S.C. Section 6991(5), and Rule 105 of the Puerto Rico Underground Storage Tank regulation (hereinafter "PRUSTR")
3. Respondent the Puerto Rico Army National Guard, Camp Santiago ("PRARNG"), has been and remains the "owner" and "operator" of "Underground Storage Tanks" or "UST" systems, as those terms are defined in Section 9001 of the Act, 42 U.S.C. §6991, and in Rule 105 of PRUSTR, that are located at State Road #1, Intersection Road #154, Salinas, Puerto Rico 00751 ("the Facility").

4. PRARNG owns and operates two UST systems, which were installed in 1980, in the Petroleum, Oil and Lubricants (POL) area of the Facility, and one UST system, which was installed in 1985, in the Maneuver Area Training Equipment Sites (MATES) area of the Facility.
5. Both the POL and MATES areas are located within the Camp Santiago Training Center of the Facility.
6. The Facility is primarily a Training Center for Military Activities, and consists of vehicle fueling and maintenance areas, numerous office buildings, housing and firing ranges.
7. The tanks owned and operated by PRARNG at the Facility are referred throughout this document and in Enclosure I as the POL Tanks 1 and 2 and MATES Tank.
8. The tanks and piping owned and operated by PRARNG at the Facility are referred throughout this document as the POL UST Systems 1 and 2 and MATES UST System, when referring to both tanks and piping.
9. Respondent Army and Air Force Exchange Service, Camp Santiago ("AAFES"), has been and remains the "owner" and "operator" of two "UST" Systems, as those terms are defined in Section 9001 of the Act, 42 U.S.C. §6991, and in Rule 105 of PRUSTR, that are located at State Road #1, Intersection Road #154, Salinas, Puerto Rico 00751 ("the Facility"). The UST Systems were installed in June 2005.
10. The tanks owned by AAFES at the Facility are referred throughout this document and in Enclosure 1 as AAFES Tanks 1 and 2.
11. The tanks and piping owned and operated by AAFES at the Facility are referred throughout this document as AAFES UST Systems 1 and 2, when referring to both tanks and piping.
12. Pursuant to §§2002, 9002, and 9003 of the Act, 42 U.S.C. §§6912, 6991a, and 6991b, EPA promulgated rules setting forth requirements for owners and operators of UST Systems, set forth at 40 C.F.R. Part 280.
13. Pursuant to the Puerto Rico Public Policy Environmental Act of 1970, the Commonwealth of Puerto Rico Environmental Quality Board promulgated Underground Storage Tank Regulations on November 7, 1990, setting forth requirements for owners and operators of UST Systems.
14. Pursuant to 40 C.F.R. Part 281, the Commonwealth of Puerto Rico received State Program Approval, as set forth in the Federal Register, 64 Fed. Reg. 4593 (Jan. 30, 1998).

15. The federal codification and description of the State Program Approval of the Commonwealth of Puerto Rico UST program is set forth at 40 C.F.R. Section 280.102.
16. Pursuant to 40 C.F.R. Section 280.12, the Commonwealth of Puerto Rico Environmental Quality Board is the “implementing agency” responsible for enforcing the requirements of the Act and the regulations promulgated pursuant thereto.
17. EPA retains the authority to exercise its enforcement authorities under Section 9006 of Subtitle I of RCRA, 42 U.S.C. Section 6991e, for violations of approved Commonwealth of Puerto Rico regulations, and has issued notice to the Commonwealth of Puerto Rico pursuant to Section 9006(a)(2), 42 U.S.C. Section 6991e(a)(2) prior to issuing the administrative Complaint in the above-captioned proceeding.
18. The UST Systems in the POL and MATES areas of the Facility and the two AAFES UST Systems at the Facility all store either diesel fuel or gasoline for use in military or other vehicles, and thus are subject to the UST requirements set forth in the Rules in Parts 1 through 13 of PRUSTR.
19. On or about April 17 and 19, 2007, pursuant to Section 9005 of the Act, 42 U.S.C. §6991d, authorized representatives of EPA, including EPA’s Inspector, inspected the Facility to determine the Respondents’ compliance with the Act and the Rules in Parts 1 through 13 of PRUSTR (“April 2007 Inspection”).
20. On or about July 10, 2007, EPA sent one letter addressed to representatives of both Respondents, and said letter contained the following two attachments: an Information Request Letter and a Notice of Violation (“NOV”), which were issued pursuant to Sections 9005(a) and 9006 of the Act, 42 U.S.C. §6991d(a) and 42 U.S.C. §6991e, respectively.
21. EPA’s NOV listed UST violations that were identified by EPA representatives during the April 2007 Inspection.
22. EPA’s Information Request Letter sought general information about the USTs owned and/or operated by the Respondents at the Facility, as well as information about any actions taken to correct the violations, and to prevent recurrence of the violations, identified in the NOV.
23. On August 23, 2007, Respondent PRARNG submitted a response, on behalf of PRARNG and AAFES, to EPA’s NOV (hereinafter “NOV Response”) and Information Request Letter (hereinafter “Information Request Letter Response”). In addition, on September 24, 2007, Respondent PRARNG responded to a request for follow-up information concerning release detection, cathodic protection, and spill and overflow prevention equipment.

24. In the Information Request Letter Response, dated August 23, 2007, the Respondent PRARNG stated: "The USTs at the POL area and the UST at the MATES are property of PRARNG since their installations in 1980 and 1985. The Puerto Rico [Army] National Guard is the owner of the Camp Santiago Training Center, Salinas, PR."
25. The NOV Response, dated August 23, 2007, stated: "The USTs at the AAFES store are the property of AAFES. AAFES holds full responsibility for the proper use and maintenance of these UST Systems."
26. During the April 2007 Inspection and for all time periods relevant to this Complaint, all of the UST systems at the Facility were "Petroleum UST Systems" as that term is defined in Rule 105 of PRUSTR.

Count 1

Respondent PRARNG's Failure to Submit Accurate Notification to the Environmental Quality Board for POL UST System 2

27. Paragraphs 1 through 26 are realleged and incorporated herein.
28. Pursuant to Rule 203 of PRUSTR, all owners or operators of UST Systems must submit a notification form regarding the existence of an UST System to the Puerto Rico Environmental Quality Board ("EQB").
29. Respondent PRARNG submitted to EQB an UST Notification Form, dated June 12, 2006 for POL UST Systems 1 and 2.
30. The UST Notification form, dated June 12, 2006, indicated that POL UST Systems 1 and 2 both had suction piping.
31. During the April 2007 Inspection, the EPA inspector observed that one of the two UST Systems at the POL area had pressurized piping.
32. Respondent PRARNG submitted to EQB a revised UST Notification form, dated May 8, 2007, for POL UST Systems 1 and 2.
33. The UST Notification form, dated May 8, 2007, indicated that POL UST System 1 had suction piping, and POL UST System 2 had pressurized piping.
34. In the NOV Response, dated August 23, 2007, the Respondent PRARNG included the revised UST Notification form, dated May 8, 2007, that indicated that POL UST System 2 had pressurized piping.

35. Respondent PRARNG's email, dated September 24, 2007, to EPA's Inspector, stated that POL UST System 1 has a suction piping system and POL UST System 2 has a pressurized piping system.
36. Between the time period of at least June 12, 2006 and May 8, 2007, Respondent PRARNG had submitted an incorrect notification to EQB regarding the type of piping for POL UST System 2.
37. Respondent PRARNG's failure to submit an accurate notification to EQB constitutes a violation of Rule 203 of PRUSTR.

Count 2

**Respondent PRARNG's Failure to Operate and Maintain Corrosion Protection System
and to Maintain Documentation of the Operation of Corrosion Protection
Equipment for POL Tanks 1 and 2**

38. Paragraphs 1 through 37 are realleged and incorporated herein.
39. Pursuant to Rule 302(A) of PRUSTR, "All corrosion protection systems must be operated and maintained to continuously provide corrosion protection to the metal components of that portion of the tank and piping that routinely contain regulated substances and are in contact with the ground."
40. POL UST Systems 1 and 2 routinely contained regulated substances.
41. During the April 2007 Inspection, the EPA inspector observed that POL Tanks 1 and 2 (used to supply diesel fuel to vehicles) were constructed of single-wall steel and were in contact with the ground.
42. Respondent PRARNG's Information Request Letter Response, dated August 23, 2007, stated that POL Tanks 1 and 2 are both single wall steel tanks, and the piping was replaced from steel to fiberglass in 1998.
43. In the NOV Response, dated August 23, 2007, Respondent PRARNG indicated that one cathodic protection system for POL Tanks 1 and 2 was installed in July 1998 by a certified private contractor.
44. In the NOV Response, Respondent PRARNG stated that the cathodic protection system was certified in 1998 to be in good working condition, and it attached documentation to this effect.
45. The cathodic protection system for POL Tanks 1 and 2 had an impressed current rectifier.

46. During the April 2007 Inspection, the EPA inspector observed that the cathodic protection system for POL Tanks 1 and 2 was not functioning.
47. During the April 2007 Inspection, Respondent PRARNG's representative informed EPA's Inspector that the cathodic protection system had not been functioning for some time, but it was not known how long.
48. In the NOV Response, Respondent PRARNG stated that it "can not determine how and when the [cathodic protection] system [for POL Tanks 1 and 2] failed to work."
49. In the NOV Response, Respondent PRARNG further stated: "To correct this violation, on April 12, 2007 the Defense Energy Support Center (DESC) through the Naval Facilities Engineering Command, Southeast (NAVFAC SE) contracted. . . to design and install a new cathodic protection system for the USTs at the POL area at CSTC [Camp Santiago Training Center]. The work is scheduled to start during the month of September, 2007."
50. In the Information Request Letter Response, Respondent PRARNG stated that "Corrosion Protection (Cathodic Protection) for the two (2) steel USTs at the POL area will be installed by a qualified private contractor at the end of September, 2007."
51. In an enclosure to the Information Request Letter Response, Respondent PRARNG attached a copy of a report, entitled, "Cathodic Protection of POL Systems Design & Implementation Report," dated July 2007, describing the new cathodic protection system specifications.
52. The introduction section of the above-mentioned Report stated that "[t]he cathodic protection system at the [F]acility was found to be out of service and beyond repair under a prior inspection performed by [Respondent PRARNG's contractor]."
53. Respondent PRARNG's email, dated September 24, 2007, to EPA's representative, stated that "[r]elated to the new cathodic protection system at Camp Santiago POL" it is enclosing a copy of a proposed contract, including statement of work, for the cathodic protection system.
54. Pursuant to Rule 302(D) of PRUSTR, "For UST systems using cathodic protection, records of the operation of cathodic protection must be maintained in accordance with Rule 305 to demonstrate compliance with the performance standards in this Rule.
55. Pursuant to Rule 305(B)(2) of PRUSTR, owners and operators of UST Systems must maintain documentation of the operation of corrosion protection equipment (Rule 302 of PRUSTR).

56. Pursuant to Rule 305(C) of PRUSTR, owners and operators of UST Systems must keep the records required either: (1) at the UST site and immediately available for inspection by the Environmental Quality Board; or (2) at a readily available alternative site and be provided for inspection to the Environmental Quality Board upon request.
57. During the April 2007 Inspection, Respondent PRARNG's representative could not provide any records of the operation of corrosion protection equipment.
58. EPA's Information Request Letter specifically requested that Respondent PRARNG "submit documentation on corrosion protection . . ."
59. Respondent's Information Request Letter Response, dated August 23, 2007, did not include any documentation showing corrosion protection documentation.
60. Between at least March 31, 2003 and September 1, 2007, Respondent PRARNG did not maintain and operate corrosion protection for POL Tanks 1 and 2.
61. Between at least March 31, 2003 and September 1, 2007, Respondent PRARNG did not maintain documentation of the operation of corrosion protection equipment for POL Tanks 1 and 2.
62. Respondent PRARNG's failure to maintain documentation of the operation of corrosion protection equipment for POL Tanks 1 and 2 constitutes a violation of Rule 302 (D) and Rule 305(B)(2) of PRUSTR.
63. Respondent PRARNG's failure to operate and maintain corrosion protection for POL Tanks 1 and 2 constitutes a violation of Rule 302(A)

Count 3

Respondent PRARNG's Failure to Inspect Cathodic Protection System of the POL UST Systems 1 and 2 Within Six Months of Installation and Every 3 Years Thereafter and to Maintain Records of Results of Testing from the Last 2 Triennial Inspections

64. Paragraphs 1 through 63 are realleged and incorporated herein.
65. Pursuant to Rule 302(B) of PRUSTR, "All UST systems equipped with cathodic protection must be inspected for proper operation by a qualified cathodic protection tester . . . within six months of installation and at least every 3 years thereafter. . ."

66. During the April 2007 Inspection, Respondent PRARNG's representative could not provide any evidence that the cathodic protection system for POL UST Systems 1 and 2 had been inspected by a qualified cathodic protection tester within six months of installation and at least every 3 years thereafter.
67. During the April 2007 Inspection, Respondent PRARNG's representative informed EPA's Inspector that testing within six months of installation and every 3 years thereafter for POL Tanks 1 and 2 was not conducted.
68. In the NOV Response, Respondent PRARNG acknowledged that the cathodic protection system was "not inspected for proper operation by a qualified cathodic protection tester at least every 3 years."
69. In the NOV Response, Respondent PRARNG stated that "[o]nce the new cathodic protection system is installed and certified the required inspection and certification of the cathodic protection system will be performed . . ."
70. Pursuant to Rule 302(D) (2) of PRUSTR, records of the operation of cathodic protection must include the results of testing from the last two (2) inspections required in Rule 302(B).
71. Pursuant to Rule 305(C) of PRUSTR, owners and operators of UST systems must keep the records required either: (1) at the UST site and immediately available for inspection by the Environmental Quality Board; or (2) at a readily available alternative site and be provided for inspection to the Environmental Quality Board upon request.
72. During the April 2007 Inspection, Respondent PRARNG's representative could not provide records of the results of testing from the last two triennial inspections required in 302(B) of PRUSTR.
73. EPA's Information Request Letter specifically requested that Respondent PRARNG "submit documentation of corrosion protection and the last two system tests." Respondent's Information Request Letter Response, dated August 23, 2007, did not include any records showing the results of testing from any prior inspections of POL UST Systems 1 and 2.
74. Respondent did not have a qualified cathodic protection tester inspect the cathodic protection system of POL UST Systems 1 and 2 within six months of installation.
75. Between at least March 31, 2003 and September 1, 2007, Respondent PRARNG did not have a qualified cathodic protection tester inspect the cathodic protection system of POL UST Systems 1 and 2 at least every 3 years subsequent to the initial inspection within six months after installation.

76. Between at least March 31, 2003 and September 1, 2007, Respondent PRARNG did not maintain records of the results of testing from the last two triennial inspections of POL UST Systems 1 and 2.
77. Respondent PRARNG's failure to maintain records of the results of testing from the last two triennial inspections of POL UST Systems 1 and 2 constitutes a violation of Rule 302(D)(2) of PRUSTR.
78. Respondent PRARNG's failure to have a qualified cathodic protection tester inspect the cathodic protection system of POL UST Systems 1 and 2 within six months of installation and every 3 years thereafter constitutes a violation of Rule 302(B).

Count 4

Respondent PRARNG's Failure to Inspect Every Sixty (60) Days the Cathodic Protection System of POL UST Systems 1 and 2 and to Maintain Records of the Results of the Last 3 Sixty (60)day Inspections

79. Paragraphs 1 through 78 are realleged and incorporated herein.
80. During the April 2007 Inspection, Respondent PRARNG's representative informed EPA's Inspector that an impressed current cathodic protection system was installed in 1998 for the single wall steel POL UST Systems 1 and 2.
81. Pursuant to Rule 302(C) of PRUSTR, "UST systems with impressed current cathodic protection must also be inspected every sixty (60) days to ensure the equipment is running properly."
82. During the April 2007 Inspection, Respondent PRARNG's representative stated that cathodic protection system for POL UST Systems 1 and 2 was not inspected for proper operation every sixty (60) days.
83. In the NOV Response, dated August 23, 2007, the Respondent PRARNG stated that the cathodic protection system for POL UST Systems 1 and 2 was not inspected every sixty (60) days by facility personnel.
84. During the April 2007 Inspection, Respondent PRARNG's representative could not provide any evidence that the cathodic protection system (impressed current rectifier) for the two UST Systems in the POL area had been inspected every sixty (60) days to ensure that the equipment was running properly.
85. Pursuant to Rule 302(D)(1) of PRUSTR, records of the operation of cathodic protection must include the results of the last 3 sixty (60) day inspections required in Rule 302(C).

86. Pursuant to Rule 305(C) of PRUSTR, owners and operators of UST systems must keep the records required either: (1) at the UST site and immediately available for inspection by the Environmental Quality Board; or (2) at a readily available alternative site and be provided for inspection to the Environmental Quality Board upon request.
87. During the April 2007 Inspection, Respondent PRARNG's representative could not provide any records of the results of the last 3 sixty (60) day inspections of POL UST Systems 1 and 2, as required by Rule 302(C) of PRUSTR.
88. Between at least March 31, 2003 and September 1, 2007, Respondent PRARNG did not conduct sixty (60) day inspections of the cathodic protection system for POL UST Systems 1 and 2.
89. Between at least March 31, 2003 and September 1, 2007, Respondent PRARNG did not maintain any records of any sixty (60) day inspections of the cathodic protection system for POL UST Systems 1 and 2.
90. Respondent PRARNG's failure to maintain records of the results of the last 3 sixty (60) day inspections of the cathodic protection system for POL UST Systems 1 and 2 constitutes a violation of Rule 302 (D)(1) of PRUSTR.
91. Respondent PRARNG's failure to inspect the cathodic protection system for POL UST Systems 1 and 2 every sixty (60) days constitutes a violation of Rule 302 (C) of PRUSTR.

Count 5

**Respondent PRARNG's Failure to Have Overfill Prevention Equipment on
POL UST Systems 1 and 2 and the MATES UST System**

92. Paragraphs 1 through 91 are realleged and incorporated herein.
93. Pursuant to Rule 201(C) of PRUSTR, "... to prevent ... overfilling associated with the regulated substance transfer to the UST system, owners and operators must use ... overfill prevention equipment."
94. During the April 2007 Inspection, the EPA inspector observed that the POL UST Systems 1 and 2 and the MATES UST System had no overfill prevention equipment.
95. In the NOV Response, dated August 23, 2007, the Respondent PRARNG stated that overfill prevention equipment for both the POL UST Systems 1 and 2 and the MATES UST System were properly installed in 1998.

96. In the NOV Response, the Respondent PRARNG acknowledged that the POL UST Systems 1 and 2 and the MATES UST System did not have overfill prevention equipment at the time of the inspection.
97. In the NOV Response, dated August 23, 2007, Respondent PRARNG stated: "We have no records or indications evidencing the lost [sic, loss] of this [overfill prevention] equipment at these USTs. To correct this finding, new overfill prevention equipment were installed [on the three UST systems] in May 2007 by a qualified private contractor. Attached is a copy of the installation certificate and photos of the equipment installed."
98. Between at least March 31, 2003 and April 30, 2007, Respondent PRARNG did not have overfill prevention equipment on POL UST Systems 1 and 2 and the MATES UST System.
99. Respondent PRARNG's failure to have overfill prevention equipment on POL UST Systems 1 and 2 and the MATES UST System constitutes a violation of Rule 201(C) of PRUSTR.

Count 6

Respondent PRARNG's Failure to Provide Required Release Detection Monitoring and to Maintain Release Detection Records for POL UST System 1 and the MATES UST System

100. Paragraphs 1 through 99 are realleged and incorporated herein.
101. Pursuant to Rule 402 of PRUSTR, owners and operators of petroleum UST Systems must provide release detection for tanks and piping.
102. Pursuant to Rule 402(A) of PRUSTR, subject to certain exceptions that are inapplicable to POL UST System 1 and the MATES UST System, tanks must be monitored at least every thirty (30) days for releases using one of the methods listed in Rule 404(D)-(H).
103. Pursuant to Rule 404(E) of PRUSTR, vapor monitoring is a method of release detection for tanks.
104. Respondent PRARNG uses a vapor monitoring method of release detection for POL Tank 1 and the MATES Tank.
105. Pursuant to Rule 402(B) of PRUSTR, owners and operators of underground piping that routinely contain regulated substances must be monitored for releases in accordance with this section.

106. The POL UST System 1 and the MATES UST System both had underground piping that routinely contain regulated substances.
107. The POL UST System 1 and the MATES UST System both had underground suction piping.
108. Pursuant to Rule 402(B)(2) of PRUSTR, UST Systems with suction piping must either have a line tightness test conducted at least every 3 years and in accordance with Rule 405(B), or use a monthly monitoring method conducted in accordance with Rule 405(C) of PRUSTR.
109. The POL UST System 1 and the MATES UST System did not have line tightness tests conducted at least every 3 years on the suction piping in accordance with Rule 405(B) of PRUSTR.
110. The POL UST System 1 and the MATES UST System used a monthly monitoring method for the suction piping, which was conducted in accordance with Rule 405(C) of PRUSTR.
111. Pursuant to Rule 405 (C) of PRUSTR, any of the methods in Rule 404 (E through H) may be used if they are designed to detect a release from any portion of the underground piping that routinely contains regulated substances.
112. Pursuant to Rule 404(E) of PRUSTR, Respondent PRARNG conducted a vapor monitoring method of release detection for the suction piping for POL UST System 1 and the MATES UST System.
113. During the April 2007 Inspection, Respondent PRARNG's representative informed EPA's Inspector that "vapor monitoring" was the method of release detection for the tanks and suction piping of POL UST System 1 and the MATES UST System.
114. In the Information Request Letter Response, dated August 23, 2007, Respondent PRARNG states that vapor monitoring is the method of release detection for the POL UST System 1 and the MATES UST System and that one (1) vapor monitoring well was installed for each.
115. Pursuant to Rule 404 (E) of PRUSTR, "Testing or monitoring for vapors within the soil gas of the excavation zone must meet the requirements. . ." of Rule 404(E)(1) through (7).

116. Pursuant to Rule 404(E) (6) of PRUSTR, "In the UST excavation zone, the site is assessed to ensure compliance with the requirements in paragraph (e)(1) through (4) of this section and to establish the number and positioning of monitoring wells that will detect releases within the excavation zone from any portion of the tank that routinely contains product."
117. Site assessment of the UST excavation zone is necessary in order to determine the viability of vapor monitoring as a method of release detection.
118. In the NOV Response and the Information Request Letter Response, dated August 23, 2007, Respondent PRARNG stated that it performed the site assessment and otherwise complied with the vapor monitoring requirements upon installation of the POL UST System 1 and the MATES UST System in 1998, and provided documentation to that effect.
119. During the April 2007 Inspection, Respondent PRARNG could not provide any evidence of performing vapor monitoring release detection for tanks and piping of POL UST System 1 and the MATES UST System, for the months between October 2006 and March 2007.
120. In the NOV Response, dated August 23, 2007, the Respondent PRARNG stated: "The failure to perform the required sampling for release detection between the months of October to March 2006 [sic, 2007] was due to changes in contracting procedures."
121. Release detection vapor monitoring of POL Tanks 1 and 2 and the MATES Tank resumed on April 11, 2007.
122. Pursuant to Rule 305(B)(4) of PRUSTR, owners and operators of UST Systems must maintain records of recent compliance with release detection requirements (Rule 406).
123. Pursuant to Rule 406 of PRUSTR, owners and operators of UST Systems must maintain records of recent compliance with release detection requirements in accordance with Rule 305 of PRUSTR.
124. Pursuant to Rule 406(B) of PRUSTR, owners and operators of USTs must maintain the results of any sampling, testing, or monthly release detection monitoring for at least one year.
125. Pursuant to Rule 305(C) of PRUSTR, owners and operators of UST Systems must keep the records required either: (1) at the UST site and immediately available for inspection by the Environmental Quality Board; or (2) at a readily available alternative site and be provided for inspection to the Environmental Quality Board upon request.

126. During the April 2007 Inspection, Respondent PRARNG's representative could not provide the results of monthly release detection monitoring for POL UST System 1 and the MATES UST System for the period between October 11, 2006 and April 10, 2007.
127. Between October 11, 2006 and April 10, 2007, Respondent PRARNG did not conduct vapor monitoring for releases from POL UST System 1 and the MATES UST System.
128. Between October 11, 2006 and April 10, 2007, Respondent PRARNG did not maintain the results of release detection vapor monitoring for POL UST System 1 and the MATES UST System.
129. Respondent PRARNG's failure to maintain the results of at least a year of vapor monitoring for releases from POL UST System 1 and the MATES UST System constitutes a violation of Rule 305(B)(4), Rule 305(C), and Rule 406(B) of PRUSTR.
130. Respondent PRARNG's failure to conduct vapor monitoring for releases from POL UST System 1 and the MATES UST System constitutes a violation of Rule 402(A) and Rule 402 (B)(2) of PRUSTR.

Count 7

Respondent PRARNG's Failure to Provide Required Release Detection Monitoring and to Maintain Release Detection Records for POL UST System 2

131. Paragraphs 1 through 130 are realleged and incorporated herein.
132. Pursuant to Rule 402(A) of PRUSTR, subject to certain exceptions that are inapplicable to the POL UST System 2, tanks must be monitored at least every thirty (30) days for releases using one of the methods listed in Rule 404(D)-(H).
133. Pursuant to Rule 404(E) of PRUSTR, Respondent PRARNG uses a vapor monitoring method of release detection for POL Tank 2.
134. Pursuant to Rule 402(B) of PRUSTR, owners and operators of underground piping that routinely contain regulated substances must be monitored for releases in accordance with this section.
135. The POL UST System 2 had underground piping that routinely contain regulated substances.
136. The POL UST System 2 had pressurized piping.

137. Pursuant to Rule 402(B)(1)(b) of PRUSTR, "Underground piping that conveys regulated substances under pressure must: (b)Have an annual line tightness test conducted in accordance with Rule 405(B) or have monthly monitoring in accordance with Rule 405(C)."
138. The POL UST System 2 did not have an annual line tightness test conducted on the pressurized piping in accordance with Rule 405(B).
139. During the April 2007 Inspection, Respondent PRARNG's representative acknowledged that it had not performed an annual line tightness test on the piping.
140. The POL UST System 2 used a monthly monitoring method of release detection for the pressurized piping, which was conducted in accordance with Rule 405(C) of PRUSTR.
141. Pursuant to Rule 404(E) of PRUSTR, Respondent PRARNG conducted a vapor monitoring method of release detection for the pressurized piping for POL UST System 2.
142. During the April 2007 Inspection, Respondent PRARNG's representative informed EPA's Inspector that "vapor monitoring" was the method of release detection for the tank and pressurized piping of POL UST System 2.
143. In the Information Request Letter Response, dated August 23, 2007, Respondent PRARNG states that vapor monitoring is the method of release detection for the POL UST System 2 and that one (1) vapor monitoring well was installed for it.
144. In the NOV Response and Information Request Letter Response, both dated August 23, 2007, Respondent PRARNG stated that it performed monthly vapor monitoring for the tank and pressurized piping of POL UST System 2.
145. During the April 2007 Inspection, Respondent PRARNG could not provide any evidence of performing vapor monitoring release detection for the tank and pressurized piping of POL UST System 2 for the months between October 2006 and March 2007.
146. In the NOV Response, the Respondent PRARNG stated: "The failure to perform the required sampling for release detection between the months of October to March 2006 [sic, 2007] was due to changes in contracting procedures."
147. Release detection vapor monitoring of POL UST System 2 resumed on April 11, 2007.
148. Pursuant to Rule 305(B)(4), owners and operators of UST Systems must maintain records of recent compliance with release detection requirements (Rule 406).

149. Pursuant to Rule 406 of PRUSTR, owners and operators of UST Systems must maintain records of recent compliance with release detection requirements in accordance with Rule 305 of PRUSTR.
150. Pursuant to Rule 406(B), owners and operators of USTs must maintain the results of any sampling, testing, or monthly release detection monitoring for at least one year.
151. Pursuant to Rule 305(C) of PRUSTR, owners and operators of UST Systems must keep the records required either: (1) at the UST site and immediately available for inspection by the Environmental Quality Board; or (2) at a readily available alternative site and be provided for inspection to the Environmental Quality Board upon request.
152. During the April 2007 Inspection, Respondent PRARNG's representative could not provide the results of monthly release detection monitoring for POL UST System 2 for the period between October 11, 2006 and April 10, 2007.
153. Between October 11, 2006 and April 10, 2007, Respondent PRARNG did not conduct vapor monitoring for releases from POL UST System 2.
154. Between October 11, 2006 and April 10, 2007, Respondent PRARNG did not maintain the results of release detection vapor monitoring for POL UST 2.
155. Respondent PRARNG's failure to maintain the results of at least a year of vapor monitoring for releases from POL UST System 2 constitutes a violation of Rule 305(B)(4), Rule 305(C), and Rule 406(B) of PRUSTR.
156. Respondent PRARNG's failure to conduct any annual line tightness test since the date of installation or vapor monitoring for releases from the tank and pressurized piping of POL UST System 2 constitutes a violation of Rules 402(A) and 402 (B)(1) of PRUSTR.

Count 8

Respondent PRARNG's Failure to Conduct an Annual Test of the Operation of the Automatic Line Leak Detectors (ALLDs) for POL UST System 2 and to Maintain Records of the Test

157. Paragraphs 1 through 156 are realleged and incorporated herein.
158. Pursuant to Rule 402(B) of PRUSTR, owners and operators of underground piping that routinely contains regulated substances must be monitored for releases in accordance with this section.
159. The POL UST System 2 routinely had underground piping that routinely contains regulated substances.

160. The POL UST System 2 had pressurized piping.
161. Pursuant to Rule 402(B)(1)(a) of PRUSTR, "Underground piping that conveys regulated substances under pressure must: (a) Be equipped with an automatic line leak detector conducted in accordance with Rule 405(A) of PRUSTR."
162. Pursuant to Rule 405(A) of PRUSTR, an annual test of the operation of the leak detector must be conducted in accordance with the manufacturer's requirements.
163. POL UST System 2 was equipped with Automatic Line Leak Detectors (ALLDs).
164. During the April 2007 Inspection, Respondent PRARNG's representative could not provide evidence of having conducted an annual test of the operation of the leak detector for POL UST system 2.
165. During the April 2007 Inspection, Respondent PRARNG's representative acknowledged that the automatic line leak detectors for POL UST System 2 had not been tested on a yearly basis.
166. In the NOV Response, dated August 23, 2007, Respondent PRARNG informed EPA's Inspector that a new line leak detector system was installed on the pressurized piping (POL UST System 2) during the month of April 2007 before EPA's Inspection.
167. In the NOV Response, dated August 23, 2007, Respondent PRARNG stated that it "will conduct the required automatic leak detection testing on this pressurized pipe on an annual basis, as required by the regulation."
168. Pursuant to Rule 305(B)(4) of PRUSTR, owners and operators of UST systems must maintain records of recent compliance with release detection requirements (Rule 406).
169. Pursuant to Rule 406 of PRUSTR, owners and operators of UST Systems must maintain records of recent compliance with release detection requirements in accordance with Rule 305 of PRUSTR.
170. Pursuant to Rule 406(B) of PRUSTR, owners and operators of USTs must maintain the results of any sampling, testing, or monthly release detection monitoring for at least one year.
171. Pursuant to Rule 305(C) of PRUSTR, owners and operators of UST Systems must keep the records required either: (1) at the UST site and immediately available for inspection by the Environmental Quality Board; or (2) at a readily available alternative site and be provided for inspection to the Environmental Quality Board upon request.

172. Between at least March 31, 2003 and March 31, 2007, Respondent PRARNG did not conduct annual tests of the automatic line leak detector on the pressurized pipe of POL UST System 2, as specified in Rule 405(A) of PRUSTR.
173. Between at least March 31, 2003 and March 31, 2007, Respondent PRARNG did not maintain any records demonstrating that annual tests of the automatic line leak detector had been conducted on the pressurized pipe of POL UST System 2, as specified in Rule 305(B)(4) and Rule 406(B) of PRUSTR.
174. Respondent PRARNG's failure for at least four years to maintain records of the annual tests of the automatic line leak detector on the pressurized piping of the POL UST System 2 constitutes a violation of Rule 305(B)(4) and Rule 406(B) of PRUSTR.
175. Respondent PRARNG's failure for at least four years to conduct annual tests of the automatic line leak detector on the pressurized piping of POL UST System 2 constitutes a violation of Rule 405(A) of PRUSTR.

Count 9

**Respondent AAFES's Failure to Provide Required Release Detection Monitoring
and to Maintain Release Detection Records for Pressurized Piping
for AAFES UST Systems 1 and 2**

176. Paragraphs 1 through 175 are realleged and incorporated herein.
177. Respondent AAFES is, and at all times relevant to this Complaint was, the "owner" and "operator" of AAFES UST Systems 1 and 2, as defined in 42 U.S.C. § 6991, and in Rule 105 of PRUSTR.
178. Pursuant to Rule 402(B) of PRUSTR, owners and operators of underground piping that routinely contain regulated substances must be monitored for releases in accordance with this section.
179. The AAFES UST Systems 1 and 2 both had underground piping that routinely contain regulated substances.
180. The AAFES UST Systems 1 and 2 both had underground pressurized piping.
181. Pursuant to Rule 402(B)(1)(b) of PRUSTR, "Underground piping that conveys regulated substances under pressure must: (b) Have an annual line tightness conducted in accordance with Rule 405(B) or have monthly monitoring in accordance with Rule 405(C) of PRUSTR."

182. The pressurized piping of AAFES UST Systems 1 and 2 did not have an annual line tightness test conducted in accordance with Rule 405(B) of PRUSTR.
183. During the April 2007 Inspection, Respondent AAFES's representative acknowledged that annual line tightness testing had not been performed since the AAFES UST Systems 1 and 2 had been installed in June 2005.
184. Respondent AAFES did not perform monthly monitoring in accordance with Rule 405(C) for AAFES UST Systems 1 and 2.
185. During the April 2007 Inspection, Respondent AAFES acknowledged that monthly monitoring had not been performed since the AAFES UST Systems 1 and 2 had been installed in June 2005.
186. In the NOV Response, dated August 23, 2007, Respondent PRARNG stated that the AAFES Store Manager certified that the required line tightness testing for the piping for the AAFES UST Systems 1 and 2 was performed during the month of May 2007, and that all pipes at the AAFES Facility passed the test.
187. Pursuant to Rule 305(B)(4), owners and operators of UST Systems must maintain records of recent compliance with release detection requirements (Rule 406).
188. Pursuant to Rule 406 of PRUSTR, owners and operators of UST Systems must maintain records of recent compliance with release detection requirements in accordance with Rule 305 of PRUSTR.
189. Pursuant to Rule 406(B), owners and operators of USTs must maintain the results of any sampling, testing, or monthly release detection monitoring for at least one year.
190. Pursuant to Rule 305(C) of PRUSTR, owners and operators of UST Systems must keep the records required either: (1) at the UST site and immediately available for inspection by the Environmental Quality Board; or (2) at a readily available alternative site and be provided for inspection to the Environmental Quality Board upon request.
191. During the April 2007 Inspection, Respondent AAFES's representative could not provide the results of any line tightness testing or monthly release detection monitoring for the pressurized piping on AAFES UST Systems 1 and 2 from the time that the AAFES UST Systems 1 and 2 were installed in June 2005 through the time of the April 2007 Inspection.
192. Between July 1, 2006, a year after the AAFES UST Systems 1 and 2 were installed, and April 30, 2007, Respondent AAFES did not monitor for releases from pressurized piping on AAFES UST Systems 1 and 2 at the Facility.

193. Between July 1, 2006, a year after the AAFES UST Systems 1 and 2 were installed, and April 30, 2007, Respondent AAFES did not maintain the results of release detection records for AAFES UST Systems 1 and 2.
194. Respondent PRARNG's failure to maintain the results of at least one year of monitoring for releases from pressurized piping on AAFES UST Systems 1 and 2 constitutes a violation of Rules 305(B)(4) and 406(B) of PRUSTR.
195. Respondent PRARNG's failure to monitor for releases from the pressurized piping of AAFES UST Systems 1 and 2 constitutes a violation of Rule 402 (B) (1) (b) of PRUSTR.

Count 10

Respondent AAFES's Failure to Conduct an Annual Test of the Operation of the Automatic Line Leak Detectors (ALLDs) for Pressurized Piping for AAFES UST Systems 1 and 2 and to Maintain Records of the Test

196. Paragraphs 1 through 195 are realleged and incorporated herein.
197. The AAFES UST Systems 1 and 2 had pressurized piping.
198. Pursuant to Rule 402(B)(1)(a) of PRUSTR, "Underground piping that conveys regulated substances under pressure must: (a) Be equipped with an automatic line leak detector conducted in accordance with Rule 405(A) of PRUSTR."
199. Pursuant to Rule 405(A) of PRUSTR, an annual test of the operation of the leak detector must be conducted in accordance with the manufacturer's requirements.
200. AAFES UST Systems 1 and 2 were equipped with Automatic Line Leak Detectors (ALLDs).
201. As of July 5, 2006, the automatic line leak detectors were not working
202. As of December 7, 2006, the automatic line leak detectors were damaged and not functioning correctly.
203. During the April 2007 Inspection, Respondent AAFES's representative could not provide evidence of having conducted an annual test of the operation of the leak detectors for the AAFES UST Systems 1 and 2 pursuant to Rule 405 (A) of PRUSTR.
204. During the April 2007 Inspection, Respondent AAFES's representative acknowledged that the automatic line leak detectors (e.g. sump sensors) had not been tested since the AAFES UST Systems 1 and 2 were installed in June 2005.

205. During the April 2007 Inspection, the leak detectors for AAFES UST Systems 1 and 2 did not activate an alarm when tested.
206. As of the April 2007 Inspection, at least one leak detector was damaged.
207. In the NOV Response, dated August 23, 2007, Respondent PRARNG stated that the automatic line leak detectors (e.g., sump sensors) for AAFES UST Systems 1 and 2 were replaced with new ones on July 16, 2007 by a certified private contractor.
208. In the NOV Response, Respondent PRARNG stated that the automatic line leak detectors (e.g., sump sensors) were properly tested and were certified in good working condition on July 16, 2007.
209. Pursuant to Rule 305(B)(4) of PRUSTR, owners and operators of UST systems must maintain records of recent compliance with release detection requirements (Rule 406).
210. Pursuant to Rule 406 of PRUSTR, owners and operators of UST Systems must maintain records of recent compliance with release detection requirements in accordance with Rule 305 of PRUSTR.
211. Pursuant to Rule 406(B) of PRUSTR, owners and operators of USTs must maintain the results of any sampling, testing, or monthly release detection monitoring for at least one year.
212. Pursuant to Rule 305(C) of PRUSTR, owners and operators of UST systems must keep the records required either: (1) at the UST site and immediately available for inspection by the Environmental Quality Board; or (2) at a readily available alternative site and be provided for inspection to the Environmental Quality Board upon request.
213. Between at least July 1, 2006 and July 15, 2007, Respondent AAFES did not conduct annual tests of the automatic line leak detectors on the pressurized pipe of AAFES UST Systems 1 and 2, as specified in Rule 405(A) of PRUSTR.
214. Between at least July 1, 2006 and July 15, 2007, Respondent AAFES did not maintain any records demonstrating that annual tests of the automatic line leak detectors had been conducted on the pressurized pipe of AAFES UST Systems 1 and 2, as specified in Rule 305(B)(4) and Rule 406(B) of PRUSTR.
215. Respondent AAFES's failure to maintain and failure to provide to EPA for review records of the annual test of the automatic line leak detectors on the pressurized piping of the AAFES UST Systems 1 and 2 constitutes a violation of Rule 305(B)(4) and Rule 406(B) of PRUSTR.

216. Respondent AAFES's failure to conduct an annual test of the operation of the automatic line leak detectors on the pressurized piping of AAFES UST Systems 1 and 2 constitutes a violation of Rule 402(A) of PRUSTR.

Count 11

Respondent AAFES's Failure to Respond Appropriately To Indications of Release for AAFES UST Systems 1 and 2

217. Paragraphs 1 through 216 are realleged and incorporated herein.

218. Respondent AAFES is, and at all times relevant to this Complaint was, the "owner" and "operator" of AAFES UST Systems 1 and 2, as defined in 42 U.S.C. Section 6991 and in Rule 105 of PRUSTR.

219. AAFES UST Systems 1 and 2 contain petroleum, a Regulated Substance, as that term defined in Rule 105 of PRUSTR.

220. The AAFES UST Systems 1 and 2 contain regulated substances, the suspected releases of which require reporting under Rule 501 of PRUSTR.

221. Pursuant to Rule 402 of PRUSTR, owners and operators of petroleum UST systems must provide release detection for tanks and piping.

222. Pursuant to Rule 402(A) of PRUSTR, subject to certain exceptions that are inapplicable to AAFES UST Systems 1 and 2, tanks must be monitored at least every thirty (30) days for releases using one of the methods listed in Rule 404(D)-(H).

223. Pursuant to Rule 404(D) of PRUSTR, automatic tank gauging (ATG) is a method of release detection for tanks.

224. Respondent AAFES uses an ATG method of release detection for AAFES Tanks 1 and 2.

225. Pursuant to Rule 501(C) of PRUSTR, owners and operators of UST Systems must report to the implementing agency any monitoring results from a release detection method that indicate a release may have occurred, and follow the procedures specified in Rule 503 of PRUSTR.

226. Pursuant to Rule 503 of PRUSTR, unless corrective action is initiated in accordance with Subpart F, owners and operators must immediately investigate and confirm all suspected releases of regulated substances requiring reporting under Rule 501 of PRUSTR within 7 days or another reasonable time period specified by the implementing agency, using either a system test or site check specified in Rule 502(a) or (b), or another procedure approved by the implementing agency.
227. During the April 2007 Inspection, monitoring results from the ATG release detection method for both AAFES UST Systems 1 and 2 for the previous twelve (12) months indicated a release may have occurred, as evidenced by the sensor alarms, during the period June 2006 through November 2006.
228. In a letter from Respondent PRARNG's Contractor, dated October 10, 2007, to Respondent PRARNG, concerning a July 5, 2006 visit to the AAFES facility to verify a complaint in the alarm system of one of the AAFES tanks, the contractor states that activation of the sensor alarms occurred because the tank was overfilled with product.
229. Respondent's contractor's letter of October 10, 2007, concerning the AAFES tanks, stated: ". . . , approximately 25 gallons [of gasoline] was discovered contained in the sump riser. We concluded that this situation occurred because the tank was overfilled with product. The excess of product was in the sump riser due to an incorrect installation of the sensor. We removed all the product contained in the sump riser and proceeded to correct the problem."
230. The October 10, 2007 letter mentioned in the paragraph above, also stated that "[o]n December 7, 2006, we received another notification related to the activation of both sensors of the tank. After a visual inspection of the system we concluded. . . that the alarm was damage[d] and not functioning correctly. . . (AAFES Manager) was immediately notified of this problem and we proceeded to disconnect the alarm system. [AAFES Manager] made the arrangements to replace the damage alarm sensors."
231. In an email dated October 19, 2007 from Respondent PRARNG to EPA's Inspector, Respondent PRARNG states: ". . . AAFES personnel indicated that the alarm system was not properly operating during the period of June through November 2006. For this reason, the printouts for this specific period were reporting a potential release. . . The complete system was repaired and the alarms are now properly working."
232. During the April 2007 Inspection, Respondent AAFES provided no evidence of investigating and confirming the suspected release(s) (or correcting the problem) and reporting the suspected release(s) to the implementing agency, the Puerto Rico Environmental Quality Board (PREQB).

- 233. Respondent AAFES did not follow-up on the activated alarms by investigating and confirming the suspected release(s) (or correcting the problem) and reporting the suspected release(s) to PREQB until December 2006.
- 234. Respondent AAFES' failure to report, investigate and confirm suspected releases, for AAFES UST Systems 1 and 2, for the period of time from June 2006 to November 2006, constitutes a violation of Rule 501(C) and Rule 503 of PRUSTR.

PROPOSED CIVIL PENALTY

Section 9007 of the Act and Section 9006(d)(2)(A) of the Act, 42 U.S.C. Section 6991e (d)(2)(A), authorizes the assessment of a civil penalty against a federal department or agency of up to \$10,000 for each tank for each day of violation of any requirement or standard promulgated by the Administrator. The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection and Improvement Act of 1996, Pub. L. No. 104-34, 110 Stat. 1321 (1996), required EPA to adjust its penalties for inflation on a periodic basis. EPA issued a Civil Monetary Penalty Inflation Adjustment Rule on December 31, 1996, see 61 Fed. Reg. 69360 (1996), and on February 13, 2004, see 69 Fed. Reg. 7121 (2004), 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 between January 30, 1997 and March 15, 2004, is \$11,000. No change was made in the maximum civil penalty for violations occurring after March 15, 2004.

The penalties are proposed pursuant to the "U.S. EPA Penalty Guidance for Violations of UST Requirements" dated November 1990 ("UST Guidance"). The penalty amounts in this guidance were amended by a May 9, 1997, EPA document entitled "Modifications to EPA Penalty Policies to implement the Civil Monetary Penalty Inflation Rule (pursuant to the Debt Collection Improvement Act of 1996)" and a September 21, 2004 document entitled, "Modifications to EPA Penalty Policies to implement the Civil Monetary Penalty Inflation Rule (pursuant to the Debt Collection Improvement Act of 1996, Effective on October 1, 2004)." (These documents are available upon request.) This UST guidance provides a rational, consistent, and equitable calculation methodology for applying the statutory penalty factors to particular cases.

Based upon the facts alleged in this Complaint and taking into account factors such as the seriousness of the violations and any good faith efforts by the Respondents to comply with the applicable requirements, the Complainant proposes, subject to receipt and evaluation of further relevant information, to assess the following civil penalties:

<u>Count 1:</u>	Failure to Submit Accurate Notification to EQB (PRARNG)	
	POL UST System 2.....	\$7,252

<u>Count 2:</u>	Failure to Operate and Maintain Corrosion Protection (PRARNG) and to Maintain Documentation of the Operation of Corrosion Protection Equipment (PRARNG) POL Tanks 1 and 2.....	\$32,682
<u>Count 3:</u>	Failure to Inspect Cathodic Protection Within 6 Months of Installation and Every 3 Years thereafter and to Maintain Records of Results of Testing from the Last Two Triennial Inspections (PRARNG) POL Tanks 1 and 2.	\$37,736
<u>Count 4:</u>	Failure to Inspect Cathodic Protection System Every Sixty (60) Days and to Maintain Records of the Results of the Last 3 Sixty (60) day Inspections (PRARNG) POL Tanks 1 and 2.....	\$32,682
<u>Count 5:</u>	Failure to Have Overfill Prevention Equipment (PRARNG) POL UST Systems 1 & 2 and the MATES UST system.....	\$24,508
<u>Count 6:</u>	Failure to Provide Required Release Detection Monitoring And to Maintain Release Detection Records (PRARNG) POL UST System 1 and the MATES UST System	\$11,604
<u>Count 7:</u>	Failure to Provide Required Release Detection Monitoring and to Maintain Releases Detection Records for POL UST System 2 (PRARNG) POL UST System 2.....	\$5,802
<u>Count 8:</u>	Failure to Conduct Annual Test of Operation of Automatic Line Leak Detectors and to Maintain Records of Test (PRARNG) POL UST System 2.....	\$16,384
<u>Count 9:</u>	Failure to Conduct Required Release Detection Monitoring and To Maintain Release Detection Records for Pressurized Piping (AAFES) AAFES UST Systems 1 and 2	\$14,505
<u>Count 10:</u>	Failure to Conduct Annual Test of Operation of Automatic Line Leak Detectors for Pressurized Piping and to Maintain Records of Test (AAFES) AAFES UST Systems 1 & 2.....	\$17,406

<u>Count 11:</u>	Failure to Respond Appropriately to Indications of Release	
	AAFES UST Systems 1 and 2.....	\$8,703
Total Overall Proposed Penalty Amount.....		\$209,264
Total Proposed Penalty for PRARNG.....		\$168,650
Total Proposed Penalty for AAFES.....		\$40,614

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

COMPLIANCE ORDER

Based on the foregoing, and pursuant to the authority of Sections 9006 and 9007 of the Act, 42 U.S.C. § 6991e and 6991f, Complainant issues the following Compliance Order to each of the Respondents, which shall take effect thirty (30) days after service of this Order (i.e., the effective date) with respect to each Respondent, unless by that date, a Respondent has requested a hearing on the parts applicable to it, 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 PRARNG shall maintain its POL UST Systems 1 and 2 and MATES UST System in compliance with the applicable requirements found in Part 2 (Rules 201 through 203), Part 3 (Rules 301 through 305), and Part 4 (Rules 401 through 406) of PRUSTR, including but not limited to notification, overfill prevention, corrosion protection, and release detection requirements.
2. Respondent AAFES shall maintain its AAFES UST Systems 1 and 2 in compliance with the applicable requirements found in Part 4 (Rules 401 through 406) and Part 5 (Rules 501 through 504) of PRUSTR, including but not limited to release detection requirements and release reporting, investigation and confirmation.
3. Respondents shall comply with any future EPA requests, pursuant to Section 9005, for information relating to any or all of the UST systems owned and/or operated by Respondents.
4. Respondent PRARNG shall submit, within fifteen (15) business days of the effective date of this Order, records of the operation of cathodic protection equipment, maintained in accordance with Rule 305(B)(2), for POL UST Systems 1 and 2.
5. Respondent PRARNG shall submit, within fifteen (15) business days of the effective date of this Order, records of the results of the last 3 sixty (60) day inspections of the cathodic protection system, maintained in accordance with Rule 302(D)(1), for POL UST Systems 1 and 2.

6. Respondent PRARNG shall submit, within fifteen (15) business days of the effective date of this Order, records of the results of testing from the last 2 inspections of the cathodic protection System, maintained in accordance with Rule 302(D)(2) of PRUSTR, for POL UST Systems 1 and 2.

7. Respondent PRARNG shall submit, within fifteen (15) business days of the effective date of this Order, records of release detection for the last ninety (90) days in accordance with Rule 406 (B) of PRUSTR, for POL UST Systems 1 and 2 and the MATES UST System.

8. Respondent AAFES shall submit, within fifteen (15) days of the effective date of this Order, records of release detection for the last ninety (90) days in accordance with Rule 406 (B) of PRUSTR, for AAFES UST Systems 1 and 2.

9. Respondent AAFES shall submit, within fifteen (15) days of the effective date of this Order, records documenting compliance with Rules 501(C) and 503 of PRUSTR, for AAFES UST Systems 1 and 2.

Each Respondent shall, within forty-five (45) calendar days after the effective date of this Order, submit to EPA written notice of its compliance (accompanied by a copy of all appropriate supporting documentation) or noncompliance for each of the requirements set forth herein. If the Respondent is in noncompliance with a particular requirement, the notice shall state the reasons for noncompliance and shall provide a schedule for achieving expeditious compliance with the requirement. Furthermore, in all documents or reports submitted to EPA pursuant to this Compliance Order, the Respondent's written notice shall include the following certification:

We/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 potential penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

Signature of Respondent PRARNG: _____

Name: _____

Title: _____

and/or

Signature of Respondent AAFES: _____

Name: _____

Title: _____

Respondents shall submit the documents specified above, as well as the above written notice required to be submitted pursuant to this paragraph to:

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

NOTICE OF LIABILITY FOR ADDITIONAL CIVIL PENALTIES

Pursuant to Sections 9006(a)(3) and 9007 of the Act, 42 U.S.C. Section 699e(a)(3) and 6991(f), and in accordance with the Debt Collection and Improvement Act of 1996, Pub. L. No. 104-34, 110 Stat. 1321 (1996) and the regulations promulgated thereunder (see the Civil Monetary Inflation Rule, 61 Fed. Reg. 69630 (December 31, 1996) and 69 Fed. Reg. 7121 (February 13, 2004), codified at 40 C.F.R. Part 19), a violator failing to comply with a Compliance Order within the time specified in the Order is liable for a civil penalty up to \$32,500 for each day of continued noncompliance.

PROCEDURES GOVERNING THIS ADMINISTRATIVE LITIGATION

The rules of procedure governing this civil administrative litigation have been set forth in 64 Fed. Reg. 40138 (July 23, 1999), entitled, "CONSOLIDATED RULES OF PRACTICE GOVERNING THE ADMINISTRATIVE ASSESSMENTS OF CIVIL PENALTIES, ISSUANCE OF COMPLIANCE OR CORRECTIVE ACTION ORDERS, AND THE REVOCATION, TERMINATION OR SUSPENSION OF PERMITS" (hereinafter "Consolidated Rules"), and which are codified at 40 C.F.R. Part 22. A copy of these rules accompanies this "Complaint, Compliance Order and Notice of Opportunity for Hearing" (hereinafter referred to as the "Complaint").

A. Answering The Complaint

Where Respondents intend 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 Respondents are entitled to judgment as a matter of law, Respondents must file with the Regional Hearing Clerk of EPA, Region 2, both an original and one copy of a written Answer or Answers to the Complaint, and such Answer or Answers must be filed within thirty (30) days after service of the Complaint. See 40 C.F.R. §§22.15(a) and 22.7(c). Respondents may file one Answer on behalf of all named Respondents or each Respondent may file a separate Answer. 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**

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

Respondents' Answers to the Complaint must clearly and directly admit, deny, or explain each of the factual allegations that are contained in the Complaint, regarding which Respondents have any knowledge. 40 C.F.R. §22.15(b). Where Respondents lack knowledge of a particular factual allegation and so state in their Answer, the allegation is deemed **denied**. See 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 Respondents dispute (and thus intend to place at issue in the proceeding) and (3) whether Respondents request a hearing. See 40 C.F.R. §22.15(b).

Respondents' failure to affirmatively raise in the Answer facts that constitute, or that might constitute, the grounds of their defense may preclude Respondents, 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 the Respondents in their Answers, a hearing upon the issues raised by the Complaint and Answer may be held. See 40 C.F.R. §22.15(c). If, however, Respondents do not request a hearing, the Presiding Officer (as defined in 40 C.F.R. §22.3) may hold a hearing if the Answers raise issues appropriate for adjudication. See 40 C.F.R. §22.15(c). With regard to the Compliance Order in the Complaint, unless Respondents request a hearing pursuant to 40 C.F.R. §22.15 within thirty (30) days after such Order is served, such order shall automatically become final. See 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 applicable 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 Respondents fail in their Answers to admit, deny, or explain any material factual allegation contained in the Complaint, such failure constitutes an admission of the allegation. See 40 C.F.R. §22.15(d). If Respondents fail to file timely [i.e., in accordance with the thirty (30) day period set forth in 40 C.F.R. § 22.15(a)] Answers to the Complaint, Respondents may be found in default upon motion. See 40 C.F.R. §22.17(a). Default by Respondents constitutes, for purposes of the pending proceeding only, an admission of all facts alleged in the Complaint and a waiver of Respondents' right to contest such factual allegations. See 40 C.F.R. §22.17(a). Following a default by Respondents for a failure to timely file an Answer to the Complaint, any default 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 Respondents without further proceedings thirty (30) days after the default order becomes final under 40 C.F.R. §22.27(c). See 40 C.F.R. §22.17(d). If necessary, EPA may then seek to enforce such final default order against Respondents, and to collect the assessed penalty amount. Any default order requiring compliance action shall be effective and enforceable against Respondents without further proceedings on the date the default order becomes final under 40 C.F.R. §22.27(c). See 40 C.F.R. §22.17(d).

D. Exhaustion Of Administrative Remedies

Where Respondents fail 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), Respondents waive their opportunity to confer with the Administrator. See 40 C.F.R. §22.31(e).

In order to appeal an initial decision to EPA's Environmental Appeals Board ("EAB"); [see 40 C.F.R. §1.25(e)], Respondents must do so "within thirty (30) days after the initial decision is served upon the parties." See 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 for the filing of a responsive pleading or document". Note that the forty-five (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 Respondents request a formal hearing, EPA encourages settlement of this proceeding consistent with the provisions of the Act and its applicable regulations. See 40 C.F.R. §22.18(b). At an informal conference with a representative(s) of Complainant, Respondents may comment on the charges made in this Complaint, and Respondents may also provide whatever additional information that it believes is relevant to the disposition of this matter, including: (1) actions Respondents have 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 Respondents' ability to continue in business and/or (4) any other special facts or circumstances Respondents wish to raise.

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

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

Bruce 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

The parties may engage in settlement discussions irrespective of whether Respondents have requested a hearing. See 40 C.F.R. § 22.18(b)(1). Respondents' requesting a formal hearing does not prevent them 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 Respondents' 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.

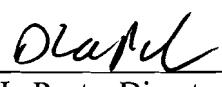
Any settlement that may be reached as a result of an informal settlement conference shall be embodied in a written consent agreement. See 40 C.F.R. §22.18(b)(2). In accepting the consent agreement, Respondents waive their right to contest the allegations in the Complaint and waive their right to appeal the final order that is to accompany the consent agreement. See 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. See 40 C.F.R. §22.18(b)(3).

Respondents' entering into a settlement through the signing of such Consent Agreement and each respondent's compliance with the terms and conditions set forth in the Consent Agreement terminate this administrative litigation and the civil proceedings arising out of the allegations made in the Complaint. Respondents' entering into a settlement does not extinguish, waive, satisfy or otherwise affect their 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, Respondents wish not to contest the compliance order in the Complaint and want to pay the total amount of the proposed penalty within thirty (30) days after receipt of the Complaint, Respondents should promptly contact the Assistant Regional Counsel identified on the previous page.

Dated: 3/31, 2008



Dore LaPosta, Director
Division of Enforcement and Compliance
Assistance
USEPA - Region 2
290 Broadway, 21st Floor
New York, NY 10007-1866

For the Puerto Rico Army National Guard:
Brigadier General Roberto Marrero Corletto
Assistant Adjutant General (Army)

Jose A. Fernandes, Col. En., PRARNG
Director of Engineering

For the Army and Air Force Exchange Service:
Brigadier General Keith L. Thurgood
Commander, Army & Air Force Exchange Service

Mrs. Ivette Guzman, AAFES Store Manager

Enclosures

cc: Wanda Garcia Ayala, Director
Water Quality Area
Puerto Rico Environmental Quality Board
P.O. Box 11488
Santurce, Puerto Rico 00910

CERTIFICATE OF SERVICE

This is to certify that I have this day caused to be mailed a copy of the foregoing Complaint, Compliance Order, and Notice of Opportunity for Hearing, bearing Docket Number RCRA-02-2008-7502 , and a copy of the Consolidated Rules of Practice, 40 C.F.R. Part 22, by certified mail, return receipt requested, to:

For the Puerto Rico Army National Guard

Brigadier General Roberto Marrero Corletto
Assistant Adjutant General (Army)
P.O. Box 9023786
San Juan, Puerto Rico 00902-3786

Jose A. Fernandes, Col. En., PRARNG
Director of Engineering
Camp Santiago Training Center
State Road #1
Salinas, Puerto Rico 00751

For the Army and Air Force Exchange Service

Brigadier General Keith L. Thurgood
Commander, Army & Air Force Exchange Service
3911 S. Walton Walker Blvd
Dallas, TX 75222

Mrs. Ivette Guzman, AAFES Store Manager
State Road # 1
Salinas, Puerto Rico 00751

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 - 3 2008


New York, New York

Table of UST Systems at Camp Santiago. See Enclosure 1 attached.

Penalty Computation Worksheets for the proposed civil penalties: (See Enclosure 2 attached)

UST SYSTEMS LOCATED AT CAMP SANTIAGO

UST System	Capacity (gallons)	Stored Substance & Use
POL ¹ Area Tank 1	25,000	Diesel fuel for military vehicles.
POL Area Tank 2	25,000	Diesel fuel for military vehicles.
MATES ²	7,000	Diesel fuel for military vehicles.
AAFES ³ Tank 1	12,000	Gasoline for commercial fueling of vehicles.
AAFES Tank 2	12,000	Gasoline for commercial fueling of vehicles.

1 Petroleum, Oil and Lubricants.

2 Maneuver Area Training Equipment Site.

3 Army and Air Force Exchange Service.

Enclosure II
PENALTY COMPUTATION WORKSHEET

Count 1: Respondent PRARNG's Failure to Submit Accurate Notification to EQB for POL UST System 2

POL UST System 2: Respondent: Puerto Rico Army National Guard (PRARNG)

Part 1: Background

Facility in violation: Camp Santiago Training Center

<u>Violation:</u>	<u>Regulation</u>	<u>Non-compliance</u>
	Rule 203 of PRUSTR	Failure to submit accurate notification to EQB for POL UST System 2.

Penalty Calculation Period:

Date Gravity-based Penalty Calculations Started: June 12, 2006 (when the incorrect registration was submitted to PREQB)

Date Gravity-based Penalty Calculations Ended: May 8, 2007 (when the UST registration was corrected)

1. Days of Noncompliance for Gravity-Based Penalty: 330 days
2. Number of Tanks: 1

Part 2: Economic Benefit Component / Cost Savings

3. Capital Costs:	\$0	Basis: N/A
4. One-Time Non-depreciable Expenditure:	\$0	Basis: EQB filing fee.
5. Avoided Costs (Annual Expenditure):	\$0	Basis: N/A
6. Economic Benefit:	\$0	Basis: De minimis

Part 3: Matrix Value for the Gravity-Based Component

7. Matrix Value (MV): \$1,500
8. Per-Tank MV (lines 2 times line 7) \$1,500

Inflation Adjustment Rule:

9. $\$1,500 \times 1.2895$ (inflation adjustment for post March 15, 2004) = \$1,934.00

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

Potential for Harm: Major

Extent of Deviation: Major

Justification for Potential for Harm: Respondent PRARNG provided an inaccurate characterization of piping as “suction piping” for POL UST system 2 on the UST Notification Form it submitted to EQB. Characterizing “pressurized” piping as “suction piping” lulls the owner and operator and the regulatory agencies into a false sense of security, because pressurized piping requires active release detection and prevention, while suction piping provides passive leak prevention. Without active release detection on “pressurized piping,” releases to the environment may go unnoticed for a lengthy period of time. Also, the regulatory agencies are deprived of knowledge necessary to conduct proper inspection of piping, in order to assure that appropriate release detection prevention measures are being implemented. As such, this violation also presents a major harm to the regulatory program.

Justification for Extent of Deviation: The difference between pressurized and suction piping is major and substantive.

Part 4: Violator-Specific Adjustments to Matrix Value

	% Change (+/-) MV	Matrix Value	Total Dollar Adjustment
10. Degree of cooperation or non-cooperation:	0	\$1,934	\$0.00
11. Degree of willfulness or negligence:	0	\$1,934	\$0.00
12. History of noncompliance:	0	\$1,934	\$0.00
13. Unique factors:	0	\$1,934	\$0.00

Justification for Degree of Cooperation/ Non-cooperation:

Based on information presently available to EPA, no adjustment was made.

Justification for Degree of Willfulness or Negligence:

No adjustment was made.

Justification for History of Noncompliance:

No adjustment was made.

Justification for Unique Factors:

No adjustment was made.

Part 5: Gravity-Based Component

14. Adjusted Matrix Value (AMV) for Post-March 15, 2004 period of violation: (line 9 plus Dollar Adjustment in lines 10 through 13): \$1,934 + 0=\$1,934.

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

Justification for Level of Environmental Sensitivity:

The Environmental Sensitivity Multiplier for this violation was determined to be “moderate”, corresponding to a sensitivity level of 1.5. The Puerto Rico South Coast Aquifer extends from the south coast into the area around Camp Santiago. Since the aquifer is in the general area of Camp Santiago, any releases of product from Respondent PRARNG’s UST systems may impact the aquifer.

16. Days of Non-compliance Multiplier (DNM): (330 days of violation)= 2.5

17. Gravity-based Component: \$7,252.50
Post-March 15, 2004 violation period: \$1,934 (AMV) x 1.5 (ESM) x 2.5 (DNM)= \$7,252.50

$$\underline{AMV \times ESM \times DNM = Gravity-based Component}$$

Part 6: Initial Penalty Target Figure

- 18. Economic Benefit Component (from line 6): \$0
- 19. Gravity-Based Component (from line 17): \$7,252.50
- 20. Initial Penalty Target Figure (line 18 plus 19):\$7,252.50

Count 2: Respondent PRARNG's Failure to Operate and Maintain Corrosion Protection and to Maintain Documentation of the Operation of Corrosion Protection Equipment for POL Tanks 1 and 2

POL Tanks 1 and 2 Respondent: Puerto Rico Army National Guard (PRARNG)

Part 1: Background

Facility in violation: Camp Santiago Training Center

<u>Violation:</u>	<u>Regulation</u> Rule 302(a) of PRUSTR	<u>Non-compliance</u> Failure to operate and maintain corrosion protection system continuously
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<u>Penalty Calculation Period:</u> Date Gravity-based Penalty Calculations Started:	Violation started at some time after installation of cathodic protection system in July 1998. Penalty calculations, however, start on March 31 2003,
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Date Gravity-based Penalty Calculations Ended:	Violation should have ended with installation of new cathodic protection system, scheduled for September 2007. Penalty calculation end date is September 1, 2007.
--	---

- | | |
|--|-----------|
| 1. <u>Days of Noncompliance for Gravity-Based Penalty:</u> | 1613 days |
| 2. Number of Tanks: | 2 |

Part 2: Economic Benefit Component / Cost Savings

3. Economic benefit is not assessed at this time.

Justification for History of Noncompliance:

No adjustment was made.

Justification for Unique Factors:

No adjustment was made.

Part 5: Gravity-Based Component

11 .a. Adjusted Matrix Value (AMV) for Pre-March 15, 2004 period of violation: (line 6a. plus any Dollar Adjustment in lines 7a. through 10a.: $\$1,650 + 0 = \$1,650$. Multiply by 2 tanks = $\$3,300$

b.. Adjusted Matrix Value (AMV) for Post-March 15, 2004 period of violation: (line 6.b. plus Dollar Adjustment in lines 7b.through 10b.): $\$1,934 + 0 = \$1,934$. Multiply by 2 tanks = $\$3,868$.

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

Justification for Level of Environmental Sensitivity:

The Environmental Sensitivity Multiplier for this violation was determined to be “moderate”, corresponding to a sensitivity level of 1.5. . The Puerto Rico South Coast Aquifer extends from the south coast into the area around Camp Santiago. Since the aquifer is in the general area of Camp Santiago, any releases of product from Respondent PRARNG’s UST systems may impact the aquifer.

13. Days of Non-compliance Multiplier (DNM): (1613 days of violation) = 6.0

Pre 3/15/04 component of DNM: 2.5 (349 days of violation)

Post 3/15/04 component of DNM: 3.5 (1476 days of violation). The post 3/15/04 component of DNM, which is 3.5, was calculated by subtracting the pre 3/15/04 component (2.5) from the DNM for the entire Period (6.0). (This methodology avoided the use of a higher DNM multiplier than appropriate).

14. Gravity-based Component:

Pre-March 15, 2004 violation period: $\$3,300$ (AMV) x 1.5 (ESM) x 2.5 (DNM)= $\$12,375$

Post-March 15, 2004 violation period: $\$3,868$ (AMV) x 1.5 (ESM) x 3.5 (DNM)= $\$20,307$

Total Gravity Based Penalty: $\$32,682$

Part 6: Initial Penalty Target Figure

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

16. Gravity-Based Component (from line 14): $\$32,682$.

17. Initial Penalty Target Figure (line 15 plus 16): $\$32,682$

Count 3: Respondent PRARNG's Failure to Inspect Cathodic Protection of the POL Tanks 1 and 2 Within 6 Months of Installation and Every 3 Years Thereafter and to Maintain Records of Results of Testing from Last Two Triennial Inspections

POL Tanks 1 and 2 Respondent: Puerto Rico Army National Guard (PRARNG)

Part 1: Background

Facility in violation: Camp Santiago Training Center

<u>Violation:</u>	<u>Regulation</u> Rule 302(B) of PRUSTR	<u>Non-compliance</u> Failure to inspect UST systems with cathodic protection within 6 months of installation and at least every 3 years thereafter
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Penalty Calculation Period:

Date Gravity-based Penalty Calculations Started: Since Respondent PRARNG states that the systems were never inspected, the violation started in January 1999, 6 months after installation of cathodic protection system in July, 1998. Penalty Calculations, however, start on March 31, 2003.

Date Gravity-based Penalty Calculations Ended: Violation should have ended with installation of new cathodic protection system, scheduled for September, 2007. Penalty calculation end date is September 1, 2007.

1. Days of Noncompliance for Gravity-Based Penalty: 1613 days
2. Number of Tanks: 2

Part 2: Economic Benefit Component / Cost Savings

3. Capital Costs:	\$0	Basis: N/A
4. One-Time Non-depreciable Expenditure:	\$2,500	Basis: May 7, 2007 estimate ¹
5. Avoided Costs (Annual Expenditure):	\$833.33	Basis: N/A
6. Economic Benefit Component:	\$5,054	Basis: BEN model v. 4.3

Justification of Economic Benefit Component / Cost Savings:

The economic benefit component, calculated with the BEN computer model, is more accurately categorized as "cost savings" for Federal facilities. The period of non-compliance begins when the first inspection was required on February 1, 1999, which was six months after the date of installation (July 1998). However, for purpose of calculating an economic benefit penalty, the period of noncompliance

¹ Estimate made by Las Americas Petroleum Services Corp. and forwarded by PRARNG to EPA on September 24, 2007.

begins on February 1, 2002, which was the date that the first triennial inspection was due, and runs to March 31, 2008.

Respondent provided a \$2,500 cost estimate for inspection and certification of a cathodic protection system by Las Americas Petroleum Services Corp. The BEN computer model was used to calculate the cost savings realized from having avoided this expense for the period of non-compliance identified above. Since after initial inspection, the inspection is required triennially, the annual cost was estimated by dividing this amount by three.

Part 3: Matrix Value for the Gravity-Based Component

- 7. Matrix Value (MV): \$1,500
- 8. Per-Tank MV (lines 2 times line 7) \$3,000

Inflation Adjustment Rule:

9. a. $\$1,500 \times 1.10$ (inflation adjustment for pre-March 15, 2004)=\$1,650.

9.b. $\$1,500 \times 1.2895$ (inflation adjustment for post March 15, 2004) = \$1,934.00.

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

Potential for Harm: Major

Extent of Deviation: Major

Justification for Potential for Harm: The potential for harm resulting from this violation was determined to be “major” inasmuch as the Respondent’s failure to inspect UST systems for proper operation and maintenance of corrosion protection for its steel UST systems could result in releases of product into the environment.

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

Part 4: Violator-Specific Adjustments to Matrix Value

Note: Lines 10 a., 11a. 12.a. and 13.a., below, have the Matrix Value of \$1650, which reflects an inflation adjustment increase of 10% for pre-March 15, 2004 period. Lines 10 b., 11.b., 12.b., and 13 b., below, have the Matrix Value of \$1934, which reflects an inflation adjustment increase of 17.23% for post-March 15, 2004 period.

	% Change (+/-) MV	Matrix Value	Total Dollar Adjustment
10.a. Degree of cooperation or non-cooperation:	0	\$1,650	\$0.00
b.	0	\$1,934	\$0.00
11.a. Degree of willfulness or negligence:	0	\$1,650	\$0.00
b.	0	\$1,934	\$0.00

12.a. History of noncompliance:	0	\$1,650	\$0.00
b.	0	\$1,934	\$0.00
13. a. Unique factors:	0	\$1,650	\$0.00
b.	0	\$1,934	\$0.00

Justification for Degree of Cooperation/ Non-cooperation:

Based on information presently available to EPA, no adjustment was made.

Justification for Degree of Willfulness or Negligence:

No adjustment was made.

Justification for History of Noncompliance:

No adjustment was made.

Justification for Unique Factors:

No adjustment was made.

Part 5: Gravity-Based Component

14.a. Adjusted Matrix Value (AMV) for Pre-March 15, 2004 period of violation: (line 9a. plus any Dollar Adjustment in lines 10 a.through 13a.: $\$1,650 + 0 = \$1,650$. Multiply by 2 tanks = $\$3,300$

b.. Adjusted Matrix Value (AMV) for Post-March 15, 2004 period of violation: (line 9.b. plus Dollar Adjustment in lines 10b. through 13b.): $\$1,934 + 0 = \$1,934$. Multiply by 2 tanks = $\$3,868$

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

Justification for Level of Environmental Sensitivity:

The Environmental Sensitivity Multiplier for this violation was determined to be “moderate”, corresponding to a sensitivity level of 1.5. . The Puerto Rico South Coast Aquifer extends from the south coast into the area around Camp Santiago. Since the aquifer is in the general area of Camp Santiago, any releases of product from Respondent PRARNG’s UST systems may impact the aquifer.

16. Days of Non-compliance Multiplier (DNM): (1613 days of violation)= 6.0

Pre 3/15/04 component of DNM: 2.5 (349 days of violation)

Post 3/15/04 component of DNM: 3.5 (1476 days of violation). The post 3/15/04 component of DNM, which is 3.5, was calculated by subtracting the pre 3/15/04 component (2.5) from the DNM for the entire Period (6.0). (This methodology avoided the use of a higher DNM multiplier than appropriate).

17. Gravity-based Component:

Pre-March 15, 2004 violation period: $\$3,300 \text{ (AMV)} \times 1.5 \text{ (ESM)} \times 2.5 \text{ (DNM)} = \$12,375$

Post-March 15, 2004 violation period: $\$3,868 \text{ (AMV)} \times 1.5 \text{ (ESM)} \times 3.5 \text{ (DNM)} = \$20,307$

Total Gravity Based Penalty: \$32,682

Part 6: Initial Penalty Target Figure

18. Economic Benefit Component (from line 6): \$5,054

19. Gravity-Based Component (from line 17): \$32,682

20. Initial Penalty Target Figure (line 18 plus 19): \$37,736

Count 4: Respondent PRARNG's Failure to Inspect POL UST Systems 1 and 2 with Cathodic Protection every Sixty (60) days and to Maintain Records of Results of Last 3 Sixty (60) day Inspections

POL Tanks 1 and 2 Respondent: Puerto Rico Army National Guard (PRARNG)

Part 1: Background

Facility in violation: Camp Santiago Training Center

<u>Violation:</u>	<u>Regulation</u>	<u>Non-compliance</u>
	Rule 302(C) of PRUSTR	Failure to inspect UST systems equipped with cathodic protection for proper operation every 60 days.

Penalty Calculation Period:

Date Gravity-based Penalty Calculations Started: Since Respondent PRARNG states that the cathodic protection systems were never inspected, the violation started September 1998, 60 days after the installation of cathodic protection system in July 1998. Penalty calculations, however, start on March 31 2003.

Date Gravity-based Penalty Calculations Ended: Since Respondent PRARNG has stated it will conduct these 60-day inspections from now on, the violation should have ended with the installation of the new cathodic protection system in September 2007. Penalty calculation end date is September 1, 2007.

1. Days of Noncompliance for Gravity-Based Penalty: 1613 days
2. Number of Tanks: 2

Part 2: Economic Benefit Component / Cost Savings

3. De minimis as it is less than \$100.

Part 3: Matrix Value for the Gravity-Based Component

4. Matrix Value (MV): \$1,500
5. Per-Tank MV (lines 2 times line 4) \$3,000

Inflation Adjustment Rule:

6. a. $\$1,500 \times 1.10$ (inflation adjustment for pre-March 15, 2004) = \$1,650.

6. b. $\$1,500 \times 1.2895$ (inflation adjustment for post March 15, 2004) = \$1,934.00.

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

Potential for Harm: Major

Extent of Deviation: Major

Justification for Potential for Harm: The potential for harm resulting from this violation was determined to be “major” inasmuch as the Respondent’s failure to inspect for proper operation and maintenance of corrosion protection could result in releases of product into the environment.

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

Part 4: Violator-Specific Adjustments to Matrix Value

Note: Lines 7a., 8a., 9.a. and 10.a., below, have the Matrix Value of \$1650, which reflects an inflation adjustment increase of 10% for pre-March 15, 2004 period. Lines 7 a., 8.b., 9.b., and 10 b., below, have the Matrix Value of \$1934, which reflects an inflation adjustment increase of 17.23% for post-March 15, 2004 period.

	% Change (+/-) MV	Matrix Value	Total Dollar Adjustment
7. a. Degree of cooperation or non-cooperation:	0	\$1,650	\$0.00
b.	0	\$1,934	\$0.00
8. a. Degree of willfulness or negligence:	0	\$1,650	\$0.00
b.	0	\$1,934	\$0.00

9.a. History of noncompliance:	0	\$1,650	\$0.00
b.	0	\$1,934	\$0.00
10. a. Unique factors:	0	\$1,650	\$0.00
b.	0	\$1,934	\$0.00

Justification for Degree of Cooperation/ Non-cooperation:

Based on information presently available to EPA, no adjustment was made.

Justification for Degree of Willfulness or Negligence:

No adjustment was made.

Justification for History of Noncompliance:

No adjustment was made.

Justification for Unique Factors:

No adjustment was made.

Part 5: Gravity-Based Component

11.a. Adjusted Matrix Value (AMV) for Pre-March 15, 2004 period of violation: (line 6a. plus any Dollar Adjustment in lines 7a. through 10.a.: $\$1,650 + 0 = \$1,650$. Multiply by 2 Tanks= \$3,300

b.. Adjusted Matrix Value (AMV) for Post-March 15, 2004 period of violation: (line 6.b. plus Dollar Adjustment in lines 7b. through 10.b.: $\$1,934 + 0 = \$1,934$. Multiply by 2 Tanks = \$3,868

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

Justification for Level of Environmental Sensitivity:

The Environmental Sensitivity Multiplier for this violation was determined to be “moderate”, corresponding to a sensitivity level of 1.5. . The Puerto Rico South Coast Aquifer extends from the south coast into the area around Camp Santiago. Since the aquifer is in the general area of Camp Santiago, any releases of product from Respondent PRARNG’s UST systems may impact the aquifer.

13. Days of Non-compliance Multiplier (DNM): (1613 days of violation)= 6.0

Pre 3/15/04 component of DNM: 2.5 (349 days of violation)

Post 3/15/04 component of DNM: 3.5 (1476 days of violation). The post 3/15/04 component of DNM, which is 3.5, was calculated by subtracting the pre 3/15/04 component (2.5) from the DNM for the entire Period (6.0). (This methodology avoided the use of a higher DNM multiplier than appropriate).

14. Gravity-based Component:

Pre-March 15, 2004 violation period: $\$3,300$ (AMV) x 1.5 (ESM) x 2.5 (DNM)= $\$12,375$

Post-March 15, 2004 violation period: $\$3,868$ (AMV) x 1.5 (ESM) x 3.5 (DNM)= $\$20,307$

Total Gravity Based Penalty: \$32,682

Part 6: Initial Penalty Target Figure

- 15. Economic Benefit Component (from line 3): \$0
- 16. Gravity-Based Component (from line 14): \$32,682

17. Initial Penalty Target Figure (line 15 plus 16): \$32, 682

Count 5: Respondent PRARNG's Failure to Have Overfill Prevention Equipment on POL UST Systems 1 and 2 and the MATES UST System

POL UST Systems 1 and 2 Respondent: Puerto Rico Army National Guard (PRARNG)
MATES UST System

Part 1: Background

Facility in violation: Camp Santiago Training Center

<u>Violation:</u>	<u>Regulation</u> Rule 201 (C) of PRUSTR	<u>Non-compliance</u> Failure to have overfill prevention equipment on POL UST systems 1 and 2 and the MATES UST system.
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<u>Penalty Calculation Period:</u> Date Gravity-based Penalty Calculations Started:	Violation started at some time after reported installation of overfill prevention equipment in July, 1998. Penalty calculations, however, start on March 31 2003.
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Date Gravity-based Penalty Calculations Ended:	Violation should have ended with installation of new overfill prevention equipment in May 2007. Penalty calculation end date is April 30, 2007.
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1. Days of Noncompliance for Gravity-Based Penalty: 1490 days

2. Number of Tanks: 3

Part 2: Economic Benefit Component / Cost Savings

3. Economic Benefit is not assessed at this time.

Part 3: Matrix Value for the Gravity-Based Component

4. Matrix Value (MV): \$750

5. Per-Tank MV (lines 2 times line 4) \$2,250

Inflation Adjustment Rule:

6. a. $\$750 \times 1.10$ (inflation adjustment for pre-March 15, 2004)=\$825

6.b. $\$750 \times 1.2895$ (inflation adjustment for post March 15, 2004) = \$967

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

Potential for Harm: Moderate

Extent of Deviation: Major

Justification for Potential for Harm: The potential for harm resulting from this violation was determined to be “moderate” inasmuch as the Respondent PRARNG’s failure to provide an overfill prevention system for its existing UST systems can result in a release into the environment associated with product transfer to the UST systems. Moreover, failure to provide overfill prevention equipment is a moderate harm, consistent with the UST penalty policy.

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

Part 4: Violator-Specific Adjustments to Matrix Value

Note: Lines 7 a., 8a. 9.a. and 10.a., below, have the Matrix Value of \$825, which reflects an inflation adjustment increase of 10% for pre-March 15, 2004 period. Lines 7 b., 8.b., 9.b., and 10 b., below, have the Matrix Value of \$967, which reflects an inflation adjustment increase of 17.23% for post-March 15, 2004 period.

	% Change (+/-) MV	Matrix Value	Total Dollar Adjustment
7. a. Degree of cooperation or non-cooperation:	0	\$825	\$0.00
b.	0	\$967	\$0.00
8. a. Degree of willfulness or negligence:	0	\$825	\$0.00
b.	0	\$967	\$0.00
9. a. History of noncompliance:	0	\$825	\$0.00
b.	0	\$967	\$0.00
10. a. Unique factors:	0	\$825	\$0.00
b.	0	\$967	\$0.00

Justification for Degree of Cooperation/ Non-cooperation:

Based on information presently available to EPA, no adjustment was made.

Justification for Degree of Willfulness or Negligence:

No adjustment was made.

Justification for History of Noncompliance:

No adjustment was made.

Justification for Unique Factors:

No adjustment was made.

Part 5: Gravity-Based Component

11.a. Adjusted Matrix Value (AMV) for Pre-March 15, 2004 period of violation: (line 6a. plus any Dollar Adjustment in lines 7a. through 10a.: $\$825 + 0 = \825 . Multiply by 3 Tanks = $\$2,475$

b.. Adjusted Matrix Value (AMV) for Post-March 15, 2004 period of violation: (line 6.b. plus Dollar Adjustment in lines 7b. through 10b.): $\$967 + 0 = \967 . Multiply by 3 Tanks = $\$2901$.

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

Justification for Level of Environmental Sensitivity:

The Environmental Sensitivity Multiplier for this violation was determined to be "moderate", corresponding to a sensitivity level of 1.5. . The Puerto Rico South Coast Aquifer extends from the south coast into the area around Camp Santiago. Since the aquifer is in the general area of Camp Santiago, any releases of product from Respondent PRARNG's UST systems may impact the aquifer.

13. Days of Non-compliance Multiplier (DNM): (1490 days of violation)= 6.0

Pre 3/15/04 component of DNM: 2.5 (349 days of violation)

Post 3/15/04 component of DNM: 3.5 (1141 days of violation). The post 3/15/04 component of DNM, which is 3.5, was calculated by subtracting the pre 3/15/04 component (2.5) from the DNM for the entire Period (6.0). (This methodology avoided the use of a higher DNM multiplier than appropriate).

14. Gravity-based Component:

Pre-March 15, 2004 violation period: $\$2,475$ (AMV) x 1.5 (ESM) x 2.5 (DNM)= $\$9,280$

Post-March 15, 2004 violation period: $\$2,901$ (AMV) x 1.5 (ESM) x 3.5 (DNM)= $\$15,228$

Total Gravity Based Penalty: $\$24,508$

Part 6: Initial Penalty Target Figure

- 15. Economic Benefit Component (from line 3): \$0
- 16. Gravity-Based Component (from line 14): \$24,508

17. Initial Penalty Target Figure (line 15 plus 16): \$24,508

Count 6: Respondent PRARNG's Failure to Provide Required Release Detection Monitoring and to Maintain Release Detection Records for POL UST System 1 and the MATES UST System

POL UST System 1 and The MATES UST System

Respondent: Puerto Rico Army National Guard (PRARNG)

Part 1: Background

Facility in violation: Camp Santiago Training Center

<u>Violation:</u>	<u>Regulation</u> Rule 402 of PRUSTR	<u>Non-compliance</u> Failure to provide required release detection monitoring from POL UST System 1 and the MATES UST System.
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<u>Penalty Calculation Period:</u> Date Gravity-based Penalty Calculations Started:	Violation started in October 2006, the month that Respondent acknowledges was the start of six months of non-compliance with release detection monitoring requirements. Penalty calculations start on October 11, 2006.
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Date Gravity-based Penalty Calculations Ended:	Violation ended on April 10, 2007, the last date of non-compliance.
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- 1. Days of Noncompliance for Gravity-Based Penalty: 181 days
- 2. Number of Tanks: 2

Part 2: Economic Benefit Component / Cost Savings

3. Economic Benefit is "deminimis," as it is less than \$100.

Part 3: Matrix Value for the Gravity-Based Component

- 4. Matrix Value (MV): \$1,500
- 5. Per-Tank MV (lines 2 times line 4) \$3,000

Inflation Adjustment Rule:

6. $\$1,500 \times 1.2895$ (inflation adjustment for post March 15, 2004) = $\$1,934.00$.

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

Potential for Harm: Major

Extent of Deviation: Major

Justification for Potential for Harm: The potential for harm resulting from this violation was determined to be "major" inasmuch as the Respondent's failure to provide adequate release detection of UST systems can result in a release of product into the environment going unnoticed for a lengthy period of time.

Justification for Extent of Deviation: The extent of deviation was determined to be "major" inasmuch as the Respondent exhibited a total lack of compliance with this requirement for the time period in which the penalty is being sought.

Part 4: Violator-Specific Adjustments to Matrix Value

	% Change (+/-) MV	Matrix Value	Total Dollar Adjustment
7. Degree of cooperation or non-cooperation:	0	\$1,934	\$0.00
8. Degree of willfulness or negligence:	0	\$1,934	\$0.00
9. History of noncompliance:	0	\$1,934	\$0.00
10. Unique factors:	0	\$1,934	\$0.00

Justification for Degree of Cooperation/ Non-cooperation:

Based on information presently available to EPA, no adjustment was made.

Justification for Degree of Willfulness or Negligence:

No adjustment was made.

Justification for History of Noncompliance:

No adjustment was made.

Justification for Unique Factors:

No adjustment was made.

Part 5: Gravity-Based Component

11. Adjusted Matrix Value (AMV) for Post-March 15, 2004 period of violation: (line 6. plus Dollar Adjustment in lines 7 through 10): $\$1,934 + 0 = \$1,934$. Multiply by 2 UST systems = $\$3,868$

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

Justification for Level of Environmental Sensitivity:

The Environmental Sensitivity Multiplier for this violation was determined to be “moderate”, corresponding to a sensitivity level of 1.5. The Puerto Rico South Coast Aquifer extends from the south coast into the area around Camp Santiago. Since the aquifer is in the general area of Camp Santiago, any releases of product from Respondent PRARNG’s UST systems may impact the aquifer.

13. Days of Non-compliance Multiplier (DNM): (181 days of violation) = 2.0

14. Gravity-based Component:

Post-March 15, 2004 violation period: \$3,868 (AMV) x 1.5 (ESM) x 2 (DNM)= \$11,604

Total Gravity Based Penalty: \$11,604

Part 6: Initial Penalty Target Figure

15. Economic Benefit Component (from line 3): \$0
16. Gravity-Based Component (from line 14): \$11,604

- 17. Initial Penalty Target Figure (line 15 plus 16): \$11,604**

Count 7: Respondent PRARNG’s Failure to Provide Required Release Detection Monitoring and to Maintain Release Detection Records for POL UST System 2

POL UST System 2

Respondent: Puerto Rico Army National Guard (PRARNG)

Part 1: Background

Facility in violation: Camp Santiago Training Center

<u>Violation:</u>	<u>Regulation</u>	<u>Non-compliance</u>
	Rule 402(B) of PRUSTR	Failure to provide required release detection monitoring for POL UST System 2.

Penalty Calculation Period:

Date Gravity-based Penalty Calculations Started: Violation started in October 2006, the month that Respondent acknowledges was the start of six months of non-compliance with release detection monitoring requirements. Penalty

calculations start on October 11, 2006.

Date Gravity-based Penalty Calculations Ended: Violation end on April 10, 2007, the last date of non-compliance.

- 1. Days of Noncompliance for Gravity-Based Penalty: 181 days
- 2. Number of Tanks: 1

Part 2: Economic Benefit Component / Cost Savings

3. Economic Benefit is de minimis, as it is less than \$100.

Part 3: Matrix Value for the Gravity-Based Component

- 4. Matrix Value (MV): \$1,500
- 5. Per-Tank MV (lines 2 times line 7) \$1,500

Inflation Adjustment Rule:

6. $\$1,500 \times 1.2895$ (inflation adjustment for post March 15, 2004) = \$1,934.00.

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

Potential for Harm: Major

Extent of Deviation: Major

Justification for Potential for Harm: The potential for harm resulting from this violation was determined to be “major” inasmuch as the Respondent’s failure to provide adequate release detection of piping systems can result in a release of product into the environment going unnoticed for a lengthy period of time.

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

Part 4: Violator-Specific Adjustments to Matrix Value

	% Change (+/-) MV	Matrix Value	Total Dollar Adjustment
7. Degree of cooperation or non-cooperation:	0	\$1,934	\$0.00
8. Degree of willfulness or negligence:	0	\$1,934	\$0.00

9. History of noncompliance:	0	\$1,934	\$0.00
10. Unique factors:	0	\$1,934	\$0.00

Justification for Degree of Cooperation/ Non-cooperation:

Based on information presently available to EPA, no adjustment was made.

Justification for Degree of Willfulness or Negligence:

No adjustment was made.

Justification for History of Noncompliance:

No adjustment was made.

Justification for Unique Factors:

No adjustment was made.

Part 5: Gravity-Based Component

11. Adjusted Matrix Value (AMV) for Post-March 15, 2004 period of violation: (line 6. plus Dollar Adjustment in lines 7 through 10): $\$1,934 + 0 = \$1,934$. Multiply by 1 UST system = $\$1,934$

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

Justification for Level of Environmental Sensitivity:

The Environmental Sensitivity Multiplier for this violation was determined to be "moderate", corresponding to a sensitivity level of 1.5. . The Puerto Rico South Coast Aquifer extends from the south coast into the area around Camp Santiago. Since the aquifer is in the general area of Camp Santiago, any releases of product from Respondent PRARNG's UST systems may impact the aquifer.

13. Days of Non-compliance Multiplier (DNM): (181 days of violation)= 2.0

14. Gravity-based Component:

Post-March 15, 2004 violation period: $\$1,934$ (AMV) x 1.5 (ESM) x 2 (DNM)= $\$5,802$

Total Gravity Based Penalty: $\$5,802$

Part 6: Initial Penalty Target Figure

- 15. Economic Benefit Component (from line 3): \$0
- 16. Gravity-Based Component (from line 14): \$5,802
- 17. Initial Penalty Target Figure (line 15 plus 16): $\$5,802$

Count 8: Respondent PRARNG's Failure to Conduct an Annual Test of the Operation of the Automatic Line Leak Detectors (ALLDs) for POL UST system 2 and to Maintain Records of Test

POL UST System 2 Respondent: Puerto Rico Army National Guard (PRARNG)

Part 1: Background

Facility in violation: Camp Santiago Training Center

<u>Violation:</u>	<u>Regulation</u> Rule 405(A) of PRUSTR	<u>Non-compliance</u> Failure to conduct annual test of the operation of the ALLDs for piping on POL UST system 2
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Penalty Calculation Period:
Date Gravity-based Penalty Calculations Started: Violation started in approximately 1992. Penalty calculations, however, start on March 31, 2003.

Date Gravity-based Penalty Calculations Ended: Violation end on March 31, 2007, because a new line leak detector was installed on this pipe in April 2007.

1. Days of Noncompliance for Gravity-Based Penalty: 1460 days

2. Number of Tanks: 1

Part 2: Economic Benefit Component / Cost Savings

3. Capital Costs:	\$0	Basis: N/A
4. One-Time Non-depreciable Expenditure:	\$0	Basis: N/A
5. Avoided Costs (Annual Expenditure):	\$85	Basis: Cost of Conducting Annual Test
6. Economic Benefit:	\$1,494	Basis: BEN v. 4.3

Justification of Economic Benefit Component / Cost Savings:

The economic benefit component, calculated with the BEN computer model, is more accurately categorized as "cost savings" for Federal facilities. The period of non-compliance extends from March 31, 2003 through March 31, 2007. (The Table in 40 C.F.R. Section 280.40 indicates that the start date for the requirement to conduct automatic line leak detection testing is "September 22, 1991." Since this requirement is an "annual" requirement, the first annual test of ALLDs in place as of September 22, 1991

was required to be performed by September 22, 1992. Thus, the period of noncompliance for purposes of calculating economic benefit starts at September 22, 1992.

The estimated cost of conducting a test of the ALLDs is \$85.

Part 3: Matrix Value for the Gravity-Based Component

- 7. Matrix Value (MV): \$1,500
- 8. Per-Tank MV (lines 2 times line 7) \$1,500

Inflation Adjustment Rule:

9. a. $\$1,500 \times 1.10$ (inflation adjustment for pre-March 15, 2004) = \$1,650.

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

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

Potential for Harm: Major

Extent of Deviation: Major

Justification for Potential for Harm: The potential for harm resulting from this violation was determined to be “major” inasmuch as the Respondent’s failure to conduct annual test of operation of ALLDs on POL UST system 2 could result in releases of product into the environment.

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

Part 4: Violator-Specific Adjustments to Matrix Value

Note: Lines 10 a., 11a. 12.a. and 13.a., below, have the Matrix Value of \$1650, which reflects an inflation adjustment increase of 10% for pre-March 15, 2004 period. Lines 10 b., 11.b., 12.b., and 13 b., below, have the Matrix Value of \$1934, which reflects an inflation adjustment increase of 17.23% for post-March 15, 2004 period.

	% Change (+/-) MV	Matrix Value	Total Dollar Adjustment
10.a. Degree of cooperation or non-cooperation:	0	\$1,650	\$0.00
b.	0	\$1,934	\$0.00
11.a. Degree of willfulness or negligence:	0	\$1,650	\$0.00
b.	0	\$1,934	\$0.00
12.a. History of noncompliance:	0	\$1,650	\$0.00
b.	0	\$1,934	\$0.00
13. a. Unique factors:	0	\$1,650	\$0.00
b.	0	\$1,934	\$0.00

Justification for Degree of Cooperation/ Non-cooperation:

Based on information presently available to EPA, no adjustment was made.

Justification for Degree of Willfulness or Negligence:

No adjustment was made.

Justification for History of Noncompliance:

No adjustment was made.

Justification for Unique Factors:

No adjustment was made.

Part 5: Gravity-Based Component

14.a. Adjusted Matrix Value (AMV) for Pre-March 15, 2004 period of violation: (line 9a. plus any Dollar Adjustment in lines 10 a. through 13a.): \$1,650

b.. Adjusted Matrix Value (AMV) for Post-March 15, 2004 period of violation: (line 9.b. plus Dollar Adjustment in lines 10 b. through 13b.): . \$1,934

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

Justification for Level of Environmental Sensitivity:

The Environmental Sensitivity Multiplier for this violation was determined to be “moderate”, corresponding to a sensitivity level of 1.5. . The Puerto Rico South Coast Aquifer extends from the south coast into the area around Camp Santiago. Since the aquifer is in the general area of Camp Santiago, any releases of product from Respondent PRARNG’s UST systems may impact the aquifer.

16. Days of Non-compliance Multiplier (DNM): (1460 days of violation)= 5.5

Pre 3/15/04 component of DNM: (349 days): 2.5

Post 3/15/04 component of DNM: (1111 days of violation). The post 3/15/04 component of DNM, which is 3, was calculated by subtracting the pre 3/15/04 component (2.5) from the DNM for the entire Period (5.5). (This methodology avoided the use of a higher DNM multiplier than appropriate).

17. Gravity-based Component:

Pre-March 15, 2004 violation period: \$1,650 (AMV) x 1.5 (ESM) x 2.5 (DNM)=\$6,187

Post-March 15, 2004 violation period: \$1,934 (AMV) x 1.5 (ESM) x 3 (DNM)= \$8,703

Total Gravity Based Penalty: \$14,890

Part 6: Initial Penalty Target Figure

18. Economic Benefit Component (from line 6): \$1,494

19. Gravity-Based Component (from line 17): \$14,890

20. Initial Penalty Target Figure (line 18 plus 19): \$16,384

Count 9: Respondent AAFES's Failure to Provide Required Release Detection Monitoring and to Maintain Records of Pressurized Piping for AAFES UST Systems 1 and 2

AAFES UST Systems 1 and 2 Respondent: Army and Air Force Exchange Service (AAFES)

Part 1: Background

Facility in violation: Camp Santiago Training Center

<u>Violation:</u>	<u>Regulation</u>	<u>Non-compliance</u>
	Rule 402(B)(1)b) of PRUSTR	Failure to Provide Required Release Detection Monitoring for AAFES UST Systems 1 and 2

Penalty Calculation Period:

Date Gravity-based Penalty Calculations Started: Violation started July 1, 2006, a year after the AAFES UST systems 1 and 2 were installed

Date Gravity-based Penalty Calculations Ended: Violation end on April 30, 2007, since annual line tightness tests were conducted in May 2007.

1. Days of Noncompliance for Gravity-Based Penalty: 304 days

2. Number of UST Systems: 2

Part 2: Economic Benefit Component / Cost Savings

3. Economic Benefit is de minimis, since it is less than \$100.

Part 3: Matrix Value for the Gravity-Based Component

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

5. Per-Tank MV (lines 2 times line 4) \$3,000

Inflation Adjustment Rule:

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

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

Potential for Harm: Major

Extent of Deviation: Major

Justification for Potential for Harm: The potential for harm resulting from this violation was determined to be “major” inasmuch as the Respondent’s failure to conduct annual line testing of piping or conduct monthly monitoring can result in undetected release of product into the environment.

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

Part 4: Violator-Specific Adjustments to Matrix Value

	% Change (+/-) MV	Matrix Value	Total Dollar Adjustment
7. Degree of cooperation or non-cooperation:	0	\$1,934	\$0.00
8. Degree of willfulness or negligence:	0	\$1,934	\$0.00
9. History of noncompliance:	0	\$1,934	\$0.00
10. Unique factors:	0	\$1,934	\$0.00

Justification for Degree of Cooperation/ Non-cooperation:

Based on information presently available to EPA, no adjustment was made.

Justification for Degree of Willfulness or Negligence:

No adjustment was made.

Justification for History of Noncompliance:

No adjustment was made.

Justification for Unique Factors:

No adjustment was made.

Part 5: Gravity-Based Component

11. Adjusted Matrix Value (AMV) for Post-March 15, 2004 period of violation: (line 6 plus Dollar Adjustment in lines 7 through 10): $\$1,934 + 0 = \$1,934$. Multiply by 2 UST systems = $\$3,868$

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

Justification for Level of Environmental Sensitivity:

The Environmental Sensitivity Multiplier for this violation was determined to be “moderate”, corresponding to a sensitivity level of 1.5. The Puerto Rico South Coast Aquifer extends from the south coast into the area around Camp Santiago. Since the aquifer is in the general area of Camp Santiago, any releases of product from Respondent AAFES’s UST systems may impact the aquifer.

13. Days of Non-compliance Multiplier (DNM): (304 days of violation) = 2.5

14. Gravity-based Component:

Post-March 15, 2004 violation period: \$3,868 (AMV) x 1.5 (ESM) x 2.5 (DNM)= \$14,505

Total Gravity Based Penalty: \$14,505

Part 6: Initial Penalty Target Figure

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

16. Gravity-Based Component (from line 14): \$14,505

17. Initial Penalty Target Figure (line 15 plus 16): \$14,505

Count 10: Respondent AAFES’s Failure to Conduct an Annual Test of the Operation of the Automatic Line Leak Detectors (ALLDs) for AAFES UST Systems 1 and 2 and to Maintain Records of Test

AAFES UST Systems 1 and 2 Respondent: Army and Air Force Exchange Service (AAFES)

Part 1: Background

Facility in violation: Camp Santiago Training Center

<u>Violation:</u>	<u>Regulation</u> Rule 405(A) of PRUSTR	<u>Non-compliance</u> Failure to conduct an annual test of the operation of the automatic line leak detectors for AAFES UST systems 1 and 2
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<u>Penalty Calculation Period:</u> Date Gravity-based Penalty Calculations Started:	Violation started July 1, 2006, a year after the ALLDs were installed.
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Date Gravity-based Penalty Calculations Ended:	Violation end on July 15, 2007, when ALLDs were tested and deemed to be working/functioning satisfactorily.
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1. Days of Noncompliance for Gravity-Based Penalty: 380 days

2. Number of UST Systems: 2

Part 2: Economic Benefit Component / Cost Savings

3. Economic Benefit is de minimis, since it is less than \$100.

Part 3: Matrix Value for the Gravity-Based Component

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

5. Per-Tank MV (lines 2 times line 4) \$3,000

Inflation Adjustment Rule:

6. $\$1,500 \times 1.2895$ (inflation adjustment for post March 15, 2004) = \$1,934.00.

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

Potential for Harm: Major

Extent of Deviation: Major

Justification for Potential for Harm: The potential for harm resulting from this violation was determined to be “major” inasmuch as the Respondent’s failure to conduct annual test of operation of automatic line leak detectors can result in undetected release of product into the environment.

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

Part 4: Violator-Specific Adjustments to Matrix Value

	% Change (+/-) MV	Matrix Value	Total Dollar Adjustment
7. Degree of cooperation or non-cooperation:	0	\$1934	\$0.00
8. Degree of willfulness or negligence:	0	\$1,934	\$0.00
9. History of noncompliance:	0	\$1,934	\$0.00
10 Unique factors:	0	\$1,934	\$0.00

Justification for Degree of Cooperation/ Non-cooperation:

Based on information presently available to EPA, no adjustment was made.

Justification for Degree of Willfulness or Negligence:

No adjustment was made.

Justification for History of Noncompliance:

No adjustment was made.

Justification for Unique Factors:

No adjustment was made.

Part 5: Gravity-Based Component

11. Adjusted Matrix Value (AMV) for Post-March 15, 2004 period of violation: (line 6. plus Dollar Adjustment in lines 7 through 10): $\$1,934 + 0 = \$1,934$. Multiply by 2 UST systems = $\$3,868$

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

Justification for Level of Environmental Sensitivity:

The Environmental Sensitivity Multiplier for this violation was determined to be “moderate”, corresponding to a sensitivity level of 1.5. The Puerto Rico South Coast Aquifer extends from the south coast into the area around Camp Santiago. Since the aquifer is in the general area of Camp Santiago, any releases of product from Respondent AAFES’s UST systems may impact the aquifer.

The estimated cost of conducting a test of the ALLDs is \$85

13. Days of Non-compliance Multiplier (DNM): (380 days of violation)= 3

14. Gravity-based Component:

Post-March 15, 2004 violation period: $\$3,868$ (AMV) x 1.5 (ESM) x 3 (DNM)= $\$17,406$

Total Gravity Based Penalty: \$17,406

Part 6: Initial Penalty Target Figure

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

16. Gravity-Based Component (from line 14): \$17,406

17. Initial Penalty Target Figure (line 15 plus 16): \$17,406

Count 11: Respondent AAFES's Failure to Respond Appropriately To Indications of a Release for AAFES UST Systems 1 and 2

AAFES UST Systems 1 and 2 Respondent: Army and Air Force Exchange Service (AAFES)

Part 1: Background

Facility in violation: Camp Santiago Training Center

<u>Violation:</u>	<u>Regulation</u>	<u>Non-compliance</u>
	Rule 501(C) and Rule 503 of PRUSTR	Failure to respond appropriately to indications of a release for AAFES UST systems 1 and 2

Penalty Calculation Period:

Date Gravity-based Penalty Calculations Started:	Violation started June 1, 2006, the date of possible release from the AAFES UST systems 1 and 2.
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Date Gravity-based Penalty Calculations Ended:	Violation end on November 1, 2006, the last date of non-compliance.
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<u>1. Days of Noncompliance for Gravity-Based Penalty:</u>	153 days
<u>2. Number of UST Systems:</u>	2

Part 2: Economic Benefit Component / Cost Savings

3. Economic Benefit is de minimis, since it is less than \$100.

Part 3: Matrix Value for the Gravity-Based Component

4. Matrix Value (MV):	\$1,500
5. Per-Tank MV (lines 2 times line 4)	\$3,000

Inflation Adjustment Rule:

6. $\$1,500 \times 1.2895$ (inflation adjustment for post March 15, 2004) = \$1,934.00.

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

Potential for Harm: Major

Extent of Deviation: Major

Justification for Potential for Harm: The potential for harm resulting from this violation was determined to be “major” inasmuch as the Respondent’s failure to report, investigate and confirm release from its tanks can result in continuous release of product into the environment.

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

Part 4: Violator-Specific Adjustments to Matrix Value

	% Change (+/-) MV	Matrix Value	Total Dollar Adjustment
7. Degree of cooperation or non-cooperation:	0	\$1,934	\$0.00
8. Degree of willfulness or negligence:	0	\$1,934	\$0.00
9. History of noncompliance:	0	\$1,934	\$0.00
10. Unique factors:	0	\$1,934	\$0.00

Justification for Degree of Cooperation/ Non-cooperation:
Based on information presently available to EPA, no adjustment was made.

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

Justification for History of Noncompliance:
No adjustment was made.

Justification for Unique Factors:
No adjustment was made.

Part 5: Gravity-Based Component

11. Adjusted Matrix Value (AMV) for Post-March 15, 2004 period of violation: (line 6. plus Dollar Adjustment in lines 7 through 10): $\$1,934 + 0 = \$1,934$. Multiply by 2 UST systems = $\$3,868$

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

Justification for Level of Environmental Sensitivity:

The Environmental Sensitivity Multiplier for this violation was determined to be “moderate”, corresponding to a sensitivity level of 1.5. The Puerto Rico South Coast Aquifer extends from the south coast into the area around Camp Santiago. Since the aquifer is in the general area of Camp Santiago, any releases of product from Respondent AAFES’s UST systems may impact the aquifer.

13. Days of Non-compliance Multiplier (DNM): (153 days of violation) = 1.5

14. Gravity-based Component:

Post-March 15, 2004 violation period: \$3,868 (AMV) x 1.5 (ESM) x 1.5 (DNM)= \$8,703

Total Gravity Based Penalty: \$8,703

Part 6: Initial Penalty Target Figure

15. Economic Benefit Component (from line 3): \$0
16. Gravity-Based Component (from line 14): \$8,703

- 20. Initial Penalty Target Figure (line 15 plus 16): \$8,703**